From Hope to Despair: The Evolution of Protest Rights During Russia's Council of Europe Membership

Dmitrii Kuznetsov*
University of Gothenburg, Gothenburg, Sweden
Dmitrii.Kuznetsov@law.gu.se

Abstract

This paper explores the impact of international law and the Council of Europe's (CoE) freedom of assembly standards on the Russian legal system. It specifically examines their role in safeguarding the right to protest amidst the repressive measures by the Russian Government, spanning from the country's CoE accession to its departure after the onset of the war against Ukraine in 2022. The main argument of this paper suggests a dual impact of Russian CoE membership: first, fostering citizens' trust in protecting their freedom of assembly under European human rights standards, and secondly and paradoxically, providing a shield for the government against substantial criticism and the need for legal reform.

---

* PhD candidate at the University of Gothenburg, Sweden.

The first version of the paper was presented during the Workshop on protest movements and international law, held at the Max Planck Institute for Comparative Public Law and International Law between 2 and 3 November 2023. I am grateful to Dr. Florian Kriener for his valuable insights and comments during various stages of the work on this manuscript.

The study is divided into the following three sections: The first section examines the legal guarantees and mechanisms for exercising the freedom of assembly in Russian legislation and selected domestic case law. This section highlights the adaptation of national legislation to Council of Europe standards and governmental efforts to control the freedom of assembly. The second section discusses the European Court of Human Rights' (ECtHR) approach in cases against Russia, alleging violations of Article 11 of the European Convention. By examining responses from the Russian Government, the section identifies fundamental defects in the assessed legislation and in the execution of ECtHR judgments. The third section offers a comparative analysis of whether the Russian case law illustrates the failure of the international human rights protection mechanism to effectively uphold freedom of assembly compared to other former Soviet countries not in the CoE.

Keywords

Freedom of assembly – Council of Europe – Russia – European Court of Human Rights – Execution of judgments of the ECtHR

I. Introduction

The Russian Federation joined the Council of Europe (hereinafter referred to as the CoE, the Organisation) on 28 February 1996[1] and ceased to be its member on 16 March 2022.[2] The Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the Convention, the ECHR) was ratified on 5 May 1998;[3] the jurisdiction of the European Court of Human Rights (hereinafter referred to as the ECtHR, the

1 CM Res (96) 2 of 8 February 1996, Invitation to the Russian Federation to Become a Member of the Council of Europe, <https://rm.coe.int/090000168062e4fa>, last access 27 May 2026.

2 CM Res (2022) 3 of 23 March 2022, On Legal and Financial Consequences of the Cessation of Membership of the Russian Federation in the Council of Europe, <https://search.coe.int/cm#{%22CoEIdentifier%22:[%220900001680a5ee2f%22],%22sort%22:[%22CoEValidationDate%20Descending%22]}>, last access 27 May 2026.

3 Federal Law of 30 March 1998, No. 54-FZ, 'On the Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms and Additional Protocols Thereto'.

Court) was compulsory for the country until 16 September 2022.[4] Thus, the human rights standards of the Council of Europe and the obligatory force of the Court's judgments and decisions applied to Russia for about a quarter of a century – hypothetically, a sufficient period to influence the minds and working methods of the law-enforcement agencies and courts and, most importantly, to build trust in the supranational system of human rights protection.

In a number of leading judgments against Russia, such as *Navalny and Yashin* (2014),[5] *Frumkin* (2016),[6] and *Lashmankin and Others* (2017),[7] the ECtHR has found various violations of the applicants' right to freedom of assembly due to serious legislative defects and disproportionate measures applied. I hypothesise that the Court's extensive case law has had a twofold effect. First, it was encouraging: relying on European human rights standards, the victims of police brutality and partial justice reclaimed their right to public assembly and received a just compensation as a remedy against unlawful restrictions of their freedom of assembly. This, in turn, gave victims and Russian civil society the hope that they could exercise their rights openly.[8]

Secondly and counter-intuitively, the Government realised that it could leave things as they were, considering the time needed for the Court to deliver a final judgment and the lengthy process for supervising the execution of ECtHR judgments. A process obstructed by the Russian Government's eagerness to pay individual compensation to victims while otherwise only pretending to comprehensively implement the judgments. Meanwhile, there

4 For the history of the Russian membership in the Organisation see: ECtHR, Press Country Fact-Sheet (updated on 1 July 2023), <https://www.coe.int/en/web/execution/russian-federation>, last access 27 May 2026; an account of the execution of the ECtHR's judgments by the Russian Federation is available on the webpage of the Department for the Execution of Judgments of the European Court of Human Rights, <https://www.coe.int/en/web/execution/russian-federation>, last access 27 May 2026; an account of the Russian departure from the CoE: Nikos Vogiatzis, 'No Longer a Member State of the Organisation': The Expulsion of Russia from the Council of Europe and Articles 7 and 8 of the Statute', ECHRBlog, 17 March 2022, <https://www.echrblog.com/2022/03/no-longer-member-state-of-organisation.html>, last access 27 May 2026; See also Kanstantsin Dzehtsiarou and Laurence Helfer, 'Russia and the European Human Rights System: Doing the Right Thing … but for the Right Legal Reason?', EJIL:Talk!, 29 March 2022, <https://www.ejiltalk.org/russia-and-the-european-human-rights-system-doing-the-right-thing-but-for-the-right-legal-reason/>, last access 27 May 2026; Isabella Risini and Andrew Forde, 'Parting Paths – Russia's Inevitable Exit From the Council of Europe', Völkerrechtsblog, 12 March 2022, <https://voelkerrechtsblog.org/parting-paths-russias-inevitable-exit-from-the-council-of-europe/>, last access 27 May 2026.

5 ECtHR, *Navalnyy and Yashin v. Russia*, judgment of 4 December 2014, no. 76204/11.

6 ECtHR, *Frumkin v. Russia*, judgment of 5 January 2016, no. 74568/12.

7 ECtHR, *Lashmankin and Others v. Russia*, judgment of 7 February 2017, nos 57818/09 and 14 others.

8 For further details, see Section III below.

was nothing in the Court's case law, the Committee of Ministers' resolutions, or the work of other Council of Europe bodies that prevented the Government over the years from incrementally restricting the freedom to assemble. By 2022, consecutive legislative amendments had made it practically impossible to protest or express one's opinion without facing prosecution. Therefore, membership with the Organisation and participation in its bodies neither served as a safeguard against assaults on democracy nor prevented the further tightening of the restrictions put in place. International institutions are not the sole actors or a decisive factor in any legal transformation; however, the example of the Russian Federation prompts researchers to question whether their role was ever truly significant.

The situation further deteriorated after Putin's regime launched an aggressive and unprovoked war against Ukraine, a fellow CoE member, on 24 February 2022. Since then, dozens of legislative amendments have been made, and new legislative acts and bylaws have been introduced to completely suppress any dissent within the country and the occupied territories. These additional restrictions have resulted in thousands of criminal and administrative convictions.[9]

The aim of this article is, therefore, to assess the influence of international law and the Council of Europe's standards on freedom of assembly on the Russian legal system, and to consider whether the CoE's powers could have had a bigger impact on the realisation of the right to protest in Russia. Most importantly, the article reflects on whether international law possesses adequate tools and safeguards to support anti-war and anti-authoritarian protests in Russia, especially after the Government adopted unprecedented repressive measures against any form of dissent. Additionally, it examines whether international human rights mechanisms can generally be effective against regimes unwilling to genuinely fulfil their international obligations.

With these aims, I divide the paper into three sections. The first one elaborates on legal guarantees and 'mechanisms of realisation'[10] of freedom of assembly under Russian legislation and selected domestic case law. In this section, I will outline how national legislation has been adapted to meet CoE standards and discuss some manoeuvres by the Government aimed at controlling freedom of assembly. The second section discusses the ECtHR's

9 See OVD-Info, 'No to War. How Russian Authorities Are Suppressing Anti-War Protests' of 14 March 2022, < https://ovd.info/en/no-to-war-en>, last access 27 May 2026.

10 As the legislator puts it in myriads of legislative acts. See, for example: Federal Law of 19 June 2004, No. 54-FZ, 'On Assemblies, Rallies, Demonstrations, Marches, and Picketing' (unofficial English translation of the Law as amended in 2012 was prepared by the Venice Commission, CDL-REF(2012)010, <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2012)010-e>, last access 27 May 2026.

approach to cases against Russia that allege violations of Article 11 of the Convention, as well as the fundamental defects and flaws of the legislation under review. I will also consider the Government's responses to the ECtHR's findings. In the third section, from a comparative perspective, I will analyse whether the 25-year-long practice of the ECtHR has had any significant positive impact on the domestic legal system and whether the Russian case exemplifies the failure of the CoE human rights protection mechanisms in safeguarding freedom of assembly.

Several methodological remarks are necessary to clarify the research framework, the choice of methods, and the sources to be analysed below. The research focuses on a normative analysis of domestic Russian legislative provisions, decisions by the Russian apex courts, and their interplay with the European Convention on Human Rights and the case law of the European Court of Human Rights. This assessment of primary material, which Anne Orford has termed a descriptive way of writing about law,[11] is informed by my reflections as a law clerk, firstly, in the Constitutional Court of Russia, and, lately, in the European Court of Human Rights. I situate these materials within my overarching argument regarding the impact and relevance of Russia's membership of the CoE and the ECHR. I supplement the analysis of the primary sources with a comparative perspective on the development of freedom of assembly in Belarus and Kazakhstan. This section employs a comparative constitutional law approach as understood by Dixon and Landau,[12] Hirschl,[13] and Tushnet,[14] to underline my argument on the CoE's and ECHR's dual, but finally limited role in transforming the Russian regulation of freedom of assembly. Further explanations regarding the criteria for selecting jurisdictions for comparison are provided in the respective sections.

II. Evolution of Freedom of Assembly Regulation in Domestic Law and Jurisprudence

Although this research does not aim to conduct a historical analysis of Russia's approach to freedom of assembly, a few observations merit mention. The Russian Soviet Federative Socialist Republic first guaranteed freedom of

11 Anne Orford, 'In Praise of Description', LJIL 25 (2012), 609-625.

12 Rosaling Dixon and David Landau 'Introduction: A Dark Side of Comparative Constitutional Law' in: Rosalind Dixon and David Landau, *Abusive Constitutional Borrowing: Legal Globalization and the Subversion of Liberal Democracy* (Oxford University Press 2021), 1-22.

13 Ran Hirschl, Comparative Matters: The Renaissance of Comparative Constitutional Law (Oxford University Press 2014).

14 Mark Tushnet, *Advanced Introduction to Comparative Constitutional Law* (2nd edn, Edward Eglar Publishing 2018).

assembly at the constitutional level in the 1918 Constitution.[15] Nevertheless, for almost the entire period of Communist dictatorship, this freedom remained rather declaratory[16] until the late *perestroika* period. Following the collapse of the Soviet Union, Russia revised its legislation and adopted the 1993 Constitution. One of the goals of the constitutional reforms at that time was to gain access to the Council of Europe and its institutions and legal instruments, particularly the ECHR.[17]

In pursuit of this objective, Article 31, which was *inter alia* modelled on Article 11 of the ECHR, was incorporated into the Constitution. The said Article guarantees that 'citizens of the Russian Federation shall have the right to assemble peacefully, without weapons, hold rallies, mass meetings and demonstrations, marches and pickets'.[18] The right is not absolute. Under Article 55 § 3 of the Constitution, it 'may be limited by federal law only to the extent necessary for the protection of the basis of the constitutional order, morality, health, rights and lawful interests of other people, and for ensuring the defence of the country and the security of the State'.[19] This wording aligns with the grounds for limitation outlined in Article 11 of the European Convention on Human Rights.[20]

The Constitutional provision was further elaborated and interpreted (albeit in a restrictive manner) in the 2004 Federal Law 'On Assemblies, Rallies, Demonstrations, Marches, and Picketing' (hereinafter referred to as 'the Assembly Law'),[21] which defined the procedure for conducting public events,

15 Constitution of the Russian Federation of 1918, Art. 15, <https://www.constituteproject.org/constitution/Russia_1918>, last access 27 May 2026.

16 See, for example, Olga Velikanova, *Mass Political Culture Under Stalinism* (Springer eBooks 2018), 149-159, doi: 10.1007/978-3-319-78443-4_1.

17 The Russian Federation applied to join the Council of Europe on 7 May 1992. See PACE Opinion 193 (1996), Russia's Request for Membership of the Council of Europe, 25 January 1996, <http://assembly.coe.int/nw/xml/xref/xref-xml2html-en.asp?fileid=13932&lang=en>, last access 27 May 2026. The draft of the Constitution was submitted to the Venice Commission for the Democracy Through Law, which analysed, *inter alia*, proposed Article 15. From my perspective, the mere fact of the submission of the document to the institution affiliated with the CoE is illustrative as to the declared intentions of Russian Government at the time. CDL (1994)011e-restr. Strasbourg, 24 March 1994.

18 Constitution of the Russian Federation, 12 December 1993, <https://www.constituteproject.org/constitution/Russia_2014>, last access 27 May 2026.

19 Constitution of the Russian Federation (n. 18).

20 Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos 11 and 14, 4 November 1950, ETS 5. Article 11 stipulates that the limitations to the right must be 'prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others'.

21 Federal Law of 19 June 2004, No. 54-FZ (n. 10).

rules for participation, and the consequences of violating regulations for conducting public events. This law has undergone numerous amendments. Although the tightening of legislation on assemblies was a characteristic of the regime from the early 2000s, the situation worsened following the protests against the allegedly fraudulent State Duma elections in 2011-2012[22] and the protests initiated by the *Pussy Riot* collective.[23] Thus, in this research, I will focus on the period starting from 2011 to the Russian Federation's expulsion from the CoE.[24]

The gradual decline in freedom of assembly can be traced through a series of legislative amendments, which were largely upheld by the Constitutional Court of the Russian Federation (CCRF). Following an amendment in 2012, the Assembly Law prohibited individuals with unexpunged or outstanding convictions for intentional crimes against the foundations of the constitutional order and state security, or for crimes against public safety and public order, from organising public events. The same restriction likewise applied to individuals who had incurred administrative liability for administrative offences on two or more occasions. CCRF upheld the constitutional validity of this provision.[25] By interpreting the constitutional provision's meaning, the CCRF found, in particular, that this was a measure of administrative coercion necessary for security purposes. Therefore, the CCRF reasoned that these

22 Miriam Elder, 'Russians Come Out in Force to Protest Against Alleged Electoral Fraud', The Guardian, 10 December 2011, <https://www.theguardian.com/world/2011/dec/10/russia-protests-election-vladimir-putin>, last access 12 August 2023; Christopher Bort, 'How the Kremlin Learned to Defeat Its Opposition,' Carnegie Endowment for International Peace, 25 October 2021, <https://carnegieendowment.org/2021/10/25/how-kremlin-learned-to-defeat-its-opposition-pub-85620>, last access 27 May 2026.

23 See Dimitry Kuznetsov, 'Freedoms Collide: Freedom of Expression and Freedom of Religion in Russia in Comparative Perspective', Russian Law Journal 2 (2014), 75-100. With respect to a broader context of freedom of expression the issue is also discussed in Mariya Riekkinen, *Freedom of Expression and the Law in Russia: Asymmetrical Information* (Routledge 2025). The monograph analyses amendments introduced to the Federal Law 'On Education in the Russian Federation' (Chapter 3), a complex of legistative provisions related to so-called 'foreign agents' (Chapter 4); legal amendments tightening the assemblies legislation, are analysed in Chapter 5.

24 A similar approach has, for example, been adopted in the recent monograph on freedom of expression in Russia. See. Riekkinen (n. 23).

25 Judgment of the Constitutional Court of the Russian Federation of 14 February 2013, No. 4-P, <https://www.consultant.ru/document/cons_doc_LAW_142234/92d969e26a4326c5d02fa79b8f9cf4994ee5633b/#dst100208>, last access 27 May 2026. It is also worth noting that one of the applicants in this case was Mr E. Savenko (a real name of the world-known writer Eduard Limonov), who lodged an application with the ECtHR. The latter found a violation of Article 11 after Mr Savenko's death. See ECtHR, *Savenko and Others v. Russia*, judgment of 14 September 2021, no. 13918/06.

measures were not linked to a secondary punishment for a citizen's administrative offences.[26]

Furthermore, the amended Assembly Law of 2012 introduced several burdensome obligations on event organisers. This included a requirement for organisers to restrict the number of participants in an assembly to the number specified in the respective public event notice and limit 'excessive' participation in an assembly.[27] Moreover, the amendments established a minimum 50-meter distance for solitary picketing (*solo manifestations* – in the ECtHR's wording[28]). Furthermore, participants were required to display their faces openly without disguises or masks. The notification process for organising public events, which is in principle endorsed and accepted by the Venice Commission[29] and the United Nations (UN) Human Rights Committee,[30] was replaced by the necessity to 'accord the venue' to the executive. In practice, this new procedure essentially involved requesting an authorisation to organise a public event. As a result, the 2012 amendments reversed the free ideal of protest, transforming the principled freedom to assemble into a restricted right contingent on an authorisation from the Government authorities. This is confirmed by the omission of the legislation to protect spontaneous rallies.

One of the restrictions introduced through the series of amendments to the Assembly Law in 2012 received scrutiny through the CCRF on multiple occasions. The CCRF reversed a provision that allowed a constitutional entity of the Russian Federation to designate or restrict locations for collective discourse and cited the ECtHR's case law in support of its view.[31] The CCRF argued that the area for which the authorities of the Republic of Komi had designated a prohibition of assemblies based on the 2012 Assembly Law could still be used for some public meetings. In the Court's view, the authorities were not allowed to comprehensively ban assemblies in such places, even if their stated purpose was the protection of the rights of other

26 Judgment of the Constitutional Court of the Russian Federation of 14 February 2013, no. 4-P, para. 2.1.

27 Federal Law of 8 June 2012, No. 65-FZ, Art. 2.

28 See, for example, ECtHR, *Novikova and Others v. Russia*, judgment of 26 April 2016, nos 25501/07, 57569/11, 80153/12, 5790/13 and 35015/13, para. 108.

29 CDL-PI(2014)003-e. Compilation of Venice Commission Opinions Concerning Freedom of Assembly (revised July 2014), 25-26, <https://www.coe.int/en/web/youth/-/compilation-of-venice-commission-opinions-concerning-freedom-of-assembly>, last access 29 May 2026. See also UN HRC, General Comment No. 37 (2020) on the Right of Peaceful Assembly (Article 21) of 17 September 2020, CCPR/C/GC/37, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/232/15/PDF/G2023215.pdf?OpenElement>, last access 27 May 2026.

30 UN HRC, General Comment No. 37 (n. 30).

31 The CCRF referred in particular to the case of the ECtHR, *Kablis v. Russia*, judgment of 30 April 2019, nos 48310/16 and 59663/17.

 DOI 10.17104/0044-2348-2026-2-567

citizens, law, order, and public security. The CCRF further noted that in each specific case, the legislature 'must assess the real degree of such threats and, taking into account the constitutional value of freedom of peaceful assembly, which does not imply the possibility of establishing excessive prohibitions on its implementation, decide on the admissibility of holding an appropriate public event'.[32]

Later, in 2014-2015, the legislator restricted the time slots for holding public events and introduced a more extensive list of requirements for journalists covering public assemblies (with additional restrictions introduced in 2020). In 2016, the Assembly Law established a timeframe for notifying a public assmebly – no earlier than 15 and no later than ten days before the event.[33] The latter illustrates the legislature's attitude towards the CCRF's legal positions. Just two years earlier, the Constitutional Court had stated that the time-frames for the notification of a public assembly must not be definitive, and failure to comply with the deadline cannot justify a complete ban on a public assembly.[34] The 2016 reform of the Assembly Law overturned this understanding.

In a new round of reforms in 2017, the Assembly Law restricted the right of parliamentarians at various levels to hold rallies with voters. The provision was apparently aimed at the opposition parliamentarians, who later challenged the Law before the CCRF. In its Judgment of 10 November 2017, the latter confirmed the constitutionality of the provision, stating that it was necessary to protect other public interests, such as, for example, the proper functioning of the transportation system or the public utility system.[35] Elaborating on the controversy between legislation on assemblies and on the status of parliamentarians, the CCRF concluded that the former is lex specialis, and as a general rule, parliamentarians, regardless of their immunity and status, are obliged to comply with the provisions of the assemblies' legislation when such meetings fall within the definition of a public event.[36]

In 2020, the Assembly Law was once again amended to effectively ban any foreign financing and/or participation in organising public events by foreign natural or legal persons.[37]

---

32 Judgment of the Constitutional Court of the Russian Federation of 1 November 2019, No. 33-P, para. 4.

33 Federal Law of 9 March 2016, No. 61-FZ.

34 Judgment of the Constitutional Court of the Russian Federation of 13 May 2014, No. 14-P.

35 Judgment of the Constitutional Court of the Russian Federation of 10 November 2017, No. 27-P.

36 Judgment of the Constitutional Court of the Russian Federation of 10 November 2017, No. 27-P, para. 3.2.

37 Federal Law of 30 December 2020, No. 541-FZ.

The specialised laws on assemblies are not the only pieces of legislation restricting the freedom of assembly. There are several provisions in the Criminal Code and the Code of Administrative Offences (hereinafter, the CAO) that establish a wide range of criminal and administrative punishments within an elaborate system of offences.[38] To name just a few examples, in 2014, a new Article criminalising the repeated violation of the established procedure for organising or holding an assembly was introduced into the Criminal Code.[39] Despite the CCRF's modest attempts to limit the article's application,[40] it remains in the Code.

The CAO covers a wide range of corpora delicti. Violations will incur fines, and repeated violations of these administrative provisions may result in the recharacterisation of a case as a matter of criminal law, which carries much stronger penalties. For example, Article 20.2 establishes administrative liability in various cases of failing to meet the technical requirements for organising public events, or for participating in non-authorised public events (§ 6.1).[41] These provisions have been the subject of review by the ECtHR on numerous occasions (see below for details).

On 4 March 2022, eight days after the commencement of the war against Ukraine, the parliament introduced a new Article 20.3.3 to the CAO – 'discreditation of the military of the RF', with penalties up to 100,000 RUB for individuals and up to 1 million RUB for entities. This provision mainly targets protesters who display anti-war views. As the statistics on applications to the ECtHR demonstrate,[42] this provision, in conjunction with other measures of administrative and criminal liability, became an effective instrument for suppressing dissent within society. There are numerous instances of individuals being punished for simply demonstrating funny or even silly slogans or objects. For example, in 2022, there was a saga involving the prosecution of a young woman who held the slogan '*нет в…е*' [*n'et v…e*]. In Russian, this is a sort of wordplay that, aside from conveying the apparent

38 As I show in Section IV of this paper, similar provisions were reproduced or even copied in other former Soviet countries, such as Belarus or Kazakhstan.

39 Federal Law of 21 July 2014, No. 258-FZ.

40 See Judgment of the Constitutional Court of the Russian Federation of 10 February 2017, No. 2-P/2017, <https://ksrf.ru/en/Rulings/2017/Resume10022017.pdf>, last access 29 May 2026. The case is discussed in a detail below.

41 Code of Administrative Offences of the Russian Federation of 30 December 2001 (as amended on 4 August 2023), No. 195-FZ.

42 According to the statistic of communicated cases on the HUDOC database, on August 2023 the Court has communicated 198 cases, the vast majority of which has multiple (i. e. 10-20 average) applicants, <https://hudoc.echr.coe.int/#{%22respondent%22:[%22RUS%22],%22article%22:[%2211 %22],%22documentcollectionid2 %22:[%22COMMUNICATEDCASES%22]}>, last access 27 May 2026.

 DOI 10.17104/0044-2348-2026-2-567

message of 'no to war', could be interpreted as 'no to roach fish' (a local fish popular in the Volga regions). The accused insisted that she hated this type of fish. Regardless of her line of defence, she was fined. Even though, to the observers' surprise, the appellate court reversed the sentence, the same person was later repeatedly accused of discrediting the army.[43]

In addition, any violation of the administrative prohibition of 'discreditation' can constitute administrative prejudice: should a person commit a similar act within a year, they will be brought to criminal liability under the new Article 280.3 of the Criminal Code, introduced in concert with the above CAO provision.

In summary, an analysis of the history of the development of legislation and the CCRF's practice concerning freedom of assembly makes it clear that, first, the process of tightening legislation and its (almost) consistent validation by the judiciary has been continuous and linear in retrospect. The legislation gradually restricted the venues for holding assemblies, tightened requirements for organisers and participants, limited the options for financing assemblies, and introduced a variety of new corpora delicti into administrative and criminal codes. Secondly, this process has consistently followed the governmental need to suppress specific protests or rallies, and the particular times and events chosen, such as the Pussy Riot protests against another presidential term of then-Prime Minister Putin or demonstrations against alleged election fraud. Finally, during the pandemic, the trend shifted, and the Government chose to pre-emptively confront protesters, resulting in the quick introduction of legislative amendments in the last two days of 2020 when Mr Navalny disclosed his plans to return to Moscow. Suppressing dissent during wartime became an overt government approach after 24 February 2022.

III. Freedom of Assembly in Russia and the European Court of Human Rights

The preceding section documented the rising restrictions on the freedom of assembly in Russia from 2011 to 2022. This period coincides with a series of ECtHR judgments condemning Russia's handling of protests, some of which have become landmark cases shaping this area of law within the entire ECHR framework. I will highlight these developments (1), demonstrate how

43 A brief story of the process can be found on the portal of legal information 'Zakon.ru', <https://zakon.ru/discussion/2022/10/13/vobla_ne_poluchila_oproverzheniya__sud_prekratil_administrativnoe_delo_o_diskreditacii_armii_za_nadp>, last access 29 May 2026 [in Russian].

the ECtHR case law has been adopted by the Russian government (2), and explore how it has been interpreted by Russian courts and law enforcement authorities (3). This analysis supports my dual conclusion that Russia's ECHR membership has benefited individual applicants and bolstered civil society actors, but has also acted as a façade for the ongoing expansion of restrictions on the freedom of assembly, which the ECtHR has been unable to detect or remedy.

This section of the paper also analyses the key systemic violations identified by the European Court of Human Rights, the Government's approach to the execution of judgments, and the complex interpretation of the ECtHR's positions by the domestic judiciary. Strikingly, these interactions have not been entirely unproductive.[44]

1. The Court's Case Law

One of the first leading cases against Russia,[45] in which the Court found a violation of Article 11, was *Alekseyev v. Russia*, which involved the consistent prohibition of pride marches in Moscow.[46] This case is significant in assessing the Government's early attempts to suppress the freedom to protest. While the protest in question was not inherently anti-government or politically motivated, the authorities perceived the ban as a means to test the boundaries, which the ECtHR might or might not be ready to set in respect of the Russian Federation. In the 2010 judgment, the Court concluded that the Government had 'failed to carry out an adequate assessment of the risk to the safety of the participants in the events and to public order'.[47] Without delving into a detailed proportionality analysis (see paras 76-79 of the judgment), the Court also found that none of the aims put forward by the Government had been sufficient to justify the complete ban on the event (among those aims were alleged negative perception of the LGBTQ+ community and safety concerns).[48]

44 For figures and statistics see the official webpage of the council of Europe, <https://www.coe.int/en/web/portal/-/russia-ceases-to-be-party-to-the-european-convention-on-human-rights>, last access 27 May 2026.

45 For an overview of the Russian membership in the Conventional system, including the leading (most significant) cases see ECtHR, Press Country Profile (updated on 1 July 2023), <https://www.coe.int/en/web/execution/russian-federation>, last access 27 May 2026.

46 ECtHR, *Alekseyev v. Russia*, judgment of 21 October 2010, nos 4916/07, 25924/08 and 14599/09.

47 ECtHR, *Alekseyev* (n. 46), para. 77.

48 ECtHR, *Alekseyev* (n. 46), para. 77.

 DOI 10.17104/0044-2348-2026-2-567

It is plausible to suggest that the *Alekseyev* judgment prompted a shift in the Government's approach to suppressing peaceful assemblies. Prior to the 2011-2012 protests, the Government lacked a comprehensive legal framework to effectively handle protests that challenged the regime. Its efforts were rather *ad hoc* and confined to individual cases.[49] However, as the Committee of Ministers of the CoE mentioned later in its resolutions with regard to the *Alekseyev* and related cases, 'the political will of the authorities [was] aimed at further encouraging such violations',[50] instead of implementing the series of judgments.

The facts of the *Alekseyev* case exemplify the lack of a clear governmental strategy, which later would change. In this case, the mayor of Moscow invented grounds to ban the Pride march, which were reflected in the Assembly Law at the time. Therefore, paradoxically, the 2010 ECtHR judgment in *Alekseyev* had a significant influence on Russian legislation: it signalled to the Government that, to withstand European scrutiny, the mechanism for restricting freedom of assembly must be more sophisticated. The lost ECtHR case thus marks the beginning of the restrictions outlined in the previous section.

The subsequent Article 11 cases against Russia centre on political protest. These cases include the first applications by opposition leaders Mr Navalny and Mr Yashin, as well as former deputy Prime Minister Mr Nemtsov, who was assassinated in Moscow in 2015.[51] The deliberate targeting of opposition leaders for violations of the Russian Assembly Law already demonstrates how breaches of a highly restrictive framework for peaceful assemblies were systematically employed to silence and imprison political opponents.

The ECtHR's Article 11 jurisprudence addressed several issues in Russian domestic practice, the most significant or systemic of which were an excessively broad discretion for domestic authorities, the absence of proportionality considerations in the convictions of assembly participants, a general neglect of the goals or characteristics of an assembly in the authorities' and courts' decisions to permit an appeal or grant an injunction against a ban, and overly expansive national security exceptions. I will discuss these in detail below.

Turning to the first issue, the executive's wide margin of appreciation is well-illustrated by the 2014 *Nemtsov v. Russia* case.[52] In the case, the appli-

49 Such as, for example, the case of persecution of the Pussy Riot Band in 2012, see for further details Kuznetsov (n. 23).

50 CM/Del/Dec(2018)1331/H46-24, 5-7 December 2023 (DH).

51 See for further deatials, ECtHR, *Nemtsova v. Russia*, judgment of 11 July 2023, case no. 43146/15.

52 ECtHR, *Nemtsov v. Russia*, judgment of 31 July 2014, case no. 1774/11.

cant was charged under provisions of the CAO that penalised disobedience of lawful orders from a police officer (Article 20.2 of the Code). The ECtHR found that the authorities both failed to prove that the police order was lawful and that the applicant had disobeyed it. The Court concluded that the administrative liability had been imposed on the applicant 'without any connection with the intended purpose of the legal provision for disobeying lawful orders of the police', thus deeming the interference with the applicant's rights unlawful.[53] The Court thus held that the CAO and the way it was applied in practice granted police officials too much discretion.

In its subsequent jurisprudence, including in the key case of *Lashmankin and Others v. Russia*, the ECtHR developed a consistent jurisprudence in which it repeatedly argued that the Russian Assembly Law did not meet the requirement of lawfulness.[54] In the Court's view, the Assembly Law never consistently restricted governmental action and therefore could not adequately guide citizens' behaviour. This jurisprudence coincided with the restrictions in the post-*Bolotnaya* protest[55] period, marked by an increased suppression of the freedom of assembly.

Secondly, a prominent shortcoming identified by the ECtHR is the omission of proportionality considerations by Russian courts when considering violations of the Assembly Law. This observation largely stems from the formalistic approach of domestic courts when adjudicating freedom of assembly cases. Russian courts frequently convicted participants solely for taking part in an (unauthorised) assembly.[56] The ECtHR observed that domestic courts lacked the authority to conduct a proportionality assessment, as their role was limited to formally reviewing the legality of restrictions, which fell significantly short of the Convention's standards.[57] Thus, it was not even possible for the Court to assess stage-by-stage whether the Russian Federation met the proportionality requirements according to the ECtHR's standards. The absence of proportionality tests altogether allowed the Court to find human rights violations along the entire engagement with offenses against the Assembly Law and other related laws.

53 ECtHR, *Nemtsov* (n. 52), para. 76.

54 For the purposes of this paper, I limit the research by studying Article 11 argumentation of the ECtHR, whereas in most of the cases a violation of freedom of assembly was accompanied by various violation of the right to a fair trial (see, for example, ECtHR, *Lashmankin and Others* (n. 7), para. 505).

55 The name of the square in the centre of Moscow, where the series of 2011-2012 protests commenced.

56 See, for example, ECtHR, *Navalnyy and Yashin* (n. 5), para. 61. See also ECtHR, *Kasparov and Others v. Russia* (no. 2), judgment of 13 December 2016, case no. 51988/07, para. 30.

57 ECtHR, *Lashmankin and Others* (n. 7), para. 428.

Thirdly, in the majority of cases after 2011-2012, domestic courts cited the need to maintain public order and ensure road safety as grounds for justifying interference.[58] Meanwhile, the authorities repeatedly failed to strike a balance in assessing whether the public event posed a danger or conflicted with the purportedly legitimate aims. For example, courts overlooked facts such as the event's small number of participants, its peaceful conduct, and the minimal impact on road traffic.[59] The authorities, in essence, prevented any communication between the law enforcement officers and riot police at the assembly site to negotiate alternative routes or boundaries for unauthorised events.[60] In fact, the latter would leave the participants both puzzled about the field of responsibility of a specific governmental body regarding the assemblies and would confirm a deliberate miscommunication among the state bodies involved in the process. The Court identified a violation arising from the disproportionate burden placed on public event organisers vis-à-vis the authorities, who were not legally required to inform organisers of the progress of their notifications promptly.[61] All the legislative provisions assessed by the ECtHR had been introduced after 2010.

Fourth, the Court consistently identified violations of Article 11 relating to the state's obligations, with regard to the dispersal of assemblies and the inadequate organisation of venues.[62]

Finally, concerning substantive flaws in Russian legislation on assemblies, the ECtHR observed that the notification procedure outlined in the 2004 Assembly Law de facto functioned as an authorisation process, granting the executive a 'broad and uncircumscribed discretion', which exceeded the existing European consensus.[63] This limited the choice of venues and time slots for public assemblies,[64] effectively impeding the occurrence of assemblies in the most significant locations.[65] Additionally, the unreasonably extensive range of grounds invoked by the authorities when refusing to allocate a venue for a demonstration posed another systemic issue affecting the legislation's

58 See ECtHR, *Lashmankin and Others* (n. 7), para. 64. See also ECtHR, *Frumkin* (n. 6), para. 140.

59 See ECtHR, *Navalnyy and Yashin* (n. 6), paras 64-65, ECtHR, *Lashmankin and Others* (n. 7), para. 422.

60 See ECtHR, *Frumkin* (n. 6), paras 127-128; ECtHR, *Razvozzhayev v. Russia and Ukraine and Udaltsov v. Russia*, judgment 19 November 2019, nos. 75734/12 and 2 others, para. 291.

61 ECtHR, *Lashmankin and Others* (n. 7), para. 458.

62 See ECtHR, *Frumkin* (n. 6), paras 130 and 140.

63 ECtHR, *Lashmankin and Others* (n. 7), para. 429.

64 ECtHR, *Lashmankin and Others* (n. 7), para. 456.

65 See, among many other authorities, ECtHR, *Kablis* (n. 32), paras 55-57, ECtHR, *Lashmankin and Others* (n. 7), paras 427-430.

legality.[66] Particularly problematic was the reliance on the ground of national security, a notion that remained ambiguously defined in both law and court practice.[67]

Several observations are warranted at this point. First, a common legislative and jurisprudential trend in the country has become quite evident and straightforward: the tightening of regulations and the practical banning of any peaceful assembly, whether it is an individual manifestation, a rally against fake elections, or a meeting of a municipal representative with their constituents. Secondly, the Court, at the same time, was trying to keep pace with the Government's legislative innovations and the speed at which the State Duma was amending the regulations on assemblies. This was, of course, impeded by jurisdictional constraints and the backlog in the Court's docket. Nevertheless, the ECtHR has apparently aimed to address the past events pending in its case docket, although it often lagged behind the Government. At the same time, applicants were becoming more aware of the Court's case law and their chances of success before the ECtHR (albeit several years after lodging it with the Court). Therefore, the stream of freedom-of-assembly cases from Russia was ever-flowing. Thirdly, the Court consistently failed to address the core problem – namely, that the deterioration of technical conditions for organising public events was merely a symptom of a deeper issue: the infringement on the rule of law and the remnants of democracy in the country. The Court failed to uncover the linear, consecutive, and coherent restrictions that the Russian executive and legislative successively levied on the freedom of assembly. Even in the *Lashmankin* judgment, which is regarded as the most significant in this series of cases,[68] the Court, when addressing the general issue of the quality of the assemblies' legislation, limited itself to criticising the specific matter. It pretended that the Respondent state was yet another member of the Council of Europe where the rule of law was still valued.

2. Execution of Judgments

According to Article 46 of the ECHR, the Committee of Ministers (the CMCE) is responsible for overseeing the execution of the ECtHR's judg-

66 ECtHR, *Lashmankin and Others* (n. 7), para. 424.

67 ECtHR, *Lashmankin and Others* (n. 7).

68 Charaterised as leading by the Committee of Ministers and having its own group of 470 repetetive cases. See: H/Exec(2023)2, CM ResDH (2022)54, CM/Del/Dec(2022)1428/H46-27, <https://hudoc.exec.coe.int/eng?i=004-47097>, last access 7 May 2026.

ments. This implies that the body should monitor and regulate the measures governments adopt to ensure compliance with the Court's decisions. Since Russia's accession to the Organisation, the CMCE has been hesitant to accept Russia's failure to meet the membership requirements and to fully implement the judgments.[69] While the ECtHR, by its nature, is not intended to be a political body, with judges and the Registry serving the interests of European citizens rather than those of the member states, by contrast, the CMCE, which is composed of representatives of the governments, indeed functions as such a body. Theoretically, the Committee is meant to oversee the execution of the Court's judgments, exerting political pressure and negotiating with respondent states about the execution strategy. CoE member states, in turn, follow the supervisory plan recommended by the CMCE with varying levels of success.

The Russian Federation has not been a complete outlier among CoE countries in terms of compliance with the Court's judgments, ranking in the middle among CoE members on the criterion of the execution of the Court's judgments.[70] Still among these, the Russian government's approach to executing final judgments is somewhat peculiar: Russian authorities have consistently prioritised their obligations to implement individual measures, mainly involving the payment of individual compensation. At the same time, they regarded the execution of general measures as inappropriate because such measures were deemed to exceed the ECtHR's jurisdiction and infringe upon domestic sovereign powers.[71] After 16 March 2022, Russia does not consider itself bound by the Court's or the CMCE's decisions anyway and refuses to communicate with CoE bodies.

According to the Committee of Ministers' database, *HUDOC.Execution*, as of August 2023, there were 413 judgments awaiting full execution that

69 Klaus Brummer, 'The Council of Europe, Russia, and the Future of European Cooperation: Any Lessons to be Learned from the Past?', International Politics 61 (2024), 258-278; on the financial implications and some form of official blackmailing see Andrew Drzemczewski, and Kanstantsin Dzehtsiarou, 'Painful Relations Between the Council of Europe and Russia', EJIL:TALK!, 28 September 2018, <https://www.ejiltalk.org/painful-relations-between-the-council-of-europe-and-russia/>, last access 27 May 2026; Andrew Drzemczewski, 'The (Non-) Participation of Russian Parliamentarians in the Parliamentary Assembly of the Council of Europe: An Overview of Recent Developments', *Europe des droits & libertés/Europe of Rights & Liberties 1 (2020),* 7-15.

70 See for the details, Department for the Execution of Judgments of the European Court of Human Rights, Country Factsheets, <https://www.coe.int/en/web/execution/country-factsheets>, last access 27 May 2026.

71 See, for example, positions of the CCRF in its judgment of 14 July 2015, no. 21-P, where it elaborates on the difference of individual and general measures in the case-law of the ECtHR, <http://www.ksrf.ru/en/Decision/Judgments/Documents/resume%202015%2021-%D0%9F.pdf>, last access 29 May 2026.

involve Article 11 violations.[72] The vast majority of these cases are repetitive or so-called clone cases.

Among the judgments on freedom of assembly, two cases are under enhanced supervision:[73] *Alekseyev v. Russia* (2010, related to LGBTQ+ rights, discussed above) and *Lashmankin and Others v. Russia* (2016, involving various groups of political protests, including 178 repetitive cases[74]). In respect of the latter cases, the Committee of Ministers, during its discussion on 9 March 2022,[75] observed that the authorities neglected the necessity of implementing essential changes (or, as I would put it, a comprehensive reform)[76] to the legislation on public assemblies. The Ministers referenced reports from several Russian non-governmental Organisations (NGOs) that indicated that the situation deteriorated further after the beginning of the war against Ukraine. The Government introduced Law No. 183-FZ, 2022, 'preventing enforcement of the Court's judgments; Law No. 498-FZ, 2022, banning rallies and marches at locations 'immediately adjacent' to government offices and some other places; Law No. 277-FZ, 2022, granting power to block access to web resources, including in relation to planned peaceful demonstrations; and Law No. 32-FZ, 2022, introducing Article 207.3 of the Criminal Code on dissemination of false information on the use of the Russian armed forces, punishable by up to 15 years imprisonment'.[77] Importantly, the Committee of Ministers expressed concern about the 'dispersals and arrests across Russia of thousands of peaceful demonstrators opposing the aggression of the Russian Federation against Ukraine'.[78]

---

72 Department of the Execution of Judgments of the ECtHR, <https://hudoc.exec.coe.int/eng#{%22execstate%22:[%22RUS%22],%22execviolations%22:[%22RPL%22]}>, last access 29 May 2026.

73 The case of the ECtHR, *Navalnyy v. Russia*, jugement of 15 November 2018, no. 29580/12, is supervised together with the *Lashmankin* group of cases.

74 The figures according to the resolution of 22 February 2022 are as follows: '[c]urrently, there are 68 judgments in the *Lashmankin* group. They concern 203 applicants in respect of whom the Court found at least one violation (several judgments concern several applicants) and 122 public events (or attempted public events), which took place in 22 cities and villages' (H/Exec(2022)1, Group of Cases Primarily Concerning Freedom of Assembly: *Lashmankin and Others* (n. 7) (no. 57818/09)), <https://hudoc.exec.coe.int/eng#{%22execidentifier%22:[%22HEXEC(2022)1-RUS-GROUP-LASHMANKIN-ENG%22]}>, last access 29 May 2026.

75 Interim Resolution CM/ResDH(2022)54, Execution of the judgments of the European Court of Human Rights *Lashmankin Group against Russian Federation*, <https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a5c8fa>, last access 27 May 2026.

76 See also the assessment of the 2012 assemblies' legislation, prepared by the Venice Commission. The latter called the Government to provide a comprehensive reform of the said legislation in order to guarantee the freedom in accordance with international standards: CDL-AD(2012)007. Opinion no. 659/2011, 20 March 2012, <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2012)007-e>, last access 27 May 2026.

77 See, *Lashmankin and Others* (n. 7), status of execution.

78 *Lashmankin and Others* (n. 7), status of execution.

While confirming that all individual compensations owed to applicants in the *Lashmankin* case had been paid by June 2021,[79] the Committee of Ministers outlined the few general measures that Russia appeared to have implemented. These measures mainly included clarifications regarding regional authorities' power to designate assembly locations by the Supreme Court of the Russian Federation (hereinafter the SCRF) and the Constitutional Court,[80] as well as the 2019 Ministry of the Interior Guidelines instructing police officers to intervene in public events, prosecute participants, and detain and escort them to police stations only when there are valid reasons to do so.[81] Given the defects in domestic legislation and practice established by the ECtHR, the measures taken are insufficient to claim that the case is close to full execution.

A key problem addressed by the Committee of Ministers was the quality of the legislation in question, which, in fact, precluded the enjoyment of freedom of assembly. The Ministers stressed that, as a general measure to implement the *Lashmankin* group of cases, it was necessary to reform the Public Assemblies Act,[82] as well as other acts, including the Code of Administrative Offences and the Information Act. Among the necessary amendments, the CMCE listed: introducing proper notification rules, limiting local authorities' discretion in approving public events, and requiring them to assess the proportionality of their decisions thoroughly. Along with several other changes, the CMCE also required Russia to legitimise spontaneous assemblies and abolish the provision that allows a judge to always regard several peaceful solo demonstrations as a single mass assembly requiring authorisation. Taken together, the CMCE effectively demanded that the Government repeals the legislative 'innovations' introduced after 2011.

Nevertheless, it would be unfair to claim that the small steps actually taken had no positive impact on society. On the contrary, the ECtHR and the CMCE fostered the belief that justice for victims of violations of freedom of assembly was achievable. As suggested in the introductory part of this paper, the citizens of the Russian Federation became more confident that there was a remedy, even though it was not within their national borders but in Strasbourg, which would help them to be heard and claim the respect of their rights. The high number of applications to the Court in the last years of Russian membership, Russian NGOs' initiatives to lodge applications with

79 CM/Notes/1428/H46-27, *Lashmankin and Others* (n. 7) (no. 57818/09), <https://hudoc.exec.coe.int/eng#{%22tabview%22:[%22document%22],%22execidentifier%22:[%22CM/Notes/1428/H46-27E%22]}>, last access 29 May 2026.

80 See Section II above.

81 CM/Notes/1428/H46-27 (n. 79).

82 The CM's document uses the title 'Public Events Act'.

the Court, and a broader public debate around these cases,[83] are a testament to the impact the ECtHR had on Russian society. This conclusion ties in to other emerging studies on the effect of CoE and ECtHR membership.[84] However, these investigations still remain limited due to, among other reasons, the chilling effect of the 'undesirable organisations' or 'foreign agents' label[85] on academia in Russia.[86]

3. Domestic Approach

Execution of international judgments is a two-way street. Thus, after considering the approach of the CMCE, for the reasons of the research's objectivity, it is instructive to discuss several aspects of the Government's approach to executing the Court's judgments. There is a clear distinction between political matters, which the ECtHR primarily evaluates under Articles 10 (freedom of expression) and 11 (freedom of assembly), and violations of other Articles.[87] The example of the *Lashmankin* group of cases illustrates

83 OVD-Info, 'When I Saw the Judgment, I Felt Joy and Surprise': Human Rights Defenders, Lawyers and Applicants Reflect on the Importance of Appealing to the ECtHR', 18 February 2025, <https://ovd.info/en/strat/ehrc-value?_gl=1*1o7las0*_ga*MjEyNDM1MjcxNC4xNzQ0ODA5OTkx*_ga_J7DH9NKJ0R*MTc0NDgxMjUwMS4yLjAuMTc0NDgxMjUzOC4yMy4wLjA>, last access 16 April 2025.

84 See Ed Bates, Kanstantsin Dzehtsiarou and Andrew Forde, *Russia, the Council of Europe and the European Convention on Human Rights: A Troubled Membership and Its Legacy* (Bristol University Press 2025), doi: 10.51952/9781529232820. Chapter 6 of the book discusses Russia's legacy of membership from the perspective of the country's legal system and its implications for the law of the Council of Europe. The book, at the same time, remains silent on the impact of membership on society.

85 As, for example, in the case of the independent sociological research institution Levada Centre. See Statement by the Spokesperson of the EEAS on the inclusion of the Levada Centre in the 'Foreign Agents Registry' of the Russian Federation of 6 September 2016, <https://www.eeas.europa.eu/node/9497_en>, last access 27 May 2026.

86 See Dimitry Dubrovskiy, 'Escape from Freedom. The Russian Academic Community and the Problem of Academic Rights and Freedoms', Interdisciplinary Political Studies 3 (2017), 171-199; Julia Mierau (ed.), Ekaterina Trubnikova, Dimitry Dubrovskiy and Yegor Albitskii, 'Monitoring Report. Academic Freedom in Russia: State Repression and Its Influence on Academic Practice', Science at Risk December 2024, <https://science-at-risk.org/wp-content/uploads/2024/12/Report_Russia_2024_print_9.12.2024.pdf>, last access 27 May 2026.

87 I must mention that the 2020-22 COVID-19-related limitations on freedom of assembly have also been to a great extent politically motivated and have been used by the Government to supress peaceful protest with the reference to sanitary restrictions. See, for example, OVD-Info, 'Sanitisation of the Protest. How Article 236 of The Criminal Code Became an Instrument of Political Pressure', 4 September 2021, <https://en.ovdinfo.org/how-article-236-criminal-code-became-instrument-political-pressure?_gl=1*ixiwk8*_ga*Njc1MTM3ODAzLjE2OTE5MjEwMzU.*_ga_J7DH9NKJ0R*MTY5MTkyNjYwNC4zLjEuMTY5MTkyNjY0My4yMS4wLjA>, last access 29 May 2026.

the authorities' unwillingness to implement such judgments, whereas, for example, in issues such as conditions of detention, the Government has made some progress after years of negotiations.[88]

On the surface, the Supreme Court has followed a balanced and pro-European stance when it comes to safeguarding fair trial rights, personal freedom, and security. For example, in its Guidelines for courts of general jurisdiction on the implementation of the ECHR provisions, the SCRF clarified that the 'position of the ECtHR expressed in […] final decisions against the Russian Federation were obligatory for the courts'.[89] Although the SCRF has never explicitly provided guidelines for implementing ECtHR case law on freedom of assembly, it has advised courts of general jurisdiction to assess the proportionality when dealing with non-absolute Convention rights. The SCRF's guidelines likewise emphasise the importance of justifying restrictions on human rights and freedoms based on the facts and of maintaining a balance between individuals' rights and the legitimate interests of others.[90]

In practice, these clarifications have rarely been followed by legislative or judicial bodies, including the SCRF itself (e. g., by the end of 2023, no cases had arisen where the Supreme Court reversed sentences for 'discrediting the military'). There are no open sources that prove the Supreme Court was acting in concert with other branches of the Government to follow ECtHR standards only reluctantly. Yet, there is a trend of growing scepticism towards international law and human rights standards across all branches, which is also visible in the judiciary's attitude.[91]

In the years leading up to Russia's departure from the CoE, domestic legislation was significantly tightened, and the general measures required to

88 See, for example, ECtHR, *Shmelev and Others v. Russia* , decision of 17 March 2020, case no. 41743/17 and 16 other applications, where the ECtHR alleged that those thousands of Russian victims of inhuman treatment while in detention had received a remedy to compensate for a violation of their Article 3 rights (see for details NGO Citizens' Watch, *Compensation for the Improper Conditions in the Places of Confinement: Analysis of the Court of Cassation Case Law in 2022*, 2022, 21-25, <https://courtmonitoring.org/projects/otchety-o-monitoringe/kompensatsiya-za-nenadlezhashhie-usloviya-soderzhaniya-v-2024-godu/>, last access 29 May 2026.

89 Decree of the Plenum of the Supreme Court of the Russian Federation of 27 June 2013, no. 21 Moscow. *Rossiyskaya Gazeta*, 4 July 2013, <https://rg.ru/documents/2013/07/05/konvencia-dok.html>, last access 29 May 2026 [in Russian], para. 2.

90 Decree of the Plenum (n. 89), para. 8.

91 Lauri Mälksoo, *Russian Approaches to International Law* (Oxford University Press 2015). According to media reports, on 18 November 2025, the Plenum of the Supreme Court proposed to entirely exclude the ECtHR's practice and any references to the ECHR from judicial proceedings. RAPSI. The Supreme Court proposed not to take into account the ECHR's practice in national legal proceedings <https://www.rapsinews.ru/judicial_news/20251118/311346744.html>, last access 29 May 2026 [in Russian].

implement the *Lashmankin* judgment were not carried out. As OVD-Info, one of the leading NGOs in this field, had noted: 'authorities have deliberately implemented additional restrictions to send a message of intolerance regarding peaceful assemblies'.[92] They also shared statistics on protests after the arrest of Mr Navalny in early 2021: 'more than 11,000 people in over 125 cities were detained during actions on 23 and 31 January, as well as 2 February'.[93] Subsequently, many of these individuals turned to the ECtHR for redress, leading to a surge in cases against the Russian Federation.

In 2022, the number of applications doubled due to the arrest and conviction of protesters against the war in Ukraine.[94] According to data from the Judicial Department of the SCRF, there were 4,400 cases of administrative liability for anti-war manifestations in 2022.[95] In reality, this figure is probably much higher, considering that the official data only covers the specific crime of 'discrediting the military'. In addition to a variety of coercive measures,[96] other protesters were, and still are, punished for violations of other CAO provisions, including breaches of sanitary regulations[97] and rules governing the organisation of public events.[98] It is reported that from 24 February 2022 to 24 February 2023, at least 19,586 individuals were detained for their participation in anti-war rallies, most of whom faced administrative or criminal penalties.[99] Approximately 15,000 individuals were detained in

92 OVD-Info, 'Unresolved Freedom of Assembly Issues in Russia in 2020. Submission to the Committee of Ministers of the Council of Europe', 10 June 2021, <https://en.ovdinfo.org/lashmankin-et-al-v-russia?_gl=1*1u6gdxx*_ga*Njc1MTM3ODAzLjE2OTE5MjEwMzU.*_ga_J7DH9NKJ0R*MTY5MTkyMTAzNC4xLjEuMTY5MTkyMTQwMC4xMS4wLjA.#1>, last access 13 August 2023.

93 OVD-Info, 'Unresolved Freedom of Assembly Issues in Russia in 2020 (n. 92), para. 43.

94 See the latest communication reports by the ECtHR, for example, ECtHR, *Antropov and Others v. Russia*, judgment of 25 April 2024, case no. 1434/18 and 29 others.

95 Summary statistical information on the activities of federal courts of general jurisdiction and justices of the peace for 2022, <http://www.cdep.ru/index.php?id=79&item=7645>, last access 29 May 2026 [in Russian]. See also St. Petersburg NGO 'Citizens' Watch'. *Administrative Liability for the Anti-War Position: Trial Monitoring*, <https://drive.google.com/file/d/1T1wRsunDDfdWf5NIVfvFVQN5Yg0qzWNR/view>, last access 29 May 2026 [in Russian].

96 See OVD-Info, 'No to War' (n. 9).

97 See OVD-Info, 'Freedom of Assembly in Russia During the Pandemic: Summary', 17 September 2020, <https://en.ovdinfo.org/freedom-assembly-russia-during-pandemic-summary?_gl=1*da6x6m*_ga*Njc1MTM3ODAzLjE2OTE5MjEwMzU.*_ga_J7DH9NKJ0R*MTY5MjAyNTg1OC40LjEuMTY5MjAyNzI5OS42MC4wLjA.#1>, last access 14 August 2023.

98 In the lack of precise statistic, the communication reports of the ECtHR can be illustrative as regards to the main articles of the Criminal Code and the CAO applied in their cases. The Court usually does not split communications reports on the grounds of the domestic legislative provisions applied. See ECtHR, *Antropov and Others* (n. 94).

99 OVD-Info, 'Summary of Russian Wartime Repression. One Year Since the Full-Scale Invasion', 23 February 2023, <https://data.ovd.info/russian-wartime-repression-report-one-year-full-scale-invasion#1>, last access 7 May 2026.

the first month of the conflict before the legislation was tightened to the extent that participating in unauthorised assemblies became nearly impossible under Russia's assembly law.[100]

Another body which could have influenced the execution of the ECtHR's judgments was the Constitutional Court. Even before the war against Ukraine, there were efforts to examine an alleged shift by the Russian Government away from international standards, in which the CCRF had played a significant role, by legitimising the neglect of such standards by the Government.[101]

When the CCRF modestly tried to attain compliance by the legislator and executive with international freedom of assembly standards, these were ignored. In the case of *Dadin*,[102] the CCRF interpreted the challenged provision of Article 212.1 of the Criminal Code narrowly, although it did not find it to be unconstitutional. The Article provides for criminal liability should a person commit several administrative offences related to the organisation of and participation in public events. The CCRF required law enforcement agencies to prove that an accused person had been involved in organising an unauthorised public event three or more times within 180 days, and that such an event resulted in harm or imminent harm to others' property.[103] The Constitutional Court, as it frequently does, concluded that the legislator may amend the provision to align with the interpretation of the CCRF. Since it was not formulated imperatively, the court's guidance was ignored by the legislator, thereby causing the CCRF to revisit the same issue – an uncommon occurrence in constitutional jurisprudence. In 2020, the CCRF once again advised the legislator to clarify the contested provision of the Criminal Code and even ordered a review of the criminal conviction of the applicant, Mr Kotov.[104] Nevertheless, the sentence was not

100 OVD-Info, 'No to War' (n. 9).

101 Alexandra V. Orlova, 'Russia's Utilization of the COVID-19 Pandemic: Lockdowns, Re-Sovereignization, and Disengagement from the West', Ind. J. Global Legal Stud. 29 (2022), 119-145; <https://du.idm.oclc.org/login?url=https://www.proquest.com/scholarly-journals/russias-utilization-covid-19-pandemic-lockdowns/docview/2802087548/se-2?accountid=14608> and <https://du.primo.exlibrisgroup.com/openurl/01UODE/01UODE_SERVICES?url_ver=Z39.88-2004&rft_val_fmt=info:ofi/fmt:kev:mtx:journal&genre=article&sid=ProQ:ProQ%3Apoliticalscience&atitle=Russia%27s+Utilization+of+the+COVID-19+Pandemic%3A+Lockdowns%2C+Re-Sovereignization%2C+and+Disengagement+from+the+West&title=Indiana+Journal+of+Global+Legal+Studies&issn=10800727&date=2022-07-01&volume=29&issue=2&spage=119&au=Orlova%2C+Alexandra+V&isbn=&jtitle=Indiana+Journal+of+Global+Legal+Studies&btitle=&rft_id=info:eric/&rft_id=info:doi/>, both last access 7 May 2026.

102 CCRF, judgment of 10 February 2017, No. 2-P/2017.

103 CCRF, judgment of 10 February 2017, No. 2-P/2017.

104 Decision of the Constitutional Court of the Russian Federation of 27 January 2020, no. 7-O.

implemented by the executive and legislative and similar additional cases have occurred since.[105]

The lack of implementation of the CCRF's judgment on freedom of assembly where one of the reasons which the ECtHR cited with regard to the Russian executive's unwillingness to cooperate with the CoE in good faith. Despite the ECtHR's reference and endorsement of the CCRF's interpretation, the executive continued to disregard the CCRF's judgments on the matter.[106]

This part of the paper illustrated a pattern of systemic violations of freedom of assembly rights, resistance to the implementation of reforms, and an increasing crackdown on protests. Thus, the ECtHR's jurisprudence and the CoE Committee of Ministers' supervision of cases involving freedom of assembly have hardly produced a success story. It is indeed true that the victims of Article 11 violations received individual compensation. Otherwise, the practices of these bodies and the modest efforts of Russian superior courts to implement the ECtHR's positions had little influence on the legislature and ordinary courts. The implementation of the ECtHR's judgments can be characterised as dysfunctional[107] in this regard.

Law enforcement bodies, which serve as a pillar of any authoritarian regime,[108] including Russia, have often justified their actions on political grounds, such as national security or regime stability, rather than a genuine commitment to protecting and promoting freedom of assembly. I find it particularly striking that participation in the European system of human rights protection before the commencement of the war against Ukraine was merely a veil of legitimacy for the regime, which, as the legislation in force and case law show, had never truly embraced the standards of freedom of assembly. This indicates that the regime used its membership in the CoE as a shield against international criticism while continuing its repressive practices, effectively making the pursuit of real progress in protecting freedom of assembly an uphill struggle. In Section II, when analysing the legislative history of the last decade, I have shown that the legislature was introducing new amendments to the assemblies legislation aimed at suppressing any dissent and disagreement with the Government's policies. The judiciary did

105 OVD-Info, 'Unresolved Freedom of Assembly Issues in Russia in 2020' (n. 92), para. 29.

106 ECtHR, *Lashmankin and Others* (n. 7), para. 426.

107 Bill Bowring, The Degradation of the International Legal Order? The Rehabilitation of Law and the Possibility of Politics (Routledge 2008), Chapter 11, 186-206.

108 See, for example, Artem Galushko, Politically Motivated Justice: Authoritarian Legacies and Their Role in Shaping Constitutional Practices in the Former Soviet Union (Asser Press 2021).

not challenge these amendments; even if it had, as the rejection of modest attempts by the CCRF show, they would have been disregarded by the executive and legislative branches. The same is true for the ECtHR judgments and the plans for supervising their execution, prepared by the Ministry of Justice, together with the CMCE.

IV. Freedom of Assembly in Russia, Belarus, and Kazakhstan

Following a thorough analysis of legislative changes and the attempts to engage in a dialogue between the ECtHR and domestic courts, a fundamental question emerges: Did the limited effects on the realisation of human rights in Russia justify the efforts invested by civil society, international bodies, and the Government during the early accession period after 1996? Put differently, we may wonder whether membership in the CoE has made any difference in the level of human rights protection compared with other countries not bound by European human rights standards.

To answer these questions, it is instructive to examine the situation in two other former Soviet countries, whose legal systems, levels of economic development, and, *mutatis mutandis*, social divisions are similar to those of the Russian Federation, i. e., Belarus and Kazakhstan.[109]

As mentioned in the introductory section of this paper, I am relying on the criteria for comparative research, developed in the works of Dixon and Landau, Hirschl, and Tushnet. Comparative research might be both quantitative and qualitative,[110] whereas in this section, I am deploying a qualitative approach to the analysis of selected legislative provisions and, if available, case law from the three jurisdictions. Furthermore, as Tushnet has argued, comparative constitutional law investigates three main blocks of legal problems,[111] namely: language, institutions, and, most disputedly, the attitude of the citizens to constitutional (legal – in a broader sense) provisions.[112] In this vein, the comparative assessment of the entrenchment and protection of free-

109 See, for example, the IMF's data, <https://data.imf.org/?sk=9d6028d4-f14a-464c-a2f2-59b2cd424b85&sid=1409151240976>, last access 29 May 2026 and the World Bank's statistic, <https://data.worldbank.org/indicator/SP.POP.TOTL>, last access 27 May 2026.

110 Hirschl (n. 13), Chapter 6, 224-281.

111 Tushnet (n. 14).

112 It has to deal a lot with the Weberian sociological approach to law, which is yet to be discussed with regards to the selected jurisdictions of Belarus, Kazakhstan, and Russia in future. See Richard H. Fallon, 'Legitimacy and the Constitution', Harv. L. Rev. 118 (2005), 1787-1853 (1795).

dom of assembly in Kazakhstan, Belarus, and Russia is instructive to reflect on the role of constitutional institutions in these systems, their ability to settle constitutional disputes, and the depth of the implementation of international law rules.[113]

For all three countries compared, Russia, Kazakhstan, and Belarus, dedicated publications explore the similarities of their legal systems and the challenges they encounter across various fields.[114] For example, Perju discussed the reception of legal transplants, including within the field of human rights, based on the material of post-Soviet constitutional systems.[115] The years following the start of the Russian aggression against Ukraine in 2014, culminating in the full-scale invasion of 2022, have also seen a proliferation of research discussing post-Soviet studies, implying, among other things, that the legal systems of the former Soviet Republics (excluding the Baltic States) have remained heavily influenced by that of the former metropolis.[116]

Therefore, the three legal systems lend themselves to a comparative analysis due to the similarity of their post-Soviet legal systems, the authoritarian tendencies within all of them (as illustrated below), or, as some authors argue, the emergence of mature authoritarian regimes in them,[117] and the reception of Russian legal provisions as well as regulatory approaches. It is also significant that most legal sources are available in Russian, either as the official language of a statute or decision or as an official translation.

---

113 Theunis Roux, Comparative Constitutional Studies: Two Fields or One?', Annual Review of Law and Social Science 13 (2017), 123-139.

114 For example, in the environmental regulation Alexey Anisimov, 'Environmental Legislation of Russia, Kazakhstan and Belarus: Comparative Legal Aspect', Humanities and Legal Studies 3 (2020). 119-126; in procedural law Andrey Andreevich Dekhert, 'Comparative Law Analysis of the Regulation of Procedural Costs Under the Legislation of Russia, Belarus and Kazakhstan', The Rule of Law: Theory and Practice 2 (2024), 203-208, doi:10.33184/pravgos-2024.2.25.; in regulation of the parliamentary systems in these countries with the emphasis on their similar authoritarian background Rafał Czachor, 'Non-Parliamentary Representative Bodies in Post-Soviet Authoritarian States: Cases of Belarus, Kazakhstan, Kyrgyzstan and Turkmenistan. A Comparative Study', Review of European and Comparative Law (Online) 60 (2025), 115-133, doi:10.31743/recl.17986; in the studies of the functioning of the judiciary in all three countries Veronika. V. Litvinova, 'Financing the Judiciary Authorities in Russia, Belarus and Kazakhstan', Finance: Theory and Practice (Online) 20 (2017), 149-157, doi:10.26794/2587-5671-2016-20-5-149-157.

115 Vlad Perju, 'Constitutional Transplants, Borrowing, and Migrations' in: Michel Rosenfeld and András Sajó (eds), *The Oxford Handbook of Comparative Constitutional Law* (Oxford University Press 2012), 1304-1327.

116 See, for example, William Partlett and Herbert Küpper, *The Post-Soviet as Post-Colonial: a New Paradigm for Understanding Constitutional Dynamics in the Former Soviet Empire* (Edward Elgar Publishing 2022).

117 Partlett and Küpper (n. 116).

Within recent years, Belarus and Kazakhstan have also faced serious challenges of mass-unauthorised demonstrations against their respective governments. In the case of Belarus, it was the 2020 protest against the allegedly fraudulent presidential elections of 9 August 2020.[118] In Kazakhstan, the January 2022 protest was triggered by rising petrol prices and government corruption.[119] An important distinction, however, is that these two countries are not members of the Council of Europe. We would thus assume, in theory, that the levels of protection for freedom of assembly would intuitively be higher in Russia due to its membership in a human rights system with more rigorous standards and external enforcement mechanisms, i. e. the Council of Europe. Yet, as shown below, all three countries experienced simultaneous declines in assembly rights that were not significantly affected by the international actors involved. I recognise that membership in an international organisation is only one of many criteria to assess a country's realisation of the freedom of assembly. Other factors – including the level of democracy, adherence to the rule of law, and respect for human rights – also play vital roles. Nevertheless, this comparative approach highlights the limited impact that a specific human rights regime can have on the freedom of assembly within an authoritarian context.[120]

---

118 See, for example, the report published by Amnesty International, 'Belarus: "You Are not Human Beings". State-Sponsored Impunity and Unprecedented Police Violence against Peaceful Protesters', 27 January 2021, <https://www.amnesty.org/en/documents/eur49/3567/2021/en/>, last access 28 May 2026; See also Human Rights Council of 24 March 2021, A/HRC/RES/46/20 on 'The Situation of Human Rights in Belarus in the Run-up to the 2020 Presidential Election and in its Aftermath', <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/RES/46/20&Lang=E>, last access 29 May 2026; US Department of State, '2022 Country Reports on Human Rights Practices: Belarus',<https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/belarus/>, last access 28 May 2026 , Section II (b), 45-50.

119 See, for example, Human Rights Watch, 'Kazakhstan Events of 2021-2022', <https://www.hrw.org/world-report/2022/country-chapters/kazakhstan>, last access 27 May 2026.

120 Even in the case of the three countries in question, there are legal problems which have been significantly influenced or even reshaped by the membership of the Russian Federation in the Council of Europe, such as the problem of execution of domestic courts' judgments, addressed in the case ECtHR, *Burdov v. Russia* (II), judgment of 15 January 2009, no. 33509/04 and recognised executed by the Committee of Miniters Res CM/ResDH(2011)293 of 2 December 2011, <https://hudoc.exec.coe.int/ENG?i=CM/Del/Dec(2011)1128/19>, last access 28 May 2026. Another example is the moratorium on the implementation of capital punishment, introduced and later confirmed by the Constitutional Court of the Russian Federation, firstly as a strategy to implement Russia's international human rights obligations. See for detail Decision of the Constitutional Court of the Russian Federation of 9 November 2010, case no. 1536-O-R.

1. Belarus

The 1994 Belarus Constitution guarantees the freedom to hold assemblies, provided they do not violate other persons' rights or disturb public order.[121] The same constitutional provision establishes that the procedure for exercising the right shall be determined by law.

The primary legislative act governing freedom of assembly in the Republic is the 1997 Law on Public Events (with the latest amendments from 19 July 2023).[122] Not bound by CoE standards and free from ECtHR oversight, this Law, at least from a formal perspective, appears to be even more restrictive than its Russian counterpart. To give a few examples: instead of a notification, the law requires a prior authorisation. The organisation of public events with more than 1,000 participants is permitted 'only by political parties, professional unions, and other organisations of the Republic of Belarus'.[123] Requests for event authorisation must be submitted to the relevant state body no later than 15 days before the event's date, including extensive details such as organisers' personal information, event plans, and security measures – an explicit delegation of state responsibilities to organisers.[124] The Law on Public Events also prohibits the use of flags and pennants that are not registered in the prescribed manner.[125]

Liability for violations of the assemblies' legislation is set out in the 2021 Code of Administrative Offences[126] and the 1999 Criminal Code.[127] The former establishes various offences related to assembly violations (see Chapter 24), while the latter provides criminal liability for organising and participating in mass riots,[128] along with a provision inspired by Russian law for repeated violations of assembly procedures, carrying a maximum sentence of 3 years' imprisonment (Article 342.2). Following the approach of the Russian Constitutional Court (judgment No. 2-P of 2017, see above), this article defines a repeated offence as an act committed by an individual being admin-

121 Constitution of the Republic of Belarus (as amended on 27 February 2022), <https://www.constituteproject.org/constitution/Belarus_2004>, last access 15 August 2023, Article 35.

122 Law of 30 December 1997, no. 114-Z, 'On Public Events', <https://etalonline.by/document/?regnum=H19700114>, last access 27 May 2026 [in Russian].

123 Law of 30 December 1997 (n. 122), Art. 4.

124 Law of 30 December 1997 (n. 122), Art. 5.

125 Law of 30 December 1997 (n. 122), Art. 11.

126 Code of Administrative Offences of the Republic of Belarus of 6 January 2021, no. 91-Z, <https://etalonline.by/document/?regnum=hk2100091&q_id=8625677>, last access 29 May 2026 [in Russian].

127 Criminal Code of the Republic of Belarus of 9 July 1999, no. 275-Z, <https://etalonline.by/document/?regnum=hk9900275&q_id=8625668>, last access 29 May 2026 [in Russian].

128 Criminal Code of the Republic of Belarus (n. 127), Art. 293.

istratively penalised twice within a year for violations specified in Article 24.23 of the Code of Administrative Offences, followed by another offence within a year of the second penalty.[129] The Venice Commission, in its opinion of 22 March 2021, called the above legislative provisions contrary to Belarus' international obligations.[130]

The CoE Special Rapporteur on the situation in Belarus reported that about 7,500 persons were detained during August 2020.[131] In 2021, the UN Human Rights Council, in its resolution, condemned 'the ongoing grave violations of human rights in Belarus in connection with the 2020 presidential election, including the systematic denial of human rights and fundamental freedoms, the arbitrary arrests and detention of opposition members', specifically mentioning the denial of the right to peaceful assembly (Russia voting against the Resolution).[132] According to the United States Department of State, during the protests against the 2022 constitutional referendum, on 27-28 February 2022, the police detained more than 1,000 participants of unauthorised rallies; many of those people were criminally convicted.[133] With no international legal mechanisms overseeing the government after its withdrawal from the First Optional Protocol to the ICCPR on 8 February 2023,[134] UN special procedures[135] and NGOs remain the main source of information about alleged human rights violations in Belarus. Amnesty International, for example, reported the authorities' refusal to investigate thousands of alleged cases of inhuman and degrading treatment during the 2020 protests and their hindrance of effective investigations, opting instead to target peaceful protesters.[136]

---

129 Criminal Code of the Republic of Belarus (n. 127), Art. 342.2 Footnote.

130 European Commission for the Democracy Through Law, Opinion no. 1016/2020 of 22 March 2021, CDL-AD(2021)002, <https://www.coe.int/en/web/venice-commission/-/opinion-1016>, last access 29 May 2026, 20-21.

131 Committee on Legal Affairs and Human Rights, 'Human Rights Violations in Belarus Require an International Investigation', AS/Jur (2021) 02, <https://assembly.coe.int/LifeRay/JUR/Pdf/TextesProvisoires/2021/20210324-BelarusViolationsHR-EN.pdf>, last access 27 May 2026, 7.

132 Human Rights Council A/HRC/RES/46/20 (n. 118), paras 2 and 4.

133 2022 Country Reports on Human Rights Practices: Belarus (n. 118).

134 OHCHR, 'Belarus' Withdrawal from Individual Complaints Procedure a Serious Setback for Human Rights Protection, UN Human Rights Committee Says', 25 November 2022, <https://www.ohchr.org/en/press-releases/2022/11/belarus-withdrawal-individual-complaints-procedure-serious-setback-human>, last access 28 May 2026.

135 Report of the Special Rapporteur on the situation of human rights in Belarus, Anaïs Marin, A/HRC/53/53, 3 May 2023, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/083/75/PDF/G2308375.pdf?OpenElement>, last access 29 May 2026.

136 Amnesty International of 27 January 2021 (n.118).

The only body still able to receive communications from applicants from Belarus is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).[137] According to the Office of the United Nations High Commissioner for Human Rights (OHCHR) database, in August 2023, 70 decisions on the merits were issued by the Human Rights Committee (HRC). In these decisions, the Committee repeatedly stated that the authorisation procedure undermines the concept of peaceful assembly;[138] that the restrictions must be lawful and proportionate to the legitimate aim.[139]

2. Kazakhstan

The 1995 Kazakhstan Constitution guarantees that citizens shall have the right to assemble peacefully and without arms, hold meetings, rallies, demonstrations, street processions, and pickets. The only constitutionally permissible aims for limiting this right are: the interests of state security, public order, and the protection of health, rights, and freedoms of other persons.[140]

The special legislation regulating the holding of assemblies, i. e., the Law 'On the procedure for organising and holding peaceful assemblies in the Republic of Kazakhstan', remains within the same authoritarian paradigm[141] of the authorisation procedure for holding the assemblies rather than the notification procedure (the Law has not been amended since the 2022 constitutional referendum[142]). Similar to Belarus and Russia, Kazakhstan's legislation sets out an open list of requirements for event organisers, including

137 Human Rights Council, see A/HRC/53/53 (n. 135) para. 21.

138 Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, concerning Communication No. 3126/2018 of 25 August 2022, CCPR/C/132/D/3126/2018, para. 7.4. It should be taken into account that the real figures might be much higher, however, in view of the slow proceedings before the Committee and its underfinancing, the data is updated with a delay.

139 Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, concerning Communication no. 3242/2018 of 17 May 2022, CCPR/C/134/D/3242/2018, paras 7.4 and 7.5.

140 1995 Constitution of the Republic of Kazakhstan (as amended on 1 January 2023), <https://codices.coe.int/codices/documents/constitution/46404B21-304A-4739-BE31-A79A7844556E?lang=eng>, last access 29 May 2026, Art. 32.

141 See U.S. Department of State. 2022 Country Reports on Human Rights Practices: Kazakhstan, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/kazakhstan/>, last access 28 May 2026, Section II (b), 22-24.

142 In 2025, however, the Preamble to the Law was removed from its text. No other amendments to the text of the Law were made. See Law On the Procedure for Organising and Holding Peaceful Assemblies in the Republic of Kazakhstan of 25 May 2020, no. 333-VI, <https://adilet.zan.kz/rus/docs/Z2000000333>, last access 28 May 2026 [in Russian].

notifying authorities of the event at least 5 days in advance.[143] Drawing on the 2018 Navalny presidential campaign in Russia, where the main feature was the so-called electoral cubes (i. e., mobile structures for campaigning that were annoying to authorities), the Kazakhstan law prohibited the installation of yurts, tents, and other structures without the approval of the local executive body.[144] Additionally, holding peaceful assemblies in the absence of the organiser or their representative is not allowed.[145] In accordance with the provisions of the other two countries, the authorities are authorised to designate specific locations for conducting public events and to regulate their use. Holding public events outside these designated areas, except for picketing, is prohibited.[146] Finally, while the Constitution establishes only three legitimate aims for the limitation of freedom of assembly, Article 14 of the Law provides a list of ten such limitations, which are open to broad interpretation.

Among these limitations, the most severe are incorporated in the 2014 Criminal Code and the 2014 Code of Administrative Offences. The latter establishes various corpora delicti for violations of the assembly laws. I have already discussed the provisions of the Codes of Russia and Belarus above, and in the case of Kazakhstan, there is little difference in the approach to the wording of the provisions, which are imprecise and leave the authorities considerable latitude for interpretation.[147] At the same time, there are two crucial distinctions. Firstly, there is no administrative prejudice, in the sense discussed above in relation to Russia, – one of the primary methods authorities in the other two countries use to suppress the intention to hold a rally and oppose the respective government. Secondly, sanctions imposed on individuals found liable are less severe than those in Belarus or Russia. Under Article 400 of the Criminal Code, the maximum penalty for violating the prescribed order of organising and/or holding a public event is detention for up to 50 days.[148]

The Supreme Court of Kazakhstan, when interpreting provisions of the Code of Administrative Offences, required law enforcement to evaluate

143 Law On the Procedure for Organising and Holding Peaceful Assemblies in the Republic of Kazakhstan (n. 142), Arts 4, 5, and 10.

144 Law On the Procedure (n. 142), Art. 5, Sec. 3 (5).

145 Law On the Procedure (n. 142), Art. 4.

146 Law On the Procedure(n. 142), Arts 8 and 9.

147 Code of Administrative Offences of the Republic of Kazakhstan of 5 July 2014, no. 235-V (as amended on 1 July 2023), <https://online.zakon.kz/Document/?doc_id=31577399>, last access 28 May 2926 [in Russian], Art. 488.

148 Criminal Code of the Republic of Kazakhstan of 3 July 2014, no. 226-V (as amended on 24 July 2023), <https://online.zakon.kz/Document/?doc_id=31575252&sub_id=4000000&pos=6068;-52#pos=6068;-52>, last access 29 May 2026 [in Russian], Art. 400.

evidence related to the termination of an alleged unlawful assembly, its validity, legality, and whether a participant failed to comply. The Court added that allegations of disproportionate state acts in stopping a rally can be brought in civil proceedings.[149]

Unlike Belarus, Kazakhstan continues to accept the jurisdiction of four human rights committees (UN Committee Against Torture [CAT], HRC, CEDAW and UN Committee on Economic, Social and Cultural Rights [CESCR]).[150] The OHCHR database records nineteen decisions by the Human Rights Committee on merits regarding freedom of assembly in Kazakhstan. Similar to the jurisprudence against Belarus, the Committee found that the application of the assembly legislation does not always meet the necessity and proportionality requirements (it is worth noting that, in its reasoning, the HRC tends to cite ECtHR case law, including those against Russia, to strengthen the legitimacy of its position[151]). In particular, the legislation in question leaves the authorities with considerable discretion that exceeds the margins provided for by the International Covenant on Civil and Political Rights (ICCPR).[152] When finding a restriction on the freedom to be disproportionate in another decision, the Committee highlighted a problem, typical for many post-Soviet countries: 'notification regimes, for their part, must not in practice function as authorisation systems'.[153]

3. Comparative Observations

Neither Belarus nor Kazakhstan are members of the Council of Europe. In the latter case, it is doubtful that the country would ever be admitted to the

149 Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan of 6 October 2017, no. 7 On Some Issues of Application by Courts of the Norms of the Special Part of the Code of the Republic of Kazakhstan on Administrative Offenses, <https://adilet.zan.kz/rus/docs/P170000007S>, last access 28 May 2026 [in Russian], para. 16.

150 Acceptance of individual complaints procedures for Kazakhstan, <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=16&Lang=EN>, last access 29 May 2026.

151 See, for example, a reference to ECtHR, *Alekseyev* (n. 46), in Human Rights Committee, Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, concerning Communication no. 2309/2013 on 9 May 2019, CCPR/C/125/D/2309/2013, para. 8.4, ft.1.

152 Human Rights Committee, Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, concerning Communication no. 2441/2014 on 29 November 2018, CCPR/C/124/D/2441/2014, para. 13.4.

153 Human Rights Committee, Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, concerning Communications nos 2538/2015, 2539/2015, 2544/2015, 2549/2015 and 2550/2015 on 22 May 2023, CCPR/C/137/D/2538/2015-2539/2015, CCPR/C/137/D/2544/2015, CCPR/C/137/D/2549/2015-2550/2015, para. 8.4.

Organisation, given its geographical position, absence of a shared European legacy, and lack of an articulated willingness to join the CoE. Belarus, before the Russian Federation's expulsion, was the sole European country which was not a member of the Organisation. There is no evidence of negotiations or of Belarus's willingness to join the Council of Europe (CoE). Thus, unlike the Russian Federation, both countries have never been bound by the CoE standards and the ECtHR's case law. Still, a universal international human rights framework applies across all three countries: they are UN members and have ratified the ICCPR. Before 2023, when Belarus denounced the First Optional Protocol to the ICCPR, all three countries were subject to the jurisdiction of the HRC. Therefore, the UN-endorsed minimum standard of human rights protection has been applicable in all three jurisdictions.

The Human Rights Committee's case law against Russia is less extensive than that against Kazakhstan and Belarus, comprising only eight applications considered on the merits. This is understandable because, before 16 September 2022, Russian citizens had a legally binding judicial remedy, namely an application to the ECtHR, supported by the Committee of Ministers' supervision mechanism. It is not surprising that even this small number of cases was initiated mostly by the same applicants who had already applied to the ECtHR (for example, Mr Alekseev,[154] Ms Mikhailova[155]). It is now likely that the number of applications lodged against the Russian Federation with the UN human rights bodies will significantly increase.

When we compare the three countries, common threads emerge. All of them claimed to build new States guided by the rule of law and adherence to international human rights standards. Yet upon closer scrutiny, the struggle for freedom of assembly persists in all three countries. The examples of Russia, Belarus, and Kazakhstan demonstrate that the balance between state interests and individual rights remains fragile, necessitating international oversight to ensure compliance with human rights standards.

In the case of all three countries, international bodies – whether it is the CoE in Russia's case or the HRC in the cases of Belarus and Kazakhstan – highlight similar issues of disproportionate application of legislative provisions restricting freedom of assembly, alongside excessively broad powers granted to the executive branch. This results either in factual (in the cases of Russia and Kazakhstan) or legal (in the case of Belarus) solidification of the

154 Human Rights Committee, Views Adopted by the Committee at Its 109th session (14 October-1 November 2013) on 2 December 2013, CCPR/C/109/D/1873/2009.

155 Human Rights Committee, Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, concerning Communications no. 2943/2017, no. 2953/2017 and no. 2954/201 on 29 August 2022, CCPR/C/134/D/2943/2017, CCPR/C/134/D/2953/2017, CCPR/C/134/D/2954/2017.

authorisation process, with all the negative consequences that follow. Meanwhile, Kazakhstan remains (perhaps for now) an example of a former Soviet country with more lenient regulations on freedom of assembly, unchanged after the 2022 protests.

Notably, the HRC decisions regarding Belarus and Kazakhstan are only morally significant and rather declaratory. They do not have the same legal force as the decisions of the ECtHR in respect of the Russian Federation have. And yet, the material analysed in sections two and three of this paper demonstrates that the perception of the judgments against Russia within the country was, in fact, similar to the effect given to HRC decisions in the other two countries. One explanation is that, as Lauri Mälksoo has thoroughly described,[156] domestic legal scholarship and practice may not regard public international law as a coherent system of binding rules. Instead, they view it more as a tool for safeguarding political interests. Such adherence to political interests, which is not backed by a genuine commitment to human rights, led the Russian Government to engage in selective compliance with ECtHR judgments, while pretending to be a rule-of-law-obeying member of the Council of Europe. Paradoxically, the Governments of Belarus and Kazakhstan have been more open about their motives: consolidating authoritarian regimes without external pressure in the former case and preserving the status quo in the latter.

This comparative analysis of three former Soviet countries arrives at a somewhat surprising result. Given Russia's involvement in the ECHR system with its enhanced protection standards, one would have assumed that the level of human rights protection should have been higher than in the other two countries. Unfortunately, that is not the case. The Russian government was able to consistently weaken its assembly laws while being a member of the Council of Europe, long before the full-scale war against Ukraine. This conclusion raises further questions about the effectiveness of international (including regional) human rights mechanisms, particularly their supervisory functions. The CoE bodies failed to prevent Russia's assault on human rights and the corruption of the country's judicial and legislative mechanisms, as demonstrated in Sections II and III. The reasons for this failure may be manifold and include sociological, historical, and economic factors – areas outside of my expertise and, therefore, outside the scope of this paper – as well as legal reasons, such as weak judicial control, the lacking will to genuinely implement ECtHR's judgments on freedom of assembly, and a particular understanding of the role of international law in the Russian Federation, where it is not regarded as binding. Simultaneously, the reasons for such ineffectiveness are not only domestic but also international, which

156 Lauri Mälksoo (n. 91).

makes it 'a two-way street'. Firstly, the European human rights system failed to establish and maintain strict conditions for the Russian Federation's admission to the CoE. Secondly, the process for the execution of the Court's judgments was extremely politicised and, after 2014, even subject to financial blackmail by Russian authorities.[157] As has been demonstrated in Section III, the Court itself was not sufficiently persistent in its stance towards the authorities, seeking to address particularities of the assemblies' legislation rather than adopting a more complex and comprehensive approach. Even the timing of the consideration of the applications from the Russian Federation contributed to the ineffectiveness of the conventional system, giving the government sufficient time to adapt and further confound the legislation with a view to strengthen its repressive responses to political protests.

V. Conclusion

This paper examined the 25-year period of Russia's membership in the Council of Europe and the resulting legal implications for freedom of assembly in the country. The central question was whether the mechanisms and legal instruments provided by the CoE, in conjunction with international law more broadly, could support anti-authoritarian tendencies and preserve the right to protest despite the government's persistent efforts to restrict it.

Regrettably, the period of Russian membership was indeed a time of missed opportunities for the country. The extensive body of legal evidence illustrates that after a brief period of enthusiasm (whether genuine or not remains a separate issue), the Government realised that, to maintain their power, restrictions on the freedom of assembly had to be imposed so as to limit the prospects of its realisation, if not render it altogether unattainable. It was noted in academic literature during the early years of Russia's membership that the membership to the Council of Europe was more as a courtesy, rather than an acknowledgement that the Russian legal system met the CoE's requirements.[158] This hypothesis was affirmed after the Russian Federation was expelled from the Organisation,[159] due to not meeting the standards of the organisation and breaching the country's international obligations.

---

157 'Russia Suspends Payments to the Council of Europe', Radio Free Europe, 30 June 2017. <https://www.rferl.org/a/russia-suspends-counsil-europe-payments-lavrov-crimea/28588313.html>, last access 28 May 2026.

158 William D. Jackson, 'Russia and the Council of Europe: The Perils of Premature Admission', Problems of Post-Communism 51 (2004), 23-33.

159 Brummer (n. 69), 259-261. On the historical reasons of the RF for joining the organisation, see also Işıl Aral, 'Russia's Expulsion: The Council of Europe as the Guardian of European Imperialism', LJIL 38 (2025), 1-18.

The research demonstrated that the Government tackled emerging issues through evolving legislative restrictions on assemblies. These were generally upheld by the CCRF and even if the CCRF modestly attempted to curtail legislative infringement on rights, it did not insist on the proper implementation of ECHR standards. In Russian academic discourse, CCRF cases are not examined from a critical or deeper analytical perspective, especially when determining its relation to ECtHR case law. Instead, the term 'evolution' is used in relation to the main judgments of the Constitutional Court, presuming that the latter has always been correct in its relations with the European Court.[160]

This leads into the overall conclusion that the Russian Federation's membership in the CoE was a façade. As I demonstrated in the third section, the Government used its affiliation with the Organisation as a façade for its unwillingness to make significant moves towards liberalisation or the strengthening of freedom of assembly. This conclusion is further supported by a comparative study involving two other former Soviet nations, Belarus and Kazakhstan. Despite slight differences in the level of sanctions and regulatory details, the approach in all three authoritarian countries remained strikingly similar between the mid-1990s and the early 2020s.

In the case of the Russian Federation, the European human rights system has suffered a significant failure. Instead of carefully monitoring the Government's implementation of its international obligations during the initial phases of its accession to the CoE, the Organisation placed excessive trust in the promise that Russia would meet its obligations in the near future. Influenced by an idealistic belief in Fukuyama's 'end of history',[161] and as the literature cited above explained, in line with the demonstrated reluctant policy of the CoE regarding Russia, the CoE overlooked the challenges facing the unstable post-dictatorship democracy. In turn, the Government did not have a *bona fides* understanding of the genuine values of human rights, democracy, and the rule of law, considering them as declaratory parlance to be invited to the club of wealthier countries. The answer to the question I posed in the introduction about the possibility of international law having a real-world impact on individuals, opposition members, and anti-war activists is, therefore, rather negative. This is not solely because of the nature of international law rules, but also because of the lack of will to

160 See Alexander Salenko, 'Russian Public Assembly Law: Constitutional Evolution 1993-2023', BRICS Law Journal 11 (2024), 154-178. One should be mindful, however, that it is also hard to discuss academic publications of the scholars remaining in Russia due to censorship pressure.

161 See, for example, John Lewis Gaddis , *The Cold War: a New History* (Penguin Publishing Group 2006), Chapters 1 and 2.

implement them, expressed by all sides in the process, apart from individual victims of human rights violations.

Although the Russian legal framework and the Government persisted within the confines of the authoritarian paradigm, deaf to international human rights standards, society (particularly a larger and, as evidenced by the personal particulars of applicants to the ECtHR, a younger segment thereof) transformed itself. Prior to the war in Ukraine, tens of thousands of people were not shy about raising their voices against the Government, and even after 24 February 2022, they protested against Putin's invasion.[162] It is plausible to surmise that these actions were undertaken, among other reasons, knowing that the truth stood by their side, reinforced by international mechanisms and norms, and, to some extent, believing that they were able to receive individual justice on the international level. From this perspective, Russia's departure from the CoE is a tragic event, not for the hypocritical Government, but for the people who have lost one of the very few venues for the protection of their rights, if not their hope.

162 There were other attempts to analyse the consequences of excluding the RF from the Council of Europe from the perspective of the harm this CoE response will cause to the citizens of Russia and those under its jurisdiction. See, for example, Jarosław Kowalski, 'The Exclusion of Russia from Council of Europe: Initial Reflections on the Effects', Ius Novum 18 (2024), 108-124.