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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**COMMENTS**

**OF THE INSTITUTE OF LEGISLATION AND COMPARATIVE LAW  
UNDER THE RUSSIAN FEDERATION GOVERNMENT**

**ON**

**THE FEDERAL LAW OF THE RUSSIAN FEDERATION  
ON ASSEMBLIES, MEETINGS, DEMONSTRATIONS,  
MARCHES AND PICKETING**

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**Comments of the Institute of Legislation and Comparative Law  
under the Russian Federation Government  
on the Federal Law " on Assemblies, Rallies, Demonstrations,  
Processions and Picketing"**

**1. What is the specific role of bodies of internal affairs in the police accompanying of social events (Article 14), and what are their relationship with the relevant bodies of executive power? What are the objective rules for determining the capacity of the premises (territories) and what rights organizers of the events have?**

**Answer:** In accordance with Sec. 14 of the Federal Law of June 19, 2004, № 54-FZ "On Assemblies, Rallies, Demonstrations, Processions and Picketing" (hereinafter - the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing") during the conduct of activities authorized public representative of the body of internal affairs has the right to:

1) demand from the public event organizer to declare that the access of citizens to the public event is stopped and to stop such an access on their own decision in case of violating (exceeding) the marginal rate of capacity of the territory (premises);

It should be noted that such power of the authorized representative of the body of internal affairs authority result from the need to prevent a possible crowding, violation of public order and other adverse effects, because the organizers of public events objectively can not know exactly how many people will attend the public event.

2) demand from the organizer and participants of a public event to comply with the order of its organization and conduct;

This power is based on the need to respect the fundamental principle of legality of a public event, as laid down in Art. 3 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing"- the principle of legality.

3) on the request of the organizer of a public event to remove people from the place of public event who do not meet the legal requirements of a public event organizer.

4)  
It should be noted that, despite the fact that the organizer of a public event, in accordance with Part 4 of Art. 5 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" is obliged to ensure compliance with the terms of a public event specified in the notice of the public event, or modified by agreement with the executive organ of the subject (member state) of the Russian Federation or local authorities, the organizer does not have the authority to enforce it himself (by his or her own means). An authorized representative of the body of internal affairs has such rights as stipulated by legislation.

Along with the aforementioned rights authorized representative of the body of internal affairs has the following responsibilities during public events:

1) to assist in the conduct of a public event within its powers;

2) to provide public order and security of citizens and compliance of law during its conduct in conjunction with a public event organizer and the authorized representative of the executive state organs of the subject of the Russian Federation or local authorities.

Taking part in the conduct of public events bodies of internal affairs interact with executive organs of the subjects of the Russian Federation and / or local authorities.

In particular, the executive organ of the subject of the Russian Federation or the local authority after receiving a notice of a public event must provide within its competence, in conjunction with a public event organizer and the authorized representative of the body of internal affairs, for public order and safety of citizens during a public event, as well as providing them if necessary, emergency medical care. Authorized representative of the

executive organ of the subject of the Russian Federation or of local authorities is obliged to provide, in conjunction with a public event organizer and the authorized representative of the body of internal affairs, for public order and security of citizens and compliance of law during its conduct (paragraph 3 of Part 2 of Article 13 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing"). The authorized representative of the executive organ of the subject of the Russian Federation or of the local authorities has the right to decide on the suspension or termination of a public event in the manner and on the grounds provided by the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Pickets".

In certain cases, the regulations relating to the provision of public events conditions can be issued by the President of the Russian Federation and the Government of the Russian Federation, bodies of the subjects of the Russian Federation. Of course, most of these laws and regulations are aimed at addressing the procedural and technical nature. But it should be noted that regional regulations may have some differences. Paragraph 4 of Part 1 of Article 12 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" establishes the duty of the executive authorities of the subject of the Russian Federation or local authorities to inform the organizer of a public event about the installed limit of occupancy rate of the territory (premise) for the public event. Part 4 of Article 5 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" establishes the obligation of a public event organizer to ensure the observance of the regulations on limit of occupancy rate of the territory (premise) in the place of public event fixed by the executive authority of the subject of the Russian Federation or local self-government organ.

Despite the fact that the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Pickets" provides definitions of certain key definitions, it uses other notions and concepts the precise meaning of which may have a significant impact on the uniform application and enforcement of law. In particular, for a more precise regulation of public events it is appropriate to provide definition of the notion of the "limit occupancy rate of the territory (premise)" in the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing". The necessity in such amendment is caused by different understanding and interpretation of the aforesaid notion by regional rule-makers which can lead to certain barriers in the implementation of the citizens right to assemble peacefully, without weapons, to hold assemblies, demonstrations, processions and pickets which is laid down in Art. 31 of the Constitution of the Russian Federation. At the present time the problem of determining the limit occupancy rate of the territory (premise) is solved at the discretion of the regional legislature.

For instance, in accordance with Art. 3 of Moscow Law on 04.04.2007 № 10 "On the conditions ensuring the right of citizens of the Russian Federation to conduct assemblies, rallies, demonstrations, processions and pickets in the Moscow city " the calculation rules of limit occupancy rate of the territory (premise) of the place of public event are made by the executive authorities of Moscow which consider a notice of the public event, based on the possibility of appearance of two people on one square meter of a territory and the number of seats in the room. According to Art. 4 of the Moscow region Law on 22.07.2005 № 197/2005-OZ "On the Procedure for filing notice of a public event in the Moscow region" limit occupancy rate of the open air territory is determined by the relevant competent authority of each public event with respect of the requirements of the Russian Federation legislation and the Moscow region legislation and account of the actual area of the territory and the area occupied by buildings, structures, vegetation and other essential conditions of the place of a public event.

At the same time the limit occupancy rate of the territory (premise) of the place of public event are made by competent authority for each public event with respect of the requirements of the legislation of the Russian Federation and the Moscow region, technical status and characteristics of buildings, structures, facilities, project terms of placing participants of a public event in this area. Besides, the organizer of the public event

coordinate with the owner (lessee) of that premises, building or structure in which the premises are located the conditions of its provision.

In the event the organizers of a public event suppose that the limit of the occupancy rate of the territory (premise) established in the legislation unnecessarily complicates the implementation of the citizens right to assemble peacefully, without weapons, to conduct assemblies, demonstrations, processions and pickets which is laid down in Art. 31 of the Constitution of the Russian Federation, they have the right to appeal such provisions of legal acts in court.

**2. *Separate grounds for suspension and termination of public events seem contradictory to the principles of legality and proportionality?***

**Answer:** The Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Pickets" provides grounds for suspension and termination of public events. These grounds are enshrined in articles 15 and 16. According to Art. 15 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing":

1) If, during a public event due to the fault of its participants there was a violation of law not entailing risk to life and health of its participants, the authorized representative of the executive authority of the subject of the Russian Federation or of the local authorities may require the organizer of a public event on their own or in conjunction with an authorized representative of the internal affairs body to eliminate the violation.

2) In the event of failure to follow the requirement to eliminate violations as specified in Part 1 of Art. 15 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" authorized representative of the executive authority of the subject of the Russian Federation state or of the local authorities may suspend a public event for the time period specified for elimination of the violation. Public event may be continued after elimination of violations as agreed between the organizer and the appropriate authorized representative.

3) If the violation was not eliminated after the time specified by the authorized representative of the executive organ of the subject of the Russian Federation or of local authorities, the public event is terminated in the manner as prescribed by Art. 17 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Pickets".

In accordance with Art. 16 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" grounds for termination of a public event are:

1) creating a real threat to life and health of citizens, as well as to the property of individuals and entities;

2) commitment by the participants of a public event of unlawful acts and intentional violation by the organizer of public event requirements on the order of a public event as stated by the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing".

**3. *The presence of restrictions on the place and time of the demonstrations: the need for exceptions.***

**Answer:** According to Part 1 of Art. 8 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" public event can be conducted in any suitable for the purpose of the event locations, provided that its conduct can not pose a threat of collapse of buildings or other threats to the safety of the participants of this public event. Terms of banning or restricting of a public event in some places can be specified by federal laws. Part 2 of Article 8 of the above-noted Federal Law includes the places in which public events shall be prohibited:

1) territory immediately adjacent to hazardous industrial facilities and other facilities, the operation of which requires compliance with specific safety regulations;

- 2) overpasses, railways and the railroads right of way, oil, gas and product pipelines, high voltage power lines;
- 3) territories immediately adjacent to the residences of the President of the Russian Federation, to the buildings occupied by courts, to the territories and buildings of institutions executing punishment in the form of detention or imprisonment;
- 4) border zone, if there is no special permission authorized by the border authorities.

The Constitution of the Russian Federation states that the rights and freedoms of people and citizen, including the right to hold assemblies, rallies, demonstrations, processions and picketing may be limited by federal law only to the extent that is necessary to protect the constitutional order, morality, health, rights and lawful interests of other persons, national defense and national security (Article 31, Part 3. Article 55). The ban on holding of public events in above-noted places is due to their strategic purpose. Holding of a public events at the locations specified in paragraph 1 and paragraph 2 of Part 2 of Art. 8 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" may not be safe for the participants of public events, as well as for other citizens. With regard to the prohibition contained in paragraph 3 of Part 2 of Art. 8 of that Federal law, in the interest of ensuring the rights and freedoms, the federal legislator has provided measures to avoid pressure on court trials. These measures include a legislative ban to hold public events in the territories immediately adjacent to the buildings occupied by courts. By establishing a ban on holding of a public events in areas immediately adjacent to the territories and buildings of institutions executing punishment in the form of imprisonment, the legislator relied on the need to maintain a stable security in these locations due to their special status. Destabilization of situation which can cause the holding of public events in the institutions executing punishment in the form of imprisonment can lead to tragic consequences and victims. As for the ban on holding of public events in territories immediately adjacent to the residences of the President of the Russian Federation, in this case, the legislator relied on the special constitutional status of the Russian President as head of state, guarantor of the Constitution of the Russian Federation, the rights and freedoms of people and citizen.

In addition, under Part 3. Art. 8 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" the procedure for a public event in the territories with objects of monuments of history and culture is determined by the relevant executive organ of the subject of the Russian Federation, taking into account the peculiarities of such facilities and the requirements of the Federal law. Subjects of the Russian Federation do not have the right to establish additional prohibitions for public events on the territories with monuments of history and culture. In these territories, taking into account the peculiarities of objects of history and culture, the subjects of the Russian Federation can only determine the procedure for public events, but they may not prohibit their conduct.

In accordance with Part 3.1 of Art. 8 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" procedure for a public event at the transport infrastructure used for public transport, provided their use is not prohibited in accordance with Part 2 of Art. 8 of this Federal Law, shall be determined by the law of the subject of the Russian Federation with account of the requirements of the Federal law, as well as the requirements ensuring transport safety as stipulated by federal laws and regulations.

Art. 9 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" states that a public event can not begin before 7:00 and end after 23 hours of the day of local time. Such additional restrictions on the timing of public events is connected with the need to maintain public order and tranquility of citizens.

**4. *Unforeseen and urgent measures: the law does not provide exceptions from the requirement to send advance notice of public events, although the possibility of unforeseen and urgent assemblies must be provided.***

**Answer:** The Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" (Part 1 of Art. 7) obliges the organizer of a public event not earlier than 15 and no later than 10 days before its holding to file a notification. Notice by the group of people of a picketing shall be filed not later than 3 days before its holding. It seems that these terms are sufficient for the effective implementation of the constitutional right of citizens to assemble peacefully, without weapons, hold assemblies, rallies, demonstrations, processions and picketing, they meet the requirement of proportionality and serve as a procedural guarantee as to the organizers of public events, and for the authorities. The establishment of such terms allows the state organs and local authorities to ensure security of the participants of public events, to prevent breaches of public order, to facilitate within its competence the conduct of a public event.

#### **5. Advance notification of a public event**

- ***There is a notice, not a request for authorization, which is positive; on what basis the government should provide a reasonable proposal to change the time and place, as well as proposals to eliminate possible inconsistencies.***

**Answer:** According to paragraph 1 and paragraph 2 of Part 1 of Art. 12 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing", the public authority shall document the receipt of notice of a public event and in three days inform the organizer of its reasonable proposals for changing the location and (or) time of the event or request to eliminate non-compliance of notification to the requirements of law. The law does not empower the authority not to accept the notice of a public event. The public authority may not prohibit (and not permit) a public event - it may only offer to change the location and (or) time of its holding, and such proposal have to be motivated and caused either by the need to maintain a normal and smooth operation of vital utilities and transport infrastructure or by the need to maintain public order and security of citizens. In the discussion of the offer made by an authorized official of a public authority with the event organizers it is necessary to take into account the possibility of achieving the goal of public events - the free formation and expression of opinions, presenting demands on various issues of political, economic, social and cultural life of the country and foreign policy. Accordingly, a negative decision by a public authority may not be due only to organizational reasons or other similar nature.

The disputed provision "reasoned offer" - in its constitutional and legal sense - means that the decision should contain strong reasons supporting the position that holding a public event is not just undesirable, but that it is impossible due to the need to protect the public interest.

The provisions of law providing the power for public authorities to make a reasoned proposal to change the location and (or) time of a public event, and requiring the consultations on the proposal with the organizers, suggests that the proposed changes in holding a public event make it possible to achieve the legitimate aims of the event at the location and (or) at the time, which correspond to its social and political significance. The applicants also while implementing their right to determine the place and time of the event should, in turn, endeavor to reach agreement on the basis of a balance of interests.

- ***The organizer has the right to hold a demonstration at the time and places that have been modified in consultation with the executive authority and shall comply with the conditions. What is the procedure in case of disagreement of the organizer? What are the limits of the possible agreement between the organizer and the authorities?***

**Answer:** If no agreement is reached between the subjects of legal relations, the organizers of public events may protect their rights in court. This possibility is explicitly provided for in Article 19 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing", according to which decisions and actions (inaction) of state authorities, local governments, violating the right of citizens to hold a public event, may be appealed to Court in accordance with the laws of the Russian Federation.

**- On what grounds authorities should construct a decision to change the originally proposed time and place for public events?**

**Answer:** Article 3 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" of June 19, 2004 № 54-FZ enshrines the principles of holding a public event, in particular the rule of law, requiring the compliance with the provisions of the Constitution of the Russian Federation, above-noted Federal Law, other legislative acts of the Russian Federation.

The public authority may not prohibit (not permit) a public event, it may only offer to change the location and (or) time of its holding, and such a proposal have to be motivated. The concept "motivated offer" in constitutional and legal sense means that in this decision should be a strong reason in support of holding a public event showing that is not just undesirable, but that is necessary to protect the public interest.

With regard to the concept of "consultation", the constitutional and legal sense implies the duty of public authorities to suggest to the organizer of a public event such an option, which would allow to realize its goal.

We also think that in addition, when the time and place is claimed by organizers of different public events with diametrically opposed slogans, competent authorities should have the legal mechanisms for influencing the change in location and timing of these actions to ensure safety and order. It should be noted that the laws of some subjects of the Russian Federation specify the criteria justifying changes to the terms of public events. In particular, Part 1.4 of Art. 1 of the Penza region law provides that when the place and time specified by the organizer of a public campaign, is planned to be occupied by another event, the authority which has received the notice of a public event, shall have the right, in accordance with the requirements as specified by the Federal Law, to address the organizers of a public event with a reasoned proposal to change the location and (or) time of its holding. A similar provision has the Law of the Republic of Mari El.

**- Is the requirement to notify within 10-15 days overclaiming?**

**Answer:** The Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Picketing" (Part 1 of Art. 7) obliges the organizer of a public event not earlier than 15 and no later than 10 days before its holding to file a notification. Notice from a group of people on picketing shall be filed not later than 3 days before its holding. Practice proves that such terms are sufficient for the effective implementation of the constitutional right to peaceful assemblies, they meet the requirement of proportionality and serve as a procedural guarantee both to the organizers of public events and authorities.

**6. Responsibilities of the organizer: Are the claims about the full responsibility of the organizer to ensure public order and to follow the hourly schedule of public events overclaiming?**

**Answer:** The provisions of Parts 3 and 4 of Article 5 of the Federal Law "On Assemblies, Rallies, Demonstrations, Processions and Pickets" provides for the rights and obligations of the organizer of public events. They permit the organizers of events to implement their functions such as obtaining relevant permissions for holding a public event and to provide for the participation of authorized representatives of the executive organs of the subjects of the Russian Federation and local authorities and authorized representative of bodies of internal affairs in ensuring public order and safety of citizens during public events.

Organizer is empowered to suspend or terminate the public event in case of commitment of unlawful acts by its participants.

Article 6 of the Federal Law of June 19, 2004 № 54-FZ "On Assemblies, Rallies, Demonstrations, Processions and Pickets" provides for the rights and duties of public event participants, namely: to fulfill all legal requirements of the organizer of a public event, authorized persons, authorized representative of the executive organ of the subject of the Russian

Federation or local authorities and officials of bodies of internal affairs, to keep public order and the rules of holding a public event.

A literal interpretation of the provisions of the Federal Law of June 19, 2004 N 54-FZ "On Assemblies, Rallies, Demonstrations, Processions and Picketing" does not imply that the organizers of public events are responsible for the actions and opinions of persons who participated in the public event organized by them. Differentiation of responsibility between organizer and participants of mass event for breach of the order of its holding should consider the extent of fulfilling the responsibilities of the organizer to terminate the illegal actions of the participants (paragraphs 4 and 6 of Part 4 of Article 5 of the Federal law): in case of proper performance of this function the protocols on administrative violations shall be drawn up for the participants, otherwise - for an organizer.