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Opinion no. 659/2011

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**FEDERAL LAW NO. 65-FZ OF 8 JUNE 2012
AMENDING THE CODE OF ADMINISTRATIVE OFFENCES
AND
THE FEDERAL LAW ON ASSEMBLIES, RALLIES, DEMONSTRATIONS,
MARCHES AND PICKETING
OF THE RUSSIAN FEDERATION**

Adopted by the State Duma on 5 June 2012

Ratified by the Federation Council on 6 June 2012

Article 1

Make the following amendments to the Code of Administrative Offences of the Russian Federation (Compendium of Legislation of the Russian Federation, 2002, no. 1, art. 1; no. 30, art. 3029; no. 44, art. 4295; 2003, no. 27, art. 2700, 2708, 2717; no. 46, art. 4434; no. 50, art. 4847, 4855; 2004, no. 31, art. 3229; no. 34, art. 3529, 3533; no. 44, art. 4266; 2005, no. 1, art. 9, 13, 40, 45; no. 10, art. 763; no. 13, art. 1075, 1077; no. 19, art. 1752; no. 27, art. 2719, 2721; no. 30, art. 3104, 3131; no. 40, art. 3986; no. 50, art. 5247; no. 52, art. 5574; 2006, no. 1, art. 4, 10; no. 2, art. 172; no. 6, art. 636; no. 10, art. 1067; no. 12, art. 1234; no. 17, art. 1776; no. 18, art. 1907; no. 19, art. 2066; no. 23, art. 2380, 2385; no. 31, art. 3420, 3438, 3452; no. 45, art. 4641; no. 50, art. 5279, 5281; no. 52, art. 5498; 2007, no. 1, art. 21, 25, 29; no. 7, art. 840; no. 15, art. 1743; no. 16, art. 1825; no. 21, art. 2456; no. 26, art. 3089; no. 30, art. 3755; no. 31, art. 4007, 4008; no. 41, art. 4845; no. 43, art. 5084; no. 46, art. 5553; 2008, no. 10, art. 896; no. 18, art. 1941; no. 20, art. 2251, 2259; no. 30, art. 3604; no. 49, art. 5745, 5748; no. 52, art. 6227, 6235, 6236; 2009, no. 1, art. 17; no. 7, art. 777; no. 23, art. 2759, 2776; no. 26, art. 3120, 3122; no. 29, art. 3597, 3642; no. 30, art. 3735, 3739; no. 45, art. 5265, 5267; no. 48, art. 5711, 5724; no. 52, art. 6412; 2010, no. 1, art. 1; no. 18, art. 2145; no. 19, art. 2291; no. 21, art. 2525; no. 23, art. 2790; no. 27, art. 3416, 3429; no. 30, art. 4002, 4006, 4007; no. 31, art. 4158, 4164, 4192, 4193, 4195, 4206, 4207, 4208; no. 41, art. 5192; no. 49, art. 6409; 2011, no. 1, art. 10, 23, 29, 33, 54; no. 7, art. 901; no. 15, art. 2039; no. 17, art. 2310; no. 19, art. 2714, 2715; no. 23, art. 3260; no. 27, art. 3873; no. 29, art. 4289, 4290, 4298; no. 30, art. 4573, 4574, 4585, 4590, 4598, 4600, 4601, 4605; no. 45, art. 6325; no. 46, art. 6406; no. 47, art. 6602; no. 48, art. 6728; no. 49, art. 7025, 7061; no. 50, art. 7342, 7345, 7346, 7351, 7352, 7355, 7362, 7366; 2012, no. 6, art. 621; no. 10, art. 1166; no. 19, art. 2278, 2281):

1) in Article 3.2:

a) supplement paragraph 1 with a sub-paragraph 10 worded as follows:

"10) community service.";

b) [*б* in the original Russian] in paragraph 3 replace the words "in sub-paragraphs 3 - 9" with the words "in sub-paragraphs 3 - 10";

2) in paragraph 1 of Article 3.3 replace the words "disqualification and administrative suspension of activities" with the words "disqualification, administrative suspension of activities and community service";

3) in the first sentence of paragraph 1 of Article 3.5 replace the words "for citizens at an amount not exceeding five thousand roubles; for officials at fifty thousand roubles" with the words " for citizens at an amount not exceeding five thousand roubles or in the cases provided for in Articles 5.38, 20.2, 20.2², 20.18 and paragraph 4 of Article 20.25 of the present Code at three hundred thousand roubles; for officials at fifty thousand roubles, or in the cases provided for in Article 5.38, paragraphs 1 - 4 of Article 20.2 and Articles 20.2² and 20.18 of the present Code at six hundred thousand roubles";

4) supplement chapter 3 with an Article 3.13 worded as follows:

"Article 3.13. **Community work**

1. Community work shall entail unpaid work of public utility performed by a physical individual having committed an administrative offence, carried out during free time outside their principal work, duties or studies. Community work shall be imposed by a judge.

2. Community work shall be established for a period of between 20 and 200 hours and shall be performed for no more than four hours a day.

3. Community work shall not be applicable to pregnant women, women with children under three years of age, category-I and -II invalids, servicemen, citizens conscripted for military training or special-ranked staff of internal affairs agencies, criminal law enforcement system authorities and institutions, the state fire service, agencies combating trade in narcotics and psychotropic substances and customs authorities.";

5) in paragraph 1 of Article 4.5 after the words "on industrial safety" insert the words "and on assemblies, rallies, demonstrations, marches and picketing";

6) reword the second sentence of paragraph 5.38 as follows:

"shall entail the imposition of an administrative fine on citizens of between ten thousand and twenty thousand roubles; and on officials of between thirty thousand and fifty thousand roubles.";

7) reword Article 20.2 as follows:

"Article 20.2. Violation of the established procedure for organising or holding assemblies, rallies, demonstrations, marches and picketing

1. The violation by an organiser of a public event of the established procedure for organising or holding assemblies, rallies, demonstrations, marches and picketing, except in the cases provided for in paragraphs 2 - 4 of the present Article, shall entail the imposition of an administrative fine on citizens of between ten thousand and twenty thousand roubles or community service for a period of up to forty hours; on officials of between fifteen thousand and thirty thousand roubles; and on legal entities of between fifty thousand and one hundred thousand roubles.

2. The organising or holding of a public event without submitting notice thereof under the established procedure, except in the cases provided for in paragraph 7 of the present Article, shall entail the imposition of an administrative fine on citizens of between twenty thousand and thirty thousand roubles or community service for a period of up to fifty hours; on officials of between twenty thousand and forty thousand roubles; and on legal entities of between seventy thousand and two hundred thousand roubles.

3. Acts/failures to act provided for in paragraphs 1 and 2 of the present Article resulting in hindrance to the movement of pedestrians or traffic or overcrowding exceeding the maximum occupancy norms applying to an area/premises, shall entail the imposition of an administrative fine on citizens of between thirty thousand and fifty thousand roubles or community service for a period of up to one hundred hours; on officials of between fifty thousand and one hundred thousand roubles; and on legal entities of between two hundred and fifty thousand and five hundred thousand roubles.

4. Acts/failures to act provided for in paragraphs 1 and 2 of the present Article resulting in harm to human health or property, where such acts/failures to act entail no action that is punishable under criminal law, shall entail the imposition of an administrative fine on citizens of between one hundred thousand and three hundred thousand roubles or community service for a period of up to two hundred hours; on officials of between two hundred thousand and six hundred thousand roubles; and on legal entities of between four hundred thousand and one million roubles.

5. The violation by a participant in a public event of the established procedure for holding assemblies, rallies, demonstrations, marches and picketing, except in the cases provided for in paragraph 6 of the present Article, shall entail the imposition of an administrative fine of between ten thousand and twenty thousand roubles or community service for a period of up to forty hours.

6. Acts/failures to act provided for in paragraph 5 of the present Article resulting in harm to human health or property, where such acts/failures to act entail no action that is punishable under criminal law, shall entail the imposition of an administrative fine of between one hundred and fifty thousand and three hundred thousand roubles or community service for a period of up to two hundred hours.

7. The organisation or holding of unauthorised assemblies, rallies, demonstrations, marches or picketing in the immediate vicinity of an area occupied by a nuclear installation, a radiation source or a site used to store nuclear materials and radioactive substances or active participation in such public events, where this has made it more difficult for workers at the aforementioned installations, sources or sites to fulfil their duties or has created a threat to the safety of the population and environment, shall entail the imposition of an administrative fine of between one hundred and fifty thousand and three hundred thousand roubles or administrative detention for a period of up to fifteen days; on officials of between two hundred thousand and six hundred thousand roubles; and on legal entities of between five hundred thousand and one million roubles.";

8) supplement with an Article 20.2² worded as follows:

"Article 20.2². Organisation of a mass simultaneous presence and/or movement of citizens in public places, resulting in a breach of public order

1. The organisation of a mass simultaneous presence and/or movement of citizens in a public place that is not a public event, public calls for a mass simultaneous presence and/or movement of citizens in a public place or participation in a mass simultaneous presence and/or movement of citizens in a public place, where such a mass simultaneous presence and/or movement of citizens in a public place has resulted in a breach of public order or health standards and rules, the compromising of the functioning and integrity of facilities serving vital activities or communications or in damage to green spaces or created a hindrance to the movement of pedestrians or traffic or to citizens' access to dwellings or transport or social infrastructure facilities, except in the cases provided for in paragraph 2 of the present Article, shall entail the imposition of an administrative fine on citizens of between ten thousand and twenty thousand roubles or community service for a period of up to fifty hours; on officials of between fifty thousand and one hundred thousand roubles; and on legal entities of between two hundred thousand and three hundred thousand roubles.

2. Acts provided for in paragraph 1 of the present Article resulting in harm to human health or property, where such acts/failures to act entail no action that is punishable under criminal law, shall entail the imposition of an administrative fine on citizens of between one hundred and fifty thousand and three hundred thousand roubles or community service for a period of up to two hundred hours; on officials of between three hundred thousand and six hundred thousand roubles; and on legal entities of between five hundred thousand and one million roubles.

Note. An organiser of a mass simultaneous presence and/or movement of citizens in a public place that is not a public event shall, for the purposes of the present Article, be taken as meaning an individual having *de facto* fulfilled an organisational/administrative function for the organisation or holding of a mass simultaneous presence and/or movement of citizens in a public place that is not a public event.";

9) in Article 20.18:

a) in the first sentence after the words "transport links" insert the words ", except in the cases provided for in paragraph 3 of Article 20.2 and Article 20.2² of the present Code,";

b) [*6* in the original Russian] reword the second sentence as follows:

"shall entail the imposition of an administrative fine on citizens of between fifty thousand and one hundred thousand roubles or community service for a period of up to one hundred hours; on officials of between one hundred and fifty thousand and three hundred thousand roubles; and on legal entities of between two hundred and fifty thousand and five hundred thousand roubles.";

10) supplement Article 20.25 with a paragraph 4 worded as follows:

"4. Refusal to perform community service shall entail the imposition of an administrative fine on citizens of between one hundred and fifty thousand and three hundred thousand roubles or administrative detention for a period of up to fifteen days.";

11) in Article 23.1:

a) in paragraph 1 replace the numbers "20.2, 20.3," with the numbers "20.2, 20.2², 20.3,";

b) [*6* in the original Russian] in paragraph 3:

supplement with a new third sentence worded as follows:

"Cases concerning administrative offences provided for in Articles 5.38, 19.3, 20.1 - 20.3, 20.18, 20.29 of the present Code shall be examined by *rayon* [district] court judges.";

Consider sentences three - five as corresponding to sentences four - six;

12) in the second sentence of paragraph 3 of Article 25.1 replace the words "administrative detention or administrative expulsion from the Russian Federation of a foreign citizen or stateless person," with the words " administrative detention, administrative expulsion from the Russian Federation of a foreign citizen or stateless person or community service,";

13) in sub-paragraph 14 of paragraph 1 of Article 27.2 replace the words "17.15 and 17.16 of the present Code" with the words "17.15, 17.16 and paragraphs 1 and 4 of Article 20.25 of the present Code";

14) in sub-paragraph 10 of paragraph 1 of Article 27.3 replace the words "17.15 and 17.16 of the present Code" with the words "17.15, 17.16 and paragraphs 1 and 4 of Article 20.25 of the present Code";

15) in Article 28.3:

a) in sub-paragraph 1 of paragraph 2 replace the numbers "20.2, 20.3," with the numbers "20.2, 20.2², 20.3,";

b) [*6* in the original Russian] in sub-paragraph 77 of paragraph 2 after the number "19.7" insert the words ", paragraph 4 of Article 20.25";

16) in paragraph 2 of Article 31.6 after the words "decision imposing administrative arrest" insert the words "or community service";

17) supplement chapter 32 with an Article 32.13 worded as follows:

"Article 32.13. Execution of a decision to impose community service

1. A decision by a judge to impose community service shall be executed by a judicial enforcement officer under the procedure established by federal legislation.
2. The types of community service and the list of organisations in which persons sentenced to administrative punishment in the form of community service perform community service shall be determined by local authorities by agreement with the territorial federal executive authorities empowered to exercise functions regarding the compulsory execution of court orders and the guaranteeing of the established procedure for courts' activities. Types of community service requiring special skills or knowledge may not be imposed on persons not having such skills or knowledge.
3. A person sentenced to administrative punishment in the form of community service shall be called to perform community service no later than 10 days following the lodging of execution proceedings by the judicial enforcement officer.
4. Judicial enforcement officers shall keep a record of persons sentenced to administrative punishment in the form of community service, explain to those persons the procedure and conditions governing the performance of community service, agree with local authorities on the list of organisations in which persons sentenced to administrative punishment in the form of community service perform community service, monitor the conduct of those persons and keep a summary account of the time worked by them to serve their punishment.
5. Persons sentenced to administrative punishment in the form of community service shall comply with the rules of internal procedure of organisations in which such persons perform community service, work conscientiously on the tasks allocated to them for the period of community service established by the court, notify the judicial enforcement officer of any change in their place of residence and also attend appointments convened by that officer.
6. The granting of annual paid leave in their main place of work to a person sentenced to administrative punishment in the form of community service shall not have the effect of suspending the execution of administrative punishment in the form of community service.
7. A person sentenced to administrative punishment in the form of community service may petition the court for release from further performance of community service in the event of them being declared a category-I or -II invalid, falling pregnant or suffering a serious illness preventing the performance of community service. To grant such a petition, the judge shall hand down a ruling terminating execution of the decision imposing administrative punishment in the form of community service.
8. Community work shall be performed by a person sentenced to administrative punishment in the form of community service on a non-remunerated basis.
9. The period of community service shall be counted in hours during which a person sentenced to administrative punishment in the form of community service has performed community service.
10. The time spent performing community service may not exceed four hours at weekends and on days when a person sentenced to administrative punishment in the form of community service is not occupied by their principal work, duties or studies; on working days it may not exceed two hours after the person has finished their work, service or studies or, with the agreement of the person sentenced to administrative punishment in the form of community service, four hours. The time spent performing community service per week may not, as a rule, be less than 12 hours. Where there are legitimate reasons, the judicial enforcement officer may authorise a person

sentenced to administrative punishment in the form of community service to work fewer hours per week.

11. The administration of the organisation in which a person sentenced to administrative punishment in the form of community service performs that community service shall be responsible for monitoring that person's fulfilment of the work assigned to them and for notifying the judicial enforcement officer of the number of hours worked or of a refusal by a person sentenced to administrative punishment in the form of community service to perform community service.

12. In the event of refusal to perform community service by a person sentenced to administrative punishment in the form of community service, manifested by repeated refusal to carry out tasks and/or repeated failure by that person to report for community service without legitimate reasons and/or repeated offence of the work rules set forth in documents of the organisation in which a person sentenced to administrative punishment in the form of community service performs that community service, the judicial enforcement officer shall draw up a report of the administrative offence provided for in paragraph 4 of Article 20.25 of the present Code."

Article 2

Make the following amendments to Federal Law no. 54-FZ of 19 June 2004 "On assemblies, rallies, demonstrations, marches and picketing" (Compendium of Legislation of the Russian Federation, 2004, no. 25, art. 2485; 2010, no. 50, art. 6602; 2011, no. 50, art. 7366):

1) in Article 5:

a) supplement paragraph 2 with a sub-paragraph 1¹ worded as follows:

"1¹) a person with an unquashed or outstanding conviction for the committing of a premeditated crime against the fundamentals of the constitutional order and security of the State or a crime against public safety and public order or having been prosecuted under administrative law twice or more for administrative offences provided for in Articles 5.38, 19.3, 20.1 - 20.3, 20.18, 20.29 of the Code of Administrative Offences of the Russian Federation during a period when that person is subject to administrative punishment;"

b) [*б* in the original Russian] supplement paragraph 3 with a sub-paragraph 6 worded as follows:

"6) demand that an authorised representative of the internal affairs authorities remove from the site of a public event persons not fulfilling the lawful requests of an organiser of a public event.";

c) [*в* in the original Russian] in paragraph 4:

reword sub-paragraph 4 as follows:

"4) demand that participants in a public event respect public order and the rules for holding public events and cease any offences of the law;"

supplement with a sub-paragraph 7¹ worded as follows:

"7¹) take measures to prevent the number of participants announced in the notice of the holding of a public event being exceeded, where exceeding that number of participants creates a threat to public order and/or public safety, the safety of the participants in the public event or other persons or a risk of damage to property;"

supplement with a sub-paragraph 11 worded as follows:

"11) demand that participants in a public event do not conceal their faces, including through the use of masks, means of disguise or other items specially intended to make them more difficult to identify. People not complying with the lawful requests of an organiser of a public event may be removed from the site of that public event.";

d) [*е' in the original Russian*] supplement with a paragraph 6 worded as follows:

"6. In the event of failure by an organiser of a public event to fulfil the obligations provided for in paragraph 4 of the present Article, they shall bear liability under civil law for the damage caused by participants in that public event. Such damage shall be compensated for under civil law proceedings.";

2) supplement Article 6 with a paragraph 4 worded as follows:

"4. Participants in public events may not:

1) conceal their faces, including through the use of masks, means of disguise or other items specially intended to make them more difficult to identify;

2) have about their person weapons or objects that may be used as weapons, explosives and highly inflammable substances or have about their person and/or consume alcoholic or alcohol-containing products, beer or drinks made therefrom;

3) be in a state of inebriation at the site of a public event.";

3) supplement Article 7 with a paragraph 1¹ worded as follows:

"1¹. Notice of picketing carried out by a single participant shall not be required. The minimum permissible distance between persons carrying out such picketing shall be determined by a law of the Russian Federation constituent entity concerned. That minimum distance may not be more than 50 metres. The sum total of picketing actions carried out by a single participant united by a single concept and overall organisation may be declared by decision of the court in a specific civil, administrative or criminal case as a public event.";

4) in Article 8:

a) supplement with a paragraph 1¹ worded as follows:

"1¹. The executive authorities of the Russian Federation constituent entities concerned shall determine common sites specially designated or adapted for collective discussion of publicly significant questions and the expression of public sentiment and also for mass gatherings of citizens for the public expression of public opinion on topical issues of a primarily socio-political nature (hereinafter – specially designated sites). The procedure for using specially designated sites and the norms for their maximum capacity and maximum number of people participating in public events for which notice is not required shall be established by a law of the Russian Federation constituent entities, whereupon the aforementioned maximum capacity may not be fewer than one hundred people.";

b) [*б' in the original Russian*] supplement with a paragraph 1² worded as follows:

"1². In the determining of specially designated sites and establishing of rules for their use there must be provision for the possibility of attaining the aims of public events, transport access to specially designated sites, the possibility for public event organisers and participants to use infrastructure facilities, compliance with health norms and rules, and the safety of public event

organisers and participants and other persons. In the event of notice of the holding of public events at specially designated sites being sent by the organisers of several public events at the same time, the order of use of specially designated sites shall be determined on the basis of the time of receipt of the notices by the executive authorities of the Russian Federation constituent entity concerned or by the local authorities.";

c) [*б' in the original Russian*] supplement with a paragraph 2¹ worded as follows:

"2¹. After specially designated sites have been determined by the executive authorities of the Russian Federation constituent entities in accordance with paragraph 1¹ of the present Article, public events shall be held, as a rule, at those sites. The holding of public events outside specially designated sites shall be admissible only following agreement with the executive authorities of the Russian Federation constituent entity concerned or with the local authorities. The executive authorities of the Russian Federation constituent entity concerned or the local authorities may refuse to agree to the holding of a public event only on the grounds provided for in paragraph 3 of Article 12 of the present Federal Law.";

d) [*е' in the original Russian*] supplement with a paragraph 2² worded as follows:

"2². In order to safeguard human and civil rights and freedoms and preserve lawfulness, law and order and public safety, a law of the Russian Federation constituent entities shall further determine the sites where the holding of assemblies, rallies, marches and demonstrations shall be prohibited, including if the holding of public events at those sites may result in the compromising of the functioning of facilities serving vital activities, transport facilities or the social infrastructure or communications or create a hindrance to the movement of pedestrians and/or traffic or to citizens' access to dwellings or to transport or social infrastructure facilities.";

5) in Article 9 replace the words "later than 11 pm" with the words "later than 10 pm, with the exception of public events devoted to commemorative dates of Russia or public events with a cultural content";

6) in paragraph 1 of Article 10 replace the words [as of the time of] "giving notice of the holding" with the words "agreeing with the executive authorities of the Russian Federation constituent entity concerned or with the local authorities and/or the time of holding";

7) in Article 12:

a) supplement sub-paragraph 3 of paragraph 1 with the words "and to the internal affairs agency for the organisation of cooperation in the appropriate provision of public safety of participants in the public event and other persons";

b) [*б' in the original Russian*] supplement with a paragraph 3 worded as follows:

"3. The executive authorities of the Russian Federation constituent entity concerned or the local authorities may refuse to agree on the holding of a public event only in cases where notice of the intention to hold it is submitted by an individual who, under the present Federal Law, is not entitled to be an organiser of a public event, or if the notice states that the public event is to be held at a site on which, under the present Federal Law or a law of the Russian Federation constituent entity concerned, the holding of public events is prohibited.";

8) supplement Article 16 with an indent 3 worded as follows:

"3) failure by an organiser of a public event to fulfil the obligations provided for in paragraph 4 of Article 5 of the present Federal Law.".

Article 3

1. The present Federal Law shall enter into force on the date of its official publication, with the exception of sub-paragraph "b" [*б' in the original Russian*] of paragraph 11 of Article 1 of the present Federal Law.

2. Sub-paragraph "b" [*б' in the original Russian*] of paragraph 11 of Article 1 of the present Federal Law shall enter into force as of 1 January 2013.

3. The provisions of the Code of Administrative Offences of the Russian Federation (as per the version of the present Federal Law) regarding administrative punishment in the form of community service shall be applicable as of 1 January 2013.

4. The laws of Russian Federation constituent entities mentioned in paragraph 1¹ of Article 7, paragraphs 1¹, 1² and 2² of Article 8 of Federal Law no. 54-FZ of 19 June 2004 "On assemblies, rallies, demonstrations, marches and picketing" (as per the version of the present Federal Law), and the decisions of executive authorities of Russian Federation constituent entities mentioned in paragraph 1¹ of Article 8 of Federal Law no. 54-FZ of 19 June 2004 "On assemblies, rallies, demonstrations, marches and picketing" (as per the version of the present Federal Law) shall be passed and enter into force no later than 31 December 2012.

President of the Russian Federation, V. Putin