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Age Discrimination in the Context of Freedom of Assembly in Russia

Доклад на русском языке: [Эйджизм и возрастная дискриминация в контексте свободы собраний в России](#)

INFORMATION ABOUT THE ORGANIZATION SUBMITTING THIS MEMORANDUM AND INTRODUCTION

OVD-Info, www.ovdinfo.org, is an independent human rights media project aimed at monitoring cases of political persecution in Russia and providing legal assistance to victims of such persecution. OVD-Info was founded during mass protests of December 2011 as a volunteer project with the purpose of giving publicity to information on arrests of protest participants. Today OVD-Info operates a 24-hour federal hotline to collect information on all types of political persecution and coordinate legal assistance to its victims, provides legal education to activists and researches different types of political persecution in Russia.

Due to the specifics of our expertise, in this memorandum we present information on the situation with ageism and age discrimination in the sphere of the right to freedom of assembly.

The memorandum consists of two parts: the first part is dedicated to the older persons, the second one covers minors and young people in the context of freedom of assembly. We selected these groups for detailed analysis due to their particular vulnerability: health status, financial and social dependence, legal restrictions, etc. The situation with freedom of peaceful assembly in the Russian Federation remains difficult. The suppression of peaceful assemblies **continues**: mass arrests, criminal and administrative prosecution of organizers and participants of protests. In January — February 2021, at least 185 cities across Russia and the Crimean peninsula saw a series of protests in support of opposition politician Alexei Navalny and against corruption and political persecution. These rallies were met with an unprecedented crackdown and violations. Over 11,000 people were detained in more than 125 cities, and over 9,000 administrative cases were initiated along with 90 criminal cases. The crackdown **included** the use of force by the police and multiple instances of violence, torture, threats, and inhumane treatment of detainees in prison vans, police stations, and detention centers. Older persons and minors especially suffered during this unprecedented crackdown because each of these groups has its own additional problems and characteristics. See more details below, in the order of questions suggested in the call for contributions by the Independent Expert.

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PART 1. OLDER PERSONS

Forms and manifestations of ageism and age discrimination

1.2.3. Attempts to exercise the right to freedom of peaceful assembly in modern Russia, especially in cases of speeches on topics undesirable for the authorities, are fraught with risks of detention and subsequent judicial and extrajudicial pressure. For older persons, these risks can be a greater burden, primarily due to health problems, as well as lower income levels that prevent them from paying subsequent fines. At the same time, it cannot be said that the Russian authorities persecute older persons for participating in protests based on their age; rather, problems associated with age restrictions are manifested in the negative attitude of the authorities towards this group due to their political views. Polls **show** that older persons are less likely to participate in protests: the median age of participants is 30-32 years. Participation in protests carries serious risks for them: the use of force during detention, the inability to quickly obtain medical care and medicines, stress and limited access to modern technologies are factors that have a deterrent effect on the freedom of peaceful assembly in this age group.

Legal, policy and institutional frameworks related to ageism and age discrimination

4. The Constitution of the Russian Federation prohibits any form of discrimination, therefore, all citizens regardless of age have the right to freedom of assembly. This is not to say that in public discourse, the complexity of older persons' participation in protests is perceived as a separate problem. However, the pandemic and associated coronavirus restrictions have shown that older persons cannot exercise their right to freedom of assembly and expression, especially when they are directly targeted by such restrictions. In practice, the Russian authorities **did not provide** older

persons with any alternatives, for example, to protest on the Internet on a special platform (website) of some official body.

5. The institution of the High Commissioner for Human Rights in Russia doesn't develop special policies to raise awareness of issues of exercising the right to freedom of assembly among older persons. We didn't find any data that could shed light on how the authorities try to move toward a more age-friendly and inclusive society.

6. In accordance with the Constitution, age cannot be grounds for discrimination. But in the face of the coronavirus outbreak, the Russian authorities have legislatively introduced a self-isolation regime for people over 65 years old. Violation of the regime entailed administrative and criminal liability. Under penalty of high fines, older persons were deprived of the opportunity to express their opinions and be heard by the state authorities.

Article 6.3 of the Code Of Administrative Offenses of the Russian Federation, hereinafter the Administrative Offences Code, (violating the laws in the area of securing the medical and epidemiological well-being of the population) was complemented by new norms. It implies that if such a violation poses a threat of spreading the disease, it results in a fine between 15,000 and 40,000 roubles (~ \$200 and \$538 at the exchange rate of 20 March 2021) and up to 300,000 roubles (~\$4,000 at the exchange rate of 20 March 2021) in case of aggravating consequences.

The new Article 20.6.1 of the Administrative Offences Code punishes breaking the rules, which include self-isolation rules during the emergency or the high-alert regime. The authorities imposed fines from 1,000 to 30,000 roubles (~ \$13 to \$400 at the exchange rate of 20 March 2021), and up to 50,000 roubles (~ \$670 at the exchange rate of 20 March 2021) if the violation led to any harm for **other people's health**.

Two new articles were added to the Criminal Code of Russia, hereinafter CC. They punish spreading «information about the circumstances posing a threat to one's life and safety known to be false» (Art. 207.1 CC) and spreading «information of high social importance known to be false, which led to serious consequences» (Art. 207.2 CC), the punishment is up to a 3-year sentence and up to 5 years if the act caused serious consequences. On 21 April 2020, the Supreme Court **issued** a **statement**, according to which these articles can also apply to statements made at public assemblies.

7. We do not have data on claims based on intersectional discrimination in the group of older persons. A special legal framework and the institution of an Ombudsman for older persons to perform monitoring functions in Russia doesn't exist. There is the federal institution of Human Rights Ombudsman but it is not sensitive to issues of age and freedom of assembly.

8.9. Liberalization of the legislation regarding fines for participating in protests and abolishment of Article 212 of the Criminal Code, which penalizes repeat violations of public assembly laws with heavy fines, imprisonment or forced labor, would enable older persons to exercise their right to peaceful assembly and expression. In accordance with the Federal Service for State Statistics (Rosstat), the average pension in December 2020 **amounted** to 15,059 roubles (~ \$202 at the exchange rate of 20 March 2021), while the fines under Article 20.2 of the Administrative Offences Code for violation of the established procedure for organizing or holding a protest, rally, demonstration, procession or picketing is from 10,000 to 20,000 roubles (~ \$130 to \$260 at the exchange rate of 20 March 2021), in case of repeated violation — up to 300,000 roubles (~ \$4,000 at the exchange rate of 20 March 2021). Thus, the abolition of the lower threshold for fines would have a beneficial effect on improving the situation with the

protection of civil rights and freedoms, since it would remove the economic burden from older persons for participating in protests.

*Vladimir Ionov became the first person against whom a criminal case was initiated under Article 212.1, which was included in the Criminal Code in July 2014. He **was accused** of repeated violations of the procedure for holding public events because of several previous administrative penalties in connection with detentions at peaceful street rallies in 2014-2015.*

10. Older persons are the most vulnerable social group due to a number of factors from socio-economic to personal due to their health status. The right to participate in public events is an essential tool for expressing opinions on sensitive issues and shaping public agendas for public authorities.

Unfortunately, Russia has developed a repressive practice towards peaceful assemblies, which in turn negatively affected the ability of older persons to exercise their political rights. Moreover, the pandemic and quarantine restrictions for people over 65 years old have shown how much of this problem is not in the focus of public attention.

At the end of March 2020, the authorities gradually began imposing lockdown, restricting people from leaving their homes and moving about the city. On April 1, the federal legislator introduced amendments to the federal law «On Protection of the Population and Territories in Case of Natural or Man-Made Disasters, » authorizing the heads of the federal subjects to impose mandatory restrictions and requirements in emergencies or during the «**high alert regime**». From that moment on, people over 65 years old in all regions of the country had to comply with the self-isolation regime, in case of violation of which they were administratively and criminally liable. Thus, older persons, who are part of the group of socially vulnerable citizens, were

deprived of the right to move freely and participate in public events.

Violation of the self-isolation regime entailed the payment of fines, the amounts of which were excessive for older persons, while the courts often did not take into account the circumstances in which an older person violated the rules of self-isolation.

*In Yekaterinburg, on 6 February 2021, 79-year-old Galina Bystrygina was detained by 5 police officers at a one-person picket in support of a Russian opposition politician Alexei Navalny. The court **found** her guilty of violating Article 20.6.1 of the Administrative Offences Code and imposed a 1,000-rouble fine (~ \$13 at the exchange rate of 20 March 2021).*

On 13 April 13, 2020, in Omsk, pensioner Valentin Kuznetsov went to a one-person picket against the self-isolation regime near the building of the regional legislative assembly.

*On 15 April, Kuznetsov was taken from his home to the police department to draw up a protocol under Article 20.6.1 of the Administrative Offences Code. At that, the police arrived without masks and gloves. Then they **sent** him home by public transport, violating the self-isolation regime.*

*In the village of Uvelsky, Chelyabinsk Region, 4 police officers detained 83-year-old Valentin Kudryaev for a single-person protest in support of Alexei Navalny. Two protocols were drawn up for the pensioner: one under Article 20.6.1 of the Administrative Offences Code («Violation of the regime of high alert for emergencies»), and another one under Article 19.3 («Failure to comply with the requirements of a police officer»). On Article 19.3, the court **imposed** a fine of 500 roubles (~ \$6 at the exchange rate of 20 March 2021) and issued a warning for violating the self-isolation regime.*

Criminal prosecution under two new articles on dissemination of false information provides repressive legal mechanisms to suppress freedom of speech. Russian legislation defines as «fakes» information on the number of cases that differs from the official information; criticism of the actions of the authorities and law enforcement agencies during the pandemic; discussion of health problems (especially the lack of medical equipment); jokes, sarcastic or ironic posts.

Of course, a self-isolation regime can reduce the number of cases and protect older persons who are at risk. At the same time, restrictions on movement and participation in protests due to COVID-19 were imposed in violation of legal procedures. The federal center delegated to regional authorities the right to decide for themselves whether to prohibit public events and the movement of citizens or not. But the regional authorities do not have such powers, even in an epidemic, only federal law is allowed to restrict constitutional human rights, which include the right to freedom of assembly.

The sequence of introducing restrictions also raises questions. Federal legislators endowed the heads of federal subjects with some powers in this field only effective from 1 April 2020. However, many restrictions and bans at the regional level were introduced in March. Moreover, regulatory documents of the heads of the subjects or regional governments often failed to indicate a specific expiration date for the restrictions, which increased the feeling of uncertainty in older persons.

Criminal prosecution for «fakes» limited the right to freedom of expression. During 450 days of monitoring, the human rights group Agora recorded more than 200 cases of persecution of citizens and organizations «for disseminating information that differs from official press releases». Including 33 cases reported by law enforcement agencies and the media under new Article 207.1 of the

Criminal Code, **initiated** in 24 regions of the country from 3 April to 9 June 2020.

In addition to the current COVID-19 restrictions, which are likely to be mitigated as the epidemiological situation improves, the issues of exercising the rights to peaceful assembly for older persons are still urgent. The problems of conditions in detention and escorting not always taking into account age-related needs, as well as the risks of being beaten by the police remain unresolved. There are many accounts of situations where older persons in police departments called an ambulance, could not take medicine, or were subjected to violence. All this serves as a powerful deterrent for older persons from participating in protests.

*Tatyana Lukyanova, an elderly woman, was detained on 5 December 2020 at a rally in support of ex-governor Furgal. Despite the fact that Lukyanova has cancer, diabetes and heart problems, she was held for more than two days in the police department and in a special detention center. After that, the pensioner was again taken to the police to draw up another protocol. But Lukyanova **had to be hospitalized** in a pre-infarction state.*

*Pensioner Vladimir Loginov who was detained at a protest against the construction of a high-rise building in Dubki Park felt unwell in the police department, an ambulance **was called** for him.*

It should be noted that police departments and courts are far from being a barrier-free environment. People with mobility problems spend a lot of energy to represent their interests in courts after being detained. An additional obstacle is the difficulty with obtaining qualified assistance from lawyers: older persons often do not know where to gain legal assistance, and their finances do not allow for the services of a private lawyer. Low digital literacy and difficulties in mastering modern technologies aggravate the situation for older persons in terms of exercising the right to freedom

of assembly, including the online form (CCPR/C/GC/37, §13). A study conducted by Mediascope found that the largest category of Internet users are young people. In the other categories, the number of those who spend time online declines with increasing age. In contrast, in the category from 25 to 34 years old, 95,8% of Russians use the Internet at least once a month, in the category over 55 years old — **almost half** (49.7%).

During the pandemic, older persons found themselves in the most difficult conditions of isolation, they could not live their lives as usual and communicate with their loved ones. They were already severely restricted in their rights to participate in public events and freedom of movement before these new legal restrictions were imposed. In many regions of Russia even single-person pickets were banned, although this way of expressing opinions clearly fully meets the requirements of social distancing, as long as the police do not interfere. Heavy fines, the threat of criminal prosecution for expressing opinions, and excessive punishment had a chilling effect on older persons in their right to claim their constitutional rights. The inconsistency of local and federal government actions, legislative contradictions and the refusal to declare a state of emergency only increased anxiety among older persons.

PART 2. UNDERAGE AND YOUNG PEOPLE

Forms and manifestations of ageism and age discrimination

1. Age discrimination of young people in Russia is often related to the youth's will to be included in the political process as rightful citizens. Russian authorities make attempts to prevent youngsters' participation in political

protests using various measures — via media resources, discriminative laws and administrative and criminal liabilities for activists. These tools perform two functions: they create a negative image of minors who participate in opposition protests and build real barriers for them.

Although Article 6 of Federal Law No. 54-FZ «On assemblies, rallies, demonstrations, marches and pickets» does not limit the participation of minors in **public assemblies**, the state propaganda condemns the 'involvement' of underage persons in 'unauthorized' protests.

Age discrimination in Russia is not just a social problem but also a matter of politics. The youth is often presented as a tool of the opposition or 'the West' to destabilize the political situation in Russia. As a result, the image of minors as immature persons leads to creating discriminatory legislation and also to introducing courses in school programs for 'patriotic education'.

Opposition activists face police violence during and after detention despite their age. There are examples of minors being threatened at police stations or beaten by police officers or by the National Guard.

*In October 2020, Pavel Popovich, 16 y.o., **was beaten** with police batons and intimidated at the police department in Khabarovsk. The rights, including those under Article 51 of the Russian Constitution under which no one is obligated to give evidence incriminating themselves, were not explained to Pavel and his mother.*

*In November 2020, a juvenile affairs inspector at the police station in St. Petersburg **threatened** an underage activist with criminal prosecution, searches by the FSB (Russian federal security service) and seizure of equipment if she did not remove posts on political topics from social networks.*

In February 2021, the beaten detainees, including minors, were denied necessary medical assistance and hospitalization.

Parents are also put under pressure if their children were involved in street protests.

A woman from Sverdlovsk whose daughter participated in an anti-corruption rally on 26 March 2017 was fined 10,000 roubles (approximately \$135 at the exchange rate of 21 March 2021).

In June 2017, police officers did not allow the father to meet his detained underage son in Moscow. Despite this, detained minors cannot leave police stations without their parents even if the latter cannot arrive on the same day.

Young activists face pressure in school, which may lead not only to the deprivation of their rights as citizens but also to problems with learning and communication among classmates. At the same time, they can be prosecuted as adult protesters. In those cases, minors are placed in a more vulnerable position because of their lack of independence from family and school.

These turn into significant deterrent mechanisms to prevent minors from exercising freedom of assembly and in order to turn their parents against it.

2. As a consequence, not only can minors themselves lose their willingness to participate in public assemblies because they are afraid of persecution, but also their parents, teachers and peers may condemn them for their political views saying they are irresponsible and being manipulated.

In Saint Petersburg, a 14-years-old 8th-grader was reprimanded in front of her class by a social worker who came to school after the girl was detained at a protest against the Pension Reform. After that the girl was forced to copy lines from the Administrative Offences Code about

the 'simultaneous mass presence'. The student *was told* that she did not have a right to attend public events without parents because of her young age.

In October 2019, in Moscow, an inspector for minors threatened a student with problems with the Centre for Combating Extremism of the Russian Ministry of Internal Affairs, known as «Center E», because of his political activism. The Inspector for minors of the Prospekt Vernadsky district came to the school where the activist was studying to hold a scheduled conversation with high school students. At the end of the conversation, the class teacher of the minor activist *told* the Inspector that one of her students had attended Moscow protests in the summer.

3. The state-oriented discourse constructs an image of minors as an immature and irresponsible group of people unable to make their own independent decision whether to participate in protests or not. The propaganda explains the involvement of young people in protests by their susceptibility to manipulative technologies on the Internet and in social media.

The leader of the Association of Parents' Committees Olga Letkova proposed to ban social networking service *TikTok* in Russia because of its ability to influence the youth and the *call* to rallies on 23 January 2021: '*Those western social networks, they manipulate our children in multiple ways to make them go outside and to do things... just like in Ukraine and Belarus.*' Such allegations make many Russians believe that social media and their popularity among the youth can cause a 'color revolution' instigated by foreign countries.

Propaganda in the media is not the only way to frame political sentiments in the society. Legislation and law enforcement practices may also serve as a way of political socialization. There are several laws in Russia which constrain people from showing their opposition to the authorities by exercising their right to freedom of assembly.

Special attention is paid to minors' involvement in protests. The Russian law system marginalizes those minors who want to take part in rallies by putting them under administrative pressure and even criminalizing some forms of political interactions between opposition activists and underage persons. As a consequence, their parents, teachers, and peers may condemn the young people for their political views, calling them gullible and irresponsible.

The Russian government passed amendments to Federal Law No. 54-FZ «[On assemblies...](#)» that regulate protest financing. This legislation [prohibits](#) several categories of sponsors from contributing to the funding of protests, including foreign states and organizations and Russian citizens under the age of 16.

Russian authorities usually do not approve public protests organized by opposition activists. This practice has become common in many Russian cities, and was analyzed by OVD-Info in [this report](#). While participation in 'non-approved' protests is more dangerous and might lead to worse consequences, underage persons in Russia are relatively more vulnerable in front of pressure than other people because of their financial, social and personal dependence on the education system and families.

Pupils and students may face problems at schools and universities. Underage persons experience more dependence on school that creates additional hurdles for them to express their political views. Police officers have come to activists' schools, and social workers and teachers reprimanded young people for participating in protests in front of their classmates. Often both official authorities and teachers threaten students with problems with their education and applications to universities, and even criminal prosecution. Teachers often tell their students that they have no right to participate in political manifestations until they turn 18 years old.

In Russia students are included in the category of «the youth», so they also experience age discrimination when participating in opposition rallies. Administrations of Russian universities state that their organizations should stay away from politics. However, they **threaten** students with expulsion for activism.

Legal, policy and institutional frameworks related to ageism and age discrimination

4. Article 19 of the Constitution of the Russian Federation proclaims that any kind of discrimination is forbidden, and Article 31 of the Constitution provides citizens with freedom of peaceful assemblies.

Federal Law No. 54-FZ «On assemblies...» sets the minimum required age at 16 years old for protest organizers and 18 years old for demonstration or picketing organizers. However, there is no age limit for participating in rallies.

Unfortunately, for underage persons, there is no effective legal mechanism for self-representation in court without their parents or official representatives. That increases the minors' dependence on adults and reinforces the engineered image of all minors being immature.

5. The Presidential Council for Civil Society and Human Rights refers to Article 15 of the United Nations Convention on the Rights of the Child (UNCRC) that children have a right to freedom of assembly. In 2017, after mass rallies in Russian cities, the Council **recommended** to send an appeal to law enforcement agencies declaring unacceptable such actions as conducting interviews and interrogations of minors without their parents and official representatives.

The problem with intimidation of detained minors was also **highlighted** in the Memorandum of the Commissioner for Human Rights to Freedom of Assembly in the Russian Federation.

In Russia, there are no policies in place to fight the problem of state officials putting pressure on underage persons who participated in unauthorised protests. However, there are recommendations from NGOs formed by civil rights activists. For example, [OVD-Info](#) and the Public Verdict Foundation published [instructions](#) for minors who [were detained](#) at protests.

6. The Russian legislation explicitly specifies the minimum age for some forms of political activities.

Article 11 of Federal Law No. 54-FZ «On assemblies...» sets the minimum age for organisers of a public protest at 16 years.

Article 20.2 of the Russian Federation Administrative Offense Code imposes liability for involving a minor in an unauthorized protest. Since 2018 the punishment for ‘involving a minor in an ‘unauthorized’ protest was a fine of 30,000 to 50,000 roubles (*approximately \$405 and \$674 at the exchange rate of 21 March 2021*), community services of no more than 100 hours or arrest for no more than 15 days.

In January 2021, in the wake of protests in Russia in support of the opposition leader Alexei Navalny, a State Duma Deputy [proposed](#) imprisonment up to 5 years for involving minors in unauthorized rallies and up to 10 years for inciting them to organize mass riots.

Regional authorities decide where a public event can be held. In some cities, there are bans on organizing protests near schools or hospitals. This instils the idea that political demonstrations as a form of political protest are something that is inappropriate for young people and should be separated from any relations with minors.

However, the Constitutional Court of the Russian Federation acknowledged that Article 34 of the Law of the Samara

Region «On the procedure for filing a notice of holding a public event and ensuring certain conditions...» which **prohibited** protests in the vicinity of schools is unconstitutional and contradicts the citizen's right to freedom of assembly.

Article 6.21 of Administrative Offense Code imposes responsibility for the 'propaganda of non-traditional sexual relationships among minors', which is an example of intersectional discrimination of minors and LGBTQ activists.

7. To protect citizens from violation of their rights, it might be useful to develop the institute of ombudsmen in Russia. An Ombudsman in Saint Petersburg states that any violation of the right to freedom of assembly **should be prevented** and draws attention to concrete issues, including the rights of underage persons.

The European Court of Human Rights is also a tool for protecting human rights in Russia from any kind of discrimination. See, for example, case *Alekseev v. Russia* (Applications nos. 4916/07, 25924/08 and 14599/09).

The Commission on Juvenile Rights and Affairs could be helpful for protection against any type of discrimination. However, the Commission needs **proper legislation** to function, and in the current conditions it often legitimizes the status quo by **finding minors guilty** of participating in unauthorized rallies and fining them.

8.9. The situation with deprivation of individuals of their right to freedom of assembly based on age discrimination could be improved by liberalizing the legislation that regulates participation of minors in protests. There has already been an example of liberalization of the politicized **Article 282 of the Criminal Code**.

The amounts of administrative fines should be decreased because in current conditions they are often beyond the financial resources of minors, students or their parents.