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How the Protest Law Violates European Norms

By Vladimir Ryzhkov

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The new law regulating protest rallies was rushed through the State Duma last week and signed by President Vladimir Putin on Friday just before Tuesday's March of Millions. There is little doubt that Putin himself initiated the draconian measures in law that increase the fines for individuals participating in unsanctioned protests — or for "illegal acts" during sanctioned rallies — to 300,000 rubles ($9,000) and 1 million rubles for organizers of such rallies. As Putin starts his third — essentially his fourth — presidential term, he has made it clear that he is intent on tightening the screws on the opposition and will crack down even more, if necessary.

It seems that Putin has deeply personal, emotional reasons for backing the new law. The mass protest on May 6 rained on Putin's inauguration parade. Thousands had turned out the day before Putin was sworn into office — not to cheer him, but to cry "Russia Without Putin!" on the streets of Moscow.

State-controlled television — the mouthpiece of the Putin regime — initiated a major propaganda campaign immediately after May 6 to prepare the people for the adoption of the harsh law aimed at intimidating the protest movement. Millions of television viewers were told daily about how the law is no different than analogous laws in Europe. European nations also levy serious fines and hand out prison sentences for those who break the law during protests, they were told, and European riot police also beat protesters with truncheons when they get out of hand. Presidential spokesman Dmitry Peskov also cited the European experience, explaining that Putin only signs laws whose provisions are consistent with European standards of democracy and human rights.

But the Kremlin's references to European laws are patently false. Even the most cursory analysis shows that Putin's law on protest rallies directly contradicts such laws in Europe. In fact, the new law openly and flagrantly violates the country's own Constitution, as well as obligations that Moscow accepted as a member of the Council of Europe.

This was precisely the conclusion that the Council of Europe's Venice Commission reached after it analyzed the original Russian law on protests that was amended last week. There are seven major areas where Russia's law on rallies and marches violates European standards:

1. The Russian law violates Council of Europe standards by permitting the government to compel citizens to change the location or route of their rally based on arbitrary grounds. This also violates the European Court of Human Rights' basic principle that "States must refrain from applying arbitrary measures capable of interfering with the right to assemble peacefully."

Protest organizers should have the right to choose the location for their rally, taking their target audience into consideration. That right should be the norm rather than the exception. This is stated clearly in the same opinion by the Venice Commission: "An assembly organizer should not be compelled or coerced either to accept whatever alternative(s) the authorities propose, or to negotiate with the authorities about key aspects (particularly the time or place) of a planned assembly. To require otherwise would undermine the very essence of the right to freedom of peaceful assembly."

2. The Venice Commission finds it unacceptable that a rally or march could be restricted or denied simply on the grounds that it may "cause inconvenience" to the public. It states: "Restrictions are only permitted where an assembly will actually disrupt and a mere possibility of an assembly causing inconvenience does not justify its prohibition. Indeed, inconvenience to designated institutions or to the public, including interference with traffic, should not be as such a sufficient basis for prohibition."

3. Russian law and partial judges make it impossible for rally organizers to expeditiously challenge a government protest ban or refusal through the courts, essentially stripping them of judicial protection.

4. It is unlawful to prohibit a rally unless it poses a specific and direct threat and danger to public safety and national security. There should be no other basis for prohibiting a rally.

5. In direct violation of Article 11 of the European Convention on Human Rights, or ECHR, the Russian law effectively prohibits spontaneous rallies. What's more, "Such spontaneous

assemblies, including counter demonstrations, are required by ECHR to be facilitated by the authorities, even if they do not meet the normal notification requirement, as long as they are peaceful in nature."

6. The requirement in the Russian law that rally organizers are responsible for maintaining law and order also violates Council of Europe standards. The Venice Commission opinion states, "Whereas the organizer is indeed responsible for exercising due care to prevent disorder, he cannot exercise police power and cannot be required to do so." In other words, the police are responsible for maintaining law and order, not the organizers, who are only responsible for "exercising due care to prevent disorder."

7. A rally cannot be halted by authorities if only a single violation of law and order occurs.

These are just some of the main comments made by the Council of Europe in its evaluation of the Russian law on protest marches. Yet the Kremlin and United Russia did not address a single one of them in their recent revisions to that law.

In addition to all of these violations of European standards, the new law gives authorities the right to arbitrarily define who can be considered a rally organizer, to declare any assembly of individuals as "unauthorized" and to ban rallies and marches at any municipal location they choose. What's more, for the first time ever the law also makes it a punishable offense to correspond through the Internet about protest rallies.

All of this is in direct violation of constitutional norms and Western legal standards, as well as decisions of Russia's Constitutional Court and rulings by the European Court of Human Rights. The attempts by the Kremlin to tell us otherwise are just a pack of lies.

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