



**YOUTH  
HUMAN  
RIGHTS  
MOVEMENT**



## **Restrictions on Human Rights as justified by Major International Sports Events**

### ***Example of the FIFA World Cup 2018 in Russia***

#### **Introduction**

The importance of large-scale sports competitions, their economic and political benefits for host countries, is growing every year and with its growth comes some unexpected implications for the state of human rights and civil liberties in these countries. Such huge events like FIFA World Cup and International Olympic Games very often become an official rationale for governments to tighten control on political activities and civil society through legislative and political measures.

Back in 2008 the run-up to the Summer Olympics in China has been marred by a well-documented surge in violations of the rights to freedom of expression and association, as well as media freedom. In addition, abuses of migrant construction workers who were pivotal to Beijing's infrastructure improvements have increased, as have evictions of Beijing residents whose homes were demolished to make way for that infrastructure<sup>1</sup>.

During the FIFA Confederation Cup 2013 and FIFA World Cup 2014 in Brazil many regional and international organizations reported on a number of human rights violations<sup>2</sup>. Just right before the championship a set of new anti-terror laws were introduced which in fact were aimed against the ongoing protests around the country, limiting the freedom of assembly, giving larger power to law enforcement bodies in order to shut down any possible acts of civil disobedience.

The latest instance, Russia hosting FIFA Confederation Cup 2017 and FIFA World Cup 2018, repeated its own experience during the Winter Olympics of 2014 in Sochi and introduced its own set of legislature, which *de facto* banned citizens from holding peaceful assemblies, imposed heavy limitations on the right to liberty of movement and freedom to choose one's own residence.

In this brief report we conduct analysis of restrictions and limitations of these fundamental rights during FIFA World Cup 2018, provide arguments against such practices and offer some recommendations.

### **Specific Restrictions in the Context of FIFA World Cup 2018 in Russia**

#### ***a) Restrictive legislation***

Federal Law No.108-FZ from June 7th, 2013, "On the preparation and holding in the Russian Federation of the FIFA 2018 FIFA World Cup, the FIFA Confederations Cup 2017 and amendments to certain legislative acts of the Russian Federation" regulates legal relations arising from holding these sports tournaments and grants the President a wide range of powers to restrict constitutional rights in order to provide security during the Cup.

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<sup>1</sup> China: Olympics Harm Key Human Rights. Chinese Government, IOC Wasted Historic Opportunity for Reform, Human Rights Watch, 2008, <https://www.hrw.org/news/2008/08/06/china-olympics-harm-key-human-rights>

<sup>2</sup> Brazil: Human Rights Under Threat Ahead Of The World Cup, Amnesty International, 2014, <https://www.amnesty.org/en/press-releases/2014/04/brazil-human-rights-under-threat-ahead-world-cup/>

On May 9th, 2017 in compliance with this Law, the President issued the Decree No. 202 “On the specifics of the use of enhanced security measures during the FIFA World Cup 2018 in the Russian Federation and the FIFA Confederations Cup 2017” (hereinafter, Decree 202), establishing the list of restrictions and territories, where the regime of enhanced security measures is imposed<sup>3</sup>.

According to provisions of the Decree No. 202:

- 1) control zones are introduced, where access of individuals and vehicles is authorized only after inspection, as well as restricted areas where access without official clearance is closed;
- 2) forbidden zones of air space over the territories and water areas within which enhanced security measures are introduced;
- 3) parts of water areas, where navigation is forbidden and enhanced security measures are in place;
- 4) citizens arriving for temporary residence are required to register within 3 days (as opposed to 90 in normal circumstances), for foreign citizens and stateless persons this requirement has been reduced from 7 days to 1 day;
- 5) buses are prohibited from entering the territory of the World Cup cities except for the ones which have a special permission from security agencies;
- 6) freedom of assembly is restricted, namely, meetings, rallies, demonstrations, marches and pickets that are not related to the holding of the Confederations Cup and the World Cup in a fixed period can be held in places and along particular routes with the number of participants and time interval, determined by the executive authorities of such regions of the Russian Federation or the relevant local government bodies in coordination with the territorial bodies of the Ministry of Internal Affairs of the Russian Federation and the territorial security agencies (FSB);
- 7) the circulation of civil and service weapons and ammunition is prohibited;
- 8) on the territory of the World Cup regions, where enhanced security measures are introduced, the activities of hazardous industries and organizations using ionizing radiation sources, hazardous chemical and biological substances, radioactive, toxic and explosive substances are suspended.

The territories, where such enhanced security measures were introduced include all regions, where any infrastructure facilities for hosting the FIFA events are located. The Decree 202 does not provide a list of these regions, but it can be concluded based on the open sources of FIFA and the Ministry of Sports of the Russian Federation that enhanced security include the territory of at least 17 regions with total population of more than 65 million people:

- 1) **The city of Moscow;**
- 2) Moscow Oblast;
- 3) **Kaliningrad Oblast;**
- 4) **The city of St. Petersburg;**
- 5) Leningrad Oblast;
- 6) **Nizhny Novgorod Oblast;**
- 7) **Volgograd Oblast;**
- 8) **Republic of Tatarstan;**
- 9) **Samara Oblast;**
- 10) **Republic of Mordovia;**
- 11) **Rostov Oblast;**
- 12) Krasnodar Krai;
- 13) **Sverdlovsk Oblast;**
- 14) Chechen Republic;
- 15) Voronezh Oblast;
- 16) Stavropol Krai;
- 17) The Kaluga Oblast.

Only 11 cities in 10 of those regions (in bold) have actually hosted official matches.

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<sup>3</sup> Указ Президента РФ от 9 мая 2017 года № 202, Российская газета, 2017, <https://rg.ru/2017/05/10/prezident-ukaz202-site-dok.html>

Although, additional restrictions during major sport events may be justified for security purposes, we believe that limitations on fundamental human rights, such as the freedom of assembly, freedom of expression, liberty of movement and freedom to choose a residence were disproportionate and unsubstantiated. The Decree 202 as legal grounds for them failed the test of certainty and predictability. Other than that we suppose such serious limitations on fundamental rights cannot be installed with presidential decrees or any other kind of subordinate non-legislative acts. Such indefinite and unrestricted delegated powers that go without oversight pose a violation to the separation of powers and a contradiction to the principle that restrictions should be based on law.

### ***b) Freedom of assembly and expression***

The provisions of the Decree establish a legal regime in which public gatherings become possible only in places, the list of which is determined by the executive authorities of relevant regions in agreement with the territorial bodies of the Ministry of Internal Affairs and territorial security agencies. Executive bodies are assigned with unlimited discretion to determine such places opening a leeway for possible abuses.

For example, in the cities of Kazan and Samara, it was established that meetings, rallies, demonstrations, marches and pickets, not related to the FIFA events, may be held in a time interval not exceeding two hours, from 9 A.M. to 2 P.M. with the number of participants not more than 150 people and exclusively on two sites. In Voronezh the list of sites, where assemblies were allowed to take place was limited to 3 sites, with 2 of them located 10 km from the city center in the industrial area and the 3rd - 55 km away in a forested area, away from any major inhabited areas.

“Single-person assemblies” and pickets which, according to the Federal Law No. 54 on Assemblies, are exempted from necessary prior notification, also came within the scope of Decree No. 202, making them also illegal without prior notification of authorities. For example, on May 26th, 2018 activist Gleb Mazalov was arrested in Moscow for staging a single-person picket with a sign: “Russia, free Sentsov”.

Not only the territorial offices of the Ministry of Internal Affairs and territorial security agencies became additional regulatory bodies, but they also considered themselves not bound by the requirements set by the Federal Law on Assemblies to motivate any proposal to change the place and time of the public gathering. In a number of cases their response was limited to a brief statement: "holding a public event at the proposed place is not agreed upon", thus replacing notification procedure with authorization.

Along with the highlighted issues, there is another problem which derives directly from the formula of the introduced legislature. Decree No. 202 makes an exception for public gatherings that are not related to the holding of the Confederations Cup and the World Cup however there is no real mechanism to make this distinction. In fact, public gatherings, topics of which were outright related to the sports competitions, had being terminated during the whole period while participants had being arrested. For example, at least seven public assemblies against the installment of the World Cup fan-zone in front of the Moscow State University were not agreed upon the authorities and the leader of the trade union “University Solidarity”, A. Arutyunov was arrested for conducting single-person picket. The same fate befell upon dozens of pickets against the World Cup itself and the Decree No. 202.

All known attempts to challenge those prohibitions and arrests in the national courts were to no avail.

Only in Moscow, according to the Moscow City Court database, from May 25, 2018 to July 25, 2018, 293 cases were brought to courts for alleged violation of the procedure for organizing or holding assemblies. As of August 2, 2018, Moscow courts considered 147 cases of administrative violations under Article 20.2 of the Code of Administrative Offenses of the Russian Federation and, in all cases without exception, administrative punishments were imposed, ranging from an administrative fine to administrative arrest and community punishment. In monetary terms, for violation of various paragraphs of Article 20.2 only in Moscow administrative punishments amounted to a total sum ranging from 7,9 to 15,8 million rubles (100,900 to 201,800 euro).

During a massive campaign around the country in support of Ukrainian political prisoner Oleg Sentsov on a hunger strike more than 31 people staging single-person pickets or distributing leaflets were arrested. Solely in Moscow at least 4 requests to hold a massive rally in his support were declined on the basis of possible threats created by the Cup.

### ***c) Liberty of movement and freedom to choose a residence***

The Decree introduces “controlled” and “prohibited” zones, which either restrict or completely exclude citizens' access to certain territories. As controlled zones are considered training grounds, bases of teams, hotels for teams and judges, cargo inspection points, a broadcasting center in Moscow, territories of fan festivals, press centers, parking for special vehicles. Citizens could get into these “controlled zones” only after a thorough inspection of all belongings.

Thus, in the city of Saransk during the period of the Cup the control zone was established on the city border and special posts of police were organized responsible for inspections. Some reporters claimed that the whole city was under *de facto* blockade forcing people to leave their transports on the border and move into the city on foot<sup>4</sup>.

Additionally, in the cities which were the hosts of the Cup arriving citizens within 3 days had to register with the local migration authorities as well as to prove their place of residence. The same regime applied to foreign citizens binding them to register within 1 day after arrival. Violation of these rules may be a subject to a fine or deportation. Since the procedure practically is hard to meet, frequently violation of these rules may be a pretext for extortion on the part of police.

## **Merits of the Case for Alleged Violations**

### ***The introduced measures were not sufficiently legally grounded***

The presidential Decree 202 that introduced most of the described limitations, fails the test of certainty and predictability. It combines regulations for law enforcement, security and administrative personnel with limitations on individual rights and freedoms. The Parliament that is the only legitimate body according to the Constitution to introduce limitations on rights and freedoms has basically delegated those powers to the executive and performed no oversight. One may argue that constitutes a procedural bypass to introduce a legal regime in many instances similar to that of a state in emergency without any of its procedural guarantees. Moreover, the short period of time during which the Decree is active makes it practically impossible to challenge it before the Constitutional Court, which in at least 2 cases (one during the Olympics, another - during the Confederation Cup) has refused to consider the case, arguing that the alleged limitations are no longer in place.

An additional argument can be added, that certain provisions of the Decree allow for ambiguous interpretation. For instance, organizers have no way of telling, whether a protest against relocation of students for the purposes of organizing a fan-zone on University premises, makes that assembly “connected to the holding of Confederation Cup and World Cup events” and various authorities, who are delegated the powers to regulate such assemblies also take a diverging approach to the issue. That uncertainty coupled with a pressure of possible arrest adds to the overall chilling effect on assembly organizers.

### ***A presumed legitimate aim for such restrictions***

Although particular goals of introduced limitations are not specifically mentioned, we can presume that the legitimate aim is to guarantee security during a large-scale competition that attracts massive amounts of people from all around the globe and may also attract interests of groups which seek to spread terror.

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<sup>4</sup> “Почему я должен радоваться показухе?”. Илья Варламов – о ЧМ и его последствиях, Sports.ru, 2018, <https://www.sports.ru/tribuna/blogs/golovin/1812721.html>

The introduced measures in many ways resemble the state of emergency which is considered an extreme form, the last resort to keep control during wars and mass civil disorder. Out of 10 measures that the law previews for the state of emergency, 7 measures were used during the Cup.

Introduction of a state of emergency by the Presidential Decree requires a prompt notification of both Chambers of the Russian Parliament and is immediately passed on to the approval by the higher Chamber. The grounds for it should be the existence of imminent and visible threats, a exclusive list of which is provided by a special Federal Constitutional Law (including attempts to violently change the constitutional system, armed insurrection, riots, terrorist acts, inter-confessional and regional conflicts, accompanied by violent actions, or emergency situations of natural and man-made character, which arose as a result of accidents and disasters). In the case of restrictions introduced by Decree 202, all them constitute reactions to hypothetical or supposed threats.

### ***Disproportionality of introduced measures***

It is hardly possible to recognize introduced measures as the only means necessary to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of others, ensure the country's defense and state security.

This is indicated, in particular, by the fact that the norms on the restriction of assemblies do not extend to holding assemblies related to sports. Mass gathering of people both around the stadiums and in the streets are routine and normal for sporting events with the state being responsible for additional security measures deemed necessary. It seems unlikely that small assemblies or one-person pickets expressing certain social or political interests constitute in themselves a sufficient threat or will draw threats that existing security measures can not address.

## **Conclusions and Recommendations**

In conclusion we wish to note that the holding of the World Cup, the Confederation Cup or any other sporting event is a voluntary choice of public authorities, while the protection of human rights and freedoms is their fundamental duty. Holding sporting events even at such a high level can not jeopardize the realization of human rights, otherwise fundamental rights and freedoms risk of becoming illusory.

Guidelines on Human Rights for the states to meet in order to host major international events must be discussed and developed, but before and meanwhile common approaches to address the current shortcoming should be sought. We believe that they may be based on the following assumptions:

1. Large-scale international sporting events, especially in the countries with a questionable human rights record, regularly become a rationale for additional limitations of fundamental human rights like the freedom of assembly, freedom of expression and the liberty of movement.
2. As our analysis shows, in many cases these restrictions are disproportionate to the declared goal of providing security for participants, fans and ordinary citizens and are used more as a pretext to silence dissent and thus constitute a derivation from international human rights obligations.
3. International sports entities, which organize these events, do little to address such violations. No clear human rights guidelines exist for the organizers to meet in order to be legible and few oversight mechanisms in place look beyond administrative and technical capacity and focus on human security dimension of such events. It's symptomatic that FIFA, for instance, focuses more on guaranteeing beer sales at the stadiums, than on enforcing labour regulations or reacting to the jailing of dissenters or bans on assemblies. Therefore, the responsibility lays not only with the states but also with major sport entities, such as FIFA or IOC.
4. As international sports organizations do not have their own expertise in the field of human rights, they should cooperate with relevant intergovernmental bodies and institutions, as well as with civil society, to monitor and prevent human rights violations that are either by the events they sponsor and organize or take place during such events and in relation to them.

5. Intergovernmental bodies and institutions having protection of human rights as part of their mandate (OSCE ODIHR among them) should enter into dialogue with international sports organizations on these issues and initiate the development of common approaches, standards and mechanisms in this area (for example, in the form of general recommendations / guidelines for all sports organizations) with mandatory involvement in this process of civil society experts.

6. Joint efforts of intergovernmental bodies and civil society organizations should be aimed to develop specific human rights benchmarks to be met by the states applying to host international sports events and to introduce relevant oversight mechanisms.