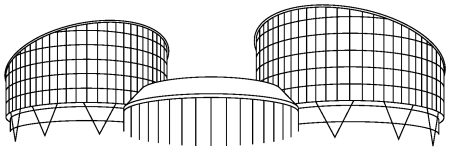

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF LASHMANKIN AND OTHERS v. RUSSIA

(Applications nos. 57818/09 and 14 others - see appended list)

JUDGMENT

STRASBOURG

7 February 2017

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Lashmankin and Others v. Russia,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Luis López Guerra, *President,*
Helena Jäderblom,
Helen Keller,
Dmitry Dedov,
Branko Lubarda,
Pere Pastor Vilanova,
Georgios A. Serghides, *judges,*
and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 17 January 2017,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in fifteen applications (nos. 57818/09, 51169/10, 4618/11, 19700/11, 31040/11, 47609/11, 55306/11, 59410/11, 7189/12, 16128/12, 16134/12, 20273/12, 51540/12, 64243/12, 37038/13) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by twenty-three Russian nationals, whose names and dates of birth are listed in the Appendix, on various dates listed in the Appendix.

2. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights. Some of the applicants were represented by lawyers, whose names are listed in the Appendix.

3. The applicants complained, in particular, of a breach of their rights to freedom of expression and freedom of assembly and the lack of an effective remedy in that respect. Some of the applicants also alleged unlawful arrest, unfair judicial review proceedings, and discrimination on account of political opinion or sexual orientation.

4. On 22 January 2013 the above complaints were communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Application no. 57818/09 Lashmankin v. Russia

5. On 19 January 2009 Mr Stanislav Markelov, a well-known human rights lawyer, and Ms Anastatsia Baburova, a journalist, were shot dead in Moscow.

6. The applicant and Mr A. decided to hold a commemoration "picket" ("*пикет*") near the Memorial to the Victims of Political Repression in Yuri Gagarin Park, Samara, on 31 January 2009. The location was symbolic, and was chosen by them to emphasise that, in their opinion, the murders of Mr Markelov and Ms Baburova were cases of politically motivated repression.

7. On 27 January 2009 the applicant and Mr A. notified the Samara Town Administration of the date, time, place and purposes of the "picket". The event was scheduled to take place from noon to 2 p.m. on 31 January 2009, with seven people expected to take part.

8. On the same day the Samara Town Administration sent a telegram and a letter to the applicant, refusing to approve the venue. The town administration noted that Yuri Gagarin Park was a popular place of recreation and many families would be walking there with their small children on Saturday, 31 January 2009. The "picket" might pose a danger to their health and life. They proposed that the organisers change the location and time of the event. They also warned the applicant and Mr A. that they might be held liable under Article 20.2 § 1 of the Administrative Offences Code for a breach of the established procedure for conducting public events. According to the Government, a copy of the Mayor's decree of 7 October 2007 listing the locations in Samara suitable for public events was attached to the letter. The Government did not submit a copy of the letter or the decree.

9. Given that the location and date were important to them, and fearing that holding the event at the chosen location without the authorities' approval might result in arrests and administrative proceedings against the participants, the applicant and Mr A. decided to cancel the seven-person "picket" they had planned. Instead, the applicant held a solo "picket", for which no notification was required.

10. On 12 February 2009 the applicant challenged the decision of 27 January 2009 before the Leninskiy District Court of Samara. He complained that the decision had amounted to a ban on the event, because the authorities had not proposed any alternative venue or time for it.

11. On 3 April 2009 the Leninskiy District Court rejected his complaint. It found that in its decision of 27 January 2009 the Samara authorities had merely proposed that the applicant should change the location and time of the event, rather than imposing a ban on it. That decision had therefore not violated the applicant's rights. It had also been lawful. On 3 June 2009 the Samara Regional Court upheld the judgment of 3 April 2009 on appeal, finding that it had been lawful, well reasoned and justified.

B. Application no. 51169/10 Nepomnyashchiy v. Russia

12. The applicant is a gay activist.

1. *Notification of a "picket" in the Northern Administrative District of Moscow*

13. On 13 August 2009 the applicant, together with Ms F. and Mr B., notified the Prefect of the Northern Administrative District of Moscow of their intention to hold a "picket" from 1 to 2 p.m. on 24 August 2009 in front of the Prefect's office on Timiryazev Street, which twenty-five people were expected to attend. The aim of the event was to call for the Prefect's resignation "in connection with his efforts to incite hatred and enmity towards various social groups, and his failure to comply with electoral laws".

14. On 17 August 2009 the Prefect of the Northern Administrative District of Moscow refused to approve the venue, noting that another public event was planned at the same location from 1 to 2 p.m. on 24 August 2009.

15. On 20 August 2009 the applicant, Ms F. and Mr B. lodged a new notification proposing to hold the event at any time between 10 a.m. and 7 p.m. on 24 or 25 August 2009. An official from the Prefect's office stamped the notification with a seal that bore the following inscription in red: "to be handed to the applicant personally".

16. According to the applicant, on 21 August 2009 he went to the Prefect's office to collect the decision. However, the official refused to hand over the decision, explaining that it had been dispatched by post. The applicant never received the letter and had to cancel the event.

17. On 26 August 2009 the applicant challenged the Prefect's refusal to approve the venue before the Koptevskiy District Court of Moscow.

18. On 30 October 2009 the Koptevskiy District Court rejected the applicant's complaints. It found that by his decision of 20 August 2009 the Prefect had agreed to the holding of the "picket" on 25 August 2009 from 1 p.m. to 2 p.m. That decision had been sent to the applicant by post. The letter had not been delivered because the applicant did not live at the indicated address. The applicant's argument that the stamp indicated that the decision was to be handed to him personally was unconvincing. As Russian law did not establish any procedure for notifying applicants of such

decisions, the Prefect's office had been entitled to choose any notification method, including sending the decision by post. The fact that the letter had not been delivered did not render the authorities' actions unlawful. Lastly, the court found that the applicant had not proved that the Prefect's office had refused to give him the decision when he had gone to collect it, although there is no evidence in the judgment that the Prefect's representative contested that matter.

19. The applicant appealed. He submitted, in particular, that the Prefect's office had at first informed him that the decision would be handed over to him personally, but had then refused to give it to him. The letter containing that decision had not arrived at the local post office until the day of the planned event. Even if he had received the letter, it would no longer have been possible to hold the event.

20. On 25 February 2010 the Moscow City Court upheld the judgment on appeal, finding that it had been lawful, well reasoned and justified.

2. Notification of a "picket" in the Central Administrative District of Moscow

21. On 13 August 2009 the applicant, together with Ms F. and Mr B., notified the Prefect of the Central Administrative District of Moscow of their intention to hold a "picket" from 1 to 2 p.m. on 24 August 2009 in Novopushkinskiy Park, with twenty-five people expected to take part. The aims of the event were the same as those of the "picket" in the Northern Administrative District of Moscow.

22. On the same day a deputy prefect of the Central Administrative District of Moscow informed the applicant that another public event was planned at the same location and time, and proposed that another venue be chosen.

23. On 20 August 2009 the applicant, Ms F. and Mr B. stated their readiness to accept another venue for their event, and proposed five alternative sites for the Prefect to choose from.

24. On the same day the deputy prefect refused to approve any of the locations proposed by the applicant, noting that the applicant, Ms F. and Mr B. were the organisers of another "picket" at the same time in the Northern Administrative District of Moscow.

25. On 26 August 2009 the applicant challenged that refusal before the Taganskiy District Court of Moscow. He submitted, in particular, that the deputy prefect's finding that he was the organiser of another "picket" on the same day in the Northern Administrative District of Moscow was incorrect, because the authorities had not agreed to that "picket".

26. On 2 November 2009 the Taganskiy District Court rejected his complaint. It found, in particular, that the proposal to change the location of the "picket" was lawful because a presentation of the new IKEA catalogue had been planned in Novopushkinskiy Park at the same time. The refusal to

agree to the "picket" at other venues had also been lawful because the applicant had submitted two notifications in respect of "pickets" at two different locations, in the Central and Northern Administrative Districts, to be held at the same time. Although the applicant had indeed been informed by the Prefect of the Northern Administrative District that he could not hold a "picket" at the proposed location, he could still have held a "picket" at another venue in the Northern Administrative District. Had he done so, it would have been impossible for him to organise a "picket" to be held in the Central Administrative District at the same time. The refusal to agree to the "picket" in the Central Administrative District had therefore been well reasoned.

27. The applicant appealed. He submitted, in particular, that domestic law made no provision for a public event to be banned on the ground that two notifications had been lodged by the same person. The refusal to approve the "picket" had therefore been unlawful. He had lodged two notifications with the aim of proposing alternative venues for the event. If both of them had been approved, he would have chosen one of the approved sites. He relied on Article 31 of the Constitution and Article 11 of the Convention.

28. On 6 April 2010 the Moscow City Court upheld the judgment of 2 November 2009 on appeal, finding that it had been lawful, well reasoned and justified.

C. Application no. 4618/11 Ponomarev and Ikhlov v. Russia

29. The two applicants are Mr Ponomarev (the first applicant) and Mr Ikhlov (the second applicant).

30. The applicants decided to commemorate the anniversary of the murder of Mr Stanislav Markelov and Ms Anastatsia Baburova (see paragraph 5 above).

31. On 24 December 2009 the first applicant, Ms A. and Mr S. notified the Moscow Government of their intention to hold a march and a meeting on 19 January 2010 in the centre of Moscow, which 400 people were expected to attend. The aims of the march and the meeting were as follows:

> "To commemorate the human rights lawyer Stanislav Markelov, the journalist Anastasia Baburova and other victims of ideological and political terror;
>
> To protest against politically and ideologically motivated murders, against racism, ethnic and religious hatred, and against recourse to chauvinism and xenophobia in politics and social life."

32. The second applicant intended to attend the march and the meeting.

33. On 11 January 2010 the Moscow Security Department replied that, in accordance with the Public Events Act, the notification had to be submitted no earlier than fifteen days and no later than ten days before the

intended public event. As the organisers had submitted their notification outside that time-limit, they were not allowed to hold the march and the meeting.

34. On 13 January 2010 the applicants challenged the decision of 11 January 2010 before the Tverskoy District Court. They submitted that the date of the meeting and the march was very important for them because it was the anniversary of the murders. No other date would have the same impact. The time-limit for lodging a notification fell between 4 and 9 January 2010. However, because of the New Year and the Christmas holidays, the days from 1 to 10 January were officially non-working days, so it was not possible to lodge a notification within the time-limit established by law. The applicants had accordingly lodged the notification on 24 December 2009, that is fifteen working days before the intended march and meeting. Any other interpretation of the domestic law would mean that no public events could be held in the period from 10 to 21 January every year. They also argued that the Moscow Security Department had not observed the three-day time-limit for a reply established by the domestic law.

35. On 27 February 2010 the Tverskoy District Court rejected the applicants' complaints. It found that the decision of 11 January 2010 had been lawful. The applicants had not observed the time-limit for lodging a notification established by domestic law and were not therefore entitled to hold the march and the meeting. Moreover, given that they had later been allowed to hold a "picket" on the same day, their freedom of assembly had not been violated.

36. The applicants appealed. They reiterated their previous arguments and added that the "picket" approved by the authorities was not an adequate substitute for a meeting and a march. Firstly, the authorities had agreed to an event with 200 people attending instead of 400. And secondly, and more importantly, the use of sound amplifying equipment was not allowed during a "picket", which had prevented the organisers and participants from making public speeches.

37. On 10 June 2010 the Moscow City Court upheld the judgment of 27 February 2010 on appeal, finding that it had been lawful, well reasoned and justified.

D. Application no. 31040/11 Ponomarev and Others v. Russia

38. The three applicants are Mr Ponomarev (the first applicant), Mr Ikhlov (the second applicant) and Mr Udaltsov (the third applicant).

39. On 5 March 2010 the first and third applicants notified the Moscow Government of their intention to hold a march and a meeting on 20 March 2010. The aim was "to protest against violations of the civil and social rights of the residents of Moscow and the Moscow Region in the

spheres of town planning, land distribution, environmental conditions, housing and communal services, and judicial protection". The march was scheduled to start at 2.30 p.m. at Tverskoy Boulevard, from where the participants were to march to Pushkin Square. The notification stated that the participants would cross Tverskaya Street by the underground passage. A meeting would be held at Pushkin Square from 3.30 to 5 p.m. It was expected that 300 people would take part in the march and the meeting. The second applicant intended to attend the meeting and the march.

40. The Moscow Government forwarded the notification to the Moscow Transport Department, which concluded on 10 March 2010 that the march was likely to cause traffic delays and disrupt public transport when it crossed Tverskaya Street. It was therefore necessary to change the route of the march. The Moscow Transport Department then forwarded the notification to the Moscow Security Department.

41. On 12 March 2010 a deputy head of the Moscow Security Department proposed that the applicants should cancel the march and hold a meeting at Bolotnaya Square in order to "avoid any interference with the normal functioning of the public utility services, the activities of commercial organisations, traffic or the interests of citizens not taking part in public events".

42. On 15 March 2010 the first and third applicants asked the Moscow Security Department either to propose an alternative route for the march or to agree to hold the meeting in Pushkin Square, in which case they were ready to forgo the march. They argued that the Moscow Security Department had not advanced any reasons in support of their finding that the march and the meeting might interfere with traffic or the activities of commercial organisations. They also noted that two meetings had recently been held in Pushkin Square and had not caused any disruption.

43. The Moscow Security Department replied that the march and the meeting in Pushkin Square had not been given official approval, and warned the applicants that measures would be taken to prevent them from holding the events.

44. On 15 March 2010 the applicants challenged the decision of 12 March 2010 before the Tverskoy District Court of Moscow. They submitted that the Moscow Government had not observed the statutory time-limit of three days for giving a reply and had failed to propose an alternative venue for the march. The Moscow authorities had not put forward weighty reasons for their proposal to cancel the march and change the venue of the meeting. Neither the march nor the meeting would have interfered with the normal life of the city if held at the location chosen by the applicants, because no blocking off of traffic would have been necessary. They reiterated that two meetings had recently been held in Pushkin Square with official approval; they had gone ahead without any trouble or disruption of normal life for residents. The applicants asked for

an injunction for the Moscow Government to agree to the meeting and the march. They also requested that their complaint be examined before the planned meeting date.

45. According to the Government, the applicants' complaint, sent by post, was received by the District Court on 19 March 2010.

46. At about 3.30 p.m. on 20 March 2010 about 300 people, including the applicants, gathered in Pushkin Square. The police issued a warning, through loudspeakers, that the meeting was unlawful and that the participants should disperse. The meeting was then dispersed by force by the police and many of those present were arrested.

47. On 9 April 2010 the Tverskoy District Court rejected the applicants' complaints, finding that the decision of 12 March 2010 had been lawful. The text of the judgment did not contain any reply to the applicants' argument that the Moscow Government had not observed the statutory time-limit of three days for a reply.

48. On 23 September 2010 the Moscow City Court quashed the judgment of 9 April 2010 on appeal and allowed the applicants' complaints. It found that the District Court had not examined whether there existed a factual basis for the finding that the meeting and the march planned by the applicants would interfere with the normal life of the city. The Moscow Government had not submitted any evidence in support of that finding. The decision of 12 March 2010 had not therefore been well reasoned. At the same time, it was impossible to allow the request for an injunction to agree to the meeting and the march because the planned date had passed months ago.

49. On 20 October 2010 the Moscow Government lodged an application for supervisory review of the judgment of 23 September 2010. It argued that it had submitted evidence in support of the decision not to agree to the march and the meeting planned by the applicants, in the form of a letter from the Moscow Transport Department dated 10 March 2010 stating that the march might cause delays in public transport when it crossed Tverskaya Street. He further argued that it would be difficult for 300 participants to cross Tverskaya Street by the underground passage, which was always crowded with passers-by and street vendors. An alternative venue for the meeting had been proposed.

50. On 1 November 2010 the applicants submitted in reply that the march had been scheduled during a weekend, when vehicular and pedestrian traffic was insignificant. Crossing Tverskaya Street by the underground passage would therefore not have caused any inconvenience to passers-by or street vendors or their clients, or caused delays in public transport. In any event, traffic in the centre of Moscow was often blocked by the authorities to permit the staging of sports or cultural events.

51. On 12 November 2010 the Presidium of the Moscow City Court quashed the appeal judgment of 23 September 2010 and upheld the

judgment of 9 April 2010 rejecting the applicants' complaints. It found that the Moscow Government's refusal to agree to the march and the meeting had been lawful and well reasoned. It would have been impossible for the participants in the march to cross Tverskaya Street by the underground passage, which was always crowded with passers-by and street vendors. The participants would therefore have had to cross the road, thereby delaying public transport. To protect the interests of citizens who did not take part in public events, the Moscow Government had proposed an alternative venue for the meeting, at the same time requiring the organisers to cancel the march. That decision had not violated the applicants' rights.

52. According to the applicants, at the end of the hearing of 12 November 2010 only the operative part of the judgment had been read out by the bailiffs. The reasoned judgment had never been read out publicly and had been sent to the applicants by post on 16 March 2011. The applicants' account was disputed by the Government, who submitted that the entire text of the judgment had been read out publicly at the end of the hearing.

E. Application no. 19700/11 Yefremenkova and Others v. Russia

53. The four applicants are Ms Yefremenkova (the first applicant), Mr Milkov (the second applicant), Mr Gavrikov (the third applicant) and Mr Sheremetyev (the fourth applicant).

54. The applicants are gay human rights activists.

1. 2010 assemblies

(a) Notifications concerning a march, a meeting and "pickets" and the authorities' refusal to agree to them

(i) Notification of a march and a meeting

55. On 15 June 2010 the applicants notified the St Petersburg Security Department of their intention to hold a Gay Pride march and a subsequent meeting on 26 June 2010, the anniversary of the start of the gay rights movement in the United States of America ("the USA") on 26 June 1969. The march and the meeting were scheduled to take place in the centre of St Petersburg, with 500 to 600 people expected to attend. The aim was "to draw the attention of society to the violations of the rights of homosexuals, and the attention of society and the authorities to the widespread discrimination that exists against homosexuals and to homophobia, fascism and xenophobia".

56. On 17 June 2010 the St Petersburg Security Department refused to allow the meeting and the march. It noted that the route chosen by the applicants was a busy road with many parked cars, and construction work

was under way. The march might therefore obstruct road and pedestrian traffic and distract drivers, which might in turn cause road accidents. Moreover, another meeting had already been approved in the same place at the same time. Finally, the applicants' meeting was scheduled to take place in the vicinity of the Constitutional Court building. In accordance with section 8 of the Public Events Act it was prohibited to hold public events in the vicinity of court buildings. The Security Department proposed that the applicants change the venue of their march and meeting, and warned them that if they failed to obtain the authorities' approval for another venue they would not be entitled to organise the planned events.

57. On 18 June 2010 the applicants proposed two alternative venues for the march and subsequent meeting. They also informed the Security Department of their readiness to abandon the march and simply hold a meeting, and proposed a location for the meeting.

58. On 21 June 2010 the St Petersburg Security Department again refused to agree to the meeting and the march. It found that the venues chosen by the applicants were not suitable for the following reasons: one of the locations was not large enough to accommodate 600 people, and the participants would hinder access to a bus stop, a shop and a bicycle rental service. Moreover, "Youth Day" celebrations were planned in the nearby park. At another venue the march might obstruct the traffic and cause traffic jams on the road which government delegations and guests would be taking on 26 June 2010 to attend the celebrations of the 300th anniversary of the town of Tsarskoe Selo. Moreover, the march might hinder citizens' access to their homes or shops. Lastly, on the same day the end of the school year would be being celebrated by students on the nearby campus. The third location proposed by the applicants was not suitable either, because celebrations to mark the end of the school year would be held there too. The Security Department proposed that the applicants change the venue of the march and meeting.

59. The first applicant was informed about that decision on the evening of 22 June 2010 and received a copy of it on the morning of 23 June 2010.

60. On 23 June 2010 the applicants proposed three new alternative venues to the St Petersburg Security Department, for either a march and a meeting or a meeting only.

61. On the same day the St Petersburg Security Department refused to approve the meeting and the march for a third time. It found that the applicant's reply had been submitted outside the time-limit established by section 5 of the Public Events Act. That section provided that a reply to the authorities' proposal to change the location of the event should be submitted no later than three days before the intended event. Having missed that deadline, the applicants were not entitled to hold the meeting and the march on 26 June 2010.

(ii) Notifications of "pickets"

62. Despairing of obtaining official approval for a march and a meeting, on 22 June 2010 the applicants notified the Administrations of the Petrogradskiy, Tsentralniy, Moskovskiy and Vasileostrovskiy Districts of St Petersburg of their intention to hold a "picket" with the same aims on 26 June 2010. In each Administrative District a location was chosen to accommodate about forty participants.

63. On the same day the Petrogradskiy District Administration refused to agree to the "picket" because cultural and sports events were scheduled to be held at the location chosen by the applicants. Moreover, the applicants had not obtained the consent of the private sports complex in whose grounds the intended "picket" was to take place. The Moskovskiy District Administration refused to agree to the "picket" because a rock festival and a circus inauguration event were scheduled to take place at the location chosen by the applicants. The Vasileostrovskiy District Administration did not allow the "picket" because a film was scheduled to be shot in that district all day, including at the location selected by the applicants. Lastly, on 23 June 2010 the Tsentralniy District Administration also refused to agree to the "picket" because another (unspecified) event had already been approved at the same location and time as the applicants' event. Each District Administration proposed that the applicants change the location or time of their "picket".

(iii) Anti-gay meeting

64. On 26 June 2010 the Young Guard, the youth wing of the pro-government party United Russia, organised a meeting in support of "family and traditional family values". That meeting was approved by the authorities and was held at one of the locations which, when proposed by the applicants for their Gay Pride march, had been rejected as unsuitable by the St Petersburg Security Department's decision of 17 June 2010.

(b) Judicial review of the refusals to approve the meeting, the march and the "pickets"

(i) Judicial review of the refusals to approve the meeting and the march

65. On 24 June 2010 the first applicant challenged the St Petersburg Security Department's decisions of 17 and 21 June 2010 before the Smolninskiy District Court of St Petersburg. She complained that the Security Department had refused, for various reasons, to approve any of the venues proposed by the organisers for the march and the meeting. It was significant that the authorities alone were in possession of full and updated information about all construction work and other events planned in the city. That being so, the authorities themselves should have proposed a venue where the march and the meeting could take place. They had not, however,

made any such proposal, confining their decisions to rejecting all the numerous locations proposed by the organisers. The first applicant also complained of discrimination on account of sexual orientation.

66. The first hearing was scheduled for 2 July 2010.

67. On that day the first applicant submitted additional arguments in writing. She complained that the Security Department's decision of 23 June 2010 had been unlawful and had also not been well reasoned. She argued, firstly, that the applicants' reply to the Security Department's proposal to change the venue had been submitted within the three-day time-limit established by the Public Events Act. To be precise, it had been lodged on 23 June 2010, three days before the intended march, which was scheduled for 26 June 2010. Secondly, the applicants could not have replied earlier because they had not received the Security Department's decision of 21 June 2010, requiring them to change the venue, until 23 June 2010. The first applicant further submitted that the reasons advanced by the Security Department in its decisions of 17 and 21 June 2010 had not been sufficient. The Security Department had referred to certain inconveniences that might be caused by the march and the meeting, such as obstructing the traffic, or to other events planned in the city on the same day. However, under section 12 of the Public Events Act it was the authorities' responsibility to take steps to ensure that public order was respected and that public events could proceed smoothly, including by regulating or blocking traffic. She also referred to the Constitutional Court's decision of 2 April 2009 (see paragraphs 255 to 259 below), which held that neither logistical difficulties that might be encountered by the authorities, nor a certain level of disruption of the ordinary life of citizens, could serve as a valid reason for refusing to approve a public event.

68. On 13 July 2010 the Smolninskiy District Court rejected the first applicant's complaints. It found that the Security Department had provided reasons for its decisions of 17 and 21 June 2010 refusing to agree to the meeting and the march. Domestic law did not impose an obligation on an authority refusing to approve a location or time for a public event to propose an alternative location or time. As to the decision of 23 June 2010, the court found that it had also been lawful as the first applicant had missed the deadline for replying to the proposal to change the venue. She had not proved that she had been notified belatedly of the decision of 21 June 2010; the list of her incoming calls showing that she had indeed received a call from the Security Department late in the evening of 22 June 2010 could not serve as proof of the belated notification. Lastly, given that the Security Department had not banned the meeting and march planned by the first applicant, but had merely required her to change the venue, her freedom of assembly had not been breached.

69. On 30 August 2010 the St Petersburg City Court upheld the judgment on appeal, finding that it had been lawful, well reasoned and justified.

(ii) Judicial review of the refusals to approve the "pickets"

70. On different dates in August, September and November 2010 the first applicant challenged the refusals of the authorities of the Petrogradskiy, Tsentralniy, Moskovskiy and Vasileostrovskiy Districts of St Petersburg to allow the "pickets", arguing that the refusals had not been substantiated by weighty reasons and that the district authorities had not proposed alternative venues for the "pickets". She also complained of discrimination on account of sexual orientation.

71. On 6 October 2010 the Leninskiy District Court of St Petersburg held that the decision of 23 June 2010 of the Tsentralniy District Administration had been unlawful. It found that the other event to which the District Administration had referred in its decision was due to finish before the applicant's "picket" was due to begin. The authorities' refusal had not therefore been well reasoned. Further, relying on the Constitutional Court's decision of 2 April 2009, the District Court found that, when refusing to approve a venue chosen by the organisers, the district administration had an obligation to propose an alternative venue. No other venue had been proposed, however.

72. On 18 October 2010 the Petrogradskiy District Court of St Petersburg held that the Petrogradskiy District Administration's decision of 22 June 2010 had been unlawful. It found that the reasons advanced by the district authorities for their refusal to allow the "picket" at the location and time chosen by the applicants had been valid. In particular, it had been established that on 26 June 2010 the location in question was the meeting point for the departure of children to sports camps. An assembly in favour of homosexual rights "would not have furthered the development of their morals". By contrast, the requirement to obtain the consent of the private sports complex in the grounds of which the intended "picket" was to take place had no basis in domestic law. Nor could concerns for public order and the safety of the participants serve as a valid reason for the refusal to allow the event, because it was the joint responsibility of the authorities and the organisers to guarantee public order and the safety of all involved. At the same time, the district authorities had not proposed an alternative location or time for the "picket", which it was obliged to do pursuant to the Constitutional Court's decision of 2 April 2009. The failure to propose an alternative location or time had deprived the first applicant of any opportunity to have the event approved. Lastly, the District Court noted that it was no longer possible to remedy the violation of the first applicant's rights because the planned date had passed months earlier. On

25 November 2010 the St Petersburg City Court upheld that judgment on appeal.

73. On 24 November 2010 the Moskovskiy District Court of St Petersburg held that the decision of the Moskovskiy District Administration of 22 June 2010 had also been unlawful. Although the district authorities' refusal to approve the location and time of the "picket" chosen by the applicants had been well reasoned, the district authorities had not fulfilled their obligation to propose an alternative location or time for the event. The court ordered the District Administration to propose a suitable alternative location and time for the "picket". On 17 January 2011 the St Petersburg City Court upheld that judgment on appeal.

74. On 6 December 2010 the Vasileostrovskiy District Court of St Petersburg held that the decision of 22 June 2010 of the Vasileostrovskiy District Administration had also been unlawful. It found that the district authorities should have found out precisely at which locations the film shooting was scheduled to take place. Depending on that information, they should either have agreed to the "picket" being held at the location chosen by the applicants or have proposed an alternative location.

2. 2011 assemblies

(a) Vasileostrovskiy Administrative District of St Petersburg

75. On 10 June 2011 the second, third and fourth applicants and Mr T. notified the Vasileostrovskiy District Administration of their intention to hold a Gay Pride march and a meeting on 25 June 2011, which 100 people were expected to attend. The aim of the meeting and the march was "to draw the attention of society and the authorities to the violations of the rights of gays, lesbians, bisexual and transgender people and to the need to introduce a statutory prohibition on discrimination on account of sexual orientation or gender identity".

76. On 14 June 2011 the Vasileostrovskiy District Administration refused to agree to the march and the meeting. They found that the events would hinder the passage of pedestrians and vehicles and might also distract drivers, causing road accidents. Moreover, a guided tour of the district for children was planned on 25 June 2011 and the applicants' meeting would disrupt it. The district authorities proposed another location for the meeting and the march, and informed the applicants that the area would be closed to traffic for their convenience.

77. On 16 June 2011 the applicants replied that the venue proposed by the district administration was unsuitable, because it was located in an industrial area among factories and warehouses and was difficult to reach. They proposed an alternative venue for the two events, which they said was separated from the road by a five-to-fifteen-metre-wide row of trees, which ruled out any risk of road accidents or hindrance to traffic. They would not

be in the way of passers-by either, because there was a parallel pedestrian path which would remain free for passage. Lastly, the participants would cross the road at traffic lights, using a pedestrian crossing, which would make it unnecessary to close the area to traffic.

78. On 20 June 2011 the Vasileostrovskiy District Administration again refused to approve the venue chosen by the applicants, pointing out that work to install a temporary amusement park would be going on there. They also reiterated their arguments concerning the obstruction of traffic and the risk of road accidents. The district administration insisted that the applicants should organise the march and the meeting at the location proposed in the letter of 14 June 2011.

79. On 21 June 2011 the applicants agreed to hold the meeting and the march at the location proposed by the district authorities.

80. On the same day the Vasileostrovskiy District Administration refused to allow the march and the meeting at that location. The reason given was that the nearby power station was expecting a delivery of spare parts for boilers on 25 June 2011. The authorities proposed that the applicants choose another location for the march and the meeting.

81. On 12 September 2011 the third and fourth applicants challenged the Vasileostrovskiy District Administration's decisions of 14, 20 and 21 June 2011 before the Vasileostrovskiy District Court of St Petersburg. They submitted that the reasons given by the district authorities for refusing to allow the meeting and the march were not convincing. They also complained of discrimination on account of sexual orientation.

82. On 14 November 2011 the Vasileostrovskiy District Court allowed the applicants' complaints, finding that the Vasileostrovskiy District Administration's decisions had not been well reasoned. It was the authorities' and the organisers' joint responsibility to ensure public order and the safety of participants and passers-by during the meeting and march. In their letter of 16 June 2011 the applicants had set out the measures they intended to take to avoid accidents and disruption to traffic. The district authorities had disregarded those arguments and insisted that the march should take place at a location of their choosing. However, before proposing that location the district authorities had not checked whether the location was suitable and available. As a result, when the applicants agreed to the location, the district authorities had refused to approve it, on the ground that it was unavailable. That refusal had been unlawful. The court ordered that the district administration give the meeting and the march planned by the applicants their approval.

83. On 12 January 2012 St Petersburg City Court examined the case on appeal. It quashed the decision ordering the Vasileostrovskiy District Administration to allow the meeting and the march, as the date scheduled for the events had passed months before. It was therefore no longer possible to remedy the violation of the applicant's rights. The court upheld the

remainder of the judgment of 14 November 2011, finding that it had been lawful, well reasoned and justified.

(b) Admiralteyskiy Administrative District of St Petersburg

84. On 14 June 2011 the second, third and fourth applicants and Mr T. notified the St Petersburg Security Department of their intention to organise a Gay Pride march and a subsequent meeting on 25 June 2011 in the centre of St Petersburg, which 300 people were expected to attend. The aim of the meeting and march was the same as that of the events in the Vasileostrovskiy Administrative District.

85. On 15 June 2011 the St Petersburg Security Department refused to allow the meeting and the march, noting that along the route chosen by the applicants the pavement was narrow and the traffic heavy. The applicants' march might therefore obstruct traffic and pedestrians and distract drivers, causing accidents. The proposed meeting venue was not suitable either, because a rehearsal for the Youth Day festivities would be taking place there on 25 June 2011. There was also a children's playground nearby. The Security Department proposed that the applicants should hold the march and the meeting in the village of Novoselki, in the suburbs of St Petersburg.

86. On 20 June 2011 the applicants replied that the location proposed by the Security Department was unsuitable because it was located in a remote and sparsely populated village surrounded by a forest, 20 kilometres from the city centre. They proposed three alternative locations for the march and the meeting or for the meeting only and agreed to reduce the number of participants to 100 people.

87. On 21 June 2011 the St Petersburg Security Department again refused to approve the meeting and the march. A Harley Davidson motorbike parade was scheduled to take place at one of the proposed locations; the second location would be occupied by anti-drug campaigners; and the third location was not suitable because of landscaping work in progress there. The Security Department insisted that the applicants should hold the march in the village of Novoselki or propose another venue for approval.

88. On 12 September 2011 the third and fourth applicants challenged the St Petersburg Security Department's decisions of 14 and 21 June 2011 before the Smolnenskiy District Court of St Petersburg. They complained that the refusals to allow the meeting and the march had not been substantiated by sufficient reasons. In particular, the police could have taken measures to control the traffic and thereby prevent road accidents. As to the Youth Day rehearsals, the motorbike parade and the anti-drug campaign, the Security Department could have proposed another time for the meeting and the march which would not have clashed with those events. The landscaping work had not been scheduled to last the entire day, so it would have been possible to organise the meeting after it was finished. The applicants further

argued that any assembly in a public place inevitably caused a certain level of disruption to ordinary life. The public authorities and the population had to show a degree of tolerance towards peaceful assemblies in crowded places, because otherwise it would be impossible to hold an assembly at a time and location where it would draw public attention to social or political issues. Lastly, they submitted that the venue proposed by the Security Department was unsuitable because it was located in a sparsely populated area in the middle of a forest. It was therefore not the right venue to draw the attention of society and the authorities to the violation of homosexuals' rights, because there would be no representatives of the authorities or the general public present. The applicants also complained of discrimination on account of sexual orientation.

89. On 3 October 2011 the Smolnenskiy District Court rejected the applicants' complaints. The court held that domestic law did not impose any obligation on the authorities to submit evidence in support of their finding that the location chosen by the organisers was unsuitable. The reasons advanced by the authorities for refusing to approve a location were subjective and therefore not amenable to judicial review. It was significant that the St Petersburg Security Department had not banned the march and the meeting planned by the applicants. The proposal for a change of location had not breached the applicants' rights. The applicants' argument that the venue proposed by the Security Department was not suitable was unfounded.

90. On 12 January 2012 the St Petersburg City Court upheld the judgment on appeal, finding that it had been lawful, well reasoned and justified.

(c) The march on 25 June 2011

91. On 25 June 2011 the applicants participated in a Gay Pride march in the centre of St Petersburg. They were arrested and charged with the administrative offence of breaching the established procedure for the conduct of public events.

F. Application no. 55306/11 Kosinov and Others v. Russia

92. The five applicants are Mr Labudin (the first applicant), Mr Kosinov (the second applicant), Mr Khayrullin (the third applicant), Mr Grigoryev (the fourth applicant), and Mr Gorbunov (the fifth applicant).

93. On 28 April 2010 the first applicant, together with Mr O., notified the Kaliningrad Town Administration of their intention to hold a "picket" on 5 May 2010 from 5 to 6 p.m. on the pavement in front of the Kaliningrad Regional Interior Department headquarters. A hundred people were expected to attend. The aim of the event was to "support [President] Medvedyev's national policy directed at fighting corruption, reforming the

[police] system, detecting 'werewolves in epaulettes' ("*оборотни в погонах*")[1] and eradicating crime". The other applicants intended to join in the "picket".

94. On 30 April 2010 the Kaliningrad Town Administration refused to agree to the "picket". They referred to the risk of terrorist acts during the Victory Day celebrations on 9 May and the days immediately preceding them, and proposed that the "picket" be held on any day after 9 May 2010.

95. On 5 May 2010 the first applicant and Mr O. agreed to postpone the event. They notified the authorities that it would be held on 14 May 2010 at the same location.

96. On 7 May 2010 the Kaliningrad Town Administration again refused to allow the "picket". They pointed out that in recent times terrorist acts in the vicinity of police buildings, as well as other unlawful acts against police officers and members of the Federal Security Service, had become more frequent in Russia. Attempted terrorist acts had been committed by both professional terrorists and mentally unstable people. A "picket" in front of Department of the Interior headquarters might therefore be dangerous to the police and the participants. They proposed two alternative locations for the event.

97. On 11 May 2010 the first applicant and Mr O. replied that they considered the reasons given by the authorities for the change of venue unconvincing. No terrorist acts had ever been committed in the Kaliningrad Region. It was the responsibility of the police to prevent terrorist acts. They therefore insisted that the "picket" should take place in front of the Kaliningrad Regional Department of the Interior headquarters, but agreed to hold it across the road from the headquarters. They requested that the police take increased security measures to ensure the safety of the participants.

98. On 12 May 2010 the Kaliningrad Town Administration refused yet again to allow the "picket". They noted that there was heavy traffic at the proposed location and maintained that the "picket" would block the passage of pedestrians. Moreover, given the risk of terrorist acts in the vicinity of buildings occupied by law-enforcement authorities, it would be impossible to ensure the safety of the event. They insisted that the "picket" should be held at one of the locations proposed by the authorities in their letter of 7 May 2010.

99. According to the Government, on the same day the first applicant was informed by telephone that he could come to the Administration headquarters to collect the Administration's decision. According to the applicants, the first applicant received the decision of 12 May 2010 on 14 May 2010 in the afternoon. He therefore had no time to inform the participants that the event had not been given official approval.

1. A popular nickname for corrupt policemen

100. Shortly before the beginning of the "picket", which was scheduled to start at 5 p.m. on 14 May 2010, the first applicant was summoned to appear at the Kaliningrad Town Administration offices at 5 p.m. At the same time he was warned that if he went anywhere near the Kaliningrad Regional Interior Department headquarters he would immediately be arrested. The first applicant went to the Town Administration offices at the appointed time to discuss the organisation of the "picket".

101. Meanwhile, at about 5 p.m. the third, fourth and fifth applicants went to the Kaliningrad Regional Interior Department headquarters as planned, where they were immediately arrested and taken to the Tsentralniy District police station, where they were held until the next morning.

102. The first applicant was later charged with organising an unlawful public event, an offence under Article 20.2 § 1 of the Administrative Offences Code. The third, fourth and fifth applicants were charged with disobeying a lawful order of the police to stop an unauthorised "picket", and with breaching the established procedure for conducting public events, offences under Articles 19.3 § 1 and 20.2 § 2 respectively of the Administrative Offences Code.

103. By judgments of 25 and 28 June and 9, 12 and 13 July 2010 a Justice of the Peace of the 2nd Court Circuit of the Tsentralniy District of Kaliningrad discontinued the administrative proceedings against the applicants for lack of evidence of an offence. The Justice of the Peace found that the "picket" had not in fact taken place. There had been no mass gathering of people, waving of placards, public speeches or voicing of demands on issues related to political, economic, social or cultural life in the country or issues related to foreign policy. Although several people, unaware of the fact that the "picket" had not been approved, had indeed approached the Kaliningrad Regional Interior Department headquarters, they had been immediately arrested by the police. The applicants had not therefore organised or participated in an unauthorised public event and had not committed an offence under Article 20.2 §§ 1 and 2 of the Administrative Offences Code. Accordingly, the order of the police to stop an unauthorised picket and to leave the vicinity of the Kaliningrad Regional Interior Department headquarters had been unlawful and had breached the applicants' freedom of movement. The applicants could not therefore be considered as having disobeyed a lawful order of the police and were not guilty of an offence under Article 19.3 § 1 of the Administrative Offences Code.

104. On 26 July 2010 the applicants challenged the Kaliningrad Town Administration's refusals to allow the "picket" before the Tsentralniy District Court of Kaliningrad.

105. On 22 December 2010 the Tsentralniy District Court held that the Kaliningrad Town Administration's refusals to agree to the "picket" had been lawful. The administration had found that the applicants' "picket"

might block the passage of vehicles and pedestrians and cause road accidents. It was also established that the Kaliningrad Regional Interior Department had warned the local authorities about the risk of terrorist acts and recommended that public events should not be authorised, especially at times when the police were busy ensuring public order at festive celebrations. The town administration had no legal obligation to verify that information.

106. On 23 March 2011 the Kaliningrad Regional Court upheld the judgment on appeal, finding that it had been lawful, well-reasoned and justified.

G. Application no. 7189/12 Zhidenkov and Others v. Russia

107. The four applicants are Mr Zhidenkov (the first applicant), Mr Zuyev (the second applicant), Ms Maryasina (the third applicant), and Mr Feldman (the fourth applicant).

108. On 5 March 2011 the second and third applicants notified the Kaliningrad Town Administration of their intention to hold a meeting on 20 March 2011 at Victory Square in the centre of Kaliningrad, which 500 people were expected to attend. The aim of the meeting was to protest against a police state and demand the resignation of Prime Minister Putin.

109. On 9 March 2011 the Kaliningrad Town Administration refused to allow the meeting, explaining that on 20 March 2011 Victory Square was to be cleaned after the winter. They proposed that the meeting be held in a park in a residential district.

110. On 10 March 2011 the third applicant replied that the location proposed by the administration was unsuitable because it was too far from the town centre and lacked visibility. She suggested two alternative venues in the town centre for the meeting.

111. On 11 March 2011 the Kaliningrad Town Administration replied that spring cleaning and refurbishment work was scheduled at both of the locations suggested by the third applicant, and insisted that the meeting should be held in the park proposed by the authorities in their letter of 9 March 2011.

112. On 14 March 2011 the third applicant reiterated that the location proposed by the administration was unsuitable. She then proposed holding a "picket" instead of a meeting and reducing the number of participants to fifty. She suggested two possible locations for the "picket": Victory Square and another location in the town centre.

113. On 17 March 2011 the Kaliningrad Town Administration refused to agree to the "picket", reiterating that Victory Square was being cleaned and explaining that landscaping work was being carried out at the other location suggested by the third applicant. They again insisted that the "picket" should be held in the park mentioned in their letter of 9 March 2011.

114. On the same day the third applicant reiterated her argument that the park was unsuitable and proposed yet another location for the "picket". That proposal was not examined by the Kaliningrad Town Administration until 21 March 2011, when they again insisted that the "picket" should be held in the park they had proposed.

115. On 20 March 2011 the applicants went to Victory Square and saw that no cleaning or other work was in progress there. They therefore decided to organise a "gathering" ("*собрание*") of about twenty people to protest against what they described as a police state. The gathering lasted for about an hour. According to the Government, the police issued a warning that the gathering was unlawful and required the participants to disperse. According to the applicants, no warning was given to the participants. The gathering was eventually dispersed by force.

116. On the same day the applicants were charged with breach of the established procedure for conducting public events, an offence under Article 20.2 § 2 of the Administrative Offences Code.

117. By judgments of 21, 25 and 26 April 2011 the Justice of the Peace of the 2nd Court Circuit of the Tsentralniy District of Kaliningrad found the applicants guilty as charged. She found that they had taken part in a gathering which had not received official approval from the authorities. Their argument that no approval was required for gatherings had no basis in domestic law. Section 7 of the Public Events Act provided that all events, except "gatherings" and "pickets" involving only one participant, required prior approval by the authorities (see paragraph 226 below). As the gathering of 20 March 2011 had involved more than one participant, the authorities' approval had been required. However, the Kaliningrad Town Administration had refused to approve a meeting or a "picket" planned by the applicants, and no notification of a gathering had been submitted by them. The gathering of 20 March 2011 had therefore been unlawful. The Justice of the Peace ordered the first, second and fourth applicants to pay a fine of 500 Russian roubles (RUB, about 12 euros (EUR)) each, and the third applicant to pay a fine of RUB 1,000 (about EUR 24). The Justice of the Peace also warned the applicants that if they failed to pay the fines within thirty days they might be charged with non-payment of an administrative fine, an offence under Article 20.25 of the Administrative Offences Code, punishable with either a doubling of the fine or up to fifteen days' administrative arrest.

118. The applicants appealed. They submitted that the Justice of the Peace had incorrectly interpreted section 7 of the Public Events Act. It was impossible to hold "a gathering involving one person", as the Public Events Act defined a "gathering" as "an assembly of citizens" (see paragraph 219 below). It was therefore logical that the phrase "involving one person" referred to "pickets" only and did not concern "gatherings". They were therefore not required to notify the authorities about the gathering.

119. By judgments of 20, 22 and 27 June and 6 July 2011 the Tsentralniy District Court of Kaliningrad upheld the judgments of 21, 25 and 26 April 2011 on appeal, finding that they had been lawful, well reasoned and justified.

120. On 27 October 2011 the Tsentralniy District Court of Kaliningrad found that the Kaliningrad Town Administration's refusals to agree to the meeting and the "picket" had been lawful and well reasoned. On 18 January 2012 the Kaliningrad Regional Court upheld the judgment on appeal.

H. Applications nos. 47609/11, 59410/11, 16128/12, 16134/12, 20273/12, 51540/12 and 64243/12 Nagibin and Others v. Russia

121. The four applicants are Mr Nagibin (the first applicant), Mr Yelizarov (the second applicant), Mr Batyy (the third applicant) and Ms Moshiyan (the fourth applicant).

122. The applicants are supporters of the "Strategy-31" movement. "Strategy-31" is a series of civic protests in support of the right to peaceful assembly guaranteed by Article 31 of the Russian Constitution. The protests are held on the 31st of every month with thirty-one days, in Moscow and about twenty other Russian cities, such as St Petersburg, Arkhangelsk, Vladivostok, Yekaterinburg, Kemerovo and Irkutsk.

123. "Strategy-31" was initiated by Mr E. Limonov, founder of the National Bolshevik Party and one of the leaders of The Other Russia, a coalition of opposition movements. It was subsequently supported by many prominent Russian human rights organisations, including the Moscow Helsinki Group, the Memorial Human Rights Centre, and other public and political movements and associations.

124. The applicants are the leaders of the Rostov-on-Don section of the movement.

1. "Picket" of 12 June 2009

125. On 2 June 2009 the first and third applicants notified the Rostov-on-Don Town Administration of their intention to organise a "picket" from 7 to 9 p.m. on 12 June 2009 (Russia Day, a national holiday) in the centre of Rostov-on-Don, near the Lenin monument in front of the Rostov-on-Don Town Administration headquarters. About thirty people were expected to attend. The aim of the event was to protest against the ineffective economic policies of the Prime Minister, Mr Putin, and the resulting increase in unemployment, as well as against violations of press freedom, persecution of political prisoners, lack of independence of the judiciary, and lack of free elections and political pluralism. They intended to collect signatures in support of a petition calling on Mr Putin to resign.

126. On 4 June 2009 the Rostov-on-Don Town Administration refused to agree to the "picket" on the grounds that festivities would be taking place at the location chosen by the applicants. It further reasoned:

> "Your picket and your slogan 'Russia against Putin' might trigger a hostile reaction from the many supporters of one of the leaders of the Russian State and fuel unrest that might jeopardise the safety and health of the participants in the picket."

127. The town administration further noted that there were reasons to believe that some of the participants in the meeting might commit breaches of public order, as had already happened at meetings held by other organisers. They therefore proposed that the applicants hold their "picket" near the Sports Centre.

128. On 8 June 2009 the first and third applicants agreed to hold the event near the Sports Centre. According to the applicants, they had accepted the authorities' proposal because a rock concert had been scheduled near the Sports Centre at the same time, which would attract large numbers of people and thereby make their protest visible.

129. On the same day the Rostov-on-Don Town Administration refused to agree to the "picket", noting that a rock concert was scheduled to take place in the Sports Centre. The area round the Sports Centre would therefore be occupied by the spectators and their cars. The authorities therefore proposed that the applicants hold their event from 3.30 to 5.30 p.m. According to the applicants, they were informed of that decision on 10 June 2009.

130. The applicants decided to cancel the "picket" because at that time the area near the Sports Centre would be deserted and few people could reasonably be expected to see it. Moreover, given that only two days remained before the planned event, the applicants had insufficient time to inform the participants and the mass media about the change of time.

131. The third applicant held a solo "picket" instead. Twenty minutes after the start of the solo "picket" he was arrested and taken to a police station.

132. On 3 September 2009 the first and third applicants challenged the Rostov-on-Don Town Administration's decisions of 4 and 8 June 2009 before the Sovetskiy District Court of Rostov-on-Don.

133. On 25 September 2009 the Sovetskiy District Court of Rostov-on-Don rejected their complaints, finding that the Rostov-on-Don Town Administration's decisions had been lawful. By not replying to the authorities' proposal of 8 June 2009 the applicants had failed to fulfil their obligation to cooperate with the town administration. Moreover, the applicants had not proved that their rights had been breached by the Administration's decisions. On 19 November 2009 the Rostov Regional Court upheld that judgment on appeal, finding that it had been lawful, well reasoned and justified.

2. Meetings between October 2009 and October 2010

134. The applicants notified the Rostov-on-Don Town Administration of their intention to hold meetings in the centre of Rostov-on-Don, near the Lenin monument, on 31 October 2009, 31 March, 31 May, 31 July and 31 August 2010.

135. The Rostov-on-Don Town Administration refused to allow the meetings, giving the following reasons. The meeting of 31 October 2009 was not possible, because another event was planned at the same venue and time, and all other central locations were also occupied. As to the meeting of 31 March 2010, the town administration referred to heavy pedestrian traffic round the Lenin monument and the inconvenience the meeting would cause to the citizens. The meetings of 31 May and 31 August 2010 were not agreed to because "pickets" organised by the Young Guard, the youth wing of the pro-government party United Russia, were scheduled to take place near the Lenin monument on those same days. The meeting of 31 July 2010 was not approved because a gathering of members of the Liberal Democratic Party of Russia was planned at the same location and time.

3. Meeting of 31 October 2010

136. On 18 October 2010 the first and second applicants notified the Rostov-on-Don Town Administration of their intention to hold a meeting from 6 to 7 p.m. on 31 October 2010 in the centre of Rostov-on-Don, near the Lenin monument, which fifty people were expected to attend.

137. On 19 October 2010 the Rostov-on-Don Town Administration refused to allow the meeting. They noted that another event was scheduled to take place at the same location and time. It therefore proposed that the applicants hold their meeting near the Sports Centre.

138. On 23 October 2010 the first applicant replied that the venue proposed by the Town Administration was unsuitable because it was located in a deserted area far from the town centre. He notified the town administration that they would like to take part in the other event near the Lenin monument, and asked for information about its aims and the names of the organisers.

139. On 28 October 2010 the Rostov-on-Don Town Administration replied that it was not possible to hold two public events at the same location, because the applicants' meeting might disrupt the other event. They warned the applicants that if they held a meeting near the Lenin monument they might be charged with organising an unlawful public event.

140. At 6 p.m. on 31 October 2010 the applicants and other persons went to the Lenin monument, where a public event organised by the Young Guard, the youth wing of the pro-government party United Russia, was in progress. By 6.30 the Young Guard's event was over.

141. According to the Government, the police issued a warning to those people who remained near the Lenin monument that their continuing meeting was unlawful and required the participants to disperse. The meeting was then dispersed by force by the police.

142. At about 6.45 the second and third applicants were arrested near the Lenin monument and taken to the Leninskiy District police station; they arrived there at 8.30 p.m. At the police station administrative arrest reports and administrative offence reports were drawn up. The administrative offence reports mentioned that the second and third applicants were charged with disobeying a lawful order of the police, an offence under Article 19.3 § 1 of the Administrative Offences Code. The second applicant was also charged with breach of the established procedure for the conduct of public events, an offence under Article 20.2 § 2 of the Administrative Offences Code. Afterwards the applicants were placed in a police cell, where they remained until 10.20 a.m. the next day.

143. On 1 November 2010 the Justice of the Peace of the 9th Court Circuit of the Pervomayskiy District of Rostov-on-Don found, by two separate judgments, the second applicant guilty of offences under Articles 19.3 § 1 and 20.2 § 2 of the Administrative Offences Code. He found that the second applicant had taken part in an unauthorised public event and had refused to obey an order by the police to follow them to a police station. He ordered the second applicant to pay a fine of RUB 2,000 (about EUR 47). By judgments of 24 November and 14 December 2010 the Pervomayskiy District Court upheld the judgments of 1 November 2010 on appeal.

144. On 1 November 2010 the Justice of the Peace of the 2nd Court Circuit of the Leninskiy District of Rostov-on-Don also found the third applicant guilty of an offence under Article 19.3 § 1 of the Administrative Offences Code, in that he had attempted to prevent the police from arresting the organisers of the unlawful public event, in particular by grabbing the police officers by their uniforms and screaming. The third applicant was ordered to pay a fine of RUB 500 (about EUR 12). The third applicant appealed. He complained, in particular, that his arrest and detention had been unlawful. On 16 December 2010 the Leninskiy District Court of Rostov-on-Don upheld the judgment of 1 November 2010 on appeal. It found, in particular, that the third applicant's arrest and detention had been lawful under Article 27.5 of the Administrative Offences Code.

145. On 17 May 2011 the Pervomayskiy District Court of Rostov-on-Don found that the Rostov-on-Don Town Administration's refusals to approve the meeting planned by the applicants had been unlawful. Only ten people had been expected to attend the Young Guard event, while the applicant's meeting had been attended by fifty people. There was sufficient space to accommodate both events near the Lenin monument. Moreover, the events overlapped in time only for half an hour, from 6 to 6.30 p.m. The Rostov-on-Don Town Administration's argument

that it was not possible to hold the two events at the same location was therefore unconvincing. Moreover, the location near the Sports Centre proposed by the Town Administration was indeed isolated and would not therefore permit the applicants' meeting to attain its purposes. The District Court ordered the Town Administration to approve a meeting near the Lenin monument on a date to be chosen by the applicants.

146. On 14 July 2011 the Rostov Regional Court upheld the judgment on appeal. It however overturned the order to approve a meeting on a date to be chosen by the applicants, finding that such an order was contrary to the principle of separation of powers between the judicial and the executive. The District Court had thus unduly interfered with the executive's discretion to approve public events provided by law.

4. "Picket" of 31 December 2010

147. On 16 December 2010 the first applicant notified the Rostov-on-Don Town Administration of his intention to organise a "picket" on the theme "Russia against Putin", from 6 to 7 p.m. on 31 December 2010 in the centre of Rostov-on-Don, near the Lenin monument, which fifty people were expected to attend.

148. On 17 December 2010 the Rostov-on-Don Town Administration refused to agree to the "picket", on the following grounds:

> "The theme of the public event you plan to hold, "Russia against Putin", aspires to create ... a negative image of a State official of the Russian Federation you allege is unpopular in Russia.
>
> This allegation is false and misleading for the population, as it contradicts the results of many all-Russia opinion polls according to which V. V. Putin inspires confidence in at least a majority of the polled citizens of the country.
>
> A picket with such a title would therefore amount to an action the sole purpose of which is to harm another person, which is contrary to Article 10 of the Civil Code of the Russian Federation".

149. The town administration further added that the New Year tree had been put in place and the New Year fair was scheduled to take place at the location chosen by the applicant. The "picket" might thus interfere with the New Year celebrations and inconvenience the merchants.

150. On 24 December 2010 the first applicant agreed to change the theme of the event, notified the administration that it would be called "Strategy 31" and asked them to give it their approval.

151. On 27 December 2010 the Rostov-on-Don Town Administration refused to allow the "picket". They found that by modifying the title the organisers had changed the purpose of the event, so a new notification should have been submitted. They also reiterated that no public events were possible near the Lenin monument until 14 January 2011 because of the

New Year tree installed there and the New Year celebrations scheduled to take place nearby.

152. On 29 December 2010 the first applicant challenged the decisions of 17 and 27 December 2010 before the Pervomayskiy District Court of Rostov-on-Don.

153. On 31 December 2010 the Pervomayskiy District Court of Rostov-on-Don found that the decision of 17 December 2010 had been lawful and had not violated the applicant's rights. The sole purpose of a public event entitled "Russia against Putin" was to harm another person. By contrast, the decision of 27 December 2010 had been unlawful. The requirement to submit a new notification had no basis in domestic law. Moreover, no celebrations were scheduled to take place near the Lenin monument from 6 p.m. to 7 p. m. on 31 December 2010. The finding that the "picket" might hinder the New Year celebrations had therefore been unsubstantiated. No other valid reasons for the refusal to allow the "picket" had been given.

154. At 6 p.m. that same day the first applicant and some other people gathered near the Lenin monument. They were surrounded by many policemen, whose number considerably exceeded their own.

155. At about 6.30 p.m. the police gave the first applicant a written warning which, referring to the decision of 27 December 2010 by the Rostov-on-Don Town Administration, stated that the "picket" was unlawful and that the organisers might be therefore held liable for extremist activities. The first applicant showed the police the court judgment of 31 December 2010 by which the decision of 27 December 2010 had been overturned. The police replied that the judgment was not yet final and warned the participants that they would be arrested if they started to chant slogans or wave banners. The protesters were forced to end the "picket".

156. On 11 January 2011 the first applicant appealed against the judgment of 31 December 2010. He argued that the town administration's decision of 17 December 2010 had violated his freedom of expression by prohibiting him from criticising Prime Minister Putin. The town administration also appealed, arguing that its decision of 27 December 2010 had been lawful, as the "picket" could have caused the New Year tree to be knocked over and created a fire hazard.

157. On 28 February 2011 the Rostov Regional Court upheld the judgment of 31 December 2010 on appeal, finding that it had been lawful, well reasoned and justified.

5. Meeting of 31 March 2011

158. On 16 March 2010 the second and fourth applicants notified the Rostov-on-Don Town Administration of their intention to organise a meeting from 6 p.m. to 7.30 p. m. on 31 March 2010 in the centre of

Rostov-on-Don, near the Lenin monument, which fifty people were expected to attend.

159. On 18 March 2010 the Rostov-on-Don Town Administration refused to allow the meeting, because pedestrian traffic in the area was dense in the evening and the applicants' meeting might cause inconvenient disruptions. They proposed that the applicants hold their meeting near the Sports Centre.

160. On 22 March 2010 the second and fourth applicants replied that the proposed venue was unsuitable because it was located in a deserted place far from the town centre. They asked the authorities how many participants they could bring together without obstructing pedestrian traffic near the Lenin monument.

161. On 25 March 2010 the Rostov-on-Don Town Administration declined to engage in dialogue on the question of freedom of assembly.

162. The first, second and fourth applicants challenged the Rostov-on-Don Town Administration's decision of 18 March 2010 before the Sovetskiy District Court of Rostov-on-Don.

163. On 27 July 2010 the Sovetskiy District Court of Rostov-on-Don rejected their complaint, finding that the decision of 18 March 2010 had been lawful.

164. On 6 September 2010 the Rostov Regional Court quashed the judgment of 27 July 2010 and remitted the case for fresh examination before the Sovetskiy District Court.

165. On 7 October 2010 the Rostov-on-Don Town Administration argued that the area around the Lenin monument was one of the most crowded places in the town. In the rush hour 30 to 70 people per minute passed by the Lenin monument. Some of them might be distracted by the applicants' meeting, thereby hindering the passage of other pedestrians. Moreover, the applicants had distributed leaflets calling on the town's population to take part in the meeting. The possibility could not be ruled out, therefore, that more than fifty people would attend the meeting. That might have created a danger for public safety. By contrast, the venue near the Sports Centre was larger and could therefore accommodate more participants without disrupting pedestrian traffic or jeopardising public safety.

166. On 3 November 2010 the Sovetskiy District Court allowed the second and fourth applicants' complaints, finding that the decision of 18 March 2010 had been unlawful. The Rostov-on-Don Town Administration had not provided valid reasons for its proposal that the meeting venue should be changed. Moreover, they had failed to refute the applicants' argument that the proposed location near the Sports Centre would not serve the purposes of the meeting. The court ordered the Rostov-on-Don Town Administration to allow a meeting of fifty people near the Lenin monument from 6 p.m. to 7.30 p.m. on the 31st of the first

month with thirty-one days following the entry into force of the judgment. The court rejected the first applicant's complaints, however, finding that he had no standing to complain to a court because he had not signed the notification of 16 March 2010. His intention to participate in the meeting was irrelevant. It also rejected the applicants' complaints about discrimination on the basis of political opinion. The fact that other meetings had been allowed at the same location was not sufficient to prove discrimination against the applicants.

167. On 20 January 2011 the Rostov Regional Court upheld the judgment on appeal.

168. On 22 February 2011 the applicants received a writ of execution.

169. On 16 March 2011 the applicants notified the Rostov-on-Don Town Administration of their intention to hold a meeting from 6 p.m. to 7.30 p.m. on 31 March 2011 in the centre of Rostov-on-Don, near the Lenin monument, to be attended by fifty people. They enclosed the writ of execution.

170. On 18 March 2011 the Rostov-on-Don Town Administration approved the meeting.

171. On 30 March 2011 the Interior Department of the Rostov Region, referring to the threat of terrorist or extremist acts, ordered the police to enclose the location near the Lenin monument with metal barriers, with two entry checkpoints. It further ordered that the participants in the meeting be searched with the aid of metal detectors.

172. On 31 March 2011 the police gave a written warning to the fourth applicant. It stated, in particular, that the meeting venue would be closed off with barriers. All participants would be searched at the entry checkpoints. If a person refused to be searched, he or she would not be allowed to enter the enclosed area. As the approved number of participants was fifty people, only fifty people would be allowed to enter. If more than fifty people tried to attend the meeting, the police would not let them in.

173. According to the applicants, the location near the Lenin monument was often used for meetings and other public events, but it was never fenced off on such occasions, and the entry of participants or passers-by was never restricted.

174. When the participants arrived at the Lenin monument at 6 p.m. they saw that the location had been fenced off with metal barriers. It is visible on the photographs of the event submitted by the applicants that police buses were parked along the barriers so that passers-by could not see what was going on in the enclosed area. Moreover, all passers-by were diverted by the police to another road. About 200 police officers were present. Although the enclosed area measured about 3,000 sq. m, only fifty people were allowed to enter and attend the meeting, after being searched at an entry checkpoint. According to the applicants, many would-be participants were not let in.

175. The first, third and fourth applicants complained to the Pervomayskiy District Court, claiming that the police had acted unlawfully and violated their freedom of assembly. In particular, the police were not entitled to limit the number of participants at the meeting. The venue near the Lenin monument could easily accommodate up to 800 people and the town administration had itself previously organised public events there with more than 100 participants. There was therefore no justification for limiting the number of participants to fifty people. Fencing the area off with metal barriers, blocking it with police buses, diverting the passers-by to other roads, searching the participants and not letting some of them in, had all also been unlawful and unjustified. The security measures taken by the police had made the meeting invisible to the public and thereby deprived it of its purpose. The reference by the police to the risk of terrorist attacks was unsubstantiated. There was no evidence that such a risk was higher on 31 March 2011 than on any other day. On 5 April 2011, for example, just five days later, an official public event had been held near the Lenin monument and the area had not been fenced off.

176. On 28 July 2011 the Pervomayskiy District Court rejected the applicants' complaints. It found that the number of participants had been determined by the applicants themselves and had then been approved by a final judgment. The police had merely enforced that judgment, acting in accordance with the writ of execution. The enclosing of the venue had been justified by security considerations. The court also found that the first and third applicants had no standing to complain to a court, as they had not been parties to the judicial proceedings which had ended with the judgment of 20 January 2011 and had not been mentioned in the writ of execution. The fact that in the notification of 16 March 2011 they were listed as organisers of the meeting of 31 March 2011 was irrelevant.

177. On 22 September 2011 the Rostov Regional Court upheld the judgment on appeal, finding that it had been lawful, well reasoned and justified.

6. Meeting of 31 July 2011

178. At 9.04 a.m. on 18 July 2011 the first, third and fourth applicants notified the Rostov-on-Don Town Administration of their intention to hold a meeting from 6 to 8 p.m. on 31 July 2011 near the Lenin monument in front of the Rostov-on-Don Town Administration building in the town centre. One hundred people were expected to attend. They specified that if that venue was already occupied they would agree to hold the meeting in front of the cinema fifty metres from the Lenin monument. The aim of the meeting was to protest against the violations by the town administration of the freedom of assembly guaranteed by Article 31 of the Russian Constitution, and against fraudulent practices in the elections to the State Duma.

179. On 20 July 2011 the Rostov-on-Don Town Administration refused to approve the meeting, stating that notification of another public event at the same location had already been submitted. The holding of two meetings at the same location might create tension and conflict. The authorities proposed that the applicants hold their meeting near the Public Library.

180. On 21 July 2011 the applicants replied that the Public Library was not a suitable venue, because it was too far away from the Town Administration, which was the target of their protest meeting. Moreover, the area in front of the Public Library was occupied by a large flowerbed and could not accommodate such a large meeting. It appears that they did not receive any reply.

181. On the same day, 21 July 2011, the applicants challenged the town administration's decision of 20 July 2011 before the Pervomayskiy District Court of Rostov-on-Don, repeating the arguments stated in their letter of 21 July 2011 and adding that they had submitted their notification on the first day submissions were open, four minutes after the opening of the town administration offices. It was impossible for anyone else to have submitted a notification before them. As to the possible tensions with the people attending the other meeting, the applicants noted that on 31 May 2011 two meetings, each attended by a hundred people, had been held simultaneously near the Lenin monument without any trouble or incidents.

182. On 28 July 2011 the Pervomayskiy District Court found that the Rostov-on-Don Town Administration's decision of 20 July 2011 had been unlawful. Firstly, the authorities had not proved that it was impossible to hold the two events simultaneously. A series of "pickets" organised by the Young Guard, the youth wing of the United Russia party, from 10 a.m. to 8 p.m. every day from 1 July to 15 August 2011, had been allowed by the town administration. There was however no information as to whether the "pickets" had been held as announced, that is for ten hours every day for a month and a half. In any event, according to the notification, the Young Guard's "pickets" involved no more than twenty participants, while 100 people were to attend the applicants' meeting. The venue near the Lenin monument had sufficient capacity to accommodate both events, especially taking into account that the applicants were willing to hold the event in front of the cinema, some distance from the Lenin monument. Secondly, the court found that the area outside the Public Library proposed by the town authorities, was not large enough to accommodate all the participants in the applicants' meeting. A copy of that judgment was made available to the applicants on 2 August 2011.

183. On 31 July 2011 the applicants held a meeting near the Lenin monument, in spite of obstruction from the authorities and the police.

184. On 29 August 2011 the Rostov Regional Court quashed the judgment of 28 July 2011 and rejected the applicants' complaint. It found that the Rostov-on-Don Town Administration's decision of 20 July 2011

had been lawful and well reasoned. As another public event had been scheduled at the same time and place as that chosen by the applicants, the town administration had proposed using the area outside the Public Library. This was a busy location in the town centre. The applicants had not explained how the flowerbeds would prevent them from gathering there.

7. Meeting of 31 August 2011

185. At 9.07 a.m. on 16 August 2011 the first and fourth applicants notified the Rostov-on-Don Town Administration of their intention to hold meetings from 6 to 8 p.m. on 31 August, 31 October and 31 December 2011, and 31 January and 31 March 2012, in the centre of Rostov-on-Don, near the Lenin monument, which one hundred people were expected to attend. They specified that the location near the Town Administration and the dates were important to them, and stated that if that location was occupied they would agree to hold the meetings in front of the cinema fifty metres from the Lenin monument. The aim of the meetings was to protest against violations by the town administration of the freedom of assembly guaranteed by Article 31 of the Russian Constitution, and against fraudulent practices in the elections to the State Duma.

186. On 18 August 2011 the Rostov-on-Don Town Administration refused to approve the meetings. Regarding the meeting of 31 August 2011, they noted that notification of another public event at the same location had already been submitted. The holding of two meetings at the same location might create tension and conflict. They therefore proposed that the applicants' meeting be held near the Public Library. As to the remaining meetings, the Town Administration found that the applicants had submitted the notifications too early, outside the time-limits established by the law.

187. On 19 August 2011 the first and fourth applicants replied that the venue outside the Public Library was unsuitable because it was too far away from the town administration, which was the target of their protest meeting. It was also not large enough to accommodate a meeting of 100 people. It appears that they did not receive any reply.

188. The applicants then challenged the town administration's refusal to approve the meeting of 31 August 2011 before the Pervomayskiy District Court of Rostov-on-Don, repeating the arguments stated in their letter of 19 August 2011 and adding that they had submitted their notification on the first day submissions were open, nine minutes after the opening of the town administration offices. It was impossible for anyone else to have submitted a notification before them. As to the possible tensions with the people attending the other meeting, the applicants noted that on 31 May 2011 two meetings, each attended by 100 people, had been held simultaneously near the Lenin monument without any trouble or incident. Finally, they complained that between October 2009 and July 2011 they had submitted

eleven notifications, all of which had been rejected by the Rostov-on-Don Town Administration for various reasons.

189. On 26 August 2011 the Pervomayskiy District Court of Rostov-on-Don rejected their complaints and found that the Rostov-on-Don authorities' decision of 18 August 2011 had been lawful and well reasoned. Another person had notified the authorities of his intention to conduct a public opinion poll on 31 August 2011 at the same place and time. It was impossible to hold two public events simultaneously at the same place as altercations might arise between the participants. The alternative venue proposed by the authorities was a busy square in the town centre. It was large enough to accommodate the meeting and would serve the required purpose.

190. On 29 September 2011 the Rostov Regional Court upheld the judgment on appeal, finding it lawful, well reasoned and justified.

191. Meanwhile, also before the Pervomayskiy District Court, the applicants challenged the refusal to approve the meetings of 31 October and 31 December 2011 and 31 January and 31 March 2012. They complained that they had been subjected to discrimination on account of their political views. The Mayor of Rostov-on-Don was a member of the United Russia party. Events organised by that party or its youth wing had always been allowed to proceed. The Rostov-on-Don Town Administration had approved a series of "pickets", to be held every day from 1 July to 15 August 2011, for a total of 460 hours, despite the fact that the notification had been submitted by the Young Guard outside the statutory time-limit. A similar notification submitted by the applicants concerning a series of "pickets" with a total duration of twenty hours, however, had been rejected by the town administration.

192. On 12 September 2011 the Pervomayskiy District Court rejected the applicants' complaints as unsubstantiated. It found that the applicants' notification was different from that submitted by the Young Guard, which concerned a single public event that lasted many days and was therefore allowed by law, while the applicants' notification concerned a series of separate "pickets", each of which required a separate notification to be submitted within the legal time-limit. The applicants had not observed that time-limit. There was therefore no evidence of discrimination on account of political opinion. It was also significant that the applicants were not members of any political party.

193. On 20 October 2011 the Rostov Regional Court upheld that judgment on appeal, finding it lawful, well reasoned and justified.

8. Meetings in October and December 2011

194. In October and December 2011 the applicants notified the Rostov-on-Don Town Administration of their intention to hold meetings on 31 October and 31 December 2011 near the Lenin monument in the town

centre. The authorities agreed to the meeting on 31 October, but not to the one on 31 December, because a New Year tree had been installed near the Lenin monument.

9. Meeting of 31 January 2012

195. At 9.10 a.m. on 16 January 2012 the first applicant notified the Rostov-on-Don Town Administration of his intention to hold a meeting from 6 to 8 p.m. on 31 January 2012 in the centre of Rostov-on-Don, near the Lenin monument, which 150 people were expected to attend. He specified that the location and time were important to him, but if the location was already occupied he would agree to hold the meeting in front of the cinema, fifty metres from the Lenin monument. The aim of the meeting was to protest against violations by the Town Administration of the freedom of assembly guaranteed by Article 31 of the Russian Constitution, and against fraudulent practices in the elections to the State Duma.

196. On 18 January 2012 the Rostov-on-Don Town Administration refused to approve the meeting, because notification of a public event at the same location had already been submitted by someone else. The holding of two public events at the same location might create tension and conflict. They therefore proposed that the applicants' meeting be held near the Public Library.

197. On 19 January 2012 the first applicant replied that the location near the Public Library was unsuitable and that it was important for him to hold the meeting in front of the Town Administration. He also stated that he had been the first to enter the town administration building on the morning of the first day of the time-limit. No one could have submitted a notification before him.

198. Having received no reply, on 25 January 2012 the first applicant challenged the Rostov-on-Don Town Administration decision of 18 January 2012 before the Pervomayskiy District Court, repeating the arguments set out in his letter of 19 January 2012. He also asked the court to examine the video recordings of the town administration building's entrance cameras, which would prove that he had been the first to enter the building and submit a notification.

199. On 27 January 2012 a deputy head of the Rostov-on-Don Town Administration informed the first applicant that the entrance cameras had been switched off from 8.30 to 9.30 a.m. on 16 January 2012 for technical reasons.

200. On 30 January 2012 the Pervomayskiy District Court rejected the first applicant's complaints. It found that Mr B. had submitted his notification before the first applicant had, at 9 a.m. As it was impossible to hold two public events at the same location, the town administration had agreed to Mr B.'s event and proposed an alternative venue to the first applicant. That venue was in a busy area of the town centre and therefore

suited the purposes of the meeting. The decision of 18 January 2012 had therefore been lawful and well reasoned.

201. On 31 January 2012 the first applicant appealed. He submitted, in particular, that the town administration had not proved that Mr B. had lodged his notification before him. His request for the entry camera recording had been refused. He asserted that he had been the first to enter the administrative building on the morning of 16 January 2012 and to get an entry pass. He had not seen Mr B. at the reception. If Mr B., a member of the pro-government United Russia party, had been allowed to enter without an entry pass, that in itself showed discrimination on account of political opinion. He further submitted that Mr B.'s event, the purpose of which was to inform the population about various youth organisations in the region, was not a public event within the meaning of the Public Events Act and therefore did not require any notification or agreement. According to the applicant, it was possible for him to hold his meeting in front of the cinema at the same time as Mr B.'s information event near the Lenin monument. Referring to the Constitutional Court's decision of 2 April 2009, he requested that his appeal be examined before the date of the intended meeting.

202. On 31 January 2012 the first applicant went to the Lenin monument at 6 p.m. and remained there for an hour. The location remained empty. Neither Mr B. nor anyone else was there to hold the information event approved by the town administration.

203. On 22 March 2012 the Rostov-on-Don Regional Court upheld the judgment of 30 January 2012 on appeal, finding that it had been lawful, well reasoned and justified.

10. Meetings between March and August 2012

204. The applicants notified the Rostov-on-Don Town Administration of their intention to hold meetings on 31 March, 31 May, 31 July and 31 August 2012.

205. The Rostov-on-Don Town Administration refused to give the meetings their approval, giving the following reasons. The meetings of 31 March and 31 July 2012 were not approved because public events organised by the Young Guard were scheduled to take place near the Lenin monument on the same days. The notification of the meeting of 31 May 2012 was not examined. The meeting of 31 August 2012 was not approved because celebrations of the start of the school year were to take place near the Lenin monument.

I. Application no. 37038/13 Tarasov v. Russia

206. On 10 December 2012 the State Duma adopted at first reading a draft law which, in particular, prohibited adoption of children of Russian nationality by US citizens.

207. On 17 December 2012 the official daily newspaper *Rossiyskaya Gazeta* announced that the second reading was scheduled for 19 December 2012.

208. According to the applicant, he read on various online social networks that many people intended to stage solo "pickets" on 19 December 2012 in front of the State Duma to express their opposition to the draft law. The format of solo "pickets" was chosen because there was no longer time to observe the minimum statutory three-day notification period for other types of public events.

209. The applicant decided to hold his own solo "picket", and at around 9.15 a.m. positioned himself, holding a banner, in the vicinity of the State Duma at some distance from other protesters.

210. According to the applicant, he was arrested by the police several minutes later and brought in a police van to the nearby police station. At 10.30 a.m. the police drew up a report stating that the applicant had been escorted to the police station so that a report on an administrative offence could be drawn up. An arrest report, drawn up at the same time, stated that the applicant had arrived at the police station at 10.30 a.m. The applicant made a handwritten note on both reports that he was in fact arrested at 9.30 a.m., when he was put into the police van.

211. At the police station the applicant was charged with participating in a public event held without prior notification, in breach of Article 20.2 § 2 of the Code of Administrative Offences. The report on the administrative offence indicates that the offence was committed at 10 a.m. The applicant made a handwritten statement that he could not have committed an offence at that time because he had been in the police van since about 9.30 a.m.

212. The applicant was released at 1.20 p.m.

213. On 15 January 2013 the justice of the peace of 369 Court Circuit of the Tverskoy District of Moscow convicted the applicant as charged and sentenced him to a fine of RUB 20,000 (about EUR 495). The justice of the peace found it established, on the basis of police reports, that the applicant had taken part in a "picket" involving fifty people. That "picket" had been unlawful, because no notification had been submitted by the organisers, as required by Russian law. The applicant had waved a banner, thereby attracting the attention of passers-by and journalists assembled for the occasion. He had not complied with the police order to stop picketing.

214. In his appeal statement the applicant complained, in particular, that his arrest had been unlawful.

215. On 20 February 2013 the Tverskoy District Court of Moscow upheld the judgment on appeal.

II. RELEVANT DOMESTIC LAW

A. Freedom of peaceful assembly

216. The Constitution guarantees the right to freedom of peaceful assembly and the right to hold gatherings, meetings, demonstrations, marches and "pickets" (Article 31).

217. Pursuant to Plenary Supreme Court Ruling no. 21 of 27 June 2013, the Convention and its Protocols, as interpreted by the European Court of Human Rights in its final judgments, are to be applied by Russian courts (points 1 and 2). Any restrictions on human rights and freedoms must be prescribed by federal law, pursue a legitimate aim (for example, ensuring public safety, protecting morality and morals, or rights and freedoms of others) and be necessary in a democratic society, that is to say, proportionate to the legitimate aim (point 5). Courts are instructed to provide justification for any restrictions on human rights and freedoms by relying on established facts. Restrictions on human rights and freedoms are permissible only if there are relevant and sufficient reasons to justify them and if there is a balance between the interests of the individual whose rights are restricted and the interests of other individuals, the State and society (point 8).

B. Procedure for the conduct of public events

1. The procedure in force at the material time

218. The Federal Law on Gatherings, Meetings, Demonstrations, Processions and Pickets, no. FZ-54 of 19 June 2004 ("the Public Events Act"), provides that a public event is an open, peaceful event accessible to all, organised at the initiative of citizens of the Russian Federation, political parties, other public associations, or religious associations. The aims of a public event are to express or develop opinions freely and to voice demands on issues related to political, economic, social or cultural life in the country, as well as issues related to foreign policy (section 2 paragraph 1).

219. The Public Events Act provides for the following types of public events: a gathering (*собрание*): that is, an assembly of citizens in a specially designated or arranged location for the purpose of collective discussion of socially important issues; a meeting (*митинг*): that is, a mass assembly of citizens at a certain location with the aim of publicly expressing an opinion on topical, mainly social or political issues; a demonstration (*демонстрация*): that is, an organised expression of public opinion by a

group of citizens with the use, while advancing, of placards, banners and other means of visual expression; a march (*шествие*): that is, a procession of citizens along a predetermined route with the aim of attracting attention to certain problems; a "picket" (*пикетирование*): that is, a form of public expression of opinion that does not involve movement or the use of loudspeaker equipment, where one or more citizens with placards, banners and other means of visual expression station themselves near the target object of the "picket" (section 2, paragraphs 2-6).

220. A notification of a public event is a document by which the competent authority is informed, in accordance with the procedure established by this Act, that a public event will be held, so that the competent authority may take measures to ensure safety and public order during the event (section 2 paragraph 7).

221. A public event may be organised by a Russian citizen or a group of citizens who have reached the age of eighteen (sixteen for meetings and gatherings), as well as by political parties, other public associations, religious associations, or their regional or local branches. A person who has been declared legally incapable by a court or who is serving a sentence of imprisonment, as well as political parties, other public associations, religious associations or their regional or local branches which have been dissolved or the activities of which have been suspended or banned in accordance with a procedure prescribed by law may not organise a public event (section 5 paragraphs 1 and 2).

222. A public event may be held in any convenient location, provided that it does not create a risk of building collapse or any other risks to the safety of the participants. The access of participants to certain locations may be banned or restricted in the circumstances specified by federal laws (section 8 paragraph 1).

223. Public events in the following locations are prohibited:

1) in the immediate vicinity of dangerous production facilities or other facilities subject to special technical safety regulations;

2) on flyovers, in the immediate vicinity of railway lines (including railway stations), oil, gas or petroleum pipelines, or high-voltage electricity lines;

3) in the immediate vicinity of the residences of the President of the Russian Federation, court buildings or detention facilities;

4) in a frontier zone, unless permission is given by the competent border authorities (section 8 paragraph 2).

224. The procedure for holding public events in the vicinity of historic or cultural monuments is determined by the regional executive authorities, with due regard to the particular features of such sites and the requirements of this Act (section 8 paragraph 3). The procedure for holding public events in the Kremlin, Red Square and the Alexandrovsky Gardens is established by the President of the Russian Federation (section 8 paragraph 4).

225. The perimeter of the zones in the immediate vicinity of buildings or other constructions is to be determined by a decision of the regional or municipal executive authorities issued in accordance with the land and urban planning legislation on the basis of the land or urban planning register (section 3 paragraph 9).

226. No earlier than fifteen days and no later than ten days before the intended public event, its organisers must notify the competent regional or municipal authorities of the date, time, location or itinerary and purposes of the event, its type, the expected number of participants, and the names of the organisers. A notification in respect of a "picket" involving several persons must be submitted no later than three days before the intended "picket" or, if the end of the time-limit falls on a Sunday or a public holiday, no later than four days before the intended "picket". No notification is required for "gatherings" and "pickets" involving one person (section 5 paragraph 4 (1) and section 7 paragraphs 1 and 3).

227. From the moment of submitting a notification the organisers and other citizens are entitled to campaign to attract people to take part in the public event, including through communicating to the public its location, time and aims, as well as other relevant information (section 10 paragraph 1).

228. Upon receipt of such notification the competent regional or municipal authorities must:

1) confirm receipt of the notification;

2) provide the organisers of the event, within three days of receiving the notification (or, in case of a "picket" involving several persons, if the notification is submitted less than five days before the intended "picket", on the day of receipt of such notification), with well-reasoned ("*обоснованный*") proposals for changing the location and/or time of the event, or for amending the purposes, type or other arrangements if they are incompatible with the requirements of this Act;

3) appoint a representative whose duty it is to help the organisers of the public event to conduct it in compliance with the requirements of this Act;

4) inform the organisers of the public event about the maximum capacity of the chosen location in terms of attendance;

5) ensure, in cooperation with the organisers of the public event and representatives of the competent law-enforcement agencies, the protection of public order and citizens' security, as well as the provision of emergency medical aid if necessary;

6) inform the State and municipal agencies concerned about the issues raised by the participants in the public event;

7) inform the federal guard services about the intended public event, if it is to take place on a route or in any place of permanent or temporary

presence of a State official requiring a special guard (section 12 paragraph 1).

229. If the information contained in the notification or other factors give reason to believe that the aims of the public event or the manner of its conduct are contrary to the Constitution, the Criminal Code or the Administrative Offences Code, the competent regional or municipal authority must warn the organisers in writing that they may be held liable for any unlawful actions, in accordance with the procedure prescribed by law (section 12 paragraph 2).

230. No later than three days before the intended date of the public event the organisers of a public event must inform the authorities in writing whether or not they accept the authorities' proposals for changing the location and/or time of the public event (section 5 paragraph 4 (2)).

231. The organisers of a public event are entitled to hold meetings, demonstrations, marches or "pickets" at the location and time indicated in the notification or agreed upon after consultation ("*изменены в результате согласования*") with the competent regional or municipal authorities (section 5 paragraph 3 (1)). They have no right to hold a public event if the notification was submitted outside the time-limits established by this Act, or if the new location and time of the public event have not been agreed upon ("*не были согласованы*") following a well-reasoned proposal for their change by the competent regional or municipal authorities (section 5 paragraph 5).

232. The organisers must comply with all the elements of the public event as indicated in the notification or agreed upon after a proposal from the competent regional or municipal authorities to change its location, time or manner of conduct (section 5 paragraph 4 (3)).

233. The organisers must secure respect for public order by the participants and must comply with all lawful instructions given by the representatives of the competent regional or municipal authorities and of the local police department in this respect. If the participants commit unlawful acts the organisers must suspend or terminate the public event. The organisers must ensure that the number of participants does not exceed the maximum capacity of the location. They must ensure the preservation of green areas, buildings, equipment, furniture and other objects situated at the location of the public event. They must also ensure that the participants do not cover their faces. Finally, they must transmit to the participants the requirements set down by the representatives of the competent regional or municipal authorities to suspend or terminate the public event (section 5 paragraph 4 (4) to (11)).

234. The participants in the public event must:

1) comply with lawful orders of the organisers of the public event, representatives of the competent regional or municipal authorities, and law-enforcement officials;

2) maintain public order and follow the schedule of the public event (section 6 paragraph 3).

235. Representatives of the competent regional or municipal authorities and of the local police department must attend the public event and assist the organisers in securing public order and the safety of the participants and others present (sections 13 paragraph 2 and 14 paragraph 3). The representative of the local police department may order the organisers to stop admitting citizens to the public event, or stop them himself if the maximum capacity of the venue is exceeded (section 14 paragraph 2 (1)).

236. In the performance of their duties and with the aim of ensuring public safety and public order at public events the police are empowered to search citizens and their belongings, if necessary using technical equipment, at the entry to buildings, territories or public areas where public events are held. If a citizen refuses to undergo a police search, the police may refuse to let him or her enter the building, territory or public area in question (section 13 § 1 (18) of the Police Act no. 3-FZ of 7 February 2011).

237. If participants in a public event commit a breach of public order which creates no danger to life or health, the representative of the competent regional or municipal authorities may require the organisers to take measures to stop that breach. If that requirement is not complied with, the representative of the competent regional or municipal authorities may suspend the public event for a specified period necessary to stop the breach. After the breach has been stopped the public event may be resumed. If the breach has not been stopped by the end of the specified period, the public event is terminated in accordance with the procedure set out in section 17 of this Act (section 15).

238. A public event may be terminated on the following grounds:

1) if it creates a genuine risk to people's lives or health or the property of persons or legal entities;

2) if the participants have committed unlawful acts or if the organisers have wilfully breached the procedure for the conduct of public events established by this Act;

3) if the organisers do not fulfil their obligations set out in section 5 paragraph 4 of the Act (see paragraphs 226, 230, 232 and 233) (section 16).

239. If the representative of the competent regional or municipal authorities decides to terminate the public event, he gives an order to that effect to the organisers, explains the reasons for his decision, and sets out the time by which his order must be complied with. He must, within twenty-four hours, prepare a written decision and serve it on the organisers. If the organisers fail to comply with the order, he addresses the participants with the same requirement and allows additional time for compliance. If the participants do not comply, the police may take measures to disperse the public event (section 17 paragraphs 1 and 2).

240. The procedure described above may be dispensed with in the event of mass riots, mob violence, arson, or other situations requiring urgent action (section 17 paragraph 3).

241. Failure to obey lawful orders of the police or resistance to the police is punishable by law (section 17 paragraph 4).

242. Decisions, actions or inaction by authorities or officials which violate freedom of assembly may be appealed against before a court in accordance with the procedure established by Russian law (section 19).

2. The amendments introduced on 8 June 2012

243. On 8 June 2012 the Public Events Act was amended (Law no. 65-FZ). The amendments are as follows.

244. Those who are prohibited from being organisers of public events: a person whose criminal record is not spent after a conviction for a criminal offence against the constitutional foundations of government, State security, national security or public order; a person who has been found guilty more than once within one year of hindering a lawful public event, disobeying a lawful order or demand of a police officer, disorderly conduct, a breach of the established procedure for the conduct of public events, public display of Nazi symbols, blocking of transport communications or distribution of extremist materials (administrative offences under Articles 5.38, 19.3, 20.1-3, 20.18 and 20.29 of the Administrative Offences Code) until the time his administrative offence record is expunged (section 5 paragraph 2 (1.1)).

245. The regional authorities must designate, by 31 December 2012, suitable locations where public events may be held without prior notification. When designating such locations, the regional authorities must ensure, in particular, that they are in keeping with the aims of public events and are accessible by public transport. In the event that several public events are planned at the same specially designated location at the same time, the regional or municipal authority decides in which order the events will take place, taking into account the order in which the notifications were submitted (section 8 paragraphs 1.1 and 1.2)

246. After the special locations have been designated, all public events must, as a rule, take place there. A public event at another location requires prior approval ("*согласование*") of the competent regional or municipal authority. Approval may be refused only if the person who has submitted the notification is not entitled to be an organiser of a public event or if it is prohibited to hold public events at the location chosen by the organisers (sections 8 paragraph 2.1 and 12 paragraph 3).

247. A list of places where public events are prohibited may be established by regional laws in addition to the list established in section 8 paragraph 2 of this Act. A location may be included in such a list if a public event there could, for example, interfere with the normal functioning of public utility services, transport, social or communications

services, or hinder the passage of pedestrians or vehicles or the access of citizens to residential buildings, transport or social facilities (section 8 paragraph 2.2).

248. The competent regional or municipal authority may refuse approval of a public event if the person who has submitted a notification is not entitled to be an organiser of a public event or if it is prohibited to hold public events at the location chosen by the organisers (section 12 paragraph 3).

249. Section 10 paragraph 1 (see paragraph 227 above) was also amended. The amended provision allows the organisers to campaign for participation in the public event only from the moment the public event is approved by the competent regional or municipal authorities.

250. The organisers of the public event must take measures to avoid exceeding the number of participants indicated in the notification if this might create a threat to public order or public safety, the safety of those attending the public event or others, or a risk of damage to property (section 5 paragraph 4 (7.1)).

251. The organisers of the public event may be held civilly liable for the damage caused by the participants if they have not fulfilled the obligations set out in section 5 paragraph 4 (see paragraphs 226, 230, 232, 233 and 250 above) (section 5 paragraph 6).

3. Further amendments

252. On 28 December 2013 a new section 15.3 was added to Law no. 149-FZ on Information, Information Technologies and Protection of Information ("the Information Act"). It provides that competent authorities may take measures to restrict access to information disseminated through telecommunication networks, including the Internet, and containing calls to participate in a public event held in breach of the established procedure.

4. Case-law of the Constitutional Court concerning the procedure for the conduct of public events

(a) Decision of 29 May 2007 no. 428-O-O

253. On 29 May 2007 the Constitutional Court declared inadmissible an application by Mr Shaklein, who submitted that section 8 § 2 (3) of the Public Events Act which prohibited holding a public event in the vicinity of court buildings was incompatible with Article 31 of the Constitution because it unduly restricted freedom of assembly. The Constitutional Court found that the aim of the restriction was to protect the independence of the judiciary and to prevent pressure on judges. The restriction was therefore justified and did not breach citizens' constitutional rights.

(b) Decision of 17 July 2007 no. 573-O-O

254. On 17 July 2007 the Constitutional Court examined an application by the Ombudsman, who submitted that the Public Events Act was not sufficiently foreseeable in its application, because it did not clearly determine the perimeter of the zones in which holding of public events was prohibited in accordance with its section 8 § 2. The Constitutional Court held at the outset that the prohibition on holding public events at those locations was justified by security considerations and the special legal regime applying at those locations. It further found that the perimeter was to be determined by a decision of the regional or municipal executive authorities issued in accordance with the land and urban planning legislation on the basis of the land or urban planning register. Such decisions had to be objectively justified by the aim of ensuring the normal functioning of public utility services situated on the territory concerned. In the absence of a decision by the executive or municipal authorities determining the perimeter of the zone where holding of public events was prohibited, public events at that location could not be considered unlawful and their participants could not be brought to liability.

(c) Decision of 2 April 2009 no. 484-O-П

255. On 2 April 2009 the Constitutional Court examined an application by Mr Lashmankin and others, who submitted, in particular, that section 5 paragraph 5 of the Public Events Act, which prohibited holding a public event if its location and time had not been approved by the competent regional or municipal authorities, was incompatible with Article 31 of the Constitution.

256. The Constitutional Court found that both the Constitution and the European Convention on Human Rights provided for restrictions on freedom of assembly in certain cases. Section 5 paragraph 5 of the Public Events Act did not give the executive the power to ban a public event. It only permitted the executive to make reasoned proposals as to the location or time of the public event. It required the executive to give weighty reasons for their proposals. Such reasons might include the need to preserve the normal, uninterrupted functioning of vital public utilities or transport services, to protect public order or the safety of citizens (both the participants in the public event and any other persons present at the location during the public event), or other similar reasons. It was impossible, however, to make an exhaustive list of permissible reasons, as this would have the effect of unjustifiably restricting the executive's discretion.

257. The Constitutional Court further held that the authorities' refusal to agree to a public event could not be justified by logistical or other similar reasons. The fact that a public event might cause inconvenience was not sufficient to justify a proposal to change the location or time. The authorities had to show that public order considerations made it impossible

to hold the public event. The term "agreed upon" contained in section 5 paragraph 5 of the Public Events Act meant that in such circumstances the authorities had an obligation to propose for discussion with the organisers of the public event a location and time compatible with the public event's purposes and its social and political significance. In particular, it should be taken into account that for a public event to fulfil its purposes some feedback (including via the media) between the participants in a public event and the targets of its message was necessary. The organisers, in their turn, were also required to make an effort to reach agreement with the executive.

258. If it proved impossible to reach an agreement, the organisers were entitled to defend their rights and interests in court. The courts should be required to examine their complaints as quickly as possible, and in any event before the intended public event, otherwise the judicial proceedings would be deprived of any meaning.

259. The Constitutional Court concluded that the provisions challenged by the complainants were clear and compatible with the Constitution.

(d) Decision of 1 June 2010 no. 705-O-O

260. On 1 June 2010 the Constitutional Court examined an application by Mr Kosyakin, who submitted, in particular, that sections 5 paragraph 5 and 12 paragraph 1 (2) of the Public Events Act, which permitted the authorities to propose a change of location and/or time for the public event and prohibited holding a public event if its location and time had not been approved by the authorities, was incompatible with Article 31 of the Constitution.

261. The Constitutional Court reiterated its findings relating to section 5 paragraph 5 of the Public Events Act, as stated in the Ruling of 2 April 2009, and found that the same findings were also applicable to section 12 paragraph 1 (2) of the Act.

(e) Judgment of 18 May 2012 no. 12-II

262. On 18 May 2012 the Constitutional Court examined an application by Mr Katkov, who submitted, in particular, that the provisions of the Public Events Act which required the organiser to indicate in the notification the number of participants in the public event and to ensure that the number of participants indicated was not exceeded (sections 5 paragraph 4 (3) and 7 paragraph 3) was incompatible with Article 31 of the Constitution.

263. The Constitutional Court found that the contested provisions were compatible with the Constitution and that the requirement to indicate in the notification the expected number of participants was reasonable. The authorities had to know how many people would take part in the assembly in order to assess whether the location was large enough to hold them all

and to decide what measures should be taken to protect public order and the safety of those attending and others present. Given that under section 5 paragraph 4 (3) the organisers had an obligation to ensure that all the elements indicated in the notification were complied with, and they had to adopt a balanced, considered and responsible approach when indicating the expected number of participants, taking into account the social importance of the issues to be discussed during the public event.

264. The Constitutional Court further noted that the Public Events Act did not establish a maximum number of participants in public events. Accordingly, the fact that the number of participants exceeded either the number indicated in the notification or the maximum capacity of the location could not serve, on its own, as a basis for liability for a breach of the established procedure for the conduct of public events under Article 20.2 § 2 of the Administrative Offences Code. Such a liability could be imposed only if it had been established that the organiser had been directly responsible for the excessive number of participants and, in addition, that this had created a real danger to public order, public safety or the safety of those attending the public event or others present.

(f) Judgment of 14 February 2013 no. 4-П

265. On 14 February 2013 the Constitutional Court examined an application by Mr Savenko and others, who submitted that Law no. 65-FZ of 8 June 2012 amending the Public Events Act was incompatible with the Constitution.

266. As regards the ban on organising a public event for a person whose criminal record was not spent after a conviction for certain criminal offences or who had been found guilty more than once within a year of certain administrative offences, the Constitutional Court found that special requirements imposed on organisers were justified by the high risk of breaches of public order during public events. The ban targeted those whose previous behaviour gave reasons to doubt their ability to hold a peaceful public event in accordance with the procedure prescribed by law. It served the aim of preventing breaches of public order and ensuring the safety of public events. The contested ban concerned only physical persons and did not apply to political parties, public or religious associations, because section 5 paragraph 2 of the Public Events Act explicitly stated that only those political parties, public or religious associations which had been dissolved or the activities of which had been suspended or banned in accordance with the procedure prescribed by law were prohibited from being an organiser of public events. Further, the individuals concerned were not banned from participating in public events organised by others, but were only banned from organising such events. The ban was imposed only in those cases where a person had been found guilty of an administrative offence more than once within a year or if he had been convicted at least

once of certain criminal offences. The ban was limited in time and was terminated as soon as the criminal or administrative offence record was expunged. The ban was therefore proportionate to the legitimate aim pursued.

267. As regards the provision that the organisers were allowed to campaign for participation in the public event only from the moment the public event was approved by the competent regional or municipal authorities, the Constitutional Court reiterated its position set out in its Ruling of 2 April 2009 that the notification and agreement procedure established by the Public Events Act was compatible with the Constitution. The law prohibited any campaigning for participation before the location and time of the public event had been approved by the competent authorities, because in the absence of such approval the time and location were not final. Any calls to participate in a public event before the location and time were approved could therefore mislead citizens. At the same time, the organisers were not prevented from informing prospective participants about the aims, type, location, time and estimated number of participants in the public event even before it was approved by the authorities. They were only prohibited from campaigning, that is from making calls for participation. Such a prohibition was therefore justified. The Court further held that that finding did not remove the obligation on the legislator to amend the legal provisions governing the time-limits for examining organisers' judicial complaints about the refusal to approve the time or location of a public event so that they were examined before the intended public event.

268. The Constitutional Court further found that the imposition of civil liability on organisers for damage caused by participants was incompatible with the Constitution. It held that civil liability should be imposed on the person who had caused the damage. Organisers should not be held liable for actions by others. The contested legal provision unduly restricted freedom of assembly because it put the prospective organiser before the choice of either assuming civil liability for any damage caused during the public event or renouncing organising public events. The provision was therefore incompatible with the Constitution.

269. As regards the designation of special locations where public events might be held without prior notification, the Constitutional Court held that the aim of the special locations was to create additional facilities for public events, including without prior notification. The designation of such special locations did not prevent organisers from choosing other locations. At the same time the law did not require that such locations be created in every municipality, thereby creating inequalities between citizens on account of their place of residence. The contested legal provision was therefore incompatible with the Constitution in so far as it did not ensure equal access to special locations for all citizens and had to be amended.

(g) Judgment of 13 May 2014 no. 14-II

270. On 13 May 2014 the Constitutional Court examined an application by Mr Yakimov, who claimed that section 7 § 1 of the Public Events Act was incompatible with the Constitution because it prevented a public event from being held in those cases where the time-limit for notification fell on a public holiday.

271. The Constitutional Court held that the aim of public events was to influence the authorities' decisions either directly or indirectly by changing public opinion. It was therefore very important for organisers to be able to choose, within the limits provided by law, the type, time and location of public event which would best correspond to its aims. The type, time and location of a public event could be therefore changed only through a consultation process involving the organisers and the competent public authorities.

272. The date of a public event might be very important with regard to its aims, for example if the event was dedicated to a certain memorable date or an anniversary of a certain event. The absence of a realistic opportunity to hold a public event on that date would be incompatible with the Constitution. It was significant that the Constitution did not contain any restrictions on the dates of public events. Such restrictions could however be set out by law in the public interest. Nor could logistical or organisational constraints experienced by public authorities be allowed to justify restricting citizens' rights.

273. The aim of the notification procedure provided by law was to inform the authorities in timely fashion about the type, location and time of a public event, its organisers and the number of participants, so that the authorities could take all necessary measures to ensure the safety of both those attending and others. The establishment of the time-limits within which such a notification had to be made fell within the legislator's discretionary competence. The time-limit was set by section 7 § 1 of the Public Events Act at no earlier than fifteen days and no later than ten days before the intended public event. The Public Events Act did not contain any special rules for those cases where the time-limit fell on public holidays, except for "pickets" involving several people, in respect of which the Public Events Act explicitly provided, in section 7 § 1, for an extended time-limit if the end of the normal three-day time-limit fell on a Sunday or a public holiday. No such exceptions were however provided in respect of other types of public event. At the same time, it was possible that the entire notification time-limit – no earlier than fifteen days and no later than ten days before the intended public event – could fall on public holidays. For example, the New Year and Christmas holidays lasted from 1 to 8 or 9 January each year.

274. It followed that, in the absence of special rules either in federal or regional law clearly determining the procedure to be followed in cases

where the notification time-limit fell on public holidays, it was *de facto* impossible to hold some types of public event in the days following public holidays in January. The creation, following the 2012 amendments to the Public Events Act, of locations where public events could be held without prior notification, could not be considered a commensurate alternative to holding a public event at the location chosen by the organisers. For example, such specially designated locations were not suitable for marches.

275. The Constitutional Court concluded that section 7 § 1 of the Public Events Act was incompatible with the Constitution, and that it was necessary to amend it to clarify the procedure to be followed in cases where the notification time-limit fell on a public holiday. In the meantime, the organisers of public events should be given the opportunity to lodge a notification on the last working day before the public holidays or, if that was impossible, the reception and examination of notifications should be done during the public holidays.

C. Civil proceedings

1. Before 15 September 2015

(a) Time-limits for the examination of complaints about decisions, acts or omissions of State and municipal authorities and officials

276. Until 15 September 2015 the procedure for examining complaints about decisions, acts or omissions of State and municipal authorities and officials was governed by Chapter 25 of the Code of Civil Procedure (the CCP), and the Judicial Review Act (Law no. 4866-1 of 27 April 1993 on judicial review of decisions and acts violating citizens' rights and freedoms).

277. Chapter 25 of the CCP and the Judicial Review Act both provided that a citizen might lodge a complaint before a court about an act or decision by any State or municipal authority or official if he considered that the act or decision had violated his rights and freedoms (Article 254 of the CCP and section 1 of the Judicial Review Act). The complaint might concern any decision, act or omission which had violated the citizen's rights or freedoms, had impeded the exercise of rights or freedoms, or had imposed a duty or liability on him (Article 255 of the CCP and section 2 of the Judicial Review Act).

278. The complaint had to be lodged with a court of general jurisdiction within three months of the date on which the complainant had learnt of the breach of his rights. The time-limit might be extended for valid reasons (Article 254 of the CCP and sections 4 and 5 of the Judicial Review Act). The complaint had to be examined within ten days (Article 257 of the CCP).

279. The court might suspend the decision complained against pending judicial proceedings (Article 254 § 4). In accordance with Ruling no. 2 of

10 February 2009 of the Plenary Supreme Court of the Russian Federation, the court might suspend the decision complained against, at the request of the complainant or of its own motion, at any stage of the proceedings. A suspension was ordered if the material in the case file and the complainant's submissions revealed that it might prevent possible negative consequences for the complainant (point 19).

280. When examining the case the court had to ascertain: whether the complainant had complied with the time-limit for lodging a complaint and whether the contested decision, act or omission was lawful and justified (point 22 of Supreme Court Ruling no. 2). In particular, the court had to examine: (a) whether the State or municipal authority or official had competence to make the contested decision or to perform the contested act or omission. If the law conferred discretionary powers on the State or municipal authority or official, the court had no competence to examine the reasonableness ("*целесообразность*") of their decisions, acts or omissions; (b) whether the procedure prescribed by law had been complied with. Only serious breaches of procedure could render the contested decision, act or omission unlawful; (c) whether the contents of the contested decision, act or omission met the requirements of law. The contested decision, act or omission was to be declared unlawful if one of the above conditions had not been complied with (point 25).

281. The burden of proof as to the lawfulness of the contested decision, act or omission lay with the authority or official concerned. The complainant however had to prove that his rights and freedoms had been breached by the contested decision, act or omission (section 6 of the Judicial Review Act and point 20 of Supreme Court Ruling no. 2).

282. The court allowed the complaint if it had been established that the contested decision, act or omission breached the complainant's rights or freedoms and was unlawful (point 28 of the Supreme Court Ruling no. 2). In that case it issued a decision overturning the contested decision or act and requiring the authority or official to remedy in full the breach of the citizen's rights. He or she might then claim compensation in respect of pecuniary and non-pecuniary damage in separate civil proceedings (Article 258 § 1 of the CCP and section 7 of the Judicial Review Act). The court might determine the time-limit for remedying the violation and/or the specific steps which needed to be taken to remedy the violation in full (paragraph 28 of Supreme Court Ruling no. 2).

283. The court rejected the complaint if it found that the challenged act or decision had been taken by a competent authority or official, was lawful, and did not breach the citizen's rights (Article 258 § 4 of the CCP).

284. A party to the proceedings might lodge an appeal with a higher court within ten days of the date when the first-instance decision was taken (Article 338 of the CCP). A statement of appeal had to be submitted to the first-instance court (Article 337 § 2 and 321 § 2). The CCP contained no

time-limit within which the first-instance court should send the statement of appeal and the case file to the appeal court. The appeal court had to decide the appeal within two months of receipt (Article 348 §§ 1 and 2). Shorter time-limits might be set by federal law for certain categories of cases (Article 348 § 4). The appeal decision entered into force on the day it was delivered (Article 367).

285. The legal provisions governing appeal proceedings were amended with effect from 1 January 2012. The amended CCP provided that a party to the proceedings might lodge an appeal with a higher court within a month of the date the first-instance decision was taken (Article 321 § 2 of the 2012 version of the CCP). A statement of appeal had to be submitted to the first-instance court (Article 321 § 1). The appeal court had to decide the appeal within two months of receipt, or three months if the appeal was examined by the Supreme Court. Shorter time-limits might be set by federal law for certain categories of case (Article 327 § 2). The appeal decision entered into force on the day of its delivery (Article 329 § 5).

(b) Enforcement of court judgments

286. A writ of execution was issued by the court after the decision had entered into force, except in cases where immediate enforcement had been ordered and the writ of execution was issued immediately after the first-instance decision was taken (Article 428 § 1of the CCP).

287. Immediate enforcement had to be ordered in respect of alimony payments, salary arrears, reinstatement in employment, and registration of a citizen on the electoral roll (Article 211). A court might, at the request of a party, order immediate enforcement in other cases where, owing to exceptional circumstances, a delay in enforcement might result in considerable damage or impossibility of enforcement. The issue of immediate enforcement might be examined simultaneously with the main complaint. An immediate enforcement order might be appealed against, but with no suspensive effect on the immediate enforcement (Article 212).

288. A judicial decision allowing a complaint and requiring the authority or official to remedy the breach of the citizen's rights was to be dispatched to the head of the authority concerned, to the official concerned, or to their superiors, within three days of its entry into force (Article 258 § 2 of the CCP). The Judicial Review Act required that the judicial decision be dispatched within ten days of its entry into force (section 8). The court and the complainant had to be notified of the enforcement of the decision no later than one month after its receipt (Article 258 § 3 of the CCP and section 8 of the Judicial Review Act).

2. Since 15 September 2015

289. On 15 September 2015 Chapter 25 of the CCP and the Judicial Review Act were repealed and replaced by the Code of Administrative

Procedure (Law no. 21-FZ of 8 March 2015, hereafter "the CAP"), which entered into force on that date. Confirming in substance the majority of the provisions of Chapter 25 of the CCP and the Judicial Review Act, the CAP amended some of them.

290. In particular, the CAP has established special rules and time-limits for lodging and examining complaints against the authorities' decisions concerning the change of location or time of a public event, of its purposes, type, or other arrangements.

291. The CAP provides that such complaints must be lodged with a court within ten days of the date on which the complainant learnt of the breach of his rights (Article 219 § 4).

292. Such complaints must be examined by courts within ten days. If the complaint is lodged before the planned date of the public event, it must be examined at the latest on the eve of that date. If the complaint is lodged on the day of the public event, it must be examined on the same day. If the last day of the time-limit falls at the weekend or on a public holiday, it must be examined on that day if the complaint has not been, or could not have been, examined earlier (Article 226 § 4). A reasoned judicial decision must be prepared as soon as possible on the same day and immediately served on the complainant (Article 227 §§ 4 and 6).

293. The judicial decision is subject to immediate enforcement (Article 227 § 8).

294. If an appeal has been lodged against the first-instance decision before the planned date of the public event, it must be examined at the latest on the eve of that date (Article 305 § 3).

295. When examining the case, the court must review the lawfulness of the contested decision, act or omission (Article 226 § 8). In particular, the court must examine: (1) whether the complainant's rights and freedoms have been breached; (2) whether the complainant has complied with the time-limit for lodging the complaint; (3) whether the following legal requirements have been met: as regards the State or municipal authority's or official's competence to make the contested decision or to perform the contested act or omission; as regards the procedure prescribed by law for adopting the contested decision or performing the contested act or omission and as regards the grounds for the contested decision, act or omission if such grounds are prescribed by law; and (4) whether the contents of the contested decision, act or omission met the requirements of law (Article 226 § 9).

296. The burden of proof as to the lawfulness of the contested decision, act or omission lies with the authority or official concerned. The complainant however has to prove that his rights and freedoms have been breached by the contested decision, act or omission and that he has complied with the time-limit for lodging the complaint (Article 226 § 11).

297. The court allows the complaint if it has been established that the contested decision, act or omission is unlawful and breaches the complainant's rights or freedoms. In that case it requires the authority or official to remedy the breach of the citizen's rights or to stop hindering such rights (Article 227 § 2). When necessary the court determines the specific steps which need to be taken to remedy the violation and sets out a time-limit (Article 227 § 3).

D. Liability for breaches committed in the course of public events

1. Domestic provisions before 8 June 2012

298. Until 8 June 2012 a breach of the established procedure for the conduct of public events was punishable by a fine of RUB 1,000 to 2,000 for the organisers of the event, and from RUB 500 to 1,000 for the participants (Article 20.2 §§ 1 and 2 of the Administrative Offences Code).

299. Refusal to obey a lawful order or demand of a police officer is punishable by an administrative fine of RUB 500 to 1,000 or up to fifteen days' administrative detention (Article 19.3 of the Code).

300. Non-payment of an administrative fine is punishable with a doubled fine or up to fifteen days' administrative detention (Article 20.25 of the Code).

2. The amendments introduced on 8 June 2012

301. Law no. 65-FZ of 8 June 2012 increased the maximum amount of a fine which may be imposed for an administrative offence. Article 3.5 § 1 of the Administrative Offences Code, as amended on 8 June 2012, provides that the maximum fine is RUB 5,000 for a citizen and RUB 50,000 for a public official, except for offences committed in the course of public events (Articles 5.38, 29.2, 20.2.2 and 20.18 of the Code), where the maximum fine is RUB 300,000 for a citizen and RUB 600,000 for a public official.

302. Article 20.2 of the Administrative Offences Code was also amended (Law no. 65-FZ). The amended Article 20.2 provides that a breach of the established procedure for the conduct of public events committed by an organiser is punishable by a fine of RUB 10,000 to 20,000 or up to forty hours of community work if the organiser is a natural person, by a fine of RUB 15,000 to 30,000 if the organiser is a public official, and by a fine of RUB 50,000 to 100,000 if the organiser is a legal person. The holding of a public event without notification is punishable by a fine of RUB 20,000 to 30,000 or up to fifty hours of community work if the organiser is a natural person, by a fine of RUB 20,000 to 40,000 if the organiser is a public official, and by a fine of RUB 70,000 to 200,000 if the organiser is a legal person. A breach by an organiser of the established procedure for the conduct of public events which causes the obstruction of pedestrian or road

traffic or leads to the maximum capacity of the venue being exceeded is punishable by a fine of RUB 30,000 to 50,000 or up to 100 hours of community work if the organiser is a natural person, by a fine of RUB 50,000 to 100,000 if the organiser is a public official, and by a fine of RUB 250,000 to 500,000 if the organiser is a legal person. A breach by an organiser of the established procedure for the conduct of public events which causes damage to someone's health or property, provided that it does not amount to a criminal offence, is punishable by a fine of RUB 100,000 to 300,000 or up to 200 hours of community work if the organiser is a natural person, by a fine of RUB 200,000 to 600,000 if the organiser is a public official, and by a fine of RUB 400,000 to 1,000,000 if the organiser is a legal person. A breach of the established procedure for the conduct of public events committed by a participant is punishable by a fine of RUB 10,000 to 20,000 or up to forty hours of community work. A breach by a participant of the established procedure for the conduct of public events which causes damage to someone's health or property, provided that it does not amount to a criminal offence, is punishable by a fine of RUB 150,000 to 300,000 or up to 200 hours of community work.

303. Law no. 65-FZ of 8 June 2012 also amended Article 4.5 of the Code by increasing the limitation period for the offence under Article 20.2 from two months to one year.

304. A new administrative offence was introduced. The organising of a mass gathering of people in public places not amounting to a public event, public calls to participate in such a mass gathering, or participation in such a mass gathering which results in a breach of public order or sanitary norms, disrupts the normal functioning of systems of life-support or communications, damages green areas, obstructs pedestrian or road traffic, or hinders citizens' access to residential buildings or transport or social infrastructure, is punishable by a fine of RUB 10,000 to 20,000 or up to fifty hours' community work for natural persons, a fine of RUB 50,000 to 100,000 for public officials, or a fine of RUB 200,000 to 300,000 for legal persons. The above acts, if they cause damage to someone's health or property, provided that they do not amount to a criminal offence, are punishable by a fine of RUB 150,000 to 300,000 or up to 200 hours community work for natural persons, a fine of RUB 300,000 to 600,000 for public officials, and a fine of RUB 500,000 to 1,000,000 for legal persons (Article 20.2.2 of the Code).

305. The Constitutional Court in its judgment of 14 February 2013 (see 265 above) examined whether the above amendments were compatible with the Constitution. The Constitutional Court held that the legislator had a wide discretion in establishing the amounts of fines to be imposed for administrative offences. The increasing of maximum fines to RUB 300,000 for a citizen and RUB 600,000 for a public official for offences committed in the course of public events was justified by the serious nature of such

offences, which infringed public order and undermined public safety. Moreover, in individual cases fines were imposed by the courts taking into account all the circumstances of the case, so that the maximum fines were applied only if a lower fine would not have the necessary preventive effect on the offender and other persons. The Constitutional Court concluded that the increase in the maximum fines was compatible with the Constitution. At the same time, as regards the establishment of minimum fines, the Constitutional Court noted that the minimum fine for a breach of the established procedure for the conduct of public events (RUB 10,000) was higher than the maximum fine for any other administrative offence (RUB 5,000). It also observed that for certain persons even the minimum fine could exceed their monthly income. Given that the judges could not impose a fine below the minimum set out in the Code, they were therefore prevented from taking into account the circumstances of the case and the offender's personal situation. The minimum fines set out by Articles 20.2 and 20.2.2 of the Administrative Offences Code were therefore incompatible with the Constitution and had to be amended. Further, the Constitutional Court observed that offences related to public events were the only administrative offences which could be punishable by community work. That might be interpreted as a means of suppressing dissenting views and political activity and was therefore incompatible with the Constitution and had to be amended. At the same time, the Constitutional Court held that the increasing of the limitation period for a breach of the established procedure for the conduct of public events from two months to one year was compatible with the Constitution. An increased limitation period of one year was not limited to offences committed during public events. It also applied to some other administrative offences, such as tax offences, electoral offences, and some others. In the case of offences related to public events, the increased limitation period was justified by the difficulty of investigating such offences, which were usually committed during mass gatherings of people.

306. Further, as regards the obligation on the organiser to take measures to avoid exceeding the number of participants indicated in the notification (see paragraph 250 above), and the fact that the failure to fulfil that obligation constituted an administrative offence, the Constitutional Court reiterated its position set out in its judgment of 18 May 2012 that the authorities had to know how many people would take part in the public event in order to assess whether the location was large enough to hold them all and to decide what measures should be taken to protect public order and the safety of the participants and others present. The obligation on the organiser to take measures to avoid exceeding the number of participants indicated in the notification therefore pursued the aim of protecting public order and safety. At the same time, even if the number of participants exceeded the number indicated in the notification, that fact alone could not

serve as a basis for imposing liability on the organisers. Such liability could be imposed only if the organiser had been directly responsible, through his actions or inaction, for an excessive number of participants, and only then if this might create a threat to public order or public safety, the safety of the participants in the public event or others, or a risk of damage to property. In assessing the organisers' fault, it was necessary to take into account the reaction of the authorities responsible for maintaining public order during the public event, in particular whether they had requested the organisers to take measures to limit the access of citizens to the public event. The contested legal provisions were therefore compatible with the Constitution. Finally, as regards the provision that the organiser could be held responsible for an administrative offence if damage to someone's health or property had been caused by participants in the public event, the Constitutional Court held that the organiser could be held responsible only if there was a causal link between the breach of the established procedure for the conduct of public events by the organiser and the damage to health and property, and if the organiser's fault was established in that connection. That provision was therefore compatible with the Constitution.

3. Examination of administrative charges

307. Until 1 January 2013 charges under Article 20.2 of the Code of Administrative Procedure were to be determined at first instance by a justice of the peace (Article 23.1 § 3 as in force until 1 January 2013). Since 1 January 2013 these charges are to be determined at first instance by a district court of general jurisdiction (Article 23.1 § 3 as in force since 1 January 2013).

E. Administrative arrest

308. A police officer may escort an individual to a police station by force or administratively arrest him for the following purposes: to stop an administrative offence; to identify the offender; to draw up a report on an administrative offence if it is impossible to do so at the place where the offence was detected; to ensure prompt and proper examination of the administrative case; and to secure the enforcement of any penalty to be imposed (Article 27.1 § 1 (1) and (2) of the Administrative Offences Code).

309. A police officer may escort an individual to a police station by force for the purpose of drawing up a report on an administrative offence if it is impossible to do so at the place where the offence was detected. The individual must be released as soon as possible. The police officer must draw up a report stating that the individual was taken to the police station, or mention that fact in the report on the administrative offence. The individual concerned must be given a copy of that report (Article 27.2 §§ 1 (1), 2 and 3 of the Code).

310. In exceptional cases a police officer may arrest an individual for a short period if this is necessary for the prompt and proper examination of the administrative case and to secure the enforcement of any penalty to be imposed (Article 27.3 § 1 of the Code). The duration of such administrative arrest must not normally exceed three hours. Administrative arrest for a longer period, not exceeding forty-eight hours, is permissible only for those subject to administrative proceedings concerning an offence punishable by administrative detention or offences involving unlawful crossing of the Russian border. This term starts to run from the moment when the person is escorted to the police station in accordance with Article 27.2 of the Code (Article 27.5 of the Code). The arresting officer must draw up an "administrative arrest report" (Article 27.4 of the Code).

311. On 16 June 2009 the Constitutional Court, in its judgment no.-49-П, found that Articles 27.1 and 27.3 of the Administrative Offences Code were compatible with the Constitution. It held that administrative arrest could be ordered only for the purposes provided by Article 5 § 1 (c) of the Convention. The arresting officer had to comply with all substantive and procedural statutory requirements. The court performing judicial review had to establish compliance with the procedure prescribed by law and whether administrative arrest was justified, in particular whether it was necessary and reasonable in the circumstances and whether there was sufficient factual basis for a reasonable suspicion against the arrested person. Administrative arrest would be lawful only if it was necessary and proportionate to the purposes provided by the Constitution and the Convention. It would be unlawful if it was ordered without sufficient justification, in an arbitrary manner, or in abuse of power.

312. On 17 January 2012 the Constitutional Court, in its decision no. 149-O-O, held that the main purpose of escorting a person to a police station under Article 27.2 of the Administrative Offences Code was to help draw up a report on an administrative offence if it was impossible to do so at the place where the offence was detected. The offender should not be escorted to a police station if he or she had documents permitting his or her identity to be established and if the situation (including the weather) was suitable for drawing up the report on the administrative offence on the spot. Thus, an offender could be escorted to a police station under Article 27.2 of the Administrative Offences Code only when such a measure was necessary in the circumstances and justified. The Administrative Offences Code did not set up any time-limit within which the offender was to be escorted to a police station, because it was impossible to predict all the circumstances that might influence the length of the transfer, such as the distance from the police station, the availability of transport, traffic conditions, weather conditions, the offender's state of health, and others. The offender was however to be brought to the police station without any undue delay and in the shortest possible time.

III. RELEVANT INTERNATIONAL AND COMPARATIVE MATERIAL

A. United Nations Organisation documents

313. The Report of the Special Rapporteur on the right to freedom of peaceful assembly and freedom of association of 21 May 2012 (A/HRC/20/27) describes best practices that promote and protect, in particular, the right to freedom of peaceful assembly. It reads as follows:

> "28. The Special Rapporteur believes that the exercise of fundamental freedoms should not be subject to previous authorization by the authorities ..., but at the most to a prior notification procedure, whose rationale is to allow State authorities to facilitate the exercise of the right to freedom of peaceful assembly and to take measures to protect public safety and order and the rights and freedoms of others. Such a notification should be subject to a proportionality assessment, not unduly bureaucratic and be required a maximum of, for example, 48 hours prior to the day the assembly is planned to take place ... Prior notification should ideally be required only for large meetings or meetings which may disrupt road traffic ...
>
> 29. Should the organizers fail to notify the authorities, the assembly should not be dissolved automatically ... and the organizers should not be subject to criminal sanctions, or administrative sanctions resulting in fines or imprisonment. This is all the more relevant in the case of spontaneous assemblies where the organizers are unable to comply with the requisite notification requirements, or where there is no existing or identifiable organizer. In this context, the Special Rapporteur holds as best practice legislation allowing the holding of spontaneous assemblies, which should be exempted from prior notification ...
>
> 30. In the case of simultaneous assemblies at the same place and time, the Special Rapporteur considers it good practice to allow, protect and facilitate all events, whenever possible. In the case of counter-demonstrations, which aim at expressing discontent with the message of other assemblies, such demonstrations should take place, but should not dissuade participants of the other assemblies from exercising their right to freedom of peaceful assembly. In this respect, the role of law enforcement authorities in protecting and facilitating the events is crucial ...
>
> 37. The Special Rapporteur is opposed to the practice of 'kettling' (or containment) whereby demonstrators are surrounded by law enforcement officials and not allowed to leave ...
>
> 39. States also have a negative obligation not to unduly interfere with the right to peaceful assembly. The Special Rapporteur holds as best practice 'laws governing freedom of assembly [that] both avoid blanket time and location prohibitions, and provide for the possibility of other less intrusive restrictions ... Prohibition should be a measure of last resort and the authorities may prohibit a peaceful assembly only when a less restrictive response would not achieve the legitimate aim(s) pursued by the authorities'.
>
> 40. As mentioned earlier, any restrictions imposed must be necessary and proportionate to the aim pursued ... In addition, [assemblies] must be facilitated within "sight and sound" of its object and target audience, and "organizers of peaceful assemblies should not be coerced to follow the authorities' suggestions if these would

undermine the essence of their right to freedom of peaceful assembly". In this connection, he warns against the practice whereby authorities allow a demonstration to take place, but only on the outskirts of the city or in a specific square, where its impact will be muted.

41. The Special Rapporteur further concurs with the assessment of the ODIHR Panel of Experts that 'the free flow of traffic should not automatically take precedence over freedom of peaceful assembly". In this regard, the Inter-American Commission on Human Rights has indicated that 'the competent institutions of the State have a duty to design operating plans and procedures that will facilitate the exercise of the right of assembly ... [including] rerouting pedestrian and vehicular traffic in a certain area'. Furthermore, the Special Rapporteur points to a decision of the Spanish Constitutional Court which stated that 'in a democratic society, the urban space is not only an area for circulation, but also for participation'.

42. The Special Rapporteur stresses the importance of the regulatory authorities providing assembly organizers with "timely and fulsome reasons for the imposition of any restrictions, and the possibility of an expedited appeal procedure". The organizers should be able to appeal before an independent and impartial court, which should take a decision promptly. In several States, the regulatory authority has the obligation to justify its decision (e.g. Senegal and Spain). In Bulgaria, the organizer of an assembly may file an appeal within three days of receipt of a decision banning an assembly; the competent administrative court shall then rule on the ban within 24 hours, and the decision of the court shall be announced immediately and is final. Similarly, in Estonia, a complaint may be filed with an administrative court, which is required to make a decision within the same or next day ..."

314. On 26 April 2012 the Human Rights Committee adopted its views in the case of *Chebotareva* v. Russia (CCPR/C/104/D/1866/2009, communication no. 1866/2009). The case concerned the authorities' refusal to allow "pickets" to mark the anniversary of the murder of Anna Politkovskaya and to protest against political repression in the country. The authorities proposed another venue for the "pickets" on the ground that they were planning to celebrate Teachers' Day at the venue chosen by the applicant. The applicant did not accept that venue, arguing that because of its remoteness from the city centre the purpose of the "picket" would be thwarted. She proposed an alternative location, which was not approved by the authorities, who referred to public safety concerns because of the heavy vehicle and pedestrian traffic in the area. The Human Rights Committee found that the applicant's right to freedom of assembly under Article 21 of the International Covenant on Civil and Political Rights had been violated, since she had been arbitrarily prevented from holding a peaceful assembly. The State party had not demonstrated to the Committee's satisfaction that the prevention of the holding of the "pickets" in question had been necessary for the purpose of protecting the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others. The reasons advanced by the authorities were in fact mere pretexts given in order to reject the applicant's request.

B. Council of Europe documents

315. The document entitled "The Compilation of Venice Commission Opinions Concerning Freedom of Assembly", issued by the European Commission for Democracy through Law (the Venice Commission) on 1 July 2014 (CDL-PI(2014)0003), reads as follows:

"2.1. Spontaneous assemblies

"... The Venice Commission and OSCE/ODIHR wish to stress that the ability to respond peacefully and immediately (spontaneously) to some occurrence, incident, other assembly, or speech is an essential element of freedom of assembly. Spontaneous events should be regarded as an expectable feature of a healthy democracy. As such the authorities should protect and facilitate any spontaneous assembly so long as it is peaceful in nature ... Spontaneous assemblies by definition are not notified in advance since they generally arise in response to some occurrence which could not have been reasonably anticipated ... in order for an assembly to be genuinely a 'spontaneous' one, there must be a close temporal relationship between the event ('phenomenon or happening') which stimulates the assembly and the assembly itself ... Whether an assembly is 'spontaneous' or 'urgent' will depend on its own facts. In principle, so long as an assembly is peaceful in nature it should be permitted ... The definition would benefit from stating the essence of a spontaneous assembly as being one which cannot be notified and which would not achieve its aim if it were to adhere to notification requirements ... The Venice Commission agrees, in general, that provision for a timeframe for the notification of public events may be helpful as it enables the authorities to take reasonable and appropriate measures in order to guarantee their smooth conduct. It recalls however that there may be cases in which a public event is organised as an urgent or spontaneous response to an unpredicted event, in which case it may not be possible to respect the ordinary timeframe for notification. Spontaneous and urgent assemblies are protected by Article 11 ECHR ...

2.3. Simultaneous assemblies

The Guidelines explicitly provide that where notification is given for two or more assemblies at the same place and time, they should all be permitted and facilitated as much as possible, notwithstanding who submitted the notification first and how close to each other they plan to gather. This owes also to the fact that all persons and groups have an equal right to be present in public places to express their views ... as the OSCE/ODIHR – Venice Commission Guidelines point out, 'related simultaneous assemblies should be facilitated so that they occur within sight and sound of their target insofar as this does not physically interfere with the other assembly'. A prohibition on conducting public events in the place and time of another public event would be a disproportionate response, unless there is a clear and objective indication that both events cannot be managed in an appropriate manner through the exercise of policing powers ...

4.1. Legitimate grounds for restrictions - Content-based restrictions

... Restrictions on public assemblies should not be based upon the content of the message they seek to communicate. It is especially unacceptable if the interference with the right to freedom of assembly could be justified simply on the basis of the authorities´ own view of the merits of a particular protest. Any restrictions on the message of any content expressed should face heightened scrutiny and must only be imposed if there is an imminent threat of violence ...

4.2. Restrictions on Place, Time and Manner of holding Assemblies

Location is one of the key aspects of freedom of assembly. The privilege of the organiser to decide which location fits best for the purpose of the assembly is part of the very essence of freedom of assembly. Assemblies in public spaces should not have to give way to more routine uses of the space, as it has long been recognised that use of public space for an assembly is just as much a legitimate use as any other. Moreover, the purpose of an assembly is often closely linked to a certain location and freedom of assembly includes the right of the assembly to take place within 'sight and sound' of its target object ...

Blanket restrictions such as a ban on assemblies in specified locations are in principle problematic since they are not in line with the principle of proportionality which requires that the least intrusive means of achieving the legitimate objective being pursued by the authorities should always be given preference ...

Proper restrictions on the use of public places are based on whether the assembly will actually interfere with or disrupt the designated use of a location. ... The mere possibility of an assembly causing inconvenience does not provide a justification for prohibiting it ...

The only legitimate restriction on location of an assembly is on site of hazardous areas and facilities which are closed to the public ...

It is therefore recommended that the blanket ban on assemblies in the vicinity of government institutions and courts be deleted, and the management of security risks be left to the relevant law enforcement bodies ...

... the Venice Commission stresses that it is the privilege of the organiser to decide which location fits best, as in order to have a meaningful impact, demonstrations often need to be conducted in certain specific areas in order to attract attention ('Apellwirkung', as it is called in German). Respect for the autonomy of the organizer in deciding on the place of the event should be the norm. The State has a duty to facilitate and protect peaceful assembly ...

Whilst the right to counter-demonstrate does not extend to inhibiting the right of others to demonstrate, an 'imminent danger of a clash' should not necessarily be a reason for prohibiting one of the assemblies from taking place at the same time and in the same vicinity. Emphasis should be placed on the state's duty to protect and facilitate each event and the state should make available adequate policing resources to facilitate both to the extent possible within sight and sound of one another ...

4.3. Designation by the State authorities of assembly locations

... As already mentioned above, all public spaces should be open and available for the purpose of holding assemblies and so, official designation of sites suitable for assemblies inevitably limits the number of public places that may be used for an assembly as it excludes locations that are suitable for assemblies, simply because they have not been designated. The only legitimate restriction on location of an assembly is on site of hazardous areas and facilities which are closed to the public.

5. NOTIFICATION OF ASSEMBLIES

... the notification procedure is for the purpose of providing information to the authorities to enable the facilitation of the right to assemble, rather than creating a system where permission must be sought to conduct an assembly. This emphasizes that the freedom to assemble should be enjoyed by all, and anything not expressly forbidden in law should be presumed to be permissible ... Any regime of prior

notification must not be such as to frustrate the intention of the organisers to hold a peaceful assembly, and thus indirectly restrict their rights (for instance, by providing for too detailed and complicated requirements, and/or too onerous procedural conditions) ...

It is recommended that the length and conditions for the notification procedure be reasonable in relation to both the authorities and organizers and participants. [Domestic law] should also allow for adequate time in order that judicial review may take place, if needed before the scheduled assembly date ...

5.1 Length of the notification period

... Time limits should be so set that the decision of the executive body and the decision of the court at first instance can be delivered in time to allow the assembly to take place on the original intended date should the court find in favour of the organisers ... [The time limits'] length and conditions should be reasonable not only in relation to the authorities but also allowing for a judicial review to take place before the scheduled assembly date. Omissions in the notification should be easily rectifiable without causing unnecessary delay of the assembly ...

5.3 Regulatory authority and decision-making

... It is recommended in addition that a co-operative process between the organizer and the authority be established in order to give the organizer the possibility to improve the framework of the assembly ... It is necessary that the decision-making and review process is fair and transparent ... The organizer of an assembly 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 ...

6. REVIEW AND APPEAL

... the Venice Commission recalls that the right to an effective remedy entails a right to appeal the substance of any restrictions or prohibitions on an assembly. Appeals should be decided by courts in a prompt and timely manner so that any revisions to the authorities' decision can be implemented without further detriment to the applicant's rights. In addition, [domestic law] should establish clearly the remedies available to organisers in cases of improperly prohibited or dispersed assemblies. The prompt and thorough investigation of any suspected unlawful use of force by the police during assemblies, including dispersal of the assemblies, should also be ensured ...

The procedure of review of decisions to ban an assembly should be established in such manner so as to ensure that a decision on the legality of the ban on the assembly is made available to organisers before the planned date of the assembly. Considering the narrow schedule this can be achieved best by allowing for temporary injunctions ... In addition, the Venice Commission underlines that it is crucial not only that the court may genuinely review the decision of the public authorities, but also that it may do so before the assembly takes place, or else that a system of relief via court injunctions be available ...

7. ASSEMBLY TERMINATION AND DISPERSAL

... the termination and dispersal of assemblies should be a measure of last resort ... The reasons for suspension, ban or termination of an assembly should be narrowed down to a threat to public safety or danger of imminent violence. Furthermore, dispersal should not occur unless law enforcement officials have taken all reasonable

measures to facilitate and to protect the assembly from harm and unless there is an imminent threat of violence ...

... the assembly should not be prohibited or dispersed simply because an individual or group commit acts of violence and any such measures should only be taken against those particular individuals who violate public order or commit or instigate unlawful actions ... An isolated outbreak of violence should be dealt with by way of subsequent arrest and prosecution and not by termination of the assembly or dispersal of the crowd ...

11. LIABILITY OF PARTICIPANTS

... the imposition of sanctions (such as prosecution) after an event may sometimes be more appropriate than the imposition of restrictions prior to, or during, an assembly'. ...j 'as with prior restraints, the principle of proportionality also applies to liability arising after the event. Any penalties specified in the law should therefore allow for the imposition of minor sanctions where the offence concerned is of a minor nature ...

12. POLICING ASSEMBLIES

... 12.2 Responsibilities of the law enforcement bodies

... If an assembly is prohibited according to the law and the organisers refuse to follow the legal constraints, the law enforcement bodies should manage the assembly in such a way as to ensure the maintenance of public order. If appropriate, the organizers (or other individuals) may be prosecuted at a later stage. This is preferable to requiring the police to attempt to 'terminate' the assembly, with the risk of use of force and violence. It is especially important when an assembly is unlawful but peaceful, i.e. where participants do not engage in acts of violence. In such a case, it is important for the authorities to exercise tolerance as any level of forceful intervention may be disproportionate ...

In addition, the provisions according to which law enforcement officials can limit the number of participants to an assembly in view of the capacity of the place, which is a rather subjective assessment, are not admissible under international standards. Moreover, carrying out body searches, the inspection of items in their possession and not admitting participants to the place of assembly should not be permitted except where there is evidence that these measures are necessary to prevent serious disorder ... They should only be permissible pursuant to previous notice to organizers plus a court order following a court hearing on the lawful character of such measures given the particular circumstances and a demonstration of the necessity of such action. The burden of proof should be on the authorities ...

The prompt and thorough investigation of any suspected unlawful use of force by the police during assemblies, including dispersal of the assemblies, should also be ensured ..."

316. The Opinion of the Venice Commission on the Federal Law no. 54-FZ of 19 June 2004 On Assemblies, Meetings, Demonstrations, Marches and Picketing of the Russian Federation, adopted by the Venice Commission at its 90th Plenary Session (Venice, 16-17 March 2012), states as follows:

"... B. The notification procedure

... 21. The Venice Commission stresses that, while the Assembly Law formally does not empower the executive authorities not to accept a notification or to prohibit a

public event, it does empower them to alter the format originally envisaged by the organiser ... One of [the permissible] aims is the 'need to maintain a normal and smooth operation of vital utilities and transport infrastructures': which is practically impossible in case of large or moving demonstrations. It has further been conceded and is indeed explicitly set out in Article 5.5 of the Assembly Law that if the organisers disagree with the local authorities' motivated proposal to change the format of the public event, the latter is *de facto* prohibited. Therefore, in the Venice Commission's view, since the permission is rarely given, the notification or notice, in substance, amounts to a substitute for a request of a previous permission, to an 'authorization procedure *de facto*'.

22. While the terms 'proposal', 'suggestion' and 'agreement' in particular create an impression of non-directive instruments and while the Constitutional Court refers to a procedure of reconciliation of differing interests, there is no specification in the law as to how this should take place. Due to this kind of regulation, there is a high risk that in practice reconciliation does not take place. Thus, if the organizer fails to accept the authorities' proposal, the public event is simply not authorised. The organizer is thus often left with the choice of either giving up the public event (which will then be *de facto* prohibited) or accepting to hold it in a manner which may not correspond to the original intent. The need to choose only between these two options is not compatible with Article 11 ECHR. This regulation of the notification procedure in the Assembly Act therefore calls for the following comments from the Venice Commission.

23. The alteration of the place of the assembly by the authorities means that events cannot be held in places chosen by the organizer within sight and sound of their targeted audiences or at a place with a special meaning for the purpose of the assembly. The Venice Commission recalls that respect for the autonomy of the organizer in deciding on the place of the event should be the norm. The Constitutional Court has rightly specified that the newly proposed time and place must correspond to the social and political objectives of the event, and this requirement provides some safeguard against depriving the proposed public event of any impact. But even assuming that the alternative proposals do comply with this principle, it must be underlined that in principle the organisers should be permitted to choose the venue and the format of the assembly without interference. The Venice Commission agrees with the Institute of Legislation and Comparative Law that 'organisers, while implementing their right to determine the place and time of the event should, in turn, endeavour to reach an agreement on the basis of a balance of interests' and indeed the Commission has recently pointed out the benefits to the organiser, if he/she is willing to cooperate with the authorities, thus preventing 'the imposition of further restrictions (and even the termination of the entire assembly, if this is proportionate in the circumstances)'. However, this is only true where the changes in the format are caused by *compelling* reasons as required by Article 11 § 2 ECHR. In all other cases, the authorities should respect the organisers' autonomy in the choice of the format of the public assembly. In this respect, the Guidelines clearly state: '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.'

24. As concerns *de facto* prohibitions to hold public events, it must be remembered that 'in order to be 'necessary in a democratic society' the limitation of the freedom must correspond to a pressing social need, be proportionate (i.e. there must be a rational connection between public policy objective and the means employed to achieve it and there must be a fair balance between the demands of the general

community and the requirements of the protection of an individual's fundamental rights), and the justification for the limitation must be relevant and sufficient.' Use of public space for an assembly is just as much a legitimate use as any other. Restrictions are only permitted where an assembly will actually disrupt unduly 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.

25. The Venice Commission agrees with the Russian Constitutional Court that the Assembly Law needs to leave some discretion to the executive authorities ... In the opinion of the Commission, however, the Assembly Law confers too broad discretion and fails to indicate in clear terms that interferences by the executive authorities with the organisers' right to determine the format of the public even must always comply with the fundamental principles of 'presumption in favour of holding assemblies', 'proportionality' and 'non-discrimination'. Under the current law, for example, the executive authorities are empowered to transform a moving event into a static event in order to prevent mere traffic perturbations, which is not in conformity with Article 11 ECHR. As the Assembly Law itself confers on the executive authorities too broad a discretion and fails to set out the essential principles within which such discretion must be exercised, there is a high risk that judicial review may not lead to a reversal of decisions even if they are based on grounds not justified by Article 11 § 2 ECHR.

26. The Venice Commission welcomes the possibility for the organisers to apply to the courts to seek reversal of the municipal authorities' decision (Article 19 of the Assembly Act). The Venice Commission recalls that one of the fundamental principles of a democratic society is the rule of law, which is expressly referred to in the Preamble to the ECHR). The rule of law implies, inter alia, that interference by the executive authorities with an individual's rights should be subject to an effective control which should normally be assured by the judiciary, at least in the last resort, as judicial control offers the best guarantees of independence, impartiality and a proper procedure. The Constitutional Court of the Russian Federation has clarified that courts must review the legality of the decisions of the executive authorities.

27. In addition, the Venice Commission underlines that it is crucial not only that the court may genuinely review the decision of the public authorities, but also that it may do so before the assembly takes place, or else that a system of relief via court injunctions be available.

28. The Venice Commission has found information about the appeal process in the Communication submitted by the Russian authorities to the Committee of Ministers of the Council of Europe in relation to the Alekseyev case. According to these submissions, appeals against the decisions of the municipal authorities are examined within ten days (the common time-limit is two months). Within a further ten days, the appeal judgments may be appealed to the Court of Cassation; if there is no appeal on points of law, the appellate decision becomes final and may be immediately enforced.

29. The Venice Commission notes that it is unlikely that the appeal procedure may be completed in time before the date proposed by the notification for the public event and there does not seem to be provision for an injunction enabling the organiser to proceed with the public event pending the appeals.

30. In conclusion as regards the procedure for notification of public events as set out in the Assembly Law, the Venice Commission considers that this procedure is in substance a request for permission. Furthermore, the Assembly Law confers too broad discretion on the executive authorities to restrict assemblies, for instance by giving them the power to alter the format of the public event for aims (in particular the need

to preserve the normal and smooth circulation of traffic and people) which go beyond the legitimate aims contained in Article 11 ECHR. The Law fails to indicate explicitly that such discretion must be exercised with due respect for the essential principles of 'presumption in favour of holding assemblies', 'proportionality' and 'nondiscrimination'. Judicial review is potentially rendered ineffective because the courts do not have the power to reverse decisions which are within the broad discretion of the executive authorities and they cannot complete review in time before the proposed date of the public event to preserve its original timeframe. As a consequence, in the opinion of the Venice Commission the Assembly Law does not sufficiently safeguard against the risks of an excessive use of discretionary power or even arbitrariness or abuse. Risks of an overbroad use of discretionary powers in order to suppress assemblies can always arise and therefore any assembly law must aim at reducing them as far as possible.

31. The Assembly Law should secure the autonomy of the assembly, fostering co-operation on a voluntary basis only. If an agreement cannot be reached, a prohibition may only be considered if it is justified in itself and not due to the failure of cooperation, i.e. of not reaching an agreement. The executive authorities may only propose to the organiser to change the place and time under Article 12.2 of the Assembly Law, but their decision should necessarily be motivated on the grounds of concrete and direct threats and dangers to public safety (including to the safety of citizens, both participants in the public event and passers-by) and to national security. Other kinds of reasoning should be excluded.

C. Blanket rules

32. The Assembly Law contains several so-called blanket prohibitions, that is, absolute prohibitions that do not allow for any exception. Blanket rules will often be disproportionate because no consideration may be given to exceptional cases which should be treated differently ...

33. Art 5.5 of the Assembly Law states in terms that the promoter shall not have a right to hold an event when notice was not filed in due time. This rule is disproportionate: as a blanket rule, it does not permit any exceptional circumstances of a particular case to be taken into consideration.

34. A list of excluded premises is supplied in Articles 8.2 and 3 Assembly Act. The Institute of Legislation and Comparative Law has indicated to the Venice Commission that the concerned buildings have a strategic purpose and their exclusion is designed to protect the safety of participants in the public event as well as other citizens (Article 8.2.1), to protect the special constitutional status of the President, to avoid pressure on court trials and for security reasons (8.2.3). The Venice Commission agrees with the Institute that it may be necessary and legitimate to prevent a public event from taking place on the premises listed in Article 8.2. However, such a decision should be taken in view of each specific case and according to the criteria indicated by the European Court of Human Rights (notably when it is necessary in a democratic society). Not all assemblies (of all sizes, for example) may be considered to endanger court buildings, or monuments of history and culture. The term "territories directly adjacent" (Article 8.2.3) is overly broad and calls for narrow interpretation. Rather than listing premises on which public events are always prohibited or are dependent on a procedure determined by the President of the Russian Republic (see Article 8.4 Assembly Act), general criteria in the Assembly Act should set out in what circumstances and to what extent an assembly might pose a threat to the listed buildings or to the function carried out in them. Such criteria could then be applied to specific cases when an assembly is proposed. These criteria should be laid

down in the Assembly Act itself in order to give adequate guidelines for implementing decrees. The same suggestions must be made in relation to Article 8.2.3.1 Assembly Act (concerning regulations on the procedure for holding public events at transport infrastructure sites).

35. Article 9 prohibits assemblies taking place between 11 p.m. and 7 a.m. This is a restriction of the right to freely choose the time of an assembly. According to the Institute of Legislation and comparative Law, this general restriction pursues the aims of protecting public order and the tranquillity of citizens. The Venice Commission stresses however that the subject/goal of the assembly may justify holding a specific assembly after 11 p.m. or one that lasts for more than a single day. Decisions should be taken by the executive authorities in each single case with due respect for the principle of proportionality.

D. Spontaneous assemblies, urgent assemblies, simultaneous assemblies and counter demonstrations

36. The absolute terms of Article 7.1 in relation to the notification period of 10-15 days entail that there is no possibility to hold an assembly at shorter notice ...

37. The Venice Commission agrees, in general, that provision for a timeframe for the notification of public events may be helpful as it enables the authorities to take reasonable and appropriate measures in order to guarantee their smooth conduct. It recalls however that there may be cases in which a public event is organised as an urgent or spontaneous response to an unpredicted event, in which case it may not be possible to respect the ordinary timeframe for notification. Spontaneous and urgent assemblies are protected by Article 11 ECHR: indeed the ECtHR has stated that "a decision to disband the ensuing, peaceful assembly solely because of the absence of the requisite prior notice, without any illegal conduct by the participants, amounts to a disproportionate restriction on freedom of peaceful assembly". Assemblies which carry a message that would be weakened if the legally established notification period were adhered to, especially if assemblies take place as an immediate response to an actual event, require protection as well. 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.

38. As regards simultaneous demonstrations, the Commission understands from the Institute of Legislation and Comparative Law that simultaneous and counter demonstrations are generally considered to be a danger to safety and order and, as such, they are not allowed in the sense that the competent executive authorities change the format of an event if it is scheduled to take place at the same time and place as a previously notified one. Some regional and local legislation expressly empowers the executive authorities to do so.

39. The Commission underlines in this respect that where notification is given for more than one assembly at the same place and time, they should be facilitated as far as possible. It is a disproportionate response not to allow more than one assembly at a time as a blanket rule. It is only where it would be impossible to manage both events together using adequate policing and stewarding that it would be permissible to restrict or even move one of them. A policy described as 'separate and divide' where the same place is sought by several organisers is not permissible. Similar considerations apply for counter demonstrations.

40. The Commission delegation was told that the previous organisation of other events, especially cultural events to be held at the venue and on the day of the notified

public assembly, regularly entailed the proposal by the municipal authorities to alter the format of the latter. Since such other events are not covered by the time limitation for a notification the organizer of an assembly has to comply with (Article 7 Assembly Law), it violates the freedom of assembly if the assembly cannot take place solely due to the fact that someone else wants to use the place for another kind of event at the same time, who is not bound by the same timeframe-restriction as the organizer of an assembly. Public spaces should be available to all and other events like cultural events should not have automatic priority. The constitutional protection to conduct cultural or similar events is not superior to the constitutional protection of the freedom of assembly ...

E. Suspension or termination of public events

43. [The Assembly Law provides that] a public event may be suspended (and subsequently terminated) in case of 'violation of law and order' by the participants (Article 15). It can also be terminated in case of 'deliberate violation' by the organiser of the provisions on the procedure for holding a public event (Article 16.2).

44. These provisions appear too rigid. Not all violations of the law should lead to the suspension and termination of the public event, which should be measures of last resort. Reasons for suspension and termination should be narrowed to public safety or a danger of imminent violence (see Article 16.1 of the Assembly Law) ...

IV. Conclusions

... 49. The main results of the analysis of the Assembly Law by the Venice Commission with regard to Article 11 ECHR can be summarised as follows:

- It is recommended that the presumption in favour of holding assemblies and the principles of proportionality and non-discrimination be expressly included in the Assembly Law;

- the regime of prior notification under Article 5.5, 7 and 12 Assembly Act should be revised; the co-operation between the organisers and the authorities in Article 12 Assembly Act should be settled on a voluntary basis respecting the assemblies' autonomy and without depriving the organisers of the right to hold an assembly on the ground of a failure to agree on any changes to the format of an assembly or to comply with the timeframe for notification of the public event; the power of the executive authorities to alter the format of a public event should be expressly limited to cases where there are compelling reasons to do so (Article 11.2 ECHR), with due respect for the principles of proportionality and non-discrimination and the presumption in favour of assemblies;

- the right to appeal decisions before a court (Article 19 Assembly Act) is welcomed; it should be provided that a court decision will be delivered before the planned date of the assembly, for instance via the availability of court injunctions;

- spontaneous assemblies and urgent assemblies as well as simultaneous and counter demonstrations should be allowed as long as they are peaceful and do not pose direct threats of violence or serious danger to public safety;

- the grounds for restrictions of assemblies should be narrowed to allow application of the principle of proportionality in order to bring them in line with Article 11.2 ECHR and reasons for suspension and termination of assemblies should be limited to public safety or a danger of imminent violence;

- the obligations of the organisers in Article 5.4 Assembly Act should be reduced; their responsibility to uphold public order should be restricted to the exercise of due care;

- the blanket restrictions on the time and places of public events should be narrowed."

C. Other international documents

317. The 2010 Guidelines on Freedom of Peaceful Assembly (CDL-AD(2010)020), prepared by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE) in consultation with the European Commission for Democracy though Law (the Venice Commission) of the Council of Europe, read as follows:

"Section A – guidelines on freedom of peaceful assembly

... 2. Guiding Principles

2.1 Presumption in favour of holding assemblies.

As a fundamental right, freedom of peaceful assembly should, insofar as possible, be enjoyed without regulation. Anything not expressly forbidden in law should be presumed to be permissible and those wishing to assemble should not be required to obtain permission to do so. A presumption in favour of the freedom should be clearly and explicitly established in law ...

2.4 Proportionality

Any restrictions imposed on freedom of assembly must be proportional. The least intrusive means of achieving the legitimate objective being pursued by the authorities should always be given preference. The principle of proportionality requires that authorities do not routinely impose restrictions which would fundamentally alter the character of an event, such as relocating assemblies to less central areas of a city. A blanket application of legal restrictions tends to be over-inclusive and will thus fail the proportionality test because no consideration has been given to the specific circumstances of the case ...

3. Restrictions on Freedom of Assembly

3.1 Legitimate grounds for restriction

The legitimate grounds for restriction are prescribed in international and regional human rights instruments. These should not be supplemented by additional grounds in domestic legislation.

3.2 Public space

Assemblies are as much a legitimate use of public space as commercial activity and the movement of vehicular and pedestrian traffic. This must be acknowledged when considering the necessity of any restrictions.

3.3 Content-based restrictions

Assemblies are held for a common expressive purpose and thus aim to convey a message. Restrictions on the visual or audible content of any message should face a high threshold and should only be imposed if there is an imminent threat of violence.

3.4 Time, Place and Manner' restrictions

A wide spectrum of possible restrictions, which do not interfere with the message communicated, is available to the regulatory authority. Reasonable alternatives should be offered if any restrictions are imposed on the time, place or manner of an assembly.

3.5 'Sight and Sound'

Public assemblies are held to convey a message to a particular target person, group or organisation. Therefore, as a general rule, assemblies should be facilitated within 'sight and sound' of their target audience.

4. Procedural Issues

4.1 Notification

... The notification process should not be onerous or bureaucratic. The period of notice should not be unnecessarily lengthy, but should still allow adequate time prior to the notified date of the assembly for the relevant State authorities to plan and prepare for the event in satisfaction of their positive obligations, and for the completion of an expeditious appeal to (and ruling by) a court should any restrictions be challenged ...

4.2 Spontaneous assemblies

Where legislation requires advance notification, the law should explicitly provide for an exception from the requirement where giving advance notice is impracticable. Such an exception would only apply in circumstances where the legally established deadline cannot be met. The authorities should always protect and facilitate any spontaneous assembly so long as it is peaceful in nature.

4.3 Simultaneous assemblies

Where two or more unrelated assemblies are notified for the same place and time, each should be facilitated as best as possible. Prohibition of public assemblies solely on the basis that they are due to take place at the same time and location of another public assembly will likely be a disproportionate response where both can be reasonably accommodated. The principle of non-discrimination further requires that assemblies in comparable circumstances do not face differential levels of restriction.

4.4 Counter-demonstrations

Counter-demonstrations are a particular form of simultaneous assembly in which the participants wish to express their disagreement with the views expressed at another assembly. The right to counter-demonstrate does not extend to inhibiting the right of others to demonstrate. Indeed demonstrators should respect the right of others to demonstrate as well. Emphasis should be placed on the State's duty to protect and facilitate each event where counter-demonstrations are organised or occur, and the State should make available adequate policing resources to facilitate such related simultaneous assemblies, to the extent possible, within 'sight and sound' of one another ...

4.6 Review and Appeal

The right to an effective remedy entails a right to appeal the substance of any restrictions or prohibitions on an assembly ... Appeals should take place in a prompt and timely manner so that any revisions to the authorities' decision can be implemented without further detriment to the applicant's rights. A final ruling, or at least relief through an injunction, should therefore be given prior to the notified date of the assembly ...

Section B – Explanatory Notes

... 3. Guiding Principles

...

State's duty to protect peaceful assembly

... 33. The State's duty to protect peaceful assembly is of particular significance where the persons holding, or attempting to hold, the assembly are espousing a view which is unpopular, as this may increase the likelihood of hostile opposition. However, potential disorder arising from hostility directed against those participating in a peaceful assembly must not be used to justify the imposition of restrictions on the peaceful assembly. In addition, the State's positive duty to protect peaceful assemblies also extends to simultaneous opposition assemblies (often known as counter-demonstrations). The State should therefore make available adequate policing resources to facilitate demonstrations and related simultaneous assemblies within 'sight and sound' of one another ...

Legality

35. ... The incorporation of clear definitions in domestic legislation is vital to ensuring that the law remains easy to understand and apply, and that regulation does not encroach upon activities that ought not to be regulated. Definitions, therefore, should neither be too elaborate nor too broad ...

37. ... legislative provisions that confer discretionary powers on the regulatory authorities should be narrowly framed and should contain an exhaustive list of the grounds for restricting assemblies (see paragraph 69 below). Clear guidelines or criteria should also be established to govern the exercise of such powers and limit the potential for arbitrary interpretation ...

Proportionality

... 43. ... the blanket application of legal restrictions – for example, banning all demonstrations during certain times, or from particular locations or public places which are suitable for holding assemblies – tend to be over-inclusive and will thus fail the proportionality test because no consideration has been given to the specific circumstances of each case. Legislative provisions which limit the holding of assemblies only to certain specified sites or routes (whether in central or remote locations) seriously undermine the communicative purpose of freedom of assembly, and should thus be regarded as a *prima facie* violation of the right. Similarly, the regulation of assemblies in residential areas, or of assemblies at night time, should be handled on a case-by-case basis rather than being specified as a prohibited category of assemblies.

44. The time, place, and manner of individual public assemblies can however, be regulated to prevent them from unreasonably interfering with the rights and freedoms of other people (see chapter 4 below). This reflects the need for a proper balance to be struck between the rights of persons to express their views by means of assembly, and the interest of not imposing unnecessary burdens on the rights of non-participants.

45. If, having regard to the relevant factors, the authorities have a proper basis for concluding that restrictions should be imposed on the time or place of an assembly (rather than merely the manner in which the event is conducted), a suitable alternative time or place should be made available. Any alternative must be such that the message which the protest seeks to convey is still capable of being effectively communicated

to those to whom it is directed – in other words, within 'sight and sound' of the target audience ...

Good administration and transparent decision-making

... 65. Laws relating to freedom of assembly should outline a clear procedure for interaction between event organisers and the regulatory authorities. This should set out appropriate time limits working backwards from the date of the proposed event, and should allow adequate time for each stage in the regulatory process ...

4. Restrictions on Freedom of Assembly

...

Legitimate grounds for restriction

... *Public Order*

71. The inherent imprecision of this term must not be exploited to justify the prohibition or dispersal of peaceful assemblies. Neither a hypothetical risk of public disorder, nor the presence of a hostile audience are legitimate grounds for prohibiting a peaceful assembly. Prior restrictions imposed on the basis of the possibility of minor incidents of violence are likely to be disproportionate, and any isolated outbreak of violence should be dealt with by way of subsequent arrest and prosecution rather than prior restraint ...

72. An assembly which the organisers intend to be peaceful may still legitimately be restricted on public order grounds in certain circumstances. Such restrictions should only be imposed when there is evidence that participants will themselves use or incite imminent, lawless and disorderly action and such action is likely to occur. This approach is designed to extend protection to controversial speech and political criticism, even where this might engender a hostile reaction from others ...

The Protection of the Rights and Freedoms of Others

80. The regulatory authority has a duty to strike a proper balance between the important freedom to peacefully assemble and the competing rights of those who live, work, shop, trade and carry on business in the locality affected by an assembly. That balance should ensure that other activities taking place in the same space may also proceed if they themselves do not impose unreasonable burdens. Temporary disruption of vehicular or pedestrian traffic is not, of itself, a reason to impose restrictions on an assembly. Nor is *opposition* to an assembly of itself sufficient to justify prior limitations. Given the need for tolerance in a democratic society, a high threshold will need to be overcome before it can be established that a public assembly will unreasonably infringe upon the rights and freedoms of others. This is particularly so given that freedom of assembly, by definition, constitutes only a temporary interference with these other rights ...

Types of restriction

... *'Time, Place and Manner' restrictions*

99. The types of restriction that might be imposed on an assembly relate to its 'time, place, and manner' ... These can be in relation to changes to the time or place of an event, or the manner in which the event is conducted. An example of 'manner' restrictions might relate to the use of sound amplification equipment, or lighting and visual effects. In this case, regulation may be appropriate because of the location or time of day for which the assembly is proposed.

100. The regulatory authority must not impose restrictions simply to pre-empt possible disorder or interferences with the rights of others. The fact that restrictions can be imposed during an event (and not only before it takes place) enables the authorities to avoid imposing onerous prior restrictions and to ensure that restrictions correspond with and reflect the situation as it develops. This, however, in no way implies that the authorities can evade their obligations in relation to good administration (see paragraphs 61-67 above) by simply regulating freedom of assembly by administrative fiat. Furthermore, (as discussed at paragraphs 134 and 157 below) the use of negotiation and/or mediation can help resolve disputes around assemblies by enabling law enforcement authorities and the event organiser to reach agreement about any necessary limitations.

'Sight and Sound'

101. Given that there are often a limited number of ways to effectively communicate a particular message, the scope of any restrictions must be precisely defined. In situations where restrictions are imposed, these should strictly adhere to the principle of proportionality and should always aim to facilitate the assembly within 'sight and sound' of its object or target audience (see above at paragraphs 33 and 45, and paragraph 123 below).

Restrictions imposed prior to an assembly ('prior restraints')

102. These are restrictions on freedom of assembly either enshrined in legislation or imposed by the regulatory authority prior to the notified date of the event. Such restrictions should be concisely drafted so as to provide clarity for both those who have to follow them (assembly organisers and participants), and those tasked with enforcing them (the police or other law enforcement personnel). They can take the form of 'time, place and manner' restrictions or outright prohibitions. However, blanket legislative provisions, which ban assemblies at specific times or in particular locations, require much greater justification than restrictions on individual assemblies. Given the impossibility of having regard to the specific circumstance of each particular case, the incorporation of such blanket provisions in legislation (and their application) may be disproportionate unless a pressing social need can be demonstrated ...

103. An assembly organiser 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 ...

Restrictions imposed during an assembly

108. ... as noted above at paragraphs 37 and 91, unduly broad discretionary powers afforded to law enforcement officials may breach the principle of legality given the potential for arbitrariness. The detention of participants during an assembly (on grounds of their committing administrative, criminal or other offences) should meet a high threshold given the right to liberty and security of person and the fact that interferences with freedom of assembly are inevitably time sensitive. Detention should be used only in the most pressing situations when failure to detain would result in the commission of serious criminal offences.

Sanctions and penalties imposed after an assembly

109. The imposition of sanctions (such as prosecution) after an event may sometimes be more appropriate than the imposition of restrictions prior to, or during, an assembly ... Any isolated outbreak of violence should be dealt with by way of subsequent prosecution or other disciplinary action rather than prior restraint ... As with prior restraints, the principle of proportionality also applies to liability arising after the event. Any penalties specified in the law should therefore allow for the imposition of minor sanctions where the offence concerned is of a minor nature ...

5. Procedural Issues

Advance notification

... 115. It is good practice to require notification only when a substantial number of participants are expected, or not to require prior notification at all for certain types of assembly. Some jurisdictions do not impose a notice requirement for small assemblies (see the extracts from the laws in Moldova and Poland below), or where no significant disruption of others is reasonably anticipated by the organiser (such as might require the redirection of traffic). Furthermore, individual demonstrators should not be required to provide advance notification to the authorities of their intention to demonstrate. Where a lone demonstrator is joined by another or others, then the event should be treated as a spontaneous assembly (see paragraphs 126-131 below) ...

116. ... While laws may legitimately specify a minimum period of advance notification prior to an assembly, any outer time limit should not preclude the advance planning of large scale assemblies. When a certain time limit is set forth by the law, it should be only indicative ...

121. If more people than anticipated by the organiser gather at a notified assembly, the relevant law enforcement agencies should facilitate the assembly so long as the participants remain peaceful (see also ‘defences’ at paragraphs 110-12 above).

Simultaneous assemblies

122. All persons and groups have an equal right to be present in public places to express their views. Where two or more assemblies are notified for the same place and time, the events should be facilitated together if they can be accommodated. If this is not possible (due, for example, to lack of space) the parties should be encouraged to engage in dialogue to find a mutually satisfactory resolution. Where such a resolution cannot be found, the authorities may seek to resolve the issue by adopting a random method of allocating the events to particular locations, so long as this does not discriminate between different groups. This may, for example, be a ‘first come, first served’ rule, although abuse of such a rule (where an assembly is deliberately notified early to block access to other events) should not be allowed ... A prohibition on conducting public events in the same place and at the same time of another public event where they can both be reasonably accommodated is likely to be a disproportionate response ...

Decision-making and review process

... 134. Assembly organisers, the designated regulatory authorities, law enforcement officials, and other parties whose rights might be affected by an assembly, should make every effort to reach mutual agreement on the time, place and manner of an assembly. If, however, agreement is not possible and no obvious resolution emerges, negotiation or mediated dialogue may help reach a mutually agreeable accommodation in advance of the notified date of the assembly. Genuine dialogue between relevant parties can often yield a more satisfactory outcome for everyone

involved than formal recourse to the law. The facilitation of negotiations or mediated dialogue can usually best be performed by individuals or organisations not affiliated with either the State or the organiser. The presence of parties' legal representatives may also assist in facilitating discussions between the assembly organiser and law enforcement authorities. Such dialogue is usually most successful in establishing trust between parties if it is begun at the earliest possible opportunity. Whilst not always successful, it serves as a preventive tool helping to avoid the escalation of conflict or the imposition of arbitrary or unnecessary restrictions.

135. Any restrictions placed on an assembly should be communicated in writing to the event organiser with a brief explanation of the reason for each restriction (noting that such explanation must correspond with the permissible grounds enshrined in human rights law and as interpreted by the relevant courts). The burden of proof should be on the regulatory authority to show that the restrictions imposed are reasonable in the circumstances. Such decisions should also be communicated to the organiser within a reasonable timeframe – *i.e.* sufficiently far in advance of the date of a proposed event to allow the decision to be judicially appealed to an independent tribunal or court before the notified date of the event ...

138. Ultimately, the assembly organisers should be able to appeal the decision of the regulatory authority to an independent court or tribunal. This should be a *de novo* review, empowered to quash the contested decision and to remit the case for a new ruling. The burden of proof and justification should remain on the regulatory authorities. Any such review must also be prompt so that the case is heard and the court ruling published before the planned assembly date (see also paragraph 66 above). This makes it possible, for example, to hold the assembly if the court invalidates the restrictions. To expedite this process, the courts should be required to give priority to appeals concerning restrictions on assemblies. The law may also provide for the option of granting organisers injunctory relief. That is, in the case that a court is unable to hand down a final decision prior to the planned assembly, it should have the power to issue a preliminary injunction. The issuance of an injunction by the court in the absence of the possibility of a final ruling must necessarily be based on the court's weighing of the consequences of its issuance ...

139. The parties and the reviewing body should have access to the evidence on which the regulatory authority based its initial decision (such as relevant police reports, risk assessments, or other concerns or objections raised). Only then can the proportionality of the restrictions imposed be fully assessed. If such access is refused by the authorities, the parties should be able to obtain an expeditious judicial review of the decision to withhold the evidence. The disclosure of information enhances accessibility and transparency, and the prospects for the co-operative and early resolution of any contested issues ...

Part II - Implementing Freedom of Peaceful Assembly Legislation

... 154. Intrusive anticipatory measures should not be used: Unless a clear and present danger of imminent violence actually exists, law enforcement officials should not intervene to stop, search and/or detain protesters *en route* to an assembly.

155. Powers to intervene should not always be used: The existence of police (or other law enforcement) powers to intervene, disperse an assembly, or use force does not mean that such powers should always be exercised. Where an assembly occurs in violation of applicable laws, but is otherwise peaceful, non-intervention or active facilitation may sometimes be the best way to ensure a peaceful outcome. In many cases, dispersal of an event may create more law enforcement problems than its accommodation and facilitation, and over-zealous or heavy-handed policing is likely

to significantly undermine police-community relationships. Furthermore, the policing costs of protecting freedom of assembly and other fundamental rights are likely to be significantly less than the costs of policing disorder borne of repression. Post-event prosecution for violation of the law remains an option ...

163. Facilitating peaceful assemblies which do not comply with the requisite preconditions or which substantially deviate from the terms of notification: If the organiser fails or refuses to comply with any requisite preconditions for the holding of an assembly (including valid notice requirements, and necessary and proportionate restrictions based on legally prescribed grounds), they might face prosecution ... Such assemblies should still be accommodated by law enforcement authorities as far as is possible. If a small assembly is scheduled to take place and, on the day of the event, it turns into a significantly larger assembly because of an unexpectedly high turnout, the assembly should be accommodated by law enforcement authorities and should be treated as being lawful so long as it remains peaceful. As stated in Basic Standard 4 of Amnesty International's *Ten Basic Human Rights Standards for Law Enforcement Officials*, law enforcement personnel should '[a]void using force when policing unlawful but non-violent assemblies.' ...

165. Dispersal of assemblies: So long as assemblies remain peaceful, they should not be dispersed by law enforcement officials. Indeed, dispersal of assemblies should be a measure of last resort and should be governed by prospective rules informed by international standards. These rules need not be elaborated in legislation, but should be expressed in domestic law enforcement guidelines, and legislation should require that such guidelines be developed. Guidelines should specify the circumstances that warrant dispersal, and who is entitled to make dispersal orders (for example, only police officers of a specified rank and above).

166. Dispersal should not occur unless law enforcement officials have taken all reasonable measures to facilitate and protect the assembly from harm (including, for example, quieting hostile onlookers who threaten violence), and unless there is an imminent threat of violence ...

168. If dispersal is deemed necessary, the assembly organiser and participants should be clearly and audibly informed prior to any intervention by law enforcement personnel. Participants should also be given reasonable time to disperse voluntarily. Only if participants then fail to disperse may law enforcement officials intervene further. Third parties (such as monitors, journalists, and photographers) may also be asked to disperse, but they should not be prevented from observing and recording the policing operation ..."

D. Comparative law material

318. The Court conducted a comparative study of the legislation of twenty-seven member States of the Council of Europe (Austria, Azerbaijan, Belgium, Bosnia and Herzegovina (Canton of Sarajevo), Estonia, Finland, France, the former Yugoslav Republic of Macedonia, Germany, Greece, Hungary, Italy, Latvia, Liechtenstein, Monaco, Montenegro, the Netherlands, Poland, Romania, Serbia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine and the United Kingdom (England and Wales).).

319. The comparative study suggests that a majority of the States provide for a notification procedure for public assemblies. In the United Kingdom notification is required for marches and processions only, while static assemblies are exempt from that requirement. In Latvia, it is not necessary to submit a notification for assemblies that have not been announced to the general public and that do not cause any hindrance to traffic. In Azerbaijan, Germany, Greece and the United Kingdom spontaneous assemblies are exempt from the notification requirement. One State (the former Yugoslav Republic of Macedonia) does not require any notification, but the organisers may notify the authorities if they wish. Only four States (Lichtenstein, Slovenia, Sweden and Switzerland) provide for an authorisation procedure for certain types of public assemblies that are likely to cause increased hindrances to everyday life.

320. There are varied approaches to the deadline for lodging a notification or an authorisation request, ranging from ten days (Latvia and Spain) to several hours (Finland and Estonia) before the beginning of the assembly. The majority of the State provides that the notification is to be lodged no later than two or three days before the assembly. Only four States establish a time-limit before which the notification is considered premature (four months in Latvia, thirty days in Poland and Spain and fifteen days in France).

321. All States except Ukraine impose certain restrictions on the location, date or time of an assembly. Some States (Germany, Greece) however emphasise that the choice of the location and time of the assembly is the right of the organisers. Restrictions may be set out in law or be imposed by the administrative authorities on a case by case basis. In ten States (Azerbaijan, Bosnia and Herzegovina, Estonia, the former Yugoslav Republic of Macedonia, Greece, Latvia, Montenegro, Romania, Serbia, and Turkey) the domestic law provides for a prohibition to hold public events at certain locations, for example in the vicinity of some governmental or military buildings, detention facilities, dangerous areas, such as mines, railways or construction sites, in the vicinity of hospitals or kindergartens, etc. Time or date restrictions may be found in the domestic law of six States (Azerbaijan, Greece, Lichtenstein, Monaco, Romania and Serbia).

322. A majority of the States however do not provide for any statutory restrictions on the location, date or time of the assembly. Instead they allow the authorities to impose such restrictions on a case by case basis (all States except Bosnia and Herzegovina, Latvia, the former Yugoslav Republic of Macedonia, Monaco, Serbia, and Ukraine which do not provide for a possibility to impose case-by-case restrictions). The most common grounds for case-by-case restrictions relate to the protection of public order and safety (Belgium, Estonia, France, the former Yugoslav Republic of Macedonia, Greece, Latvia, Monaco, the Netherlands, Poland, Slovenia, Spain and Sweden), of public health (Austria, Estonia, the Netherlands,

Poland and Serbia), environment (Finland and the former Yugoslav Republic of Macedonia), and the rights of others (Poland, Serbia and Spain), maintenance of fluid traffic (Finland, Hungary, Latvia, the Netherlands, Serbia, Slovakia, Sweden and Turkey) or prevention of a possible conflict with another assembly (Azerbaijan, Estonia, Finland, Latvia and Poland). In the majority of the States the authorities' discretion to impose such restrictions is limited by law. Thus, in many States these restrictions are subject to the condition of proportionality (for example Austria, Azerbaijan, Belgium, France, Germany, Lichtenstein, Sweden and Switzerland), due justification (Hungary), risk of serious danger (Estonia, Greece, Poland), of material damage (Belgium), of serious damage (the United Kingdom) or unreasonable inconvenience (Finland).

323. Twenty out of twenty-seven States provide for domestic remedies to challenge the restrictions imposed by the authorities which allow obtaining an enforceable decision prior to the date of the planned assembly. States use various methods to ensure that the complaint is examined before the planned date of the assembly. The most common method is a very short statutory time-limit for examining a complaint against the restrictions (for example in Azerbaijan, Bosnia and Herzegovina, Estonia, France, Hungary, Latvia, Montenegro and Spain), often accompanied by a deadline for announcing restriction to the organisers so that they have time to use the remedies (for example in Azerbaijan, Bosnia and Herzegovina, Hungary, Slovenia) and/or immediate enforcement of the first-instance decision on the complaint (for example in Bosnia and Herzegovina, Estonia, Finland, Hungary, Latvia and Spain). In some States the complainant may apply for an interim measure, such as a suspension of the restrictions order pending the examination of the case (for example in Belgium, Finland, Germany, Italy, Lichtenstein, Monaco, the Netherlands, Slovenia, Sweden and Switzerland).

324. In thirteen States the failure to give a prior notification of an assembly or to comply with the restrictions imposed on the assembly's location or time is a sufficient ground in itself for dispersing an assembly (Azerbaijan, Belgium, Bosnia and Herzegovina, Estonia, Germany, Greece, Hungary, Latvia, Montenegro, the Netherlands, Serbia, Turkey, and Ukraine). In all other States under survey additional grounds are necessary to justify a dispersal, such as a threat to public order, danger to the safety of people, to property or environment, commission of violent or criminal acts, anti-social behaviour of the participants, or serious disturbance of traffic). In two States the domestic law requires that any dispersal should satisfy the requirement of proportionality (Lichtenstein and Switzerland), while in one State (Sweden) dispersal is permissible only if other steps taken to stop the disorder have proved ineffective.

THE LAW

I. JOINDER OF THE APPLICATIONS

325. In accordance with Rule 42 § 1 of the Rules of Court, the Court decides to join the applications, given their factual and legal similarities.

II. ALLEGED VIOLATIONS OF ARTICLE 13 OF THE CONVENTION

326. The applicants complained under Article 13 of the Convention in conjunction with Article 11 of the Convention that they did not have an effective remedy against the alleged violations of their freedom of assembly. They alleged in particular that they had not had at their disposal any procedure which would have allowed them to obtain an enforceable decision prior to the date of the planned public event. Article 13 of the Convention reads:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. Admissibility

327. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

(a) The applicants

328. The applicants submitted that under Russian law the organisers had to notify the competent authorities no earlier than fifteen days before the intended public event. The authorities had three days to propose a change of the location, time or manner of conduct of a public event. If the organisers submitted objections or proposed alternative locations or time, the authorities had again three days to reply to the organisers. Given that the complaint against the authorities' decision proposing a change of the location, time or manner of conduct of a public event had to be examined within ten days and that that time-limit was rarely observed in practice owing to the heavy case-load of Russian courts, such complaints were in most cases examined only after the intended date of the public event.

Exceptions were rare and could be explained by a lighter case-load of a particular judge. That situation was due to the fact that Russian law did not impose an obligation on the courts to examine such complaints before the planned date of the public event. Although the Constitutional Court in its decision of 2 April 2009 had indeed found that the courts should be required to examine the complaints before the intended public event (see paragraph 258 above), the legislative amendments to that effect had still not been adopted. The Constitutional Court had itself noted that omission in its judgment of 14 February 2013 and had urged the legislator to amend the domestic law (see paragraph 267 above). Furthermore, there was no evidence that the Constitutional Court's instructions were followed by the courts in their everyday practice. The Government had not provided any statistical information as to the length of the judicial examination of such cases or any other proof of their allegation that in most cases such complaints were examined before the date of the planned public event (see paragraph 336 below). The facts of the present case provided an ample body of evidence that showed that examination of such complaints was often longer than ten days, and was rarely terminated before the date of the planned public event.

329. Even if the court examined and allowed the complaint before the planned date of the public event, the judicial decision was not immediately enforceable, as confirmed by the facts of the present case (see, for example, paragraph 155 above). It became enforceable only after the expiry of the ten-day time-limit for appeal (one-month time-limit since 1 January 2012) or, if an appeal was lodged, after the appeal decision was issued, that is in any case after the planned date of the public event. In such cases, even if the complaint was allowed, it was no longer possible for the courts to provide a remedy by ordering that the authorities approve the public event.

330. The applicants further submitted that there was no possibility to apply for an injunction enabling the organiser to proceed with the public event pending the examination of his judicial complaint. The possibility of suspending the decision complained against provided for by Russian law was ineffective. Firstly, any such suspension did not amount to an approval of the public event. In the absence of such approval the public event would remain unlawful. Secondly, the applicants argued that the domestic courts were unwilling to apply provisional measures to disputes concerning the freedom of assembly on the ground that such provisional measures would have the effect of prejudging the outcome of the dispute. The applicants produced a copy of the decision of 5 September 2013 by the Voroshilovskiy District Court of Rostov-on-Don on a complaint against the refusal to approve a public event, rejecting the application for interim measures on the ground that the requested interim measure was identical to the merits of the complaint.

331. As regards the possibility of applying for immediate enforcement, it was an extraordinary measure which entirely depended on the judge's discretion and was ordered only in a small number of cases relating to the freedom of assembly. Indeed, the Government had been able to submit only eight examples of cases relating to freedom of assembly in which immediate enforcement had been ordered (see paragraph 339 below), although they had full access to the entire case-law of Russian courts. By contrast, the applicants referred to three judicial decisions where the requests for immediate enforcement had been rejected by courts. They argued that the examples provided by the Government were insufficient to prove the existence of an established practice of ordering immediate enforcement in freedom-of-assembly cases. In the absence of a clear requirement to enforce judicial decisions in such cases immediately, as for example in electoral disputes (see paragraph 287 above), the mechanism of immediate enforcement could not be considered effective.

332. Accordingly, the statutory time-limits for notification about a public event and those for judicial review of the authorities' proposal to change its location or time did not allow for an enforceable judicial decision to be taken before the intended date of the public event.

333. The applicants further argued that a judicial complaint under Chapter 25 of the CCP was allowed only if the authorities' refusal to approve the location, time or manner of conduct of a public event had been issued in breach of the domestic law. No other grounds for allowing the complaint were envisaged by Russian law. It was therefore impossible to challenge the authorities' decision on such grounds as, for example, that the location proposed by the authorities was incompatible with the purposes of the public event.

334. The applicants concluded that they did not have an effective remedy in respect of their complaints under Articles 10 and 11. They added that the new Code of Administrative Procedure which had entered into force in September 2015 (see paragraphs 289 et seq.) did not remedy that situation, because the procedure established by it still did not permit a final judgment to be obtained sufficiently in advance of the scheduled public event to allow for its preparation.

(b) The Government

335. The Government submitted that the organisers had to notify the competent authorities no earlier than fifteen days and no later than ten days before the intended public event. The notification time-limit gave sufficient time to the authorities to propose changing the time or location of the public event or to give a warning to the organisers about possible liability if the aims of the public event or any other envisaged arrangements were incompatible with Russian law. At the same time, it permitted the holding

of public events in response to topical current affairs. The extension of the notification time-limit would restrict such possibility.

336. The Government further submitted that any actions or inactions of the authorities restricting the freedom of assembly could be challenged before a court in accordance with the procedure established by Chapter 25 of the CCP (see paragraphs 276 to 283 above). The domestic law established a shortened ten-day time-limit for the examination of such complaints (see paragraph 278 above), as compared to the general two-month time-limit for civil claims. Further shortening of that time-limit might undermine the quality of the judicial review. The appeal had to be examined within two months (see paragraphs 284 and 285 above). Despite the absence of any statistical information on the issue, it was possible to affirm that if the organisers of a public event submitted their complaint without delay it was examined promptly, in most cases before the date of the planned public event. The average examination time was three to ten days for a first-instance complaint, and twelve to twenty-three days for appeal. The Government referred to the Constitutional Court's instructions that such complaints had to be examined as quickly as possible, in any event before the intended public event, for the judicial proceedings not to be deprived of all meaning (see paragraph 258 above).

337. The Government argued that belated examination of complaints was often caused by the organisers themselves. For example, as regards application no. 31040/11, although the applicants had received the authorities' proposal to cancel the march and change the location of the meeting of 20 March 2010 on 12 March 2010, they sent their complaint to the court by post only on 15 March 2010. The Convention did not oblige States to provide a perfectly functioning postal system (see *Foley v. the United Kingdom* (dec.), no. 39197/98, 11 September 2001). It was a well-known fact that Russian postal service was overburdened and that there were serious delays in delivery of correspondence. However, instead of bringing the complaint directly to the court's registry, the applicants had chosen to take the risk of sending it by post. The complaint had been delivered to the court on Friday 19 March 2010, which had prevented the court from examining it before the planned date of the public event. The delay in the examination of the complaint had therefore been attributable to the applicants.

338. The Government further submitted that Chapter 25 of the CCP provided for the possibility of suspending the decision complained against pending judicial proceedings, at the request of the complainant or of the court's own motion (see paragraph 279 above). However, according to available information, no requests for suspension were lodged by the complainants in cases relating to freedom of assembly during the period from January 2011 until the present.

339. The courts allowed complaints if it found that the authorities' actions were unlawful and breached the complainant's rights. Judicial decisions entered into force either on the expiry of the time-limit for appeal (ten days until 1 January 2012 and a month after that date) if no appeal was lodged, or on the day of the delivery of the appeal judgment (see paragraphs 284 and 285 above). However, it was possible for the complainant to request immediate enforcement of the first-instance decision if the appeal could not be examined before the planned public event (see paragraph 287 above). The domestic law did not prohibit the use of the immediate enforcement procedure in cases concerning freedom of assembly. The Government submitted copies of eight judicial decisions ordering immediate enforcement in cases where the authorities' proposals to change the location of the public event were challenged.

340. The Government concluded from the above that if the organisers of the public event did not agree with the authorities' proposal to change the location or time of the public event, they had an effective remedy before the courts allowing them to obtain an enforceable decision before the planned date of the public event. To illustrate the effectiveness of that remedy, the Government referred to five judicial decisions in which the organisers' complaints had been allowed, in three of which immediate enforcement had been ordered. The Government did not submit copies of those judicial decisions.

341. Lastly, the Government submitted that in March 2013 the President proposed a draft Code of Administrative Procedure, which had since been adopted and had entered into force (see paragraphs 289 to 294 above). The draft Code provided that complaints against the authorities' decisions concerning change of location or time of public events, and of their purposes, type or other arrangements, were to be examined by courts within ten days. If the complaint was lodged before the planned date of the public event, it had to be examined by the eve of that date at the latest. If the complaint was lodged on the day of the public event, it had to be examined on the same day. If the last day of the time-limit fell at a weekend or on a public holiday, it was to be examined on that day if the complaint had not been, or could not have been, examined earlier. If the appeal was lodged before the planned date of the public event, it had to be examined by the eve of that date at the latest.

2. The Court's assessment

342. The Court reiterates that Article 13 guarantees the availability at national level of a remedy in respect of grievances which can be regarded as arguable in terms of the Convention (see *Hasan and Chaush v. Bulgaria* [GC], no. 30985/96, § 96, ECHR 2000-XI). It has not been disputed between the parties that the applicants had an arguable claim under

Articles 10 and 11 within the meaning of the Court's case-law and were thus entitled to a remedy satisfying the requirements of Article 13.

343. Such a remedy must allow the competent domestic authority both to deal with the substance of the relevant Convention complaint and to grant appropriate relief, although Contracting States are afforded some discretion as to the manner in which they discharge their obligations in this respect (see *Hasan and Chaush*, loc. cit.).

344. The scope of the Contracting States' obligations under Article 13 varies depending on the nature of the applicant's complaint; the "effectiveness" of a "remedy" within the meaning of Article 13 does not depend on the certainty of a favourable outcome for the applicant. At the same time, the remedy required by Article 13 must be "effective" in practice as well as in law, in the sense either of preventing the alleged violation or its continuation, or of providing adequate redress for any violation that has already occurred (see *Kudła v. Poland* [GC], no. 30210/96, §§ 157 and 158, ECHR 2000-XI, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 96, 10 January 2012).

345. In the area of complaints about restrictions on the freedom of assembly imposed before the date of an intended assembly – such as, for example, a refusal of prior authorisation where such authorisation is required – the Court has already observed that the notion of an effective remedy implies the possibility of obtaining a final decision concerning such restrictions before the time at which the assembly is intended to take place. A *post-hoc* remedy cannot provide adequate redress in respect of Article 11 of the Convention. It is therefore important for the effective enjoyment of freedom of assembly that the applicable laws provide for reasonable time-limits within which the State authorities, when giving relevant decisions, should act (see *Baczkowski and Others v. Poland*, no. 1543/06, §§ 81-83, 3 May 2007).

346. The Court has already found that Russian laws provided for time-limits for the organisers to give notice of a public event. In contrast, the authorities were not obliged by any legally binding time-frame to give their final decisions before the planned date of the public event. The Court has therefore found that the judicial remedy available to the organisers of public events, which was of a *post-hoc* character, could not provide adequate redress in respect of the alleged violations of the Convention (see *Alekseyev v. Russia*, nos. 4916/07, 25924/08 and 14599/09, § 99, 21 October 2010).

347. Indeed, the Court notes that Chapter 25 of the CCP and the Judicial Review Act, in force at the material time, did not require the courts to examine the judicial review complaint against the authorities' refusal to approve the location, time or manner of conduct of a public event before the planned day of the event. Nor did the time-limit for lodging a notification and examining judicial review complaints ensure an enforceable decision before the planned day of the public event, for the following reasons.

348. Firstly, the organisers have to notify the competent authorities no earlier than fifteen days before the intended public event; a notification lodged before that time-limit is considered premature (see paragraphs 226 and 231 above). That requirement establishes a very tight time-frame within which any proposals to change the place, time or manner of conduct of a public event are to be made by the authorities, debated with the organisers and eventually examined on judicial review. The relevant comparative material demonstrates that only a small minority of European countries establish a time-limit before which a notification is considered premature and that in those countries where such a time-limit exists it is usually considerably longer than fifteen days (see paragraph 320 above).

349. Secondly, Russian law provides that after receiving a notification the authorities have three days to propose a change of the location, time or manner of conduct of a public event (see paragraph 228 above). The present cases demonstrate that this time-limit is not always observed (see, for example, paragraphs 14, 41, 76 and 109 above, where the authorities made their proposals between four and seven days after receiving the notification) without any negative consequences for the validity of the belated proposal (see, in particular, paragraph 47 above). The authorities' failure to observe the time-limit further shortens the already limited time available to the organisers to apply for a remedy.

350. Thirdly, at the material time the complaint against the authorities' refusal to approve the location, time or manner of conduct of a public event was to be examined by a court within ten days (see paragraph 278 above). The Court is not convinced by the Government's assertion, not supported by any documents or statistical data, that the ten-day time-limit was routinely observed and that in most cases the complaints were examined before the date of the planned event (see paragraph 336 above). As demonstrated by the facts of the present cases, the ten-day time-limit was rarely complied with: in the majority of the cases it took the competent District Court between two weeks and seven months to examine the complaint. Indeed, the complaints relating to freedom of assembly were not considered to be urgent, and did not have any priority over other cases, which, combined with the heavy case-load of the Russian courts, resulted in recurrent delays in their examination. The Court reiterates in this connection that a heavy case-load cannot serve as a justification for delays in judicial proceedings (see, *mutatis mutandis*, *Klein v. Germany*, no. 33379/96, §§ 42 and 43, 27 July 2000).

351. As a result of the aggregated factors described above, even if the organisers of a public event lodged a notification on the first day of the fifteen-day notification time-limit and then lodged a judicial review complaint immediately after receiving the authorities' proposal to change its location, time or manner of conduct, there was no guarantee that their judicial review complaint would be decided before the planned date of the

event. It is significant that the Constitutional Court in its rulings of 2 April 2009 and 14 February 2013 required the legislator to amend the legal provisions governing the time-limits for examining organisers' complaints against refusals to approve the time or location of a public event, so that they were examined before the planned date of the event (see paragraphs 258 and 267 above). It was not until 8 March 2015 that the relevant provisions were amended with the effect from 15 September 2015 (see paragraphs 289 to 294 above), long after the facts of the present cases.

352. Further, the Court observes that even if a District Court examined the complaint before the planned date of the public event, the judicial decision became enforceable only after the expiry of the ten-day time-limit for appeal (a one-month time-limit since 1 January 2012) or, if an appeal was lodged, after the appeal decision was issued (see paragraphs 284 to 286 above). One of the present applications provides a telling example of a situation where the judgment issued before the planned date of the public event and finding that the authorities' refusal to approve it had been unlawful did not permit the organisers to hold their event because it was not yet enforceable (see paragraphs 153 to 155 above).

353. The Court takes note of the Government's argument that the domestic law in force at the material time provided for the possibility of applying for immediate enforcement of a District Court judgment (see paragraph 287 above). It reiterates that it is for the Government to illustrate the practical effectiveness of the remedy with examples from the case-law of the domestic courts (see *Ananyev and Others*, cited above, § 110). The Government submitted copies of eight judicial decisions ordering immediate enforcement in cases where the authorities' proposals to change the location of the public event were challenged (see paragraph 339 above). This is not enough, in the Court's view, to show the existence of settled domestic practice. The Court is therefore not convinced of the practical effectiveness of an application for immediate enforcement (see, for similar reasoning, *Ananyev and Others*, loc. cit.).

354. Further, as regards the possibility of suspending the decision complained against pending the judicial proceedings (see paragraph 279 above), the Government themselves admitted that such a suspension had never been ordered in cases relating to freedom of assembly (see paragraph 341 above). Nor did the Government explain what redress could have been afforded to the organisers by suspending a decision refusing to approve the location, time or manner of conduct of a public event. Such a suspension did not amount to an approval of the location, time or manner of conduct chosen by the organisers, and did not therefore give the public event the presumption of legality.

355. The Court notes that, since the facts prompting the present applications arose, on 15 September 2015, a new Code of Administrative Procedure entered into force. It provides, in particular, that complaints

against the authorities' decisions concerning changes to the purposes, location, type or manner of conduct of a public event are to be examined by the District Court, and if possible any appeal is also to be examined, before the planned date of the event. The judicial decision is subject to immediate enforcement (see paragraphs 289 to 294 above). The Court notes that these developments in the domestic law, welcome as they are, occurred after the events at issue in the present cases.

356. The Court will further examine the applicants' additional argument that the scope of judicial review was limited to examining the lawfulness of the proposal to change the location, time or manner of conduct of a public event (see paragraph 333 above). Indeed, in accordance with Chapter 25 of the CCP and the Judicial Review Act, in force at the material time, the sole relevant issue before the domestic courts was whether the contested refusal to approve the location, time or manner of conduct of a public event was lawful (see paragraphs 281 to 283 above). It is clear from the Supreme Court's interpretation of the relevant provisions that "lawfulness" was understood as compliance with the rules of competence, procedure and contents (see paragraph 280 above). It is significant that the Supreme Court expressly stated that the courts had no competence to assess the reasonableness of the authorities' acts or decisions made within their discretionary powers (ibid.). It follows that the courts were not required by law to examine the issues of "proportionality" and "necessity in a democratic society", in particular whether the contested decision answered a pressing social need and was proportionate to any legitimate aims pursued, principles which lie at the heart of the Court's analysis of complaints under Article 11 of the Convention (see paragraph 412 below).

357. The Court observes that the present case demonstrates that in practice the domestic courts occasionally go beyond the issues of lawfulness and examine whether the authorities' refusal to approve the location, time or manner of conduct of a public event was "well-reasoned" (see, for example, paragraphs 48, 51, 71, 72, 82, 145, 153, 166, 184, 189, 200 above). That practice is apparently rooted in the requirement contained in the Public Events Act that any proposal to change the time, location or manner of conduct of a public event must be "well-reasoned" (see paragraph 228 above) and in the Constitutional Court's explanation that the authorities must give "weighty reasons" for their proposals (see paragraph 256 and 257 above). The Court however notes that this practice is fragmentary and that courts often limit their examination to the issues of lawfulness (see, for example, paragraphs 11, 26, 35, 68, 89, 105, 133 above).

358. In any event, the analysis of the judicial decisions made in the present case reveals that, even in those cases where the Russian courts examined the question whether the refusal to approve the location, time or manner of conduct of a public event had been well reasoned, they failed to recognise that the cases involved a conflict between the right to freedom of

assembly and other legitimate interests and to perform a balancing exercise. The balance appeared to be set in favour of protection of other interests, such as rights and freedoms of non-participants, in a way that made it difficult to turn the balance in favour of the freedom of assembly. The Court concludes that in practice Russian courts did not apply standards which were in conformity with the principles embodied in Article 11 and did not apply the "proportionality" and "necessity" tests. The Court has already found on a number of occasions, albeit in the context of Article 8, that a judicial review remedy incapable of examining the issue of proportionality does not meet the requirements of Article 13 of the Convention (see *Smith and Grady v. the United Kingdom*, nos. 33985/96 and 33986/96, §§ 135-39, ECHR 1999-VI; *Peck v. the United Kingdom*, no. 44647/98, §§ 105-07, ECHR 2003-I; and *Keegan v. the United Kingdom*, no. 28867/03, §§ 40-43, ECHR 2006-X).

359. The Court takes note of the Supreme Court's Ruling of 27 June 2013, stating that any restrictions on human rights and freedoms must be prescribed by federal law, pursue a legitimate aim and be necessary in a democratic society, that is to say, proportionate to the legitimate aim (see paragraph 217 above). The Court welcomes these instructions, but notes that they were issued after the events at issue in the present cases. It will have to wait for an opportunity to examine the practice of the Russian courts after that Ruling to assess how these instructions are be applied in practice. The Court also notes that the new Code of Administrative Procedure which entered into force on 15 September 2015 reproduced in substance the provisions of Chapter 25 of the CCP and the Judicial Review Act. According to the new Code of Administrative Procedure the lawfulness of the contested decision or act – understood in the sense of compliance with the rules of competence, procedure and contents – remains the sole relevant issue examined on judicial review (see paragraphs 295 to 297 above).

360. To sum up, the Court considers that the applicants did not have at their disposal an effective remedy which would allow an enforceable judicial decision to be obtained on the authorities' refusal to approve the location, time or manner of conduct of a public event before its planned date. Moreover, the scope of judicial review was limited to examining the lawfulness of the proposal to change the location, time or manner of conduct of a public event, and did not include any assessment of its "necessity" and "proportionality". In these circumstances, the Court does not need to consider the applicants' complaints relating to the individual circumstances of each case.

361. There has therefore been a violation of Article 13 of the Convention in conjunction with Article 11 of the Convention.

III. ALLEGED VIOLATIONS OF ARTICLES 10, 11 AND 14 OF THE CONVENTION

362. The applicants complained that the restrictions imposed by the authorities on the location, time or manner of conduct of public events breached their right to freedom of expression and to peaceful assembly, guaranteed by Articles 10 and 11 of the Convention respectively. Some of the applicants also complained under Article 14 of the Convention taken in conjunction with Articles 10 and 11 that they had been discriminated against on the grounds of their political opinion or sexual orientation.

These Articles read as follows:

Article 10

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

Article 11

"1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

Article 14

"The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

363. At the outset, the Court notes that in relation to the same facts the applicants rely on two separate Convention provisions: Article 10 and Article 11 of the Convention, both taken alone and in conjunction with Article 14. In the Court's opinion, in the circumstances of the present case,

Article 10 is to be regarded as a *lex generalis* in relation to Article 11, a *lex specialis* (see *Ezelin v. France*, 26 April 1991, § 35, Series A no. 202, and *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, § 91, ECHR 2015). The thrust of the applicants' complaints is that the authorities imposed various restrictions on holding of peaceful assemblies thereby preventing them from expressing their views *together with other demonstrators.* The Court therefore finds that the applicants' complaint should be examined under Article 11, taken alone and in conjunction with Article 14 (see *Schwabe and M.G. v. Germany*, nos. 8080/08 and 8577/08, § 101, ECHR 2011 (extracts); *Galstyan v. Armenia*, no. 26986/03, §§ 95-96, 15 November 2007; and *Primov and Others v. Russia*, no. 17391/06, § 91, 12 June 2014).

364. That being said, the Court notes that the issues of freedom of expression and freedom of peaceful assembly are closely linked in the present case. Indeed, the protection of personal opinions, secured by Article 10 of the Convention, is one of the objectives of freedom of peaceful assembly as enshrined in Article 11 of the Convention (see *Ezelin*, cited above, § 37; *Djavit An v. Turkey*, no. 20652/92, § 39, ECHR 2003-III; and *Barraco v. France*, no. 31684/05, § 29, 5 March 2009). In the sphere of political debate the guarantees of Articles 10 and 11 are often complementary, so Article 11, where appropriate, must be considered in the light of the Court's case-law on freedom of expression. The Court reiterates that the link between Article 10 and Article 11 is particularly relevant where the authorities have interfered with the right to freedom of peaceful assembly in reaction to the views held or statements made by participants in a demonstration or members of an association (see, for example, *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, § 85, ECHR 2001-IX, and *Primov and Others*, cited above, § 92).

365. The Court will therefore examine the present case under Article 11, interpreted where appropriate in the light of Article 10, taken alone and in conjunction with Article 14.

A. Submissions by the parties

1. The applicants

366. The applicants submitted that an interference with the freedom of assembly did not need to amount to an outright ban, legal or *de facto*, but could consist in various other measures taken by the authorities (see *Singartiyski and Others v. Bulgaria*, no. 48284/07, § 43, 18 October 2011). The term "restrictions" in paragraph 2 of Article 11 should be interpreted as including measures taken before, during and after an assembly (see *Ezelin*, cited above, § 39). Although a requirement of prior notification did not as

such constitute an interference with the freedoms of expression and assembly, the situation was different where, as in Russia, the notification procedures were not limited to informing the authorities of the organisers' intention to hold an assembly, but allowed the authorities to impose restrictions on its location, time or manner of conduct. In Russia the organisers' right to hold a peaceful assembly was conditional on the authorities' approval of the chosen location, timing and manner of conduct. Failure to reach an agreement following the authorities' proposal to change the location, time or manner of conduct of a public event resulted in the organisers being prohibited from holding it. The domestic law gave the police powers to disperse public events which took place at a location or time or in a manner not approved by the authorities and to bring the organisers and participants to liability under Article 20.2 of the Administrative Offences Code. Prior restrictions imposed by the Russian authorities on the location, time or manner of conduct of a public assembly therefore constituted an interference with freedom of assembly (see *Berladir and Others v. Russia*, no. 34202/06, §§ 47-51, 10 July 2012).

367. In the applicants' opinion, the Public Events Act did not meet the Convention's "quality of law" requirements. In particular, the terms "a well-reasoned proposal for changing the location and/or time of the public event, or for amending its purposes, type or other arrangements" (see paragraph 228 above) and "the location and time agreed upon after consultation with competent regional or municipal authorities" (see paragraph 231 above) were not clearly defined, and gave the authorities wide discretion in amending the essential parameters of an assembly. Thus, the domestic law did not establish any criteria on the basis of which to assess whether the proposal for changing the location, time or other parameters of a public event was "well reasoned". Nor did it establish the criteria for assessing the suitability of the alternative locations proposed by the authorities.

368. The applicants further argued that Russian administrative and judicial practice interpreted the term "agreed upon" as "approved" or "authorised" by the competent authorities. The organisers had no right to hold a public event if its location and time had not been approved by the authorities. It followed that, although the domestic law formally established a notification procedure for public events, the prohibition on holding an event without the approval of the authorities, and the imposition of liability for the failure to comply with that prohibition, effectively turned it into an authorisation procedure.

369. The applicants referred to the 2012 report by the Russian Ombudsman which stated that the procedure for the approval of public events did not establish clearly the powers and obligations of the parties involved, thereby creating possibilities for abuse of the position of power by the authorities. The applicants stressed the importance of negotiation and

mediation to resolve disputes between the authorities and the organisers. Such negotiation and meditation procedures were however not provided by Russian law. In particular, Russian law did not provide for any mechanism to solve the disagreements between the authorities and the organisers as to the location, time and other parameters of a public event. As a rule, the authorities rejected any attempts at dialogue and turned down all objections or alternative proposals by the organisers, insisting that the public event should be held at the location and time and in the manner determined by the authorities. Thus, in some cases, the authorities had refused to approve an assembly even despite the organisers' active cooperation, such as agreeing to change the date or the location, in particular by proposing a number of alternative locations for their event (see paragraph 23, 57, 60, 62, 77, 79, 86, 95, 97, 112, 114 and 116 above). The organisers' refusal to accept the location proposed by the authorities resulted in a *de facto* prohibition of the event in question.

370. Relying on the OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly (see paragraph 317 above), the applicants further submitted that restrictions on the location, time or manner of conduct of an assembly should not be imposed simply to pre-empt possible disorder or interferences with the rights of others. They should not undermine the very purpose of the assembly, for example by imposing a location that did not correspond to the assembly's purposes. According to the applicants, any demonstration in a public place inevitably caused a certain level of disruption to ordinary life, including disruption of traffic, and it was important for the public authorities to show a certain degree of tolerance towards peaceful gatherings. It was precisely the aim of the notification procedure to inform the authorities about the intended public event in advance so that they could take measures to regulate the traffic and any other measures necessary to avert safety and security risks. In sum, when imposing restrictions on the location, time, or manner of conduct of a public event the authorities should strictly apply the test of necessity and proportionality.

371. The Russian authorities, including the courts, never applied the necessity and proportionality tests when imposing restrictions on the location, time or manner of conduct of public events. Firstly, they had systematically refused to recognise that the location, time or manner of conduct were essential elements of public assemblies. The applicants argued, in particular, that the locations chosen by them had been crucially important, either because of their proximity to the target of their protest (for example, a town administration or the police headquarters) or because of their central location, which would allow them to reach a wide audience. They further argued that the alternative locations proposed by the authorities were unsuitable, because they were located either far from the State institutions targeted by the protest or on some occasions even in remote or isolated areas far from the town centre (see paragraphs 77, 110, 130, 138,

160, 180, 187 and 197 above). Those locations lacked visibility and would not have therefore permitted the applicants to draw attention to their message. The applicants disagreed with the Government's position that any location proposed by the authorities, no matter how remote or desolate, was suitable to ensure an effective exercise of the right to freedom of assembly and therefore had to be accepted by the organisers. In the applicants' opinion, a location would be suitable only if it permitted the assembly to achieve its aims. The locations proposed by the authorities had not satisfied that requirement. In some cases (see paragraphs 14, 22, 56 and 58 above) the authorities had not proposed any alternative locations at all, in breach of the domestic law.

372. Secondly, the domestic authorities had not advanced relevant and sufficient reasons for their proposals to change the location, time or manner of conduct of the applicants' assemblies. The reasons cited by the authorities had been mostly hypothetical and had not been based on a reasonable assessment of facts. For example, reference to public order considerations had been unconvincing in cases of public events that had involved low numbers of expected participants and had not therefore presented any danger to public order (see, for example, paragraph 131 above). Similarly, the authorities had not explained why it had been impossible to hold two events simultaneously at the same location, taking into account, for example, the number of participants, the size of the location, and the aims of the two events (see paragraphs 137, 139, 179, 186 and 196 above). In some cases the authorities' reference to circumstances allegedly preventing holding a public event at the location chosen by the applicants had turned out to be factually incorrect (see paragraphs 115, 153 and 202 above). In the applicants' opinion, this showed that the domestic authorities had sometimes resorted to pretexts to refuse approval, while the true aim of the restriction had been to hinder public expressions of criticism against the authorities. That aim could not be considered legitimate.

373. Thirdly, the facts of the present case showed that the authorities had not examined whether the legitimate aims of protecting public order and the rights of others could have been attained by other less restrictive means, in particular by employing the police to ensure public order, regulate traffic, prevent clashes, and so on.

374. The applicants concluded from the above that, by refusing to approve the locations chosen by the organisers, the authorities had failed to strike a fair balance between the rights of those wishing to exercise their freedom of assembly and the legitimate aim of protecting public order or the rights of others who could have been temporarily inconvenienced by the assembly.

375. The applicants further argued that under Russian law, if a public event was held at a location, time or in a manner not approved by the authorities that event could be dispersed by the police and its organisers and

the participants brought to liability for an administrative offence of a breach of the established procedure for the conduct of public events. Under Russian law the recourse to forced dispersal was not limited to cases of violent assemblies or assemblies presenting danger to public order or public safety; the mere fact of unlawfulness of a public event was sufficient to legitimise its dispersal under the domestic law. The Court had however already found that the fact that the assembly was unlawful did not justify an infringement of freedom of assembly (see *Oya Ataman v. Turkey*, no. 74552/01, § 39, ECHR 2006-XIII). It was important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention was not to be deprived of its substance (see *Malofeyeva v. Russia*, no. 36673/04, § 136, 30 May 2013). In the applicants' opinion, the mere failure to comply with the restrictions on the location, time or manner of conduct of a public event imposed by the authorities did not justify its dispersal. Such dispersal could be justified only when it was applied as a measure of last resort where there was an imminent threat of violence and where other reasonable measures to facilitate and protect the assembly from harm (for example, by quieting violent individuals) had proved ineffective (they referred to §§ 165 and 166 of the OSCE/ODIHR Guidelines, cited in paragraph 317 above). A blanket use of dispersals for non-violent assemblies by the Russian authorities might not be considered "necessary in a democratic society".

376. Thus, the present case gave ample examples of situations where public events had been dispersed by force and some of the participants arrested despite the fact that they had been peaceful and no breaches of public order had been committed by the participants (see paragraphs 46, 115, 131, 141 and 210 above). The only reason for the dispersals had been the fact that the location, time or manner of conduct had not been approved by the authorities. The applicants considered that the dispersal of their public events had not been "necessary in a democratic society".

377. The applicants also referred to other defects of Russian legislation governing notification of public events. In particular, they submitted that the blanket statutory ban on holding public events at certain locations, such as in the immediate vicinity of court buildings or detention facilities, was incompatible with Article 11 because it prevented the domestic authorities, and ultimately the courts, from carrying out a proportionality exercise on a case-by-case basis. Blanket bans required stronger justification than individual restrictions. The Government however had not provided "relevant" and "sufficient" reasons for its blanket ban on holding events at certain locations. In particular, the applicants argued that it was sometimes essential to hold a public event near a court building, for example if its aim was to promote the independence of the judiciary (see, for example, *Kakabadze and Others v. Georgia*, no. 1484/07, 2 October 2012), or to criticise perceived dysfunctions in the judicial system (see, for example,

Sergey Kuznetsov v. Russia, no. 10877/04, 23 October 2008). The Court had found that the judiciary, as with all other public institutions, could not be immune from criticism, however shocking and unacceptable certain views or words might appear (see *Skałka v. Poland*, no. 43425/98, § 34, 27 May 2003). It was also significant in this connection that Russian law did not clearly establish on the basis of which criteria the perimeter of the zones in which public events were prohibited was to be determined. According to the Public Events Act the perimeter of such zones was to be determined by a decision of the regional or municipal executive authorities issued in accordance with the land and urban planning legislation on the basis of the land or urban planning register. However, the land and urban planning legislation did not give any definition of the term "in the immediate vicinity of". As a result, the determination of the perimeter of such zones was left to the complete discretion of the regional and municipal authorities. In practice, the perimeter of the zones was defined by the local authorities as a certain radius of, for example, 25, 50, 100 or 150 m.

378. The applicants also noted that the 2012 amendments to the Public Events Act gave regional legislatures powers to establish a list of places where holding of public events was prohibited, in addition to the list established by the Public Events Act. Many regions had adopted regional laws prohibiting holding of public events at such places as airports, railway and bus stations, seaports, markets and fairs, territories in the vicinity of medical or educational institutions, and religious or military buildings. In some regions, public events were prohibited in town centres where regional legislative, executive and judicial bodies were situated. These prohibitions applied only to public events within the meaning of the Public Events Act (see paragraph 218 above), and did not concern such mass gatherings as military parades, religious ceremonies, fairs, sports events or public celebrations. The applicants concluded that Russian law gave a very wide discretion in establishing blanket bans on holding public events at certain locations.

379. The applicants further submitted that there were no legal provisions establishing how a time-limit for lodging a notification was calculated in cases where the deadline fell at a weekend or on a public holiday. As a result, it was impossible to hold public assemblies during or immediately after the long winter holidays in January, which lasted at least one business week. Thus, some of the applicants (application no. 4618/11, see paragraphs 29 to 37 above) had been unable to hold a meeting and a march on 19 January 2010 because the time-limit for lodging a notification had fallen in its entirety on the New Year and Christmas holidays, which ran from 1 to 10 January. Nonetheless, the date of 19 January was very important to the applicants, because they had planned to hold a meeting and a march on the anniversary of the murder of two social activists, to commemorate their tragic deaths. The authorities had not explained to the applicants on which

dates a notification had to be lodged in order to comply with the statutory time-limit and be approved by the authorities. The refusal to approve the meeting and the march had not pursued any legitimate aim. It had been justified by purely logistical reasons and had not been therefore "necessary in a democratic society". The applicants conceded that they had eventually been able to hold a "picket" on 19 January 2010 because the notification time-limit for a "picket" was shorter than that required for a meeting or a march. However, a "picket" was not an adequate substitute for a meeting and a march. A "picket" differed from a meeting or a march by its aims and scale, because it involved fewer participants, attracted fewer journalists, and in the end had less social impact.

380. Nor did Russian law allow spontaneous assemblies. One applicant (application no. 37038/13, see paragraphs 206 to 215 above) argued that he had participated in a spontaneous public protest against a draft law prohibiting adoption of Russian children by United States nationals. The date of the examination of the draft law by the State Duma had been announced two days before. Given the minimum three-day notification period, there was no time to submit a notification. Those people who wanted to protest against the adoption of that law had had no other choice but to hold solo "pickets", which did not require prior notification. Although the protesters had positioned themselves at a distance of more than fifty metres from each other, the authorities had regarded the solo "pickets" as a single public event, had stopped it, arrested the participants, and fined them for participating in a public event held without prior notification, in breach of Article 20.2 § 2 of the Code of Administrative Offences.

381. Furthermore, the applicants complained that there were no legal provisions establishing how the authorities' decision agreeing to a public event or proposing a change of its location, time or manner of conduct should be communicated to the organisers. Thus, in one case (application no. 51169/10, see paragraphs 13 to 20 above) the authorities had sent a decision approving a "picket" by post. The applicant concerned argued that owing to the frequent delays in delivery of correspondence by Russian post, the authorities should have known that there was little chance that he would receive the letter before the planned date of the event and would have enough time to prepare for it. That letter had indeed arrived at the local post office only on the day of the "picket". Even if he had received it, it would no longer have been possible to hold the event. The applicant submitted that he had given the authorities his mobile telephone number and the mobile telephone numbers of two other organisers. Accordingly, the authorities had had all the necessary information enabling them to contact the organisers and inform them of the approval of the "picket". Instead of contacting them by telephone however, the authorities had preferred to send the decision by post, knowing that the letter would not reach them in time. Despite the

formal approval of the "picket", the applicant had therefore been deprived of a practical and realistic opportunity to hold it.

382. Some of the applicants also submitted that they had been discriminated against in the exercise of their freedom of assembly on account of their sexual orientation or political views. In particular, some applicants (application no. 19700/11) argued that the wording of the judicial decisions in their case (see paragraph 72 above) had clearly demonstrated that the only reason for the authorities' refusals to approve the public events organised by them had been their sexual orientation. The discriminatory motivation of the authorities had been further confirmed by the fact that they had agreed to an anti-gay protest on the same day, 26 June 2010, and at the location which, when proposed by the applicants, had been rejected by the authorities as unsuitable.

383. Other applicants (applications nos. 47609/11, 59410/11, 16128/12, 16134/12, 20273/12, 51540/12 and 64243/12) submitted that the manner in which all their notifications had been dealt with in the period from 2009 to 2012, as compared with the manner of dealing with notifications submitted by pro-government organisations in the same period, had revealed a pattern of discrimination on grounds of political opinion. During the aforementioned period the authorities had refused to approve seventeen out of eighteen notifications of assemblies near the town administration lodged by the applicants, while pro-government organisations had been regularly allowed to assemble at that location, including for forty-five consecutive days in July and August 2011. The Government had not provided any evidence that pro-government organisations had received any proposals from the authorities for the location to be changed.

384. The applicants referred to several specific examples of discriminatory attitudes on the part of the authorities. Firstly, in the applicants' opinion the Town Administration's decision of 4 June 2009 (see paragraph 126 above) was based on discriminatory grounds. By denying them the right to hold an event entitled "Russia against Putin" on the ground that it might trigger a hostile reaction from Mr Putin's supporters, the authorities had treated them less favourably than the pro-government associations. Given that the authorities had not provided any convincing justification, the applicants argued that the authorities' real aim had been to prevent them from expressing their opposition views, which had amounted to discrimination on grounds of political views. Secondly, by allowing the pro-government Young Guard to lodge a single notification for a series of "pickets", while at the same time denying that opportunity to the applicants (see paragraphs 185 to 193 above), the domestic authorities had treated the pro-government organisation more favourably than the applicants, without any justification. Thirdly, the applicants had lodged their notifications for the meetings of 31 July and 31 August 2011 and 31 January 2012 at the earliest opportunity, immediately after the opening of the Town

Administration (see paragraphs 178, 185 and 195 above). On all three occasions the applicants had not seen anyone enter the Town Administration building and submit a notification ahead of them. The Government had not disputed that the only way to submit a notification at 9 a.m. was to enter the Administration building before its opening hours without an entry pass. They had not disputed either that, unlike the applicants, members of pro-government organisations had been allowed to enter the Administration building without complying with the above entry formalities, and had therefore been able to lodge their notifications before anyone else. As a result of the less favourable treatment they received compared with pro-government organisations, the applicants' chances of having their notifications approved had been reduced. That difference in treatment had no objective or reasonable justification.

385. Lastly, as regards the enclosing of the location of the meeting of 31 March 2011 (see paragraphs 171 to 175 above), the limiting of the number of participants, and the institution of bodily searches, the applicants argued that the safety measures applied on that occasion had been much more severe than any security measures applied to public events organised at the same location by the public authorities or by pro-government organisations during the following two months (in particular on 5 and 23 April and 31 May 2011). Those measures had severely affected the applicants' capacity to share and communicate their political views, while the pro-government organisations had fully enjoyed the opportunity to interact with the passers-by and disseminate their ideas without any hindrance caused by unnecessary security measures. The authorities had not provided any justification for that difference in treatment. There had been no evidence of any changes in the security situation. The authorities had never argued that the terrorist threat was higher on 31 March 2011 than on the days when the other public events had been held. The difference in treatment to which the applicants had been subjected had therefore amounted to discrimination on the grounds of political views.

386. In the applicants' opinion the above examples showed that they had been consistently treated differently on the basis of their political opinion and that that difference in treatment had not been based on an objective and reasonable justification.

387. In conclusion, the applicants stated that there was a systemic problem relating to freedom of assembly in Russia. The difficulties encountered by the applicants had not been isolated incidents; they originated in a widespread administrative practice resulting from malfunctions in the domestic legislation described above (compare *Broniowski v. Poland* [GC], no. 31443/96, § 189, ECHR 2004-V, and *Burdov v. Russia (no. 2)*, no. 33509/04, § 131, ECHR 2009). Indeed, the lack of clarity of the domestic law and the disproportionate and unnecessary restrictions provided by it, coupled with the absence of an effective remedy,

had made possible its arbitrary and discriminatory application. As a result, restrictions on the time, location or manner of conduct were systematically imposed on peaceful assemblies if the message conveyed by them did not please the authorities. The large number of applications pending before the Court demonstrated the recurrent and persistent nature of the problem, which affected large numbers of people from all Russian regions (compare *Ananyev and Others*, cited above, §§ 185 and 195). The amendments introduced in 2012 had further aggravated the situation, in particular by providing that all public events were to be held at specially designated locations, and that other locations could be used in exceptional circumstances only.

2. The Government

388. The Government submitted that the notification procedure established by Russian law did not encroach upon the essence of the right under Article 11 of the Convention, because its purpose was to allow the authorities to take reasonable and appropriate measures to protect public order, to guarantee the smooth conduct of a public event, and to reconcile the right to freedom of assembly on the one hand, and, on the other hand, the rights and lawful interests (including the freedom of movement) of others (see, for example, *Bukta and Others v. Hungary*, no. 25691/04, § 35, ECHR 2007-III, and *Éva Molnár v. Hungary*, no. 10346/05, § 37, 7 October 2008). The requirement to notify the authorities about a public event and to obtain their agreement on its location and time did not therefore interfere with freedom of assembly.

389. The Government further submitted that Russian legal provisions governing public events met the "quality of law" requirement of Articles 10 § 2 and 11 § 2. In particular, the Public Events Act set up a clear time-limit for submitting a notification (see paragraph 226 above). Since the June 2012 amendments to the Act citizens could also hold public events in specially designated locations without submitting a notification (see paragraph 245 above). It was therefore possible for a public event to be held even in those cases where the notification time-limit could not for some reason be complied with.

390. Furthermore, domestic law established clear time-limits within which the authorities could submit proposals for changing the location or time of the public event, or for amending its purposes, type or other arrangements (see paragraph 228 above). If no such proposals were received by the organiser within the established time-limit, the public event was deemed to be approved by default.

391. Russian law did not indeed establish any procedure for notifying approval of a public event or a proposal to change its location, time or manner of conduct to its organisers. Any notification method, including delivery by post, was therefore lawful and acceptable. According to the

applicable regulations, all letters sent to an addressee within the same town were to be delivered within two days. By sending their decision by post, the authorities could therefore reasonably believe that the organisers would be notified in time. The applicants' argument that it would no longer be possible to hold a public event if the authorities' approval was received with a delay was unconvincing. According to the legal provisions then in force, the organisers were entitled to start campaigning for the public event from the moment the notification was lodged. They could therefore inform potential participants about the location, time and aims of the event before receiving the authorities' approval.

392. The Government further submitted that Russian law did not confer on the organisers any right to have the location and time of their public event approved by the authorities. The assessment of the risks of breaches of public order or rights of others and of security threats was within the discretionary powers of competent authorities. Referring to the decision of 2 April 2009 by the Constitutional Court (see paragraphs 255 to 259 above), they argued that the Public Events Act required the executive to give weighty reasons for their proposals to change the location or time of a public event. Such reasons might include the need to preserve the normal, uninterrupted functioning of vital public utility or transport services, to protect public order or the safety of citizens, or other similar reasons. It was impossible, however, to make an exhaustive list of permissible reasons, as this would have the effect of unjustifiably restricting the executive's discretion. The authorities also had to propose another location and time compatible with the public event's purposes and allowing the participants to bring their message to their target audience. The organisers, in their turn, were also required to make an effort to reach an agreement with the executive. If it proved impossible to reach an agreement, the organisers were entitled to defend their rights and interests in court. The courts had competence to assess whether the executive's decision was lawful and well reasoned, and whether the restriction on freedom of assembly was proportionate.

393. The Government submitted that in the present case each of the authorities' proposals to change the location, time or manner of conduct of a public event had been based on relevant and sufficient reasons. In particular, the authorities had referred to traffic constraints and risk of road accidents, construction works, other public events or celebrations at the locations chosen by the applicants, possible inconvenience to other people in the area, risk of breaches of public order, and others. The restrictions imposed on the applicants' freedom of assembly had therefore pursued the legitimate aims of protecting public order and the rights of others. The authorities had proposed alternative locations or time-slots to the applicants. Accordingly, the applicants had been afforded an opportunity to express their views in another venue chosen by the public authority. Despite the requirements of

the national law, the organisers had not been cooperative and had refused, without any valid reason, to accept the authorities' proposals (see *Berladir and Others*, cited above, §§ 56 and 60). The applicants' arguments that the locations chosen by them were crucially important and the locations proposed by the authorities unsuitable had been unconvincing because the change of location could not as such restrict the freedom of assembly. The domestic courts had found the authorities' actions lawful and justified.

394. There was no reason to believe that any of the authorities' decisions had been motivated by discriminatory attitudes. In particular, as regards the allegations of discrimination on grounds of political opinion (applications nos. 47609/11, 59410/11, 16128/12, 16134/12, 20273/12, 51540/12 and 64243/12), the Government submitted that the location chosen by the applicants was very popular with all political parties and public associations. Given that simultaneous holding of several public events at the same location was prohibited, the authorities approved the public event which had been notified first. The authorities had always applied a chronological approach, and had never been guided by any discriminatory attitudes. It was however logical that bigger associations more often succeeded in organising public events. Most of the public associations adopted cooperative attitudes and accepted the authorities' proposals to change the locations of events. By contrast, the applicants almost never agreed to such proposals, under the pretext that the location near the Lenin monument was the only suitable location owing to its proximity to the Town Administration.

395. As regards the specific situations cited by the applicants, the Government argued that the security measures applied during the meeting of 31 March 2011 had been determined taking into account all relevant information about the current security situation available to the law-enforcement authorities. The enclosing of the location and the bodily searches of the participants had been justified by the high risk of terrorist acts. Such measures were often taken during mass events. As regards the alleged difference in treatment of the notifications of a series of "pickets", the Government submitted that the notification lodged by the applicants had concerned a series of separate "pickets", each of which required a separate notification submitted within the statutory time-limit. By contrast, the notification submitted by the Young Guard had concerned a single public event lasting many days. The fact that the Young Guard had been allowed to hold their series of "pickets" while the applicants' notification had been rejected did not disclose any evidence of discrimination on account of political views. Lastly, as regards the meeting of 31 January 2012, the applicants had lodged their notification at 9.25 a.m. on 16 January 2012, while Mr B. had lodged his notification at 9 a.m. the same day. The applicable procedures did not require the Town Administration to establish how the people wishing to lodge a notification had entered the Town

Administration building. The reasons why one notification had been lodged before another had not been therefore taken into account by the Town Administration when deciding which of the public events to approve. There was therefore no evidence of discrimination on the grounds of political views.

396. The Government also submitted that since States had the right to require a notification for assemblies, they should be able to apply sanctions to those who participated in assemblies that did not comply with that requirement. The impossibility of imposing such sanctions would render illusory the power of the State to require notification (see *Ziliberberg v. Moldova* (dec.), no. 61821/00, 4 May 2004). Thus, the Court had found that the dispersal of a demonstration on the ground that the notification requirement had not been complied with and the arrest, prosecution and conviction of its organisers and participants was compatible with Articles 10 and 11 (see *Éva Molnár*, cited above; *Rai and Evans v. the United Kingdom* (dec.), nos. 26258/07 and 26255/07, 17 November 2009; and *Berladir and Others*, cited above). The Government concluded from the above that it was justified to disperse an unlawful public event. The applicants in the present case had acted unlawfully by holding public events without the authorities' approval. Dispersals of their public events had therefore been lawful and justified. The penalties imposed on them in the administrative offence proceedings had not been severe and had been therefore proportionate to the legitimate aims of protecting public order and the rights of others.

397. The Government argued that the only situation where the dispersal of an assembly because of the absence of the requisite prior notice had been found to amount to a disproportionate restriction on freedom of peaceful assembly concerned a spontaneous demonstration when an immediate response to a current event was warranted (see *Bukta and Others*, cited above, § 36). They disputed that the event held by the applicant of application no. 37038/13 could be qualified as genuinely spontaneous. They conceded that the date of the examination of the draft law had indeed been announced two days before, making it impossible to submit a notification within the statutory time-limit. They however stressed that on that date the State Duma had examined the draft law at second reading, while three readings were necessary for a law to be adopted. There had been sufficient time to organise a public event in accordance with the procedure prescribed by law before the third and final reading of the draft law by the State Duma. The facts of the present case had not therefore disclosed special circumstances such as would warrant an immediate demonstration as the only adequate response. The applicant had been therefore lawfully fined for participating in a public event held without prior notification. The amount of the fine had been reasonable.

398. The Government further submitted that the Public Events Act set up a list of locations where holding of public events was prohibited (see paragraph 223 above). That prohibition was justified by the special legal regime of those locations and the need to ensure their security. In particular, referring to the decision of 29 May 2007 by the Constitutional Court (see paragraph 253 above), the Government argued that the aim of the prohibition on holding public events in the vicinity of court buildings was to protect the independence of the judiciary and to prevent pressure on judges. The restriction was therefore justified, and did not breach citizens' constitutional rights. The acknowledged importance of freedom of expression did not require the automatic creation of rights of entry to private property, or even necessarily to all publicly owned property, provided that interested parties had an alternative opportunity to exercise their freedom of expression in a meaningful manner (see *Appleby and Others v. the United Kingdom*, no. 44306/98, §§ 47 and 48, ECHR 2003-VI).

399. The Government argued that the Public Events Act clearly indicated the authorities which had competence to determine the perimeter of the zones in which holding of public events was prohibited and the legal provisions and documents on the basis of which such a perimeter was to be determined (see paragraph 225 above). The Constitutional Court had held in its decision of 17 July 2007 (see paragraph 254 above) that such decisions had to be objectively justified by the aim of ensuring the normal functioning of public utility services situated on the territories concerned. An arbitrary determination of the perimeter of the zones in which holding of public events was prohibited was therefore excluded.

400. Lastly, the Government drew the Court's attention to the amendments to the Public Events Act introduced on 8 June 2012, which had imposed an obligation on the regional authorities to designate suitable locations where public events could be held without prior notification (see paragraph 245 above). Those amendments had further reinforced the citizens' freedom of assembly.

B. The Court's assessment

1. Admissibility

401. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

(a) Applicability of Article 11 of the Convention

402. The Court reiterates that the right to freedom of assembly covers both private meetings and meetings in public places, whether static or in the form of a procession; in addition, it can be exercised by individual participants and by the persons organising the gathering. The guarantees of Article 11 therefore apply to all gatherings except those where the organisers and participants have violent intentions, incite violence or otherwise reject the foundations of a democratic society (see *Kudrevičius and Others*, cited above, §§ 91 and 92).

403. It has not been disputed that Article 11 of the Convention is applicable to the facts of the present case. Indeed, all the public events at issue in the present case were intended to be, and actually were, peaceful. None of them were intended to incite violence or rejected the foundations of a democratic society.

(b) Existence of an interference

404. The Court reiterates that interference with the right to freedom of assembly does not need to amount to an outright ban, legal or *de facto*, but can consist in various other measures taken by the authorities. The term "restrictions" in Article 11 § 2 must be interpreted as including both measures taken before or during a gathering and those, such as punitive measures, taken afterwards (see *Ezelin*, cited above, § 39; *Kasparov and Others v. Russia*, no. 21613/07, § 84, 3 October 2013; *Primov and Others*, cited above, § 93; and *Nemtsov v. Russia*, no. 1774/11, § 73, 31 July 2014). For instance, a prior ban can have a chilling effect on those who may intend to participate in a rally and thus amount to an interference, even if the rally subsequently proceeds without hindrance on the part of the authorities. A refusal to allow an individual to travel for the purpose of attending a meeting amounts to an interference as well. So too do measures taken by the authorities during a rally, such as dispersal of the rally or the arrest of participants, and penalties imposed for having taken part in a rally (see *Kasparov and Others*, cited above, § 84, with further references).

405. The right to freedom of assembly includes the right to choose the time, place and manner of conduct of the assembly, within the limits established in paragraph 2 of Article 11 (see *Sáska v. Hungary*, no. 58050/08, § 21, 27 November 2012). The Court stresses in this connection that the organisers' autonomy in determining the assembly's location, time and manner of conduct, such as, for example, whether it is static or moving or whether its message is expressed by way of speeches, slogans, banners or by other ways, are important aspects of freedom of assembly. Thus, the purpose of an assembly is often linked to a certain location and/or time, to allow it to take place within sight and sound of its

target object and at a time when the message may have the strongest impact (see *Süleyman Çelebi and Others v. Turkey*, nos. 37273/10 and 17 others, § 109, 24 May 2016; see also, for the same approach, § 40 of the Report of the UN Special Rapporteur on the right to freedom of peaceful assembly and freedom of association of 21 May 2012, cited in paragraph 313 above; point 4.2 of the Compilation of Venice Commission Opinions Concerning Freedom of Assembly of 1 July 2014, cited in paragraph 315 above; and point 3.5 and § 101 of the 2010 Guidelines on Freedom of Peaceful Assembly by the ODIHR in consultation with the Venice Commission, cited in paragraph 317 above). Accordingly, in cases where the time and place of the assembly are crucial to the participants, an order to change the time or the place may constitute an interference with their freedom of assembly, as does a prohibition on speeches, slogans or banners (see *Stankov and the United Macedonian Organisation Ilinden*, cited above, §§ 79-80 and 108-09; *The United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, no. 44079/98, § 103, 20 October 2005; and *Disk and Kesk v. Turkey*, no. 38676/08, § 31, 27 November 2012).

406. The Court has already found in a case against Russia that the refusal to approve the location or time of an assembly amounted to an interference with the right to freedom of assembly. It has noted that although Russian law did not require an authorisation for public gatherings, a public event could not occur lawfully if the event organiser had not accepted a public authority's proposal for another venue and/or timing for the event. If the organiser still proceeded with the event as initially planned, it could be dispersed and its participants arrested and convicted of administrative offences (see *Berladir and Others*, cited above, §§ 47-51).

407. In the present case the competent authorities refused to approve the location, time or manner of conduct of public events planned by the applicants, and proposed alternative locations, times or manner of conduct. The applicants, considering that the authorities' proposals did not answer the purpose of their assembly, either cancelled the event altogether or decided to hold it as initially planned despite the risk of dispersal, arrest and prosecution. Some of them were indeed arrested and convicted of administrative offences, following the dispersal of their assembly. In one case the applicant was arrested and fined for participating in a public event which had not been notified to the authorities. He claimed that there was no longer time to submit a notification within the time-limit established by law because of the last-minute announcement of the date of the parliamentary examination of the draft law against which he wished to protest.

408. The Court concludes that there has been an interference with the applicants' right to freedom of peaceful assembly.

409. Such an interference will constitute a breach of Article 11 unless it is "prescribed by law", pursues one or more legitimate aims under paragraph 2, and is "necessary in a democratic society" for the achievement

of the aim or aims in question (see *Kudrevičius and Others*, cited above, § 102).

(c) Justification for the interference

(i) General principles

410. The Court reiterates that the expressions "prescribed by law" and "in accordance with the law" in Articles 8 to 11 of the Convention not only require that the impugned measure should have some basis in domestic law, but also refer to the quality of the law in question. The law should be accessible to those concerned and formulated with sufficient precision to enable them – if need be, with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail (see *Hasan and Chaush*, cited above, § 84, and *Maestri v. Italy* [GC], no. 39748/98, § 30, ECHR 2004-I, with further references). Also, the law must be sufficiently clear in its terms to give individuals an adequate indication as to the circumstances in which and the conditions on which public authorities are entitled to interfere with the rights guaranteed by the Convention (see *Liu v. Russia*, no. 42086/05, § 56, 6 December 2007; *Gülmez v. Turkey*, no. 16330/02, § 49, 20 May 2008; *Vlasov v. Russia*, no. 78146/01, § 125, 12 June 2008; and, *mutatis mutandis*, *Bykov v. Russia* [GC], no. 4378/02, § 76, 10 March 2009).

411. For domestic law to meet these requirements, it must afford a measure of legal protection against arbitrary interferences by public authorities with the rights guaranteed by the Convention. In matters affecting fundamental rights it would be contrary to the rule of law, one of the basic principles of a democratic society enshrined in the Convention, for legal discretion granted to the executive to be expressed in terms of an unfettered power. Consequently, the law must indicate with sufficient clarity the scope of any such discretion and the manner of its exercise (see *Hasan and Chaush*, loc. cit., and *Maestri*, loc. cit., with further references).

412. The general principles concerning the necessity of an interference with freedom of assembly have recently been summarised in the case of *Kudrevičius and Others* (cited above) as follows:

> *"(α) General*
>
> 142. The right to freedom of assembly, one of the foundations of a democratic society, is subject to a number of exceptions which must be narrowly interpreted and the necessity for any restrictions must be convincingly established. When examining whether restrictions on the rights and freedoms guaranteed by the Convention can be considered "necessary in a democratic society" the Contracting States enjoy a certain but not unlimited margin of appreciation (see *Barraco*, cited above, § 42). It is, in any event, for the Court to give a final ruling on the restriction's compatibility with the Convention and this is to be done by assessing the circumstances of a particular case (see *Rufi Osmani and Others v. the former Yugoslav Republic of Macedonia* (dec.), no. 50841/99, ECHR 2001-X, and *Galstyan*, cited above, § 114).

143. When the Court carries out its scrutiny, its task is not to substitute its own view for that of the relevant national authorities but rather to review under Article 11 the decisions they took. This does not mean that it has to confine itself to ascertaining whether the State exercised its discretion reasonably, carefully and in good faith; it must look at the interference complained of in the light of the case as a whole and determine, after having established that it pursued a "legitimate aim", whether it answered a "pressing social need" and, in particular, whether it was proportionate to that aim and whether the reasons adduced by the national authorities to justify it were "relevant and sufficient" (see *Coster v. the United Kingdom* [GC], no. 24876/94, § 104, 18 January 2001; *Ashughyan v. Armenia*, no. 33268/03, § 89, 17 July 2008; *S. and Marper v. the United Kingdom* [GC], nos. 30562/04 and 30566/04, § 101, ECHR 2008; *Barraco*, cited above, § 42; and *Kasparov and Others*, cited above, § 86). In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 11 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (see *Rai and Evans*, decision cited above, and *Gün and Others*, cited above, § 75; see also *United Communist Party of Turkey and Others v. Turkey*, 30 January 1998, § 47, Reports 1998-I, and *Gerger v. Turkey* [GC], no. 24919/94, § 46, 8 July 1999).

144. The proportionality principle demands that a balance be struck between the requirements of the purposes listed in paragraph 2 on the one hand, and those of the free expression of opinions by word, gesture or even silence by persons assembled on the streets or in other public places, on the other (see *Rufi Osmani and Others*, decision cited above; *Skiba*, decision cited above; *Fáber*, cited above, § 41; and *Taranenko*, cited above, § 65).

145. Freedom of assembly as enshrined in Article 11 of the Convention protects a demonstration that may annoy or cause offence to persons opposed to the ideas or claims that it is seeking to promote (see *Stankov and the United Macedonian Organisation Ilinden*, cited above, § 86). Any measures interfering with freedom of assembly and expression other than in cases of incitement to violence or rejection of democratic principles – however shocking and unacceptable certain views or words used may appear to the authorities – do a disservice to democracy and often even endanger it (see *Güneri and Others v. Turkey*, nos. 42853/98, 43609/98 and 44291/98, § 76, 12 July 2005; *Sergey Kuznetsov*, cited above § 45; *Alekseyev*, cited above, § 80; *Fáber*, cited above, § 37; *Gün and Others*, cited above, § 70; and *Taranenko*, cited above, § 67).

146. The nature and severity of the penalties imposed are also factors to be taken into account when assessing the proportionality of an interference in relation to the aim pursued (see *Öztürk v. Turkey* [GC], no. 22479/93, § 70, ECHR 1999-VI; *Rufi Osmani and Others*, decision cited above; and *Gün and Others*, cited above, § 82). Where the sanctions imposed on the demonstrators are criminal in nature, they require particular justification (see *Rai and Evans*, decision cited above). A peaceful demonstration should not, in principle, be rendered subject to the threat of a criminal sanction (see *Akgöl and Göl v. Turkey*, nos. 28495/06 and 28516/06, § 43, 17 May 2011), and notably to deprivation of liberty (see *Gün and Others*, cited above, § 83). Thus, the Court must examine with particular scrutiny the cases where sanctions imposed by the national authorities for non-violent conduct involve a prison sentence (see *Taranenko*, cited above, § 87).

(β) The requirement of prior authorisation

147. It is not, in principle, contrary to the spirit of Article 11 if, for reasons of public order and national security a High Contracting Party requires that the holding of meetings be subject to authorisation (see *Oya Ataman*, cited above, § 37*; Bukta and Others v. Hungary*, no. 25691/04, § 35, ECHR 2007-III; *Balçık and Others v. Turkey*, no. 25/02, § 49, 29 November 2007; *Nurettin Aldemir and Others v. Turkey*, nos. 32124/02, 32126/02, 32129/02, 32132/02, 32133/02, 32137/02 and 32138/02, § 42, 18 December 2007; *Éva Molnár*, cited above, § 35; *Karatepe and Others v. Turkey*, nos. 33112/04, 36110/04, 40190/04, 41469/04 and 41471/04, § 46, 7 April 2009; *Skiba*, decision cited above; *Çelik v. Turkey* (no. 3), no. 36487/07, § 90, 15 November 2012; and *Gün and Others*, cited above, §§ 73 and 80). Indeed, the Court has previously considered that notification, and even authorisation procedures, for a public event do not normally encroach upon the essence of the right under Article 11 of the Convention as long as the purpose of the procedure is to allow the authorities to take reasonable and appropriate measures in order to guarantee the smooth conduct of any assembly, meeting or other gathering (see *Sergey Kuznetsov*, cited above, § 42, and *Rai and Evans*, decision cited above). Organisers of public gatherings should abide by the rules governing that process by complying with the regulations in force (see *Primov and Others*, cited above, § 117).

148. Prior notification serves not only the aim of reconciling the right of assembly with the rights and lawful interests (including the freedom of movement) of others, but also the aim of preventing disorder or crime. In order to balance these conflicting interests, the institution of preliminary administrative procedures appears to be common practice in member States when a public demonstration is to be organised (see *Éva Molnár*, cited above, § 37, and *Berladir and Others v. Russia*, no. 34202/06, § 42, 10 July 2012). However, regulations of this nature should not represent a hidden obstacle to freedom of peaceful assembly as protected by the Convention (see *Samüt Karabulut v. Turkey*, no. 16999/04, § 35, 27 January 2009, and *Berladir and Others*, cited above, § 39).

149. Since States have the right to require authorisation, they must be able to impose sanctions on those who participate in demonstrations that do not comply with such requirement (see *Ziliberberg*, decision cited above; *Rai and Evans*, decision cited above; *Berladir and Others*, cited above, § 41; and *Primov and Others*, cited above, § 118). At the same time, the freedom to take part in a peaceful assembly is of such importance that a person cannot be subject to a sanction – even one at the lower end of the scale of disciplinary penalties – for participation in a demonstration which has not been prohibited, so long as that person does not himself commit any reprehensible act on such an occasion (see *Ezelin*, cited above, § 53; *Galstyan*, cited above, § 115; and *Barraco*, cited above, § 44). This is true also when the demonstration results in damage or other disorder (see *Taranenko*, cited above, § 88).

150. An unlawful situation, such as the staging of a demonstration without prior authorisation, does not necessarily justify an interference with a person's right to freedom of assembly (see *Cisse v. France*, no. 51346/99, § 50, ECHR 2002-III; *Oya Ataman*, cited above, § 39; *Barraco*, cited above, § 45; and *Skiba*, decision cited above). While rules governing public assemblies, such as the system of prior notification, are essential for the smooth conduct of public demonstrations, since they allow the authorities to minimise the disruption to traffic and take other safety measures, their enforcement cannot become an end in itself (see *Primov and Others*, cited above, § 118). In particular, where demonstrators do not engage in acts of violence it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance (see *Oya Ataman*, cited above,

§ 42; *Bukta and Others*, cited above, § 37; *Nurettin Aldemir and Others*, cited above, § 46; *Ashughyan*, cited above, § 90; *Éva Molnár*, cited above, § 36; *Barraco*, cited above, § 43; *Berladir and Others*, cited above, § 38; *Fáber*, cited above, § 47; *İzci v. Turkey*, no. 42606/05, § 89, 23 July 2013; and *Kasparov and Others*, cited above, § 91).

151. The absence of prior authorisation and the ensuing "unlawfulness" of the action do not give carte blanche to the authorities; they are still restricted by the proportionality requirement of Article 11. Thus, it should be established why the demonstration was not authorised in the first place, what the public interest at stake was, and what risks were represented by the demonstration. The method used by the police for discouraging the protesters, containing them in a particular place or dispersing the demonstration is also an important factor in assessing the proportionality of the interference (see *Primov and Others*, cited above, § 119). Thus, the use by the police of pepper spray to disperse an authorised demonstration was found to be disproportionate, even though the Court acknowledged that the event could have disrupted the flow of traffic (see *Oya Ataman*, cited above, §§ 38-44).

152. In the case of *Bukta and Others* (cited above, §§ 35 and 36), the Court held that in special circumstances where a spontaneous demonstration might be justified, for example in response to a political event, to disperse that demonstration solely because of the absence of the requisite prior notice, without any illegal conduct on the part of the participants, might amount to a disproportionate restriction on their freedom of peaceful assembly.

153. The Court has also clarified that the principle established in the case of *Bukta and Others* cannot be extended to the point where the absence of prior notification of a spontaneous demonstration can never be a legitimate basis for crowd dispersal. The right to hold spontaneous demonstrations may override the obligation to give prior notification of public assemblies only in special circumstances, namely if an immediate response to a current event is warranted in the form of a demonstration. In particular, such derogation from the general rule may be justified if a delay would have rendered that response obsolete (see *Éva Molnár*, cited above, §§ 37-38, and *Skiba*, decision cited above).

154. Furthermore, it should be pointed out that even a lawfully authorised demonstration may be dispersed, for example when it turns into a riot (see *Primov and Others*, cited above, § 137).

(γ) Demonstrations and disruption to ordinary life

155. Any demonstration in a public place may cause a certain level of disruption to ordinary life, including disruption of traffic (see *Barraco*, cited above, § 43; *Disk and Kesk v. Turkey*, no. 38676/08, § 29, 27 November 2012; and *İzci*, cited above, § 89). This fact in itself does not justify an interference with the right to freedom of assembly (see *Berladir and Others*, cited above, § 38, and *Gün and Others*, cited above, § 74), as it is important for the public authorities to show a certain degree of tolerance (see *Ashughyan*, cited above, § 90). The appropriate "degree of tolerance" cannot be defined *in abstracto*: the Court must look at the particular circumstances of the case and particularly at the extent of the "disruption to ordinary life" (see *Primov and Others*, cited above, § 145). This being so, it is important for associations and others organising demonstrations, as actors in the democratic process, to abide by the rules governing that process by complying with the regulations in force (see *Oya Ataman*, cited above, § 38; *Balçık and Others*, cited above, § 49; *Éva Molnár*, cited above, § 41; *Barraco*, cited above, § 44; and *Skiba*, decision cited above).

156. The intentional failure by the organisers to abide by these rules and the structuring of a demonstration, or of part of it, in such a way as to cause disruption to ordinary life and other activities to a degree exceeding that which is inevitable in the circumstances constitutes conduct which cannot enjoy the same privileged protection under the Convention as political speech or debate on questions of public interest or the peaceful manifestation of opinions on such matters. On the contrary, the Court considers that the Contracting States enjoy a wide margin of appreciation in their assessment of the necessity in taking measures to restrict such conduct (see paragraph 97 above; see also, mutatis mutandis, *Drieman and Others*, decision cited above).

157. Restrictions on freedom of peaceful assembly in public places may serve to protect the rights of others with a view to preventing disorder and maintaining an orderly flow of traffic (see *Éva Molnár*, cited above, § 34). Since overcrowding during a public event is fraught with danger, it is not uncommon for State authorities in various countries to impose restrictions on the location, date, time, form or manner of conduct of a planned public gathering (see *Primov and Others*, cited above, § 130).

(δ) The State's positive obligations under Article 11 of the Convention

158. States must not only refrain from applying unreasonable indirect restrictions upon the right to assemble peacefully but also safeguard that right. Although the essential object of Article 11 is to protect the individual against arbitrary interference by public authorities with the exercise of the rights protected (see *Associated Society of Locomotive Engineers and Firemen (ASLEF) v. the United Kingdom*, no. 11002/05, § 37, 27 February 2007, and *Nemtsov*, cited above, § 72), there may in addition be positive obligations to secure the effective enjoyment of these rights (see *Djavit An*, cited above, § 57; *Oya Ataman*, cited above, § 36; and *Gün and Others*, cited above, § 72).

159. The authorities have a duty to take appropriate measures with regard to lawful demonstrations in order to ensure their peaceful conduct and the safety of all citizens (see *Oya Ataman*, cited above, § 35; *Makhmoudov v. Russia*, no. 35082/04, §§ 63-65, 26 July 2007; *Skiba*, decision cited above; and *Gün and Others*, cited above, § 69). However, they cannot guarantee this absolutely and they have a wide discretion in the choice of the means to be used (see *Protopapa v. Turkey*, no. 16084/90, § 108, 24 February 2009). In this area the obligation they enter into under Article 11 of the Convention is an obligation as to measures to be taken and not as to results to be achieved (see *Plattform "Ärzte für das Leben" v. Austria*, 21 June 1988, § 34, Series A no. 139, and *Fáber*, cited above, § 39).

160. In particular, the Court has stressed the importance of taking preventive security measures such as, for example, ensuring the presence of first-aid services at the site of demonstrations, in order to guarantee the smooth conduct of any event, meeting or other gathering, be it political, cultural or of another nature (*Oya Ataman*, cited above, § 39)."

(ii) Application to the present case

413. It has not been disputed by the parties that the refusal to approve the location, time or manner of conduct of the public events planned by the applicants, the dispersal of public events, the arrest of the organisers and participants and their prosecution for administrative offences had a basis in the domestic law, namely the Public Events Act and the Administrative Offences Code.

414. The applicants, however, complain that these provisions confer unduly wide discretion on the authorities in terms of proposing changes of location, time or manner of conduct of public events, and applying security measures during public events, dispersing public events in the event of the organisers' refusal to comply with the authorities' proposals, and arresting the organisers and participants of such events. They also complain of the general ban on holding public events at certain locations, of the alleged inflexibility of the statutory time-limit for notification of a public event, of the lack of a clear procedure for informing the organisers of the authorities' decision approving a public event, or refusing such approval and proposing a change of the location, time or manner of conduct. The Court will examine each of the above aspects in turn.

415. As a preliminary remark, the Court notes that it has already criticised the very similar legal framework existing in Azerbaijan as lacking foreseeability and precision and, as a result, allowing public assemblies to be arbitrarily banned or dispersed (see *Gafgaz Mammadov v. Azerbaijan*, no. 60259/11, § 55, 15 October 2015).

(α) The authorities' proposals to change the location, time or manner of conduct of the applicants' public events

416. All the applicants complained that the domestic law conferred an unduly wide discretion on the executive authorities to propose a change of the location, time or manner of conduct of public events which was not restricted by the requirements of proportionality or necessity in a democratic society or by effective judicial control.

417. The Court notes at the outset that the judgment of the national authorities in any particular case that there are valid reasons against holding a public assembly at a specific location is one which the Court is not well equipped to challenge (see *Berladir and Others*, cited above, § 59). It would have difficulties assessing locations in terms of their size, security, traffic density, closeness to the target audience, and so on. Indeed, a multitude of local factors are implicated in managing the locations, time, and manner of conduct of public assemblies. Hence, by contrast to content-based restrictions on freedom of assembly which should be subjected to the most serious scrutiny by this Court (see *Primov and Others*, cited above, § 135), in the sphere of restrictions on the location, time or manner of conduct of an assembly the Contracting States must be allowed a wider margin of appreciation. That margin of appreciation, although wide, is not unlimited and goes hand in hand with European supervision by the Court, whose task is to give a final ruling on whether the imposed restrictions were compatible with Article 10 or 11.

418. The Court reiterates that where a wide margin of appreciation is afforded to the national authorities, the procedural safeguards available to the individual will be especially material in determining whether the

respondent State has, when fixing the regulatory framework, remained within its margin of appreciation. In particular, the Court must examine whether the decision-making process leading to measures of interference was fair and such as to afford due respect to the interests safeguarded to the individual by the Convention (see *Chapman v. the United Kingdom* [GC], no. 27238/95, § 92, ECHR 2001-I; see also *Buckley v. the United Kingdom*, 25 September 1996, §§ 74-76, *Reports of Judgments and Decisions* 1996-IV; and *Liu v. Russia (no. 2)*, no. 29157/09, §§ 85 and 86, 26 July 2011).

419. The Public Events Act empowers the competent regional or municipal authorities to make "well-reasoned" ("*обоснованные*") proposals to the organisers for changes in the location, time or manner of conduct of a public event (see paragraph 228 above). However, the relevant law does not provide for any substantive criteria on the basis of which to determine whether the executive authorities' proposals are "well reasoned". In its common meaning "well reasoned" means no more than giving "valid" or "sound" reasons. There is no requirement that the proposal be considered "necessary in a democratic society", and therefore no requirement of any assessment of the proportionality of the measure.

420. It is true that the Constitutional Court has held that the authorities must give "weighty" reasons for such proposals and identified certain general principles by which they are to be guided when using this power. On the other hand, the Constitutional Court has also stressed that the executive's discretion in the matter may not be unjustifiably restricted (see paragraphs 256 and 257 above). In the Court's view, the safeguards provided by the Constitutional Court have not been demonstrated to constitute a real curb on the wide powers afforded to the executive so as to offer the individual adequate protection against arbitrary interference.

421. The present case demonstrates that the authorities refer to a wide variety of reasons to justify their proposals for a change to the location, time or manner of conduct of a public event. The reasons most frequently cited in the present case were: other public events scheduled at the same location and time (for more details see paragraph 422 below); risk of various disruptions to ordinary life, such as interference with vehicle or pedestrian traffic, with the normal functioning of public authorities or public utility services, with maintenance works in the vicinity, or more generally with the everyday life of residents, such as, for example, obstruction of access to parks or shops (for more details see paragraph 423 below); safety or national security considerations, such as for example a risk of terrorist attacks (for more details see paragraph 424 below); or negative attitudes of others to the views expressed at the public event and the consequent risk of violence (for more details see paragraphs 425 below). Although these reasons were undoubtedly relevant, the authorities did not have to show that they were sufficient to justify a restriction of the freedom of assembly, that

is to say that such a restriction was necessary in a democratic society and, in particular, proportionate to any legitimate aim pursued.

422. An analysis of the present case reveals, for example, that a mere reference to the fact that another public event had earlier been notified to take place at the location chosen by the organisers was considered by the authorities to be a valid reason for a proposal to change the location (see paragraphs 14, 22, 56, 58, 63, 76, 85, 87, 129, 135, 137, 149, 151, 179, 186, 196, and 205 above). The authorities did not examine whether, in view of the size of the venue and the expected number of participants, it might be feasible to hold the two events simultaneously. Nor did they ascertain whether there was a risk of clashes between the two events and, where such a risk existed, whether it could be managed by taking appropriate security measures. The Court considers that the refusal to approve the venue of a public assembly solely on the basis that it is due to take place at the same time and at the same location as another public event and in the absence of a clear and objective indication that both events cannot be managed in an appropriate manner through the exercise of policing powers, is a disproportionate interference with the freedom of assembly (see, in the same vein, § 30 of the Report of the UN Special Rapporteur on the right to freedom of peaceful assembly and freedom of association of 21 May 2012, cited in paragraph 313 above; point 2.3 of the Compilation of Venice Commission Opinions Concerning Freedom of Assembly of 1 July 2014, cited in paragraph 315 above; and point 4.3 and § 122 of the 2010 Guidelines on Freedom of Peaceful Assembly by the ODIHR in consultation with the Venice Commission, cited in paragraph 317 above).

423. Further, in a large number of cases the reasons advanced by the domestic authorities for their refusals to approve the location, time or manner of conduct of a public event related to different types of disruptions of ordinary life, such as, for example, interference with, or hindrance to, traffic (see paragraphs 40, 41, 56, 58, 76, 78, 85, 98, 135, 159 above), utility services (see paragraph 41 above), commercial activities (see paragraphs 41 and 80 above), everyday life of citizens (see paragraphs 8 and 58 above), and maintenance works (see paragraphs 56, 78, 87, 109, 111, 113 above). The Court reiterates in this connection that any assembly in a public place is likely to cause a certain level of disruption to ordinary life, and that this in itself does not justify an interference with the right to freedom of assembly, as it is important for the public authorities to show a certain degree of tolerance (see *Kudrevičius and Others*, §§ 155-57, cited in paragraph 412 above). In none of the present cases did the authorities argue that the organisers intentionally structured their public event in such a way as to cause disruption to ordinary life and other activities to a degree exceeding that which is inevitable in the circumstances. Nor is there any evidence that the authorities considered ways of minimising disruption to ordinary life, for example by organising a temporary diversion of traffic on alternative

routes or by taking other similar measures, and at the same time accommodating the organisers' legitimate interest in assembling within sight and sound of their target audience.

424. Proposals to change the location, time or manner of conduct of an assembly were also quite often motivated by a reference to safety or national security considerations, such as a risk of terrorist attacks (see paragraphs 8, 94, 96, 98 above). It is significant that in their decisions the executive authorities did not rely on any evidence corroborating the existence of such risks or assess whether they were serious enough to justify a restriction of the freedom of assembly. Moreover, the present case shows that a reference to safety and national security risks was sometimes used selectively to restrict anti-government public assemblies, while during the same period of time pro-government assemblies and public festivities were allowed to proceed unhindered, the alleged terrorist risk notwithstanding (see paragraphs 105 and 171 to 175 above; see also, for the same reasoning, *Makhmudov v. Russia*, no. 35082/04, §§ 69-73, 26 July 2007).

425. As regards the reference to negative attitudes of others to the views expressed at the assembly and the consequent risk of violence also advanced by the Russian authorities on one occasion (see paragraph 126 above), the Court reiterates that the mere existence of a risk of clashes between the demonstrators and their opponents is insufficient as a justification for banning the event. If every possibility of tension and heated exchange between opposing groups during a demonstration were to warrant its prohibition, society would be faced with being deprived of the opportunity of hearing differing views on any question which offends the sensitivity of the majority opinion. Participants in peaceful assemblies must be able to hold demonstrations without having to fear that they will be subjected to physical violence by their opponents. It is thus the duty of Contracting States to take reasonable and appropriate measures to enable lawful demonstrations to proceed peacefully (*Plattform "Ärzte für das Leben" v. Austria*, 21 June 1988, §§ 32 and 34, Series A no. 139; *Barankevich v. Russia*, no. 10519/03, §§ 31 and 32, 26 July 2007; and *Fáber v. Hungary*, no. 40721/08, §§ 38-40, 24 July 2012). The Court therefore considers that a reference to negative attitudes of others towards the views expressed at a public assembly cannot serve as a justification either for a refusal to approve such an assembly or for a decision to banish it from the city centre to the outskirts. There is no indication that an evaluation of the resources necessary for neutralising the threat of clashes was part of the domestic authorities' decision-making process. Instead of considering measures which could have allowed the applicants' public event to proceed without disturbance, the authorities chose to relocate it out of the town centre to a remote and deserted location (see paragraphs 126 to 130 above).

426. Further, the Court observes that the Public Events Act does not require that the location or time proposed by the authorities as an alternative

to the location chosen by the organisers should be such that the message which they seek to convey is still capable of being communicated. Although the Constitutional Court held that the authorities should propose a location and time compatible with the assembly's purposes (see paragraph 257 above), an analysis of the present case reveals that the Constitutional Court's instructions were not complied with in practice. Indeed, on many occasions the authorities proposed locations outside the city centre, far from any government officers and with limited passage of people, that is not within sight and sound of the target audiences (see, for example, paragraphs 77, 86, 110, 130, 138, 160, 180, 187 and 197 above). The Court considers that the practice whereby the authorities allow an assembly to take place, but only at a location which is not within sight and sound of its target audience and where its impact will be muted, is incompatible with the requirements of Article 11 of the Convention (see, in the same vein, § 40 of the Report of the UN Special Rapporteur on the right to freedom of peaceful assembly and freedom of association of 21 May 2012, cited in paragraph 313 above; point 4.2 of the Compilation of Venice Commission Opinions Concerning Freedom of Assembly of 1 July 2014, cited in paragraph 315 above; and point 3.5 and §§ 45 and 101 of the 2010 Guidelines on Freedom of Peaceful Assembly by the ODIHR in consultation with the Venice Commission, cited in paragraph 317 above).

427. In view of the foregoing, the Court finds that in practice the competent authorities empowered to propose changes of location, time or manner of conduct of public events did not attach sufficient importance to freedom of assembly. The balance appears to be set in favour of protection of other interests, such as rights and freedoms of non-participants or avoidance of even minor disturbances to everyday life.

428. The Court takes note of the Government's argument that the exercise of the executive's powers to propose a change of the location, time or manner of conduct of a public event is subject to judicial review (see paragraph 392 above). It has however already found that at the material time the Russian legal system did not permit to obtain judicial review of the authorities' refusal to approve the location, time or manner of conduct of a public event before its planned date (see paragraphs 347 to 354 above). Moreover, the scope of judicial review was limited to examining the lawfulness of the proposal to change the location, time or manner of conduct of a public event, and did not include any assessment of its "necessity" and "proportionality" (see paragraphs 356 to 358 above). Indeed, the breadth of the executive's discretion is such that it is likely to be difficult if not impossible to prove that any proposal to change the location, time or manner of conduct of a public event is unlawful or not "well-reasoned" (see, for similar reasoning *Gillan and Quinton v. the United Kingdom*, no. 4158/05, §§ 80 and 86, ECHR 2010 (extracts)).

429. In the Court's view, there is a clear risk of arbitrariness in the grant of such broad and uncircumscribed discretion to the executive authorities. There is a risk that such a widely framed power could be misused against organisers of, and participants in, public assemblies in breach of Article 10 and/or 11 of the Convention (see, for similar reasoning, *Gillan and Quinton*, cited above, § 85). Indeed, the present case shows that the above powers are often used in an arbitrary and discriminatory way. It provides ample examples of situations where opposition groups, human rights defenders or gay rights activists were not allowed to assemble at a central location and were required to go to the outskirts of town on the ground that they might hinder traffic, interfere with the everyday life of citizens, or present a security risk, and were dispersed and arrested if they refused to comply, while pro-government public events were allowed to take place at the same location, traffic, everyday-life disturbances and security risks notwithstanding. The most telling example is the case of gay rights activists who proposed ten different locations in the town centre, all of which were rejected by the town authorities on various grounds, while an anti-gay public event was approved to take place at one of those same locations on the same day (see paragraphs 53 to 64 above). Another conspicuous example is the case of the supporters of the opposition "Strategy-31" movement who, between June 2009 and August 2012, lodged at least eighteen notifications of public events in the centre of Rostov-on-Don, only one of which was approved by the town authorities, while government supporters did not have any apparent difficulty in having their public events at the same locations approved by the town authorities (see paragraphs 121 to 205 above).

430. To sum up, the Court is mindful that in cases arising from individual applications its task is not normally to review the relevant law and practice *in abstracto*, but to examine the manner in which that legislation was applied to the applicant in the particular circumstances (see, among many others, *Sahin v. Germany* [GC], no. 30943/96, § 87, ECHR 2003-VIII, and *Roman Zakharov v. Russia* [GC], no. 47143/06, § 164, ECHR 2015). The facts of the present case demonstrate the lack of adequate and effective legal safeguards against arbitrary and discriminatory exercise of the wide discretion left to the executive. Accordingly, the domestic legal provisions governing the power to propose a change of location, time or manner of conduct of public events do not meet the Convention "quality of law" requirements described in paragraphs 410 and 411 above.

(β) Prohibition of holding public events at certain locations

431. The applicants in one case (no. 19700/11) in addition complained that they had not been allowed to hold a public event at a location chosen by them because of a blanket statutory ban on holding public events in the vicinity of court buildings.

432. The Court observes that Russian law prohibits holding public events at certain locations, such as, among others, in the immediate vicinity of court buildings, detention facilities, the residences of the President of the Russian Federation, dangerous production facilities, railway lines and oil, gas or petroleum pipelines (see paragraph 223 above). Since 2012 the regional legislatures may designate other locations where public events are prohibited if a public event there can interfere with the normal functioning of public utility services, transport, social or communications services, or hinder the passage of pedestrians or vehicles or the access of citizens to residential buildings, transport or social facilities (see paragraphs 247 above). The Public Events Act does not define the term "in the immediate vicinity"; what is considered to be "in the immediate vicinity" is determined for each location by the local executive authorities.

433. The Court notes at the outset that the relevant comparative material demonstrates that only a minority of European countries establish statutory restrictions on holding public assemblies at certain locations which are normally publicly accessible, and none provides for a general ban on public assemblies near court buildings (see paragraphs 321 and 322 above). The UN Special Rapporteur on the right to freedom of peaceful assembly and freedom of association, the OSCE and the Venice Commission all recommend that blanket bans on assemblies in specific locations, such as in the vicinity of government institutions or courts, be avoided, since they tend to be over-inclusive and disproportionate, because no consideration can be given to the specific circumstances of each case (see § 39 of the Report of the UN Special Rapporteur on the right to freedom of peaceful assembly and freedom of association of 21 May 2012, cited in paragraph 313 above; point 4.2 of the Compilation of Venice Commission Opinions Concerning Freedom of Assembly of 1 July 2014, cited in paragraph 315 above; and §§ 43 and 102 of the 2010 Guidelines on Freedom of Peaceful Assembly by the ODIHR in consultation with the Venice Commission, cited in paragraph 317 above).

434. The Court reiterates that a State can, consistently with the Convention, adopt general measures which apply to pre-defined situations regardless of the individual facts of each case, even if this might result in individual hard cases (see *Animal Defenders International v. the United Kingdom* [GC], no. 48876/08, § 106, ECHR 2013 (extracts)). However, a general ban on demonstrations can only be justified if there is a real danger of their resulting in disorder which cannot be prevented by other less stringent measures. In this connection, the authority must take into account the effect of a ban on demonstrations which do not by themselves constitute a danger to public order. Only if the disadvantage of such demonstrations being caught by the ban is clearly outweighed by the security considerations justifying the issue of the ban, and if there is no possibility of avoiding such undesirable side effects of the ban by a narrow circumscription of its scope

in terms of territorial application and duration, can the ban be regarded as being necessary within the meaning of Article 11 § 2 of the Convention (see *Christians against Racism and Fascism v. the United Kingdom*, no. 8440/78, Commission decision of 16 July 1980).

435. According to the Government, the purpose of the ban on holding public events in the vicinity of the buildings and facilities mentioned in the Public Events Act is to ensure the security of these sensitive locations (see paragraph 398 above). The same purpose has been advanced by the Constitutional Court (see paragraph 254 above). The Court accepts that this purpose is relevant and in particular that the restriction in question pursues the aims of ensuring public safety and preventing disorder within the meaning of the second paragraph of Article 11.

436. Turning now to the proportionality of the general ban, the Court notes that there is no evidence that it has been the subject of an exacting parliamentary and judicial review. Neither the Government, nor the Constitutional Court in its ruling of 17 July 2007 (see paragraph 254 above), explained what security considerations justified it, except by vaguely referring to the "special legal regime" of the locations mentioned in the Public Events Act. Nor did the Constitutional Court explain why a general ban was a more feasible means of achieving the legitimate aim than a provision allowing case-by-case examination and targeting only those assemblies which presented a danger of disorder; or why the general ban could not be relaxed without a risk of abuse, significant uncertainty, discrimination or arbitrariness (compare *Animal Defenders International*, cited above, §§ 108 and 114-16). The Court is therefore not persuaded that the Government provided a convincing justification for the general ban in question.

437. Further, by contrast to the *Christians against Racism and Fascism* case (cited above), which concerned the prohibition for two months of all public processions in London, the restriction at issue in the present case is not limited in time, and applies to the entire territory of Russia and to all types of public events. Moreover, wide discretion is afforded to the local executive authorities in determining what is considered to be "in the immediate vicinity" of the locations specified in the Public Events Act. The general ban at issue is therefore not specifically circumscribed to address a precise risk to public safety or a precise risk of disorder with the minimum impairment of the right of assembly (compare *Animal Defenders International*, cited above, § 117).

438. Accordingly, the Court considers the Government have not convincingly shown that the general ban on holding public events at certain locations is proportionate to the legitimate aim of ensuring public safety and preventing disorder.

439. Relying on the Constitutional Court's ruling of 29 May 2007, the Government submitted, alternatively, that the prohibition on assemblies in

the immediate vicinity of court buildings in addition pursued the aim of protecting the independence of the judiciary and of preventing pressure on judges (see paragraph 253, and 398 above). The Court reiterates that exceptions to freedoms of association and assembly must be narrowly interpreted, such that the enumeration of them is strictly exhaustive and the definition of them necessarily restrictive (see *Sidiropoulos and Others v. Greece*, 10 July 1998, § 39, *Reports* 1998-IV, and *Svyato-Mykhaylivska Parafiya v. Ukraine*, no. 77703/01, § 132, 14 June 2007). It notes that, unlike the second paragraph of Article 10, paragraph 2 of Article 11 does not allow restrictions whose aim is maintaining the authority and impartiality of the judiciary. The Court has already found, in the context of public assemblies in front of court buildings, that the judiciary cannot be immune from criticism, and that very strong reasons are required for justifying restrictions on assemblies the purpose of which is to criticise alleged dysfunctions of the judicial system (see *Sergey Kuznetsov*, cited above, § 47, and *Kakabadze and Others*, cited above, § 88).

440. That being said, the Court accepts that a ban on holding public events in the immediate vicinity of court buildings may serve a legitimate interest, namely that of protecting the judicial process in a specific case from outside influence, and thereby protecting the rights of others, namely the parties to judicial proceedings. The ban should however be tailored narrowly to achieve that interest. In Russia the prohibition on holding public events in the vicinity of court buildings is formulated in absolute terms. It is not limited to public assemblies held with the intention of obstructing or impeding the administration of justice. It prohibits all assemblies, including those unrelated to any judicial proceedings. For example, the applicants were not allowed to hold a Gay Pride event in the town centre, on the ground that the location they chose was in the vicinity of the Constitutional Court building (see paragraph 56 above). It is significant that the event at issue was unrelated to any case being examined by the Constitutional Court; its purpose was to mark the anniversary of the start of the gay rights movement back in the 1960s and to condemn homophobia and discrimination against homosexuals.

441. Taking into account the absolute nature of the ban, coupled with the local executive authorities' wide discretion in determining what is considered to be "in the immediate vicinity" of court buildings (see paragraph 437 above), the Court concludes that the general ban on holding public events in the vicinity of court buildings is so broadly drawn that it cannot be accepted as compatible with Article 11 § 2.

442. In view of the above, the Court considers that the Government have not adduced relevant and sufficient reasons to justify this general ban on holding public events at certain locations. The refusal (in application no. 19700/11) to approve the applicants' public event by sole reference to this ban, without any consideration to the specific circumstances of the case,

could not therefore be regarded as being necessary within the meaning of Article 11 § 2 of the Convention.

(γ) Operation of the time-limit for notification of public events

443. The Court will now turn to some applicants' complaints about the operation of the time-limit for notification of public events (applications nos. 4618/11 and 37038/13). Under Russian law the organisers have to notify the competent authorities no earlier than fifteen days and no later than ten days before the intended public event (no later than three days in case of a "picket"); they have no right to hold a public event if the notification was lodged outside these time-limits (see paragraphs 226 and 231 above). The above-mentioned applicants argued that the inflexibility of this time-limit deprived them of the possibility of holding a public event at a date chosen by them.

444. The Court reiterates in this connection that the timing of public meetings held in order to voice certain opinions may be crucial for the political and social weight of such meetings. If a public assembly is organised after a given social issue loses its relevance or importance in a current social or political debate, the impact of the meeting may be seriously diminished. Freedom of assembly – if prevented from being exercised at a propitious time – can well be rendered meaningless (see *Bączkowski and Others*, cited above, § 82).

445. It further reiterates that the purpose of the notification procedure is to allow the authorities to take reasonable and appropriate measures in order to guarantee the smooth conduct of assemblies. States have a wide margin of appreciation in establishing the modalities of the operation of the notification procedure, including notification time-limits, provided this is formulated with sufficient precision and does not represent a hidden obstacle to freedom of peaceful assembly as protected by the Convention (see *Kudrevičius and Others*, §§ 147 and 48, cited in paragraph 412 above).

446. The Court has already found in the case of *Primov and Others* that the legal provisions governing the time-limit for notifying a public event was not formulated with sufficient precision. In particular, it did not clarify whether the obligation to notify the authorities no earlier than fifteen days and no later than ten days before the public event meant that within that time-slot the notification was to be *sent* by the organisers or *received* by the administration. This ambiguity could be misleading for the organisers and result in the notification being rejected as lodged out of time (see *Primov and Others*, cited above, §§ 124 and 125).

447. Further, it emerges from the comparative law materials that there are varied approaches among the member States to time-limits for lodging a notification. It is however significant that only a small minority of European countries establish a time-limit before which a notification is considered premature and that in a majority of the States the time-limit after which a

notification can no longer be lodged is two or three days before the assembly (see paragraph 320 above). The characteristic features of the Russian notification system are that it provides for a very short time-slot during which it is possible to lodge a notification, and that the time-limit after which a notification can no longer be lodged is considerably further removed from the date of the assembly than in a majority of other States. The Court will examine the two characteristic features, and in particular how they were applied in the present case, in turn.

- Situations where the entire notification time-limit fell on a public holiday (application no. 4618/11)

448. As regards the first characteristic, the Court notes that the time-slot during which it is possible to lodge a notification is six days: no earlier than fifteen days and no later than ten days before the intended public event, except for "pickets", which may be notified three days before the planned date. The Constitutional Court found that that provision was incompatible with the Russian Constitution in so far as it prevented a public event from being held in those cases where the entire time-limit for notification fell on a public holiday (see paragraphs 270 to 275 above). Indeed, the inflexible application of this provision makes it impossible to hold a public event other than a "picket" during a number of days after the New Year and Christmas holidays in January each year.

449. It is true that it is usually possible to organise a "picket" during that period. However, the Court notes that a "picket" is a static public event employing only visual means of expression, such as banners or placards. Participants are prohibited from using sound amplifying equipment, which makes it impossible to make speeches. The only reason to justify why during several days in January each year the only type of public event available to organisers should be a static and silent one appears to be the operation of the statutory time-limit for lodging notifications. The Court reiterates that while rules governing public assemblies, such as the system of prior notification, are essential for the smooth conduct of public events, their enforcement cannot become an end in itself (see *Primov and Others*, cited above, § 118). It considers, in particular, that exceptions should be available where, in the circumstances of the case, a rigid application of notification time-limits can lead to an unnecessary interference with freedom of assembly.

450. The present case provides a telling illustration of an automatic and inflexible application of the notification time-limit. As a result of the particularity of the legal framework described above, the applicants were unable to hold a march and a meeting to commemorate the anniversary of the murders of a well-known human rights lawyer and a journalist on 19 January (see paragraphs 30 to 37 above). The Court accepts that the date of the event was crucial for its participants. Although the applicants were

able to hold a "picket" on that day, they had to content themselves with a static event instead of a march, and could not express themselves through public speeches. The authorities did not adduce relevant and sufficient reasons for the restrictions imposed on their freedom of assembly (see *Stankov and the United Macedonian Organisation Ilinden*, cited above, §§ 108 and 109).

- *Spontaneous assemblies (application no. 37038/13)*

451. Turning now to the second particularity of the Russian notification system, the Court notes the unusually long, as compared to other States, ten-day period between the end of the notification time-limit and the planned date of the assembly. The only exception for this rule is a "picket", which may be notified three days before the planned date.

452. The Court notes that the Public Events Act makes no allowance for special circumstances, where an immediate response to a current event is warranted in the form of a spontaneous assembly (see *Kudrevičius and Others*, §§ 152 and 153, cited in paragraph 412 above). Indeed, in such cases the delay caused by compliance with the ten-day notification time-limit may render that response obsolete. The possibility of holding a "picket" does not always constitute an adequate substitute solution. Firstly, as the Court has already found, a "picket" is a particular type of assembly, allowing for limited methods of expression only. Secondly, it must be notified three days before, which in some cases requiring an immediate reaction may be too long a delay.

453. Thus, the applicant in case no. 37038/13 wanted to protest against a draft law prohibiting the adoption of Russian children by US citizens. The date of the parliamentary examination of the draft law was announced two days before, making it impossible for the protesters to comply even with the shorter three-day notification time-limit for "pickets", let alone with the normal ten-day time-limit for other types of public event (see paragraphs 206 to 215 above). The failure to inform the public sufficiently in advance of the date of the parliamentary examination of the draft law therefore left the protesters with the option of either foregoing their right to peaceful assembly altogether, or of exercising it in defiance of the administrative requirements.

454. The Court further notes that when convicting the applicant of participating in a public event held without prior notification, the domestic courts limited their assessment to establishing that the applicant had taken part in a "picket" which had not been notified within the statutory time-limit. They had not examined whether there were special circumstances calling for an immediate response to a current event in the form of a spontaneous assembly and justifying a derogation from the strict application of the notification time-limits. Indeed, the domestic legal provisions governing notification time-limits are formulated in rigid terms,

admitting of no exceptions and leaving no room for a balancing exercise conforming with the criteria laid down in the Court's case-law under Article 11 of the Convention.

455. In these circumstances, in the absence of a proper judicial review of these issues by the domestic authorities, the Court cannot speculate as to whether or not the facts of the instant case disclosed such special circumstances to which the only adequate response was an immediate assembly. The Government's argument that an immediate response was not warranted in the circumstances of the case (see paragraph 397 above) was not mentioned in any form in the domestic decisions and was cited for the first time in the proceedings before this Court.

- *Conclusion in respect of the application of the notification time-limit*

456. To sum up, the Government did not give any reasons why it should have been "necessary in a democratic society" to establish inflexible time-limits for notification of public events and not to make any exceptions to their application to take account of situations where it is impossible to comply with the time-limit, for example because of public holidays, in cases of justified spontaneous assemblies or in other cases (see, as an example, *Primov and Others*, cited above, §§ 121-28). In the light of the foregoing, the Court considers that the automatic and inflexible application of the notification time-limits in applications nos. 4618/11 and 37038/13 without any regard to the specific circumstances of each case amounted to an interference which was not justified under Article 11 § 2 of the Convention.

(δ) Procedure for informing the organisers about the authorities' decision in response to a notification of a public event

457. The Court will further examine the complaint raised by one of the applicants (application no. 51169/10) that he had been prevented from holding a public event because of the delay in communicating the authorities' decision approving it. It notes in this connection that Russian law does not establish any procedure for informing the organisers of the authorities' decision approving a public event or refusing such approval and proposing a change of the location, time or manner of conduct. As held by the Russian courts, the authorities have wide discretion to choose the means of communication with the organisers (see paragraph 18 above). It is not the Court's task to indicate the preferred ways of communicating with the organisers; the domestic authorities, which have the advantage of possessing direct knowledge of the situation, are better placed to assess the situation in the light of practical circumstances, such as the reliability or otherwise of the local postal service, the location of the parties, and the availability of technical equipment. However, given the very tight time-frame of the notification procedure, the Court considers that whatever the chosen method of communication, it should ensure that the organisers

are informed of the authorities' decision reasonably far in advance of the planned event, in such a way as to guarantee the right to freedom of assembly which is practical and effective, not theoretical or illusory. Indeed, if the organisers are not informed in timely fashion of the authorities' approval or the proposal to change the location, time or manner of conduct of the planned event, the organisers may have insufficient time to announce to the participants the approved time and location of the event, and may even have to abandon it (see, as an example of such a situation, *Primov and Others*, cited above, § 146).

458. Turning to the circumstances of the present case, the Court notes that the applicant was prevented from holding a public event because he had not received in time the authorities' decision approving one of the time-slots among those proposed by him (see paragraphs 15 to 20 above). The authorities chose to send the decision by post – which the Government themselves described as notoriously overburdened and prone to delivery delays (see paragraph 337 above) – three days before the planned event, thereby failing in their obligation to keep the organiser informed of the progress of his notification in timely fashion and in such a way as to guarantee the right to freedom of assembly which was practical and effective, not theoretical or illusory.

(ε) Dispersals of public events and arrests of the participants

459. Some applicants further complained about the dispersal of their events, and three applicants also complained about their arrests for participating in an unlawful public event (applications nos. 19700/11, 31040/11, 47609/11, 55306/11, 59410/11, 7189/12, 51540/12, and 37038/13).

460. The Court notes in this connection that the representative of the competent regional or municipal authorities present at the public event is empowered to order termination of that event if, among others, the organisers or participants have committed unlawful acts or have breached the procedure for the conduct of public events – for example by not submitting a notification or by failing to comply with the elements indicated in the notification or agreed upon after a proposal from the authorities to change its location, time or manner of conduct. If the event is not terminated as ordered, it may be dispersed by the police (see paragraphs 238 and 239 above). The police also have wide powers to escort to the police station or administratively arrest any person suspected of an administrative offence, including the offence of breaching the established procedure for the conduct of public events (see paragraphs 308 to 310 above).

461. It is significant that any breach of the procedure for the conduct of public events or any unlawful act by a participant, no matter how small or innocuous, may serve as a ground for the authorities' decision to terminate a public event. Similarly, the participants may be escorted to the police station

or administratively arrested in connection with an administrative offence of breaching the established procedure for the conduct of public events, which is widely formulated and covers any breach of procedure, even a minor one (see paragraphs 298 and 302 above). In particular, Russian law permits dispersal of a public event and arrest of the participants for the sole reason that no notification has been lodged or that the event is taking place at a location or time that has not been approved by the authorities, regardless of the existence of any disorder or of any real nuisance to the rights of others. The facts of the present case, as well as of other cases examined previously, show that the authorities display zero tolerance towards unlawful assemblies, even if they are peaceful, involve few participants and create only minimal or no disruption of ordinary life (see paragraphs 46, 91, 101, 115, 141, 142 and 210 above, see also *Malofeyeva*, cited above, §§ 137 and 140; *Kasparov and Others*, cited above, § 95; *Navalnyy and Yashin v. Russia*, no. 76204/11, § 65, 4 December 2014; and *Novikova and Others v. Russia*, nos. 25501/07, 57569/11, 80153/12, 5790/13 and 35015/13, §§ 136, 171,175 and 179-83, 26 April 2016). In all the above cases the domestic authorities made no attempt to verify the extent of the risks posed by the protestors, or to verify whether it had been necessary to disperse them. Nor was there any noticeable assessment of whether the applicants' escort to the police station or administrative arrest had been necessary in the circumstances, as required by the Constitutional Court in its judgments of 16 June 2009 and 17 January 2012 (see paragraphs 311 and 312 above). Moreover, the dispersal and arrest of participants occurred within a very short time after the beginning of the assembly, showing the authorities' impatience to end the unlawful public event before the protesters had had sufficient time to express their position of protest and to draw the attention of the public to their concerns (see, for similar reasoning, *Oya Ataman*, cited above, § 41, and *Samüt Karabulut v. Turkey*, no. 16999/04, § 37, 27 January 2009; see also, by contrast, *Éva Molnár*, cited above, §§ 42 and 43, and *Nosov and Others v. Russia*, nos. 9117/04 and 10441/04, §§ 58-60, 20 February 2014).

462. The Court takes note of the Government's argument that since States had the right to require notification of assemblies they should be able to sanction those who participated in assemblies that did not comply with the requirement by dispersing or arresting them and by convicting them of administrative offences. It reiterates in this connection that enforcement of rules governing public assemblies, although important, cannot become an end in itself. In particular, where demonstrators do not engage in acts of violence it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance (see *Kudrevičius and Others*, §§ 150 and 151, cited in paragraph 412 above). The Court considers that the authorities could have attained

their goals by allowing the applicants to complete their protest and perhaps imposing a reasonable fine on the spot or later on (see *Novikova and Others*, cited above, § 175; see also *Taranenko v. Russia*, no. 19554/05, §§ 75 and 95, 15 May 2014 on the chilling effect that a disproportionately severe sanction may have on the sanctioned person and other persons taking part in protest actions).

463. In view of the above considerations, the Court finds that by ending the applicants' protests and taking some of them to the police station, the authorities failed to show the requisite degree of tolerance, in breach of the requirements of Article 11 § 2 of the Convention (as set out in the case of *Kudrevičius and Others*, §§ 150 and 151, cited in paragraph 412 above).

(ζ) Security measures taken by the police during public events

464. Lastly, three applicants (application no. 20273/12) also complained about unusually strict security measures taken during a meeting organised by them and which had allegedly impeded their ability to communicate their message to the public.

465. The Court reiterates that the domestic authorities have a positive obligation to take appropriate measures with regard to lawful demonstrations in order to ensure their peaceful conduct and the safety of all citizens. They have a wide margin of appreciation in the choice of the means to be used (see *Kudrevičius and Others*, §§ 158-60, cited in paragraph 412 above). That being said, the Court has already found that unusually long security checks of participants that had resulted in delaying a rally amounted to an unjustified interference with the applicants' freedom of assembly (see *Singartiyski and Others*, cited above, § 42). Thus, applying security measures in the course of a public assembly is, on one hand, a part of the authorities' positive obligations to ensure the peaceful conduct of the assembly and the safety of all citizens, but, on the other hand, it also constitutes a restriction on the exercise of the right to freedom of assembly (see *Frumkin v. Russia*, no. 74568/12, § 102, 5 January 2016).

466. Among the security measures available to the authorities policing public assemblies in Russia are searches of participants and their belongings at the entry to the public event (see paragraph 236 above), which logically leads to cordoning or fencing off the location to prevent the entry of those who have not yet been searched or who refuse to be searched. This provision is formulated in general terms and gives no indication of the circumstances in which the police may use the power conferred on them. In particular, there is no requirement that the security measures in question be considered "necessary in a democratic society", and therefore no requirement for any assessment of the proportionality of the measure. In the Court's view, there is a risk of arbitrariness in the grant of such a broad discretion to the police (see, for similar reasoning, *Singartiyski and Others*,

cited above, § 45; and, *mutatis mutandis*, *Gillan and Quinton*, cited above, §§ 80 and 85).

467. The facts of the present case illustrate how the police powers are used in practice. The police fenced off the location of an approved public event with metal barriers, parked buses along the barriers, diverted all passers-by to alternative roads, searched all the participants before letting them enter the fenced-off location, and closed the entry as soon as the number of participants reached the number indicated in the notification, that is fifty people (see paragraph 174 above). The Court agrees with the applicants that the combination of the above measures resulted in creating a shielded enclosure where a small group of people were allowed to express their protest surrounded by the police and hidden from public view. The participants' ability to communicate the message which they sought to convey was thereby seriously undermined and the impact of the assembly was significantly muted.

468. The Court observes that the only justification cited by the domestic authorities for the invasive security measures described above was a vague reference to possible terrorist or extremist acts. No evidence corroborating the reality and seriousness of the security risk referred to by the authorities or the necessity of reinforced security measures at the material time was produced or examined in the domestic judicial proceedings.

469. Examining the circumstances of the present case as a whole, the Court perceives strong and concordant indications militating against the authorities' allegation that public security considerations were the true reason for the security measures in question. If the authorities had indeed had sufficiently serious and credible information about a security risk, that information would have required reinforced security measures during all public events held at the time. However, as submitted by the applicant and not contradicted by the Government, no security measures were taken by the police during other public events held at the same period of time, including at an official public event held at the same location only five days after the applicants' meeting (see paragraphs 175 and 385 above). These elements – the lack of evidence capable of substantiating the reality and seriousness of the alleged security risk, viewed in the light of the fact that security measures had been adopted solely during the applicants' opposition meeting, whereas no such measures had been taken during the official public events – lead the Court to the conclusion that, in adopting the exceptionally drastic security measures during the applicants' meeting, the domestic authorities acted in an arbitrary and discriminatory manner (see, for similar reasoning, *Makhmudov*, cited above, §§ 69-73).

470. Lastly, as regards the police's decision to stop admitting new participants to the applicants' meeting, the Court observes that the Public Events Act permits the authorities to stop admission only if the maximum capacity of the venue is exceeded (see paragraph 235 above). That ground

was not however relied on in the domestic proceedings or in the proceedings before the Court. As claimed by the applicants, and not contested by the Government, the venue in question was able to accommodate up to 800 people. It is clear from the photographs submitted by the applicants that the venue was far from crowded and there was enough space to accommodate more participants. Indeed, the only ground relied on to stop admission of new participants was the fact that the number of participants mentioned in the notification had been reached. Neither the Government nor the domestic courts relied on any legal provision allowing the authorities to stop admitting participants to a public event on that ground. The court is therefore not convinced that that measure was in accordance with the law.

(η) Conclusion

471. The Court finds that in each application the authorities did not give relevant and sufficient reasons for their proposals to change the location, time or manner of conduct of the applicants' public events. These proposals were based on legal provisions which did not provide for adequate and effective legal safeguards against arbitrary and discriminatory exercise of the wide discretion left to the executive and which did not therefore meet the Convention "quality of law" requirements.

472. The Court finds, in addition, that the refusal to approve the public event in application no. 19700/11 by reference to the general ban on holding public events in the vicinity of court buildings could not be regarded as being "necessary in a democratic society" because the general ban lacked convincing justification and was so broadly drawn that it could not be accepted as compatible with Article 11 § 2.

473. Also, the automatic and inflexible application of the time-limits for notification of public events in applications nos. 4618/11 and 37038/13 - without taking into account that it was impossible to comply with the time-limit because of public holidays or spontaneous nature of the event respectively – was not justified under Article 11 § 2.

474. Further, in application no. 51169/10 the authorities failed in their obligation to ensure that the official decision taken in response to a notification reached the applicants reasonably in advance of the planned event, in such a way as to guarantee the right to freedom of assembly which was practical and effective, not theoretical or illusory.

475. By dispersing the applicants' public events and by arresting three of them in applications nos. 19700/11, 31040/11, 47609/11, 55306/11, 59410/11, 7189/12, 51540/12 and 37038/13, the authorities failed to show the requisite degree of tolerance towards peaceful, albeit unlawful, assemblies, in breach of the requirements of Article 11 § 2.

476. Lastly, in adopting the exceptionally drastic security measures during the public event in application no. 20273/12, the domestic authorities acted in an arbitrary and discriminatory manner.

477. In view of the above considerations, the Court finds that the interferences with the applicants' freedom of assembly were based on legal provisions which did not meet the Convention's "quality of law" requirements, and were moreover not "necessary in a democratic society". There has therefore been a violation of Article 11 of the Convention interpreted in the light of Article 10 of the Convention in each application.

478. Having regard to this finding, and in the light of the reasoning that has led to this conclusion (see, in particular, paragraphs 424, 429, 430 and 469 above), the Court considers that it is not necessary to examine separately the applicants' complaint under Article 14 of the Convention taken in conjunction with Articles 10 and 11.

IV. ALLEGED VIOLATIONS OF ARTICLE 5 § 1 OF THE CONVENTION

479. Three of the applicants complained that their arrest had been arbitrary and unlawful. They relied on Article 5 § 1, which reads as follows:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> (a) the lawful detention of a person after conviction by a competent court;
>
> (b) the lawful arrest or detention of a person for non- compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
>
> (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
>
> (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
>
> (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
>
> (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition."

A. Admissibility

480. The Court notes that this complaint, raised by two applicants in applications nos. 47609/11 and 51540/12 and by the applicant in application no. 37038/13, is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

(a) Applications no. 47609/11 Yelizarov v. Russia and no. 51540/12 Batyy v. Russia

481. Two applicants (Mr Yelizarov and Mr Batyy) submitted that the domestic authorities had never explained why it had been impossible to draw up a report on the administrative offence on the spot without escorting them to the police station. They had not been violent. No violent or otherwise dangerous incidents had occurred during the public event, which was entirely peaceful. They were therefore escorted to the police station in breach of the requirements of Article 27.2 of the Code of Administrative Offences (see paragraph 309 above).

482. Nor had the authorities demonstrated the existence of any exceptional circumstances justifying the applicants' administrative arrest under Article 27.3 of the Code of Administrative Offences (see paragraph 310 above). In particular, they had not shown that the arrest had been necessary for the prompt and proper examination of the case or to secure the enforcement of any penalty to be imposed, as required by that Article, or proportionate to the purposes provided by the Constitution and the Convention, as required by the Constitutional Court in its judgment of 16 June 2009 (see paragraph 311 above). There had been nothing "exceptional" in the applicants' situation to justify their administrative arrest and overnight detention at the police station. They had been charged with a non-violent offence, and there had been no risk of absconding or interfering with the proceedings. The authorities had not explained why their situation was different from that of other participants in the same event who had not been arrested. The fact that the applicants were eventually sentenced to relatively small fines showed that their detention pending trial was manifestly disproportionate to the gravity of the imputed offence.

483. The Government submitted that Mr Yelizarov's and Mr Batyy's arrest had been lawful. They had breached the established procedure for the conduct of public events and had disobeyed a lawful order by the police. They had been escorted to the police station and arrested for the purpose of stopping the above administrative offences in accordance with Articles 27.1, 27.2 and 27.3 of the Code of Administrative Offences (see paragraphs 308 to 310 above). In particular, they had been charged with an administrative offence punishable by up to fifteen days' administrative detention and could therefore be lawfully arrested pending the administrative offence proceedings for up to forty-eight hours.

(b) Application no. 37038/13 Tarasov v. Russia

484. The applicant submitted that his detention had not been recorded. The police had not made an administrative arrest report. Nor had they mentioned in the report of the administrative offence that he had been escorted to the police station. His arrest had therefore been unlawful. Moreover, given that he had not committed any offence, his arrest had not had any legitimate purpose under Article 5 § 1.

485. The Government submitted that the applicant had been escorted to the police station and then administratively arrested for the legitimate purpose of drawing up a report on the administrative offence. While Russian law did not establish a maximum length of time for escort to a police station, administrative arrest was limited to three hours. That requirement had been respected in the applicant's case, as his administrative arrest had not exceeded three hours: from 10.30 a.m. to 1.20 p.m. All procedural requirements prescribed by law had therefore been respected.

2. The Court's assessment

486. The Court reiterates that the expressions "lawful" and "in accordance with a procedure prescribed by law" in Article 5 § 1 essentially refer back to national law and state the obligation to conform to the substantive and procedural rules thereof. However, the "lawfulness" of detention under domestic law is not always the decisive element. The Court must in addition be satisfied that detention during the period under consideration was compatible with the purpose of Article 5 § 1 of the Convention, which is to prevent individuals from being deprived of their liberty in an arbitrary fashion. Furthermore, the list of exceptions to the right to liberty secured in Article 5 § 1 is an exhaustive one, and only a narrow interpretation of those exceptions is consistent with the aim of that provision, namely to ensure that no one is arbitrarily deprived of his liberty (see *Giulia Manzoni v. Italy*, 1 July 1997, § 25, *Reports* 1997-IV).

487. It has not been disputed that Mr Yelizarov and Mr Batyy were deprived of their liberty within the meaning of Article 5 § 1 of the Convention from 6.45 p.m. on 31 October to 10.20 a.m. on 1 November 2010 (see paragraph 142 above). As regards Mr Tarasov, the time he was initially put into the police van is disputed by the parties. It is however clear from the documents in the case file that he was deprived of his liberty at least from 10 a.m. until 1.20 p.m. on 19 December 2012 (see paragraphs 210 to 212 above).

488. The Court observes that Mr Tarasov was first escorted to the police station in accordance with Article 27.2 of the Code of Administrative Offences (see paragraph 309 above) and then, once at the police station, administratively arrested in accordance with Article 27.3 of the Code of Administrative Offences (see paragraph 310 above). There is no evidence in

the case file that the escorting procedure under Article 27.2 was applied to Mr Yelizarov or Mr Batyy. It follows from the available documents that they were administratively arrested in accordance with Article 27.3.

489. As regards the escorting procedure, the police report stated that Mr Tarasov had been escorted to the police station for the purpose of drawing up an administrative offence report. Article 27.2 of the Code of Administrative Offences provides that a suspected offender could be escorted to a police station for the purpose of drawing up an administrative offence report only if such a report could not be drawn up at the place where the offence had been discovered. The Government have not argued that in the applicant's case this was impossible, and no obstacles to drawing up the report on the spot may be discerned from the documents in the case file (see, for similar reasoning, *Navalnyy and Yashin,* cited above, §§ 68 and 93).

490. As regards Mr Tarasov's, Mr Yelizarov's and Mr Batyy's administrative arrest, neither the Government nor any other domestic authorities have provided any justification as required by Article 27.3 of the Code, namely that it was an "exceptional case" or that it was "necessary for the prompt and proper examination of the administrative case and to secure the enforcement of any penalty to be imposed". In the absence of any explicit reasons given by the authorities for arresting the applicants, the Court considers that their administrative arrest was unlawful (see, for similar reasoning, *Frumkin*, cited above, § 150).

491. For these reasons the Court is not satisfied that the escorting of Mr Tarasov to the police station and Mr Tarasov's, Mr Yelizarov's and Mr Batyy's administrative arrest complied with Russian law so as to be "lawful" within the meaning of Article 5 § 1.

492. It follows that there has been a violation of Article 5 § 1 in respect of Mr Yelizarov, Mr Batyy and Mr Tarasov.

V. ALLEGED VIOLATIONS OF ARTICLE 6 OF THE CONVENTION

A. Application no. 31040/11 Ponomarev and Others v. Russia

493. The applicants complained that the quashing of the judgment of 23 September 2010 by way of supervisory review had violated their "right to court" and that the supervisory-review judgment of 12 November 2010 had not been pronounced publicly. They relied on Article 6 § 1 of the Convention, the relevant part of which reads as follows:

> "In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law."

1. Admissibility

494. The Court has on several occasions already found that Article 6 was applicable under its civil head to domestic proceedings concerning the rights to freedom of assembly or association (see, for example, *APEH Üldözötteinek Szövetsége and Others v. Hungary*, no. 32367/96, §§ 34-36, ECHR 2000-X; *Kuznetsov and Others v. Russia*, no. 184/02, §§ 79-85, 11 January 2007; and *Sakellaropoulos v. Greece* (dec.), no. 38110/08, 6 January 2011). It does not see any reason to depart from that finding in the present case.

495. The Court further notes that the applicants' complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

(a) Submissions by the parties

496. The applicants submitted that the quashing of the judgment in their favour by way of a supervisory-review procedure had violated their "right to court" guaranteed by Article 6 § 1 of the Convention. There had been no fundamental defect in the proceedings. The fact that the Presidium disagreed with the assessment made by the lower courts had not been, in itself, an exceptional circumstance warranting the quashing of a binding and enforceable judgment and reopening of the proceedings.

497. The applicants further submitted that the reasoned judgment of 12 November 2010 had not been pronounced publicly. At the end of the hearing only the operative part had been read out by the bailiffs. The reasoned judgment had not been read out publicly and had been sent to the applicants by post. It had not been published on the Moscow City Court's official website or made publicly available in any other form.

498. The Government conceded that, in accordance with the Court's established case-law, the quashing of a binding and enforceable judgment by way of supervisory-review proceedings could constitute a violation of an applicant's "right to court" guaranteed by Article 6 § 1 of the Convention. However, the Court had found that in certain cases the quashing of a binding and enforceable judicial decision could be justified for correction of fundamental defects and when made necessary by circumstances of a substantial and compelling character (see *Protsenko v. Russia*, no. 13151/04, §§ 25-34, 31 July 2008, and *Tishkevich v. Russia*, no. 2202/05, §§ 25 and 26, 4 December 2008). In the present case, the quashing of the judgment of 23 September 2010 had been justified for correction of a clear misbalance between private and public interests.

499. As regards the public pronouncement of 12 November 2010, the Government submitted that the applicants had been notified of the date of

the hearing and had attended. The judgment had been pronounced publicly in the courtroom. There was no information about the applicants' presence in the courtroom at that moment.

(b) The Court's assessment

500. The Court reiterates that for the sake of legal certainty, a principle which is enshrined in Article 6, final judgments should in principle be left intact. The principle of legal certainty insists that no party is entitled to seek reopening of proceedings merely for the purpose of a rehearing and a fresh decision in the case. Higher courts' power to quash or alter binding and enforceable judicial decisions should be exercised for correction of fundamental defects. The mere possibility of two views on the subject is not a ground for re-examination. Departures from that principle are justified only when made necessary by circumstances of a substantial and compelling character (see *Ryabykh v. Russia*, no. 52854/99, §§ 51 and 52, ECHR 2003-IX, and *Kot v. Russia*, no. 20887/03, §§ 23 and 24, 18 January 2007).

501. The Court further reiterates that it has frequently found violations of the principle of legal certainty and of the right to a court in supervisory-review proceedings, both before 2003, as governed by the 1964 Code of Civil Procedure, and from 2003 to 2008, as governed by the 2002 Code of Civil Procedure (see, among many other authorities, *Ryabykh*, cited above, §§ 51–56; *Volkova v. Russia*, no. 48758/99, §§ 34-36, 5 April 2005; *Roseltrans v. Russia*, no. 60974/00, §§ 27 and 28, 21 July 2005; *Kot*, cited above, §§ 21-30; *Bodrov v. Russia*, no. 17472/04, §§ 29-32, 12 February 2009; and *Lenchenkov and Others v. Russia*, nos. 16076/06, 42096/06, 44466/06 and 25182/07, §§ 20-24, 21 October 2010).

502. As regards the supervisory-review procedure under the Code of Civil Procedure in force from 2008 to 2012, the Court has found that, despite certain amendments introduced in 2008, there remained many of the defects identified in the previous versions of that supervisory-review procedure (see *Martynets v. Russia* (dec.), no. 29612/09, 5 November 2009). The Court has however recently held that, despite these defects, the possibility cannot be excluded that the operation of the amended supervisory-review procedure in practice could, under certain circumstances, be consonant with the requirements of Article 6 of the Convention. The Court considered that the issue to be addressed by it was not whether the amended 2008 supervisory-review procedure was compatible as such with the Convention, but whether the procedure, as applied in the circumstances of particular cases, resulted in a violation of the requirement of legal certainty (see *Trapeznikov and Others v. Russia*, nos. 5623/09, 12460/09, 33656/09 and 20758/10, §§ 34 and 35, 5 April 2016).

503. Turning to the circumstances of the present case (see paragraphs 49 to 51 above) the Court notes that the supervisory-review application was

lodged by a party to the proceedings and initiated within the statutory time-limit and after they had availed themselves of an appeal before a second-instance court. The Court, however, is not persuaded that these elements are of crucial importance for its analysis (see, among many others, *Kot*, cited above, §§ 12-13 and 28).

504. The Court further notes that the judgment of 23 September 2010 in the applicants' favour was set aside on the ground that the City Court had incorrectly established the facts of the case. The Court reiterates that the incorrect application of domestic law or establishment of the facts do not on their own constitute a fundamental defect within the meaning of its case-law, and do not justify a departure from the principle of legal certainty (see, amongst many other authorities, *Luchkina v. Russia*, no. 3548/04, § 19, 10 April 2008).

505. Having regard to these considerations, the Court finds that, by granting the Moscow Government's request to set aside the judgment of 23 September 2010, the Presidium of the Moscow City Court infringed the principle of legal certainty and the applicants' "right to court" under Article 6 § 1 of the Convention. There has accordingly been a violation of that Article.

506. In view of that finding, it is not necessary to examine separately the applicants' complaint that the supervisory-review judgment was not pronounced publicly.

B. Application no. 37038/13 Tarasov v. Russia

507. The applicant complained that he had been convicted by courts which were not "established by law". He relied on Article 6 § 1 of the Convention, the relevant part of which reads as follows:

> "In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law."

508. The applicant complained that the charges against him, which he argued to be criminal within the meaning of Article 6, had been examined by a justice of the peace instead of by a district court as provided by the domestic law (see paragraph 307 above). His case had not therefore been examined by a tribunal established by law. The applicant conceded that he had not raised this issue before the first-instance court or on appeal. He argued however that the domestic courts, which were not bound by the parties' arguments, should have examined the jurisdiction issue of their own motion.

509. The Government submitted, firstly, that the applicant had not raised the jurisdiction issue before the first-instance or appeal courts. He had not therefore exhausted domestic remedies. Secondly, the Government submitted that Article 6 was not applicable to the contested proceedings,

because the applicant had been charged with an administrative rather than a criminal offence.

510. The Court notes that the applicant did not raise the issue of the justice of the peace's lack of jurisdiction to examine his case, either before the justice of the peace herself or on appeal. It follows that this complaint must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

VI. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

511. Lastly, the Court has examined the other complaints submitted by the applicants and, having regard to all the material in its possession and in so far as the complaints fall within the Court's competence, it finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the applications must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

VII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

512. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

513. All applicants except one (Mr Lashmankin) claimed each between 5,000 and 60,000 euros (EUR) in respect of non-pecuniary damage. One applicant (Mr Tarasov) also claimed 20,000 Russian roubles (RUB, about EUR 450) in respect of pecuniary damage, representing the fine he had paid.

514. The Government submitted that the claims for non-pecuniary damage were excessive. As regards the claim for pecuniary damage, they submitted that the fine had been lawfully imposed on Mr Tarasov for an administrative offence.

515. The Court considers that there is a direct causal link between the violation of Article 11 found and the fine Mr Tarasov had paid following his conviction for the administrative offence (see, for similar reasoning, *Novikova and Others,* cited above, § 232). The Court therefore awards Mr Tarasov EUR 450 in respect of pecuniary damage, plus any tax that may be chargeable.

516. The Court observes that it has found violations of Articles 11 and 13 in respect of all the applicants. It has also found violations of

Article 5 in respect of Mr Yelisarov, Mr Batyy and Mr Tarasov. Lastly, it has found a violation of Article 6 in respect of Mr Ponomarev, Mr Ikhlov and Mr Udaltsov. Having regard to the nature of the violations found in respect of each applicant and to the principle *ne ultra petitum*, the Court awards the following amounts in respect of non-pecuniary damage, plus any tax that may be chargeable:

Mr Nepomnyashiy: EUR 7,500;
Mr Ponomarev: EUR 7,500;
Mr Ikhlov: EUR 7,500;
Mr Udaltsov: EUR 7,500;
Ms Yefremenkova: EUR 5,000;
Mr Milkov: EUR 7,500;
Mr Gavrikov: EUR 7,500;
Mr Sheremetyev: EUR 7,500;
Mr Kosinov: EUR 7,500;
Mr Labudin: EUR 7,500;
Mr Khayrullin: EUR 7,500;
Mr Grigoryev: EUR 7,500;
Mr Gorbunov: EUR 7,500;
Mr Zhidenkov: EUR 5,000;
Mr Zuyev: EUR 5,000;
Ms Maryasina: EUR 5,000;
Mr Feldman: EUR 5,000;
Mr Yelizarov: EUR 10,000;
Mr Nagibin: EUR 7,500;
Ms Moshiyan: EUR 7,500;
Mr Batyy: EUR 10,000;
Mr Tarasov: EUR 10,000.

B. Costs and expenses

517. Mr Ponomorev, Mr Ikhlov and Mr Udaltsov claimed EUR 4,000 for their representation by Mr Shukhardin before the domestic courts and the Court. They asked for the award to be paid directly to Mr Shukhardin's bank account. The Government submitted that the claims were unsubstantiated, because no legal fee agreement or payment receipts were presented by the applicants to confirm that the costs had really been incurred.

518. Relying on a legal fee agreement and the lawyer's time-sheets, Mr Gavrikov claimed EUR 7,930 for representation by Mr Bartenev. The Government submitted that the amount claimed was excessive.

519. Relying on bills and invoices, Mr Nagibin, Ms Moshiyan, Mr Batyy and Mr Yelizarov claimed RUB 73,535 for translation fees, 1,313.84 pounds sterling for proofreading fees, and RUB 2,776 for postal expenses.

The Government submitted that the claims were excessive. Moreover, the translation and proofreading invoices were addressed to the applicants' representative's law firm rather than to the applicants themselves.

520. Relying on legal fee agreements and invoices, Mr Tarasov claimed EUR 315 for legal representation in the domestic proceedings, EUR 8,500 for legal representation before the Court, and EUR 32 for postal expenses. The applicant asked that his legal fees for representation before the Court be paid directly into the bank account of his representative Mr Terekhov. The Government submitted that the amounts claimed were excessive, that the claim for legal fees incurred in the domestic proceedings was unrelated to the present case, and that the postal bills did not mention the addressee.

521. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. As regards the Government's argument that Mr Ponomorev, Mr Ikhlov, and Mr Udaltsov had not produced a legal fee agreement between them and their representative Mr Shukhardin, the Court has already found in a similar situation that, given that Russian legislation provides that a contract on consulting services may be concluded in an oral form (Article 153 read in conjunction with Article 779 of the Civil Code of the Russian Federation), and irrespective of the fact that the applicant had not yet paid the legal fees, they were real from the standpoint of the Convention (see *Fadeyeva v. Russia*, no. 55723/00, § 147, ECHR 2005-IV). The Court does not see any reason to depart from this finding in the present case.

522. Regard being had to the above criteria and the documents in its possession, the Court considers it reasonable to award the following amounts:

- Mr Ponomorev, Mr Ikhlov and Mr Udaltsov: EUR 3,800, to be payable to the bank account of their representative Mr Shukhardin;
- Mr Gavrikov: EUR 7,500, plus any taxes that may be chargeable to the applicant;
- Mr Nagibin, Ms Moshiyan, Mr Batyy and Mr Yelizarov: EUR 3,000, plus any taxes that may be chargeable to the applicants;
- Mr Tarasov: EUR 300, plus any taxes that may be chargeable to the applicant; and EUR 8,500 payable to the bank account of his representative Mr Terekhov.

C. Default interest

523. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the complaints about the alleged breach of the applicants' rights to freedom of expression and freedom of assembly, the lack of an effective remedy in that respect and the alleged discrimination on account of political opinion or sexual orientation, the alleged unlawfulness of Mr Yelisarov's, Mr Batyy's and Mr Tarasov's arrest and the quashing of the judgment in Mr Ponomarev's, Me Ikhlov's and Mr Udaltsov's favour by way of supervisory review admissible and the remainder of the applications inadmissible;

3. *Holds* that there has been a violation of Article 13 of the Convention in respect of each applicant;

4. *Holds* that there has been a violation of Article 11 of the Convention in respect of each applicant;

5. *Holds* that there is no need to examine the complaint under Article 14 of the Convention taken in conjunction with Articles 10 and 11 of the Convention;

6. *Holds* that there has been a violation of Article 5 § 1 of the Convention in respect of Mr Yelisarov, Mr Batyy and Mr Tarasov;

7. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the quashing of the judgment in Mr Ponomarev's, Mr Ikhlov's and Mr Udaltsov's favour by way of supervisory review;

8. *Holds*

(a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 450 (four hundred and fifty euros), plus any tax that may be chargeable, to Mr Tarasov in respect of pecuniary damage;

(ii) the following amounts, plus any tax that may be chargeable, in respect of non-pecuniary damage:

- Mr Nepomnyashiy: EUR 7,500 (seven thousand five hundred euros);
- Mr Ponomarev: EUR 7,500 (seven thousand five hundred euros);
- Mr Ikhlov: EUR 7,500 (seven thousand five hundred euros);

- Mr Udaltsov: EUR 7,500 (seven thousand five hundred euros);
- Ms Yefremenkova: EUR 5,000 (five thousand euros);
- Mr Milkov: EUR 7,500 (seven thousand five hundred euros);
- Mr Gavrikov: EUR 7,500 (seven thousand five hundred euros);
- Mr Sheremetyev: EUR 7,500 (seven thousand five hundred euros);
- Mr Kosinov: EUR 7,500 (seven thousand five hundred euros);
- Mr Labudin: EUR 7,500 (seven thousand five hundred euros);
- Mr Khayrullin: EUR 7,500 (seven thousand five hundred euros);
- Mr Grigoryev: EUR 7,500 (seven thousand five hundred euros);
- Mr Gorbunov: EUR 7,500 (seven thousand five hundred euros);
- Mr Zhidenkov: EUR 5,000 (five thousand euros);
- Mr Zuyev: EUR 5,000 (five thousand euros);
- Ms Maryasina: EUR 5,000 (five thousand euros);
- Mr Feldman: EUR 5,000 (five thousand euros);
- Mr Yelizarov: EUR 10,000 (ten thousand euros);
- Mr Nagibin: EUR 7,500 (seven thousand five hundred euros);
- Ms Moshiyan: EUR 7,500 (seven thousand five hundred euros);
- Mr Batyy: EUR 10,000 (ten thousand euros);
- Mr Tarasov: EUR 10,000 (ten thousand euros);

(iii) the following amounts, plus any tax that may be chargeable to the applicants, in respect of costs and expenses:

- Mr Ponomorev, Mr Ikhlov and Mr Udaltsov jointly: EUR 3,800 (three thousand eight hundred euros), to be payable to the bank account of their representative Mr Shukhardin;
- Mr Gavrikov: EUR 7,500 (seven thousand five hundred euros);
- Mr Nagibin, Ms Moshiyan, Mr Batyy and Mr Yelizarov jointly: EUR 3,000 (three thousand euros);
- Mr Tarasov: EUR 300 (three hundred euros), plus EUR 8,500 (eight thousand five hundred euros) payable to the bank account of his representative Mr Terekhov;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

9. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 7 February 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips
Registrar

Luis López Guerra
President

APPENDIX

No.	Application no.	Date of introduction	Applicant's name Year of birth Place of residence	Representative
1.	57818/09	5 October 2009	Mr Aleksandr Vladimirovich Lashmankin 1973 Samara	
2.	51169/10	24 August 2010	Mr Kirill Sergeyevich Nepomnyashchiy 1981 The Krasnoyarsk Region	
3.	4618/11	8 December 2010	Mr Lev Aleksandrovich Ponomarev 1941 Moscow Mr Yevgeniy Vitalyevich Ikhlov 1959 Moscow	Mr V. Shukhardin, lawyer practising in Moscow
4.	19700/11	25 February 2011	Ms Mariya Vladimirovna Yefremenkova 1980 St Petersburg Mr Dmitriy Aleksandrovich Milkov 1983 The Nizhniy Novgorod Region Mr Yuriy Alekseyevich Gavrikov 1975 The Leningrad Region Mr Aleksandr Sergeyevich Sheremetyev 08/07/1990 St Petersburg	Mr D. Bartenev, lawyer practising in St Petersburg

No.	Application no.	Date of introduction	Applicant's name Year of birth Place of residence	Representative
5.	31040/11	11 May 2011	Mr Lev Aleksandrovich Ponomarev 1941 Moscow Mr Yevgeniy Vitalyevich Ikhlov 1959 Moscow Mr Sergey Stanislavovich Udaltsov 1977 Moscow	Mr V. Shukhardin, lawyer practising in Moscow
6.	47609/11	13 June 2011	Mr Grigoriy Aleksandrovich Yelizarov 1983 Rostov-on-Don	Ms M. Issaeva, lawyer practising in Moscow
7.	55306/11	14 June 2011	Mr Dmitriy Aleksandrovich Kosinov 1974 Kaliningrad Mr Yevgeniy Nikolayevich Labudin 1962 Kaliningrad Mr Vadim Vilyevich Khayrullin 1972 Kaliningrad Mr Yakov Aleksandrovich Grigoryev 1984 The Kaliningrad Region Mr Viktor Aleksandrovich Gorbunov 1961 Kaliningrad	

No.	Application no.	Date of introduction	Applicant's name Year of birth Place of residence	Representative
8.	59410/11	27 August 2011	Mr Pavel Nikolayevich Nagibin 1971 Rostov-on-Don	Ms M. Issaeva, lawyer practising in Moscow
9.	7189/12	7 December 2011	Mr Aleksandr Viktorovich Zhidenkov 1955 The Kaliningrad region Mr Petr Ivanovich Zuyev 1946 The Kaliningrad region Ms Anna Nikolayevna Maryasina 1970 The Kaliningrad region Mr Mikhail Valeryevich Feldman 1971 The Kaliningrad region	
10.	16128/12	28 February 2012	Mr Pavel Nikolayevich Nagibin 1971 Rostov-on-Don	Ms M. Issaeva, lawyer practising in Moscow
11.	16134/12	28 February 2012	Ms Siranush Khachaturovna Moshiyan 1963 Rostov-on-Don	Ms M. Issaeva, lawyer practising in Moscow
12.	20273/12	20 March 2012	Mr Boris Vadimovich Batyy 1961 Rostov-on-Don Mr Pavel Nikolayevich Nagibin 1971 Rostov-on-Don Ms Siranush Khachaturovna Moshiyan 1963 Rostov-on-Don	Ms M. Issaeva, lawyer practising in Moscow

No.	Application no.	Date of introduction	Applicant's name Year of birth Place of residence	Representative
13.	51540/12	19 May 2010	Mr Boris Vadimovich Batyy 1961 Rostov-on-Don	Ms M. Issaeva, lawyer practising in Moscow
14.	64243/12	21 September 2012	Mr Pavel Nikolayevich Nagibin 1971 Rostov-on-Don	Ms M. Issaeva, lawyer practising in Moscow
15.	37038/13	20 May 2013	Mr Igor Aleksandrovich Tarasov 1980 Moscow	Mr K. Terekhov, lawyer practising in Moscow