



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

THIRD SECTION

CASE OF KOTOV AND OTHERS v. RUSSIA

(Applications nos. 6142/18 and 13 others – see appended list)

JUDGMENT

Art 8 • Positive obligations • Private life • Failure to take adequate protective measures from 2015 to 2018 to reduce effects of pollution emanating from a landfill so as to prevent applicant's exposure to related health risks • Fair balance struck, after 2019, between competing interests at stake, with adoption of more robust and encompassing measures • Art 8 applicable • Non-negligible pollution levels affecting adversely and to a sufficient extent applicant's private life

Art 13 (+ Art 8) • Effective remedy

Art 11 • Freedom of peaceful assembly • Measures taken in relation to protests against the landfill and official refusals to approve related events, not "necessary in a democratic society"

STRASBOURG

11 October 2022

FINAL

11/01/2023

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Kotov and Others v. Russia,

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

Georges Ravarani, *President*,

Georgios A. Serghides,

María Elósegui,

Anja Seibert-Fohr,

Peeter Roosma,

Frédéric Krenç,

Mikhail Lobov, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the applications (nos. 6142/18 and others, see Appendix I) 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 ten Russian nationals (“the applicants”, see Appendix I), on the various dates indicated in the appended table;

the decision to give notice to the Russian Government (“the Government”) of the complaints concerning the applicants’ right to respect for their private life, the existence of effective domestic remedies with regard to that complaint and their right to freedom of assembly, and to declare inadmissible the remainder of the applications;

the parties’ observations;

Having deliberated in private on 6 September 2022,

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

INTRODUCTION

1. The main issues in the present case are (i) whether the authorities failed to take protective measures to minimise or eliminate the effects of the pollution allegedly caused by the continuing operation of a landfill site near the applicants’ homes in the town of Klin, Moscow Region, in violation of the applicants’ rights under Article 8 of the Convention and (ii) whether the applicants had an effective domestic remedy in respect of that complaint. Some of the applications also raise an issue concerning the right to freedom of peaceful assembly in connection with their protests against the landfill.

THE FACTS

2. The applicants’ relevant personal details are set out in Appendix I. The applicants were represented by Mr K. Koroteev, a lawyer practising in Moscow.

3. The Government were initially represented by Mr M. Galperin, former Representative of the Russian Federation to the European Court of Human Rights and lately by Mr M. Vinogradov, his successor in that office.

4. The facts of the case may be summarised as follows.

I. BACKGROUND TO THE CASE

5. The applicants live in the town of Klin, Moscow Region, which is located approximately 7 km from Aleksinskiy Quarry. The villages of Novotschapovo, Bol'shoye Tschapovo, Golikovo and Opritovo are located near each other in the Klin District and between 5.8 and 13 km from the quarry. Since 1993 the quarry has been used as a landfill site for solid household waste collected in the Klin District. It is currently operated by the waste management company Kombinat LLC (*ООО Комбинат*), pursuant to a lease agreement dated 12 November 2009 with the Klin municipal administration.

6. The applicants alleged that large amounts of solid waste had been taken to the quarry daily and deposited in the landfill site, in violation of the applicable environmental regulations. The allegedly unlawful operation of the landfill site had caused a number of environmental nuisances in Klin and the areas nearby, such as: a strong foul odour, air pollution, groundwater contamination and the circulation of waste particles in the air. Moreover, the large numbers of scavenging birds in the landfill site had threatened air safety in the area, owing to the fact that a military airbase ("Klin-5") was situated within 3 km of the landfill site and in proximity to the applicants' houses.

7. A large-scale multi-level solid waste recycling and processing plant was set up and started operations at the end of 2019 at the site of Aleksinskiy Quarry (*комбинат по переработке отходов (КПО) «Алексинский карьер»* – "the waste processing plant") (see paragraphs 51 and 69 below). The project for its construction had been discussed at a public hearing and it had received a positive conclusion from the authorities concerning the assessment of its impact on the environment.

II. DOMESTIC PROCEEDINGS

A. Civil proceedings brought by the first applicant (Mr Kotov, application no. 6142/18)

8. On 11 May 2017 the Klin Town Court of Moscow Region ("the Klin Town Court") examined a claim for compensation of damage to health and non-pecuniary damage brought by Mr Kotov ("the first applicant") against Kombinat LLC, the Moscow Regional Department of the Ministry of Natural Resources and Environment and the Klin municipal administration, in connection with the use and operation of the landfill site at Aleksinskiy

Quarry. Mr Kotov requested the court to order the defendants to abstain from acts or omissions interfering with his right to safe environment or creating a risk of such interference.

9. The first applicant explained at the hearing that (i) he owned and had been cultivating a plot of land in the village of Bol'shoye Tschapovo in the Klin District of Moscow Region; (ii) since 2015, every day, especially on hot days or in the evening, there had been a strong foul odour, which had made him feel frustrated, physically and mentally unwell, had caused him to have mood swings and had made him lose the desire to work and unable to sleep; he had also experienced headaches and nausea so badly that he could not even eat; and (iii) the landfill at Aleksinskiy Quarry had been the source of the foul waste odour, which had been confirmed by multiple complaints from local residents and the head of the regional administrative and technical supervisory body in a press release of 20 July 2016.

10. Witnesses A., Ch., Ey. and An., who lived in the villages close to the quarry, testified at the hearing that since 2015 there had regularly been a strong unpleasant odour emanating from the quarry.

11. The Klin Town Court, relying on relevant legal norms (see paragraphs 77 and 78 below) found that the first applicant had not substantiated with documentary evidence the harm allegedly caused to his health and the non-pecuniary damage he had allegedly sustained owing to the operation of the landfill site. In particular, the court held that (i) no documentary evidence, such as medical certificates confirming disability or admission for treatment in outpatient facilities or hospital, prescriptions for medication or pharmaceutical or medical receipts had been submitted proving the harm to his health; and (ii) the testimony of the four witnesses summoned on the first applicant's behalf regarding the foul odour emanating from the landfill site had been their subjective assessments of the odour and were not proof that the first applicant had actually endured any suffering personally and that he had in fact sustained the non-pecuniary damage caused by the smell from the quarry.

12. The Klin Town Court further held that the fact that Kombinat LLC had been sanctioned in administrative proceedings on 7 April 2015 and on 15 July 2015 for failure to register as a waste management company in the State landfill register and for failing to obtain license to emit harmful substances was not legally binding in the first applicant's case, as he had not been a party to either of those sets of proceedings. The court also held that neither those administrative judgments nor a judgment of the Commercial Court of Moscow Region (finding Kombinat LLC liable for conducting business operations without a permit) showed that the company had caused any air pollution.

13. Lastly, the court found that according to an inspection report dated 30 March 2017 by the Moscow Regional Department of the Ministry of Natural Resources and the Environment, the level of permitted air pollution

during the operation of the landfill site by Kombinat LLC had not been exceeded. This inspection report was not provided to the Court.

14. On 12 July 2017 the judgment was upheld on appeal by the Moscow Regional Court. On 12 October and 27 November 2017 respectively, the judgment was also upheld by the Moscow Regional Court and the Supreme Court of the Russian Federation in cassation appeal proceedings.

B. Administrative proceedings in respect of Kombinat LLC brought by different State bodies

15. Several sets of administrative proceedings in respect of Kombinat LLC may be summarised as follows:

No.	Date	State body	Administrative offence/environmental violation	Sanction
1.	7 April 2015	Klin Town Court	failing to register in the State landfill register	fine (amount left blank in a published copy of the judgment)
2.	15 July 2015	Klin Town Court	failing to register in the State landfill register	
3.	15 July 2015	Klin Town Court	operating without a licence to emit certain harmful substances into the atmospheric air and without established emission limits	
4.	3 March 2017	Klin Town Court	illegally depositing waste beyond the designated boundaries of the quarry	150,000 Russian roubles ((RUB) (about 1,700 euros (EUR)))
5.	4 August 2017	Consumer Protection Authority	See paragraphs 18-22 and 25 below	
6.	13 October 2017	Klin Town Court	See paragraphs 19-20 below	
7.	15 December 2017	Klin Town Court	emitting toxic elements above the MPL	RUB 90,000 (about EUR 1,000)

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			(registered on 6 September 2017): - ammonia (3 MPL), - nitrogen oxide (53 MPL) - phenol (93.8 MPL) - soot (1.3 MPL) - xylol (2.3 MPL)	
8.	19 December 2017	Klin Town Court	See paragraph 22 below	
9.	24 April 2018	Commercial Court of Moscow Region	failing to construct a protective barrier around the quarry to prevent the spread of fragments of waste, thus endangering people's lives and health and creating various environmental hazards	fine in the amount of RUB 100,000 (about EUR 1,000)
10.	7 May 2018	Klin Town Court	emitting toxic elements above the MPL (registered on 8 February 2018): nitrogen dioxide 2.2-12.8 MPL	RUB 100,000
11.	7 May 2018	Klin Town Court	failing to mention in its report on emissions a degasification furnace that releases carbon monoxide and nitrogen oxide	fine (amount left blank in a published copy of the judgment)
12.	7 May 2018	Klin Town Court	failing to keep land adjacent to the quarry free of uncollected fragments of waste; depositing unauthorised types of waste	fine in the amount of RUB 140,000 (about EUR 1,600)
13.	15 May 2018	Ministry of Natural Resources and the Environment	emitting ammonia 3.9-17 times above the MPL (as detected during an inspection on 27 April 2018 at air monitoring posts in the	order to ensure compliance with emissions permit by 26 January 2019

			villages near the quarry)	
14.	17 May 2018		depositing 833,186.20 tonnes of waste in 2017, above the authorised limit of 270,000 tonnes of waste a year	order to comply with the relevant environmental regulations
15.	19 June 2018	Klin Town Court	depositing unauthorised waste of II type of hazard	fine in the amount of RUB 120,000 (about EUR 1,400)
16.	13 December 2018	Klin Town Court	operating without a positive assessment of the environmental impact of its activities and in the absence of an established sanitary protection zone	

16. To give more details of some of the above proceedings, at the hearing of 7 April 2015 (set of proceedings no. 1 in the above table) the representative of Kombinat LLC explained that the company had been taking steps to have itself listed in the State landfill register, but that the authorities had not yet taken a decision on the matter.

17. At the hearing of 15 July 2015 (set of proceedings no. 3) the representative of Kombinat LLC stated that no measurements of emissions from the quarry had been carried out, that the quarry was the only place for household waste disposal in the Klin District, and that the suspension of Kombinat LLC's operations would be very damaging to the local environment. They also explained that the authorities had not yet registered Kombinat LLC in the landfill register.

18. Prior to the proceedings of 13 October 2017 (set of proceedings no. 6), on 4 August 2017 the Consumer Protection Authority of Moscow Region ("the regional CPA"), acting upon complaints by an unidentified number of people allegedly affected by the activities of Kombinat LLC, carried out an inspection at Aleksinskiy Quarry. The regional CPA concluded that in the course of its waste processing operations Kombinat LLC had breached sixteen environmental, sanitary and epidemiological regulations. The regional CPA ordered Kombinat LLC to suspend its operations and carry out remedial measures by 1 May 2018. On 11 August 2017 the Klin Town Court terminated the administrative proceedings against Kombinat LLC, finding the results of the inspection unsubstantiated. An inspector of the regional CPA appealed and on 7 September 2017 the Moscow Regional Court remitted the case to the Klin Town Court for fresh examination.

19. On 13 October 2017 (set of proceedings no. 6) the Klin Town Court confirmed the conclusions of the inspection of 4 August 2017 and found Kombinat LLC liable for breaching sixteen relevant sanitary, epidemiological and environmental regulations, which included:

- (i) failure to obtain the approval of the chief environmental health officer (*Главный санитарный врач*) for the creation of a sanitary protection zone around the quarry;
- (ii) insufficient soil supply for the intermediary and final stages of waste separation (uncovered and visible waste remains);
- (iii) leftover waste (mainly plastic rubbish bags) on the boundary of the quarry adjacent to the villages of Naprugovo and Novotschapovo;
- (iv) absence of gas control systems (which causes an increase in air pollution and has an adverse impact on nearby residential areas);
- (v) absence of a system for collecting leachates (liquid from rotten waste which endangers the quality of soil, groundwater and surface water);
- (vi) absence of regular monitoring (once every ten days) of uncollected fragments of waste (for example plastic bags and scraps of paper) and failure to take the relevant clean-up measures;
- (vii) failure to carry out regular cellular morphological and chemical testing of waste components;
- (viii) failure to make water control facilities accessible to inspectors' vehicles.

20. The Klin Town Court ordered Kombinat LLC to immediately suspend its activities for ninety days. The court explicitly stated in the operative part of its decision that the lodging of an appeal complaint would not prevent execution of the administrative sanction imposed on the defendant by the court.

21. On the same day the Klin Town Court granted a request by Kombinat LLC to suspend execution of the administrative sanction, pending the examination of the company's statement of appeal by the Moscow Regional Court.

22. On 19 December 2017 (set of proceedings no. 8) the Klin Town Court re-examined the case, which had been remitted to it by the Moscow Regional Court. It confirmed its earlier conclusions of 13 October 2017 and imposed an administrative fine of RUB 250,000 (about EUR 3,000 euros) on Kombinat LLC, which was paid in full.

23. One of the applicants, Ms Kotova (application no. 106/19), brought a complaint against the decision to suspend execution of the administrative sanction (see paragraph 21 above). On 8 February 2018 the Moscow Regional Court allowed her complaint and quashed the Klin Town Court's decision to

suspend execution. No further information was provided to the Court in respect of those proceedings, and they are not listed in the above table.

24. On 15 May 2018 (set of proceedings no. 13) another notice of violation was issued to Kombinat LLC (see paragraph 15 above). In addition to information contained in it on excessive levels of ammonia, it also stated that (i) the main source of air pollution at Aleksinskiy Quarry had been the body of the landfill and (ii) hydrogen sulphide, ammonia, methane, benzol, nitrogen dioxide, formaldehyde and other toxic substances had been released into the atmospheric air as a result of the waste disposal.

25. On 7 June 2018 the regional CPA carried out an unannounced inspection at the quarry and established that all the violations detected on 4 August 2017 (set of proceedings no. 5) had been corrected by Kombinat LLC, except the failure to obtain the approval of the chief environmental health officer for a sanitary protection zone around the quarry.

C. Civil proceedings against Kombinat LLC brought by residents of Klin

26. On 8 November 2019 the Klin Town Court examined a complaint brought by a group of residents of Klin, including the applicants (except the first, fourth and seventh applicants – see Appendix I), against Kombinat LLC. They requested the court, in particular, to stop the company's activities and close Aleksinskiy Quarry permanently.

27. The Klin Town Court found that Kombinat LLC had obtained (i) a State-issued licence to collect and process solid waste, issued in 2007; (ii) a licence to emit harmful substances within the applicable limits, issued in 2015; (iii) two positive assessments of the environmental impact of its activities and a positive assessment of its project for a sanitary protection zone, issued in 2014, 2015 and 2016 respectively (see paragraphs 116 and 117 below); and (iv) a certificate confirming registration of the quarry in the polluting entities register, issued in 2017.

28. The Klin Town Court also examined a report by Mr P., a court-appointed environmental expert, who testified that Kombinat LLC had committed irreversible environmental violations and that waste disposal at the quarry should be discontinued immediately (see paragraph 50 below for detailed findings made by the expert).

29. At the hearing Mr P. confirmed the conclusions reached in his report, explaining that he had not tested air quality at the quarry, and that the relevant officials should do such tests regularly over a year. According to Mr P., it was not possible to establish a direct link between the environmental impact and morbidity rates. No technology existed to collect leachate that had already contaminated soil. In 1993 a protective plastic liner had been laid at the quarry against leachate contamination, but no data was available about its maintenance.

30. The Klin Town Court found the expert's report unconvincing because it determined that Mr P. (i) had not reviewed the relevant project documentation; (ii) had not tested air, water and soil quality; (iii) had not noted any measurements of harmful substances for the quarry or Klin; and (iv) had not measured the quantity of waste that had been deposited at the quarry.

31. The Klin Town Court further held that Kombinat LLC had provided [an unidentified number of] reports on air, water and soil quality testing at the quarry and beyond its boundaries carried out between March 2018 and June 2019 by a private laboratory (Promenergo LLC), according to which the MPL for nitrogen dioxide, ammonia, carbon monoxide, phenol, formaldehyde, hydrogen sulphide, benzol, methane, xylol and toluene had not been exceeded (see excerpts from those reports (at least eight of which from 2018 were also provided to the Court) in Appendix III, Tables 1, 2 and 4 (measurements by Promenergo LLC, indicating, prima facie that MPL of some substances have been exceeded).

32. Furthermore, the Klin Town Court found that in June 2019 the director of Kombinat LLC had approved a programme for regular air, water and soil quality testing. The reports on the relevant tests conducted in September 2019 were submitted to the court.

33. On 22 August 2019 the CPA approved the project documentation for the creation of a sanitary protection zone around the quarry as being compliant with the relevant environmental standards, including those for air quality. On 23 September 2019 the project documentation for the creation of the waste processing plant at the quarry was approved by the State authorities. The commander-in-chief of the military base located in the Klin District had informed Kombinat LLC that the construction of the waste processing plant had been approved as safe for flights.

34. The Klin Town Court concluded, on the basis of the evidence submitted by the parties and referring to the relevant provisions of domestic law (see paragraphs 76-79 below), that the applicants had not submitted solid and convincing proof of a risk of Kombinat LLC causing harm in the future as a result of its activities, that such a risk could in fact materialise and that its operations should be shut down. The court did not take the reports on air quality testing into account on the grounds that they had been prepared by the applicants themselves, whereas Kombinat LLC had submitted proof of compliance of its operations with the applicable standards and regulations.

35. Lastly, the court also held that the fact that the courts and administrative bodies had sanctioned Kombinat LLC eight times in the past for different violations of sanitary and environmental regulations could not justify shutting down its operations because it had not been proven that those violations had caused irreversible damage to the environment.

36. On 2 March 2020 the Moscow Regional Court dismissed an appeal by the applicants. They did not provide the Court with a copy of that judgment.

37. The applicants also submitted that they had tried to bring further cassation appeals before the higher courts, but that they had been returned to them for “contrived” procedural reasons. It appears from the relevant domestic decisions submitted by the applicants that they did not comply with the procedural requirements for filing cassation appeals.

38. On 28 July 2021 the Klin Town Court refused a request by the applicants to re-examine the case anew because they had sought the reassessment of evidence that had already been examined (at the hearing of 8 November 2019), which was not considered a valid reason for reopening the proceedings.

D. Administrative proceedings concerning the construction of the waste processing plant at Aleksinskiy Quarry

39. Some of the applicants, together with other residents of Klin, brought administrative proceedings in connection with the construction of the waste processing plant at Aleksinskiy Quarry. In particular, they alleged that the public hearing and procedure for approval of the project for its construction had been tainted with certain defects. The domestic courts dismissed their complaints. In particular, they reviewed the procedural shortcomings alleged by the applicants and established, on the basis of the evidence examined, that all procedural requirements had been observed by the respective authorities, who had acted within their powers, and that there was nothing to indicate that the applicants’ rights had been breached in the process.

III. THE APPLICANTS’ PROTESTS

40. In March 2018 the applicants started organising protests against the landfill site.

41. All the applicants (except Ms Kotova (application no. 106/19)) were charged with various administrative offences in connection with their protests. The details concerning the charges against them, their arrest and the administrative sanctions imposed on them are outlined in Appendix I.

42. In November 2017 and May 2018 respectively, Mr Kotov submitted three notices of a public event (meeting) and one notice of an environmental protest car rally to the Klin municipal administration. Neither of his applications was approved and he brought a complaint against the municipal authorities before the courts. The details of those proceedings are outlined in Appendix I (application no. 56764/18).

IV. DOCUMENTARY EVIDENCE RELIED ON BY THE APPLICANTS

43. The applicants submitted a number of documents, the contents of which may be summarised as follows.

44. In letter of 10 April 2013 addressed to the Russian President, the regional governor highlighted the deteriorating environmental situation in Moscow Region and the need to implement modern waste processing technologies, and requested the President to order the closure of twenty-four landfills in the region owing to their excessive storage capacity and obsolete technical characteristics.

45. In 2017 and 2018 State laboratories of the Ministry of Natural Resources and Environment of the Moscow Region and of the State Fire and Rescue Service and Federal Service for Hydrometeorology and Environmental Monitoring carried out air quality tests in the vicinity of Aleksinskiy Quarry and in Klin. In December 2018 to November 2019 a public interest group carried out measurements of air quality, using special testing equipment. Excerpts from air testing reports produced, in particular, by State laboratories indicate a number of instances where the MPLs in the atmospheric air of Klin and its districts have been exceeded. On other dates, the measurements indicated no such excess (see Appendix II, Table I, Columns 2-4).

46. A report of the state laboratory dated 15 March 2018 of air sampling in some of the villages near Aleksinskiy Quarry (see Appendix II, Table 1, Column 3) stated, in particular, that a foul odour typical for landfills had been smelled in the village of Novotschapovo and that its residents should complain to the relevant authorities.

47. A notice of violation issued to Kombinat LLC by the Moscow Regional Department of the Ministry of Natural Resources and the Environment on 17 May 2018 (see paragraph 15 above, line 14) stated that Aleksinskiy Quarry had exceeded its storage capacity by three times (833,186.20 tonnes of waste had been deposited in 2017 instead of an anticipated 270,000 tonnes).

48. According to a letter dated 16 July 2018 from the Federal Service for Hydrometeorology and Environmental Monitoring, the level of pollution in Klin had been classified as “high”, mostly owing to an overconcentration of formaldehyde in the atmospheric air (see Appendix II, Table 1, Column 4). The letter also stated that the high concentration of formaldehyde in June 2018 in Klin could be explained by a certain type of repair works carried out at the time, solar radiation or certain chemical reactions.

49. According to an expert report dated 22 August 2019 concerning the project for a sanitary protection zone around the waste processing plant at Aleksinskiy Quarry (see paragraph 53 below), 1,662,625 tonnes of waste had been deposited at the quarry between mid-2017 and mid-2019, an amount which, in the applicant’s submission, had been almost three times above the authorised limit for waste disposal.

50. A report dated 31 July 2019 submitted by a forensic expert, Mr P., in reply to the questions of the Klin Town Court (see paragraphs 28 and 30 above) reached a number of conclusions. Thus, the expert concluded that the

source of the “foul landfill odour” could only have been the body of the landfill itself; that the landfill at Aleksinskiy Quarry was the only place in the vicinity of Klin that attracted large number of birds; that the violation by Kombinat LLC of sanitary, epidemiological and environmental regulations had resulted in detectable consequences for the environment and the health of the population, and that it had been difficult to gauge some of them, such as the massive uncontrolled leakage of toxic organic waste (leachate) that had been practically impossible to remediate and that had posed a real danger to the life and health of the population, had seriously endangered the environment, had impaired the quality of fresh water and groundwater and that could contaminate soil and water sources for decades; that Kombinat LLC had deposited waste beyond the established boundaries of the landfill and exceeded the landfill’s authorised capacity for waste disposal. In the expert’s opinion, Kombinat LLC should have been ordered to take measures to prevent further breaches and to repair the damage caused.

V. DOCUMENTARY EVIDENCE RELIED ON BY THE GOVERNMENT

A. Project for the construction of a solid waste processing plant at Aleksinskiy Quarry

51. The Government submitted that within the framework of the 2018 Russia-wide “Ecology” project (see paragraph 67 below), plans had been drawn up for the construction of a large-scale multi-level solid waste recycling and processing plant. It had been planned to carry out the sorting and subsequent recycling of solid waste to help improve the environmental situation in the area. The processing capacity of the plant had been estimated at between 150 and 300 thousand tonnes of solid waste per year, and it had been designed to use the best available national and international technologies aimed at reducing landfill, lowering the risks of gas formation and foul odours and creating recycled fuels.

52. Kombinat LLC’s project for the construction of the waste processing plant at Aleksinskiy Quarry had been examined at a public hearing and submitted for a State environmental impact assessment (see paragraph 63 below). On 23 September 2019 the project had been approved for implementation by the Ministry of Natural Resources and the Environment.

53. On 22 August 2019 the project for delimiting a 1.5 km sanitary protection zone around the waste processing plant had been studied by the relevant State expert commission and on 23 October 2019 it had been approved by the Russian CPA as being in compliance with the relevant regulations.

B. Remediation and decontamination of Aleksinskiy Quarry

54. The Government submitted that in 2019 the regional authorities had approved an investment programme for remediating and decontaminating Aleksinskiy Quarry for 2019-2027. The programme, which had been in effect since 1 July 2019, had stipulated measures to be taken, such as (i) constructing systems for collecting and processing landfill gas, collecting leachates and purifying filters; (ii) constructing a multi-level solid waste sorting and processing facility; (iii) sealing the body of the landfill and its borders to prevent leakage; and (iv) collecting rainwater and diverting drainage.

C. Measures taken by Kombinat LLC for improving the environmental impact

55. Kombinat LLC had taken certain measures to reduce the negative impact of its activities on the environment, which had included implementing technologies for (i) drainage and the treatment of rainwater; (ii) acoustic protection from birds (iii) electronically controlling the amount of waste taken to the quarry by trucks; and (iv) collecting, decontaminating and disposing of landfill gas. Kombinat LLC had also started constructing a reverse osmosis system for treating leachate at the quarry. It had regularly (every three months) monitored emissions into the air, water and soil and published the results of its inspections on the quarry's website. Extracts from its reports for 2018-2019 are summarised in Appendix III.

56. It had complied with the judgment of 13 October 2017 of the Klin Town Court, paying the fine imposed on it in full and carrying out the relevant remedial measures for violations of the relevant sanitary regulations, which had been confirmed by the supervisory State bodies (see paragraph 25 above) and therefore, in accordance with domestic law, the suspension of its activities had not been absolutely necessary.

D. Sanitary and epidemiological inspections at Aleksinskiy Quarry

57. The Government submitted that according to the reports on atmospheric air, wastewater and groundwater quality testing carried out between 21 March 2018 and 10 June 2019 within and outside the boundaries of Aleksinskiy Quarry, the maximum permitted levels (MPL) of nitrogen dioxide, ammonia, carbon monoxide, phenol, xylol and toluene had not been exceeded (see Appendix III).

58. They further submitted that in 2018-2019 weekly air quality monitoring had been carried out in the municipal districts adjacent to the quarry within 500 metres to 2 km and that 1,170 of the 1,206 samples of air had been tested. The testing had indicated that the concentrations of hydrogen sulphide, ammonia, methane, methanethiol, sulphur dioxide and phenol had

been within the relevant MPL. Water quality monitoring had not revealed excessive concentrations of harmful substances. The testing of groundwater from wells and boreholes and of soil had showed no deviation from the relevant health standards (see Appendix III, Table 3).

59. On 31 January 2018, during an unannounced inspection by the authorities, concentrations of ammonia above the relevant MPL had been detected at the air monitoring posts at the quarry. As a result, Kombinat LLC had been ordered to take remedial measures in order to comply with the relevant MPL, which it had done, according to its letter of 31 January 2019 and supporting documents.

E. Examining public requests concerning Aleksinskiy Quarry and access to information concerning the environment

60. The Government submitted that in 2018-2019 the authorities of Moscow Region had received seventy-three requests (обращения) concerning the operation of the quarry, including requests to have it closed. No complaints (жалобы) had been received by the authorities or regional medical organisations about the negative impact of the quarry on people's health.

61. Representatives of the Ministry of Defence had requested the regional government to have the quarry closed because its use had endangered the safety of military planes from Klin-5 airbase during their flights, owing to the circulation of birds above it. The authorities had stated in reply that there were no grounds to close the quarry since the modern waste processing plant would be installed by 2021 and the quarry would no longer pose a danger to aircraft.

62. Furthermore, between 18 March 2016 and 29 April 2019 the regional and municipal authorities, including representatives of the Committee on the Environment of Moscow Region legislative authority, had held eighteen public meetings in the form of hearings, assize legislative sessions and discussions in respect of operations at Aleksinskiy Quarry and its modernisation.

63. On 29 April 2019 a public hearing had been held on the project for the construction of a waste processing plant at Aleksinskiy Quarry in order to obtain the views of residents, including those of the applicant, who had provided their observations and objections on the issue. The project documentation, having been examined at the public hearing, had then been sent for a State environmental impact assessment.

64. In addition, information on air and water pollution as well as radiation in the Russian regions had been regularly published on the website of the Federal Service for Hydrometeorology and Environmental Monitoring and had been available to the applicants. Information about the environmental conditions at Aleksinskiy Quarry had also been published and updated by Kombinat LLC on its website.

VI. OTHER RELEVANT INFORMATION

65. The information provided below comes from public sources, and provides a background and follow-up for information submitted by the Government to address the recent developments concerning the Aleksinskiy quarry (see paragraphs 51-54 above).

66. According to the information on the official website of the Moscow Regional Department of the Ministry of Natural Resources, on 28 January 2016 the Regional Minister of Natural Resources and the Environment during the meeting with residents of Klin and official representatives of Kombinat LLC stated that the main complaint by residents was the smell emanating from the quarry, that waste disposal operations had been carried out in violation of the applicable regulations and that the construction of the waste processing plant at the quarry appeared to be the only solution.

67. According to a website dedicated to the national “Ecology” project, the project includes nine environmental programmes, including a programme on waste management and waste processing infrastructure in Russia in 2019-2024 which has a budget of RUB 450 billion and includes the introduction of recycling schemes and the construction of more than 200 waste processing plants in Russia.

68. According to information published on the official website of the Moscow regional government, a recycling system was launched in 2019 in Moscow Region to increase the reuse of materials and decrease the waste deposited in landfill. Funds for the reclamation of landfill sites were allocated for 2020-2022 in the regional budget.

69. The construction of modern large-scale multi-level solid waste recycling and processing plants had been actively pursued in Moscow Region. One such plant had opened at the end of 2019 at the site of Aleksinskiy Quarry. At the end of 2020 it started functioning at full processing capacity. In early 2021 half of the solid waste collected was recycled. In particular, 20% of recyclable materials (glass, paper, steel and plastic) was recovered and 30% of solid waste was composted. In total, more than 100,000 tonnes of solid waste had been recycled at the waste processing plant at Aleksinskiy Quarry, reducing the volume of waste disposal in the landfill by half.

70. The website also mentioned that (i) Aleksinskiy Quarry had closed in 2020 and degasification (burning of landfill biogases in a special high-temperature furnace) was being actively pursued to prevent the spreading of foul odours in the Klin District; (ii) the construction of purification facilities was underway; and (iii) three more boreholes for the extraction of landfill gas would be created in the near future.

71. In addition, a complex solid waste processing infrastructure has been under construction in Moscow Region since 2019. Thirty-nine landfill sites closed in 2020. Ten modern waste processing plants have been launched and

2.6 million tonnes of solid waste has been recycled by them. The construction of four more thermal solid waste disposal plants is planned for 2022-2023. The estimated target of those plants, only 7% of solid waste being deposited in landfill, is well above the target of the national “Ecology” project.

72. In 2015 and 2016 the Klin District was named among the areas for which the highest proportion of unsatisfactory tests of water was reported. In 2016 and 2020 the proportion of unsatisfactory tests of water from non-centralised sources was reported as compared to the average regional indicator. Excessive concentrations of various chemical elements were detected in drinking water in the Klin District in 2015-2019. The report stated that the excessive amounts of iron and manganese in water had resulted in an increased risk of developing blood and immunity-related diseases.

73. According to the 2018 report, the higher proportion of unsatisfactory tests of atmospheric air in towns and villages in Moscow Region could be attributed to pollution from landfills where solid household waste was deposited. In 2018 air quality testing was regularly carried out at those landfill sites, including at Aleksinskiy Quarry, where the concentrations of harmful substances were within the applicable limits that year.

74. In 2019 recycling schemes were being actively implemented in Moscow Region, which made it possible to deposit lower volumes of waste in the landfill sites. As projected, the waste processing plant at Aleksinskiy Quarry started operations in 2019, where regular air quality testing continued to be carried out in 2019 and 2020.

75. In 2019 a technical station for removing iron from water was set up in Klin within the framework of the national “Clean Water” project.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

76. The provisions concerning a right to a safe environment, right to bring civil or administrative proceedings by private persons or State bodies in respect of environmental damage and obligation of physical or legal persons to comply with relevant environmental regulations are contained in the respective provisions of the Russian Constitution (Article 42), the Civil Code (Article 1064 and 1065), the Code of Administrative Offences (Article 23.1), the Code of Administrative Procedure (Articles 39 and 218) and the Land Code (Article 42).

77. Articles 56 and 57 of the Civil Procedure Code govern issues of presenting and collecting evidence in civil proceedings.

78. The Rulings of the Russian Supreme Court no. 1 of 26 January 2010 and no. 49 of 30 November 2017 contain detailed provisions concerning compensation of harm to life or health of physical persons and compensation for environmental damage.

79. Other relevant national laws and regulations concerning protection of environment may be summarised as follows:

No.	Name	Regulates
1.	Federal Law no. 174-FZ of 23 November 1995	environmental impact assessments for various industrial projects made by State bodies or public interest organisations
2.	Federal Law no. 89-FZ of 24 June 1998	matters relating to industrial and household waste (registration of landfills in State landfill register)
3.	Federal Law no. 52-FZ of 12 March 1999	sanitary and epidemiological well-being of the population
4.	Federal Law no. 96-FZ of 4 May 1999	air pollution (requirement of industrial self-monitoring)
5.	Federal Law no. 7-FZ of 10 January 2002	protection of the environment (types of polluting entities, requirement of industrial self-monitoring, right to information, right to protest, right to compensation, right to bring complaints)
6.	Federal Law no. 99-FZ of 4 May 2011	licensing activities of waste-processing operators
7.	Decree no. 322 of 30 June 2004 State Decree no. 476 of 5 June 2013 – as in force before 30 June 2021	Federal Consumer Protection Authority (supervisory and preventative functions in the environmental sphere, dealing with complaints about unfavourable environmental conditions)
8.	Sanitary Regulations 2.2.1/2.1.1.1200-03 of 25 September 2007	environmental protection zones around polluting enterprises

THE LAW

I. JOINDER OF THE APPLICATIONS

80. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLES 8 AND 13 OF THE CONVENTION

81. The applicants complained that the authorities had failed to take protective measures to minimise or eliminate the effects of the pollution allegedly caused by the continued operation of a landfill site near their homes, in breach of Article 8 of the Convention, which reads as follows:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, 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.”

82. They further complained that they had not had effective domestic remedies in respect of their complaint about the environmental pollution allegedly caused by the operation of Aleksinskiy Quarry. They relied on Article 13, which provides as follows:

“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 of the applicants’ complaints under Articles 8 and 13 of the Convention

1. The Government’s objection as to exhaustion of domestic remedies

83. The Government submitted that none of the applicants (except the first applicant) had exhausted domestic remedies in respect of their complaint under Article 8 about the environmental pollution allegedly caused by the operation of Aleksinskiy Quarry, even though remedies had been available to them. The Government contended that the courts in Moscow Region and other regions of Russia had duly examined numerous complaints concerning environmental pollution resulting from the inefficient collection, processing and disposal of solid household waste. They stated, in particular, that the first applicant had had his complaint examined by the domestic courts in civil proceedings. They also submitted copies of fifty-five domestic judgments in cases concerning environmental protection examined by the courts from different regions of Russia under the provisions of the Civil Code and the Code of Administrative Procedure. Most of these judgments (fifty-three) were issued in cases brought by the Government bodies in the public interest while the proceedings in two of them were brought by the private parties alleging the violation of their rights as a result of improper waste treatment by private companies.

84. The applicants submitted that they had no effective domestic remedies to exhaust in respect of their complaint under Article 8 and that, in any event, they had been absolved of the obligation to first have recourse to the domestic courts because they had been part of the group of individuals affected by the polluter’s activities, and the administrative proceedings against the polluter had been directly linked to their situation. The applicants further asserted that the Government did not prove that the environmental issues examined in various domestic judgments submitted by them with their observations had

been resolved positively, thus showing that the judicial remedies in respect of environment-related complaints were ineffective.

85. In the light of these submissions, the Court considers that the issue of exhaustion of domestic remedies under Article 8 is closely linked to the applicants' complaint under Article 13 that they did not have at their disposal an effective remedy for their complaint. Thus, it finds it necessary to join the Government's objection as non-exhaustion of domestic remedies by the applicants under Article 8 to its analysis of the complaint under Article 13 of the Convention and it will examine both complaints together.

86. The Court notes that the Government proposed two remedies available in the domestic legal system that, in their opinion, were effective and could offer either preventive or compensatory relief to an individual in connection with a complaint about inefficient solid waste management and unfavourable environmental conditions. In particular, they pointed out that such a complaint could be brought by (i) a relevant State body acting in the public interest, in civil or administrative proceedings (see paragraphs 76 and 79 above) or (ii) an aggrieved private party, in civil proceedings. The Court will therefore review those two remedies in the context of the present case.

(a) Civil or administrative proceedings brought by government bodies

87. The Court has reviewed fifty-three of the domestic court judgments from different regions of Russia submitted by the Government as proof of the existence of an effective domestic remedy for complaints concerning the environment (see paragraph 83 above). It observes that in those cases, civil or administrative proceedings were brought, in the public interest, by either the State prosecutor, the CPA or the Ministry of Natural Resources and the Environment against private or municipal companies responsible for the management of landfill sites and/or solid household waste processing and disposal. The Court notes that the courts in those proceedings scrupulously examined complaints of violations of environmental regulations by polluters and negligent inaction on the part of the municipal authorities and allowed the relevant claims.

88. The Court notes that, indeed, in addition to civil proceedings that may be brought by private parties, public interest litigation of environment-related cases by the relevant State bodies in Russia is provided for by national law as another means of protecting the rights of those affected by environmental pollution (see paragraphs 76 and 79 above). Thus, in the present case, the Consumer Protection Authority of Moscow Region ("the regional CPA"), at the request of an unidentified number of people affected by pollution from Aleksinskiy Quarry, inspected the quarry and, following the unsatisfactory results of that inspection and the detection of elements of administrative offences in the sphere of environmental protection, brought administrative proceedings against Kombinat LLC (see paragraph 18 above). The Court observes that the applicants were not named as parties to those administrative

proceedings. Nevertheless, the Klin Town Court, in essence, examined their main grievance before this Court – that Kombinat LLC was operating Aleksinskiy Quarry in violation of the relevant environmental regulations and that its business activity should be suspended – and granted the relevant request by the regional CPA. The applicants, accordingly, submitted to the Court that they had not been required to bring separate civil proceedings because, in any event, the administrative proceedings against Kombinat LLC brought by a government body had directly affected their situation (see paragraph 84 above).

89. The Court observes however that under domestic law, the initiation of legal proceedings by the relevant officials of the regional CPA was contingent on their finding a *prima facie* violation by Kombinat LLC of the relevant regulations and taking an entirely discretionary decision to start the administrative proceedings (see paragraphs 76 and 79 above). Therefore, as those proceedings were fully dependent on the administrative will of officials of the regional CPA, they were not directly accessible to the applicants and could, under the Court's case law, be considered ineffective for the purposes of Article 35 § 1 of the Convention (see *Tănase v. Moldova* [GC], no. 7/08, § 122, ECHR 2010). The Court accordingly holds that, in the present case, the applicants were not absolved, by virtue of the proceedings brought by the regional CPA, of their obligation to exhaust available domestic remedies in respect of their complaint. It will therefore examine the second remedy invoked by the Government – the proceedings under the Civil Code.

(b) Civil proceedings brought by a private party

90. The Court notes, firstly, that even though the applicants alleged that civil proceedings were ineffective remedy for their complaint about the waste processing operations at Aleksinskiy Quarry, they in fact initiated those proceedings (see paragraphs 26-36 above). However, they did not pursue them to the end (see paragraph 37 above), having failed to comply with the procedural requirements for filing cassation appeals and thus not complying with the requirement of exhaustion (see *Vučković and Others v. Serbia* [GC], nos. 17153/11 and 29 others, § 72, 25 March 2014). There also appears to have been no obstacles preventing the applicants seeking from pursuing their complaint to the higher courts (see *Aksoy v. Turkey*, 18 December 1996, § 52, *Reports of Judgments and Decisions* 1996-VI). Furthermore, the fourth and the seventh applicants did not participate in those proceedings at all (see paragraph 26 above).

91. Moreover, the Court also takes note of domestic judgments in two civil cases, provided by the Government (see paragraph 83 above) as examples of an effective remedy for complaints concerning inefficient solid waste management. The domestic courts in those cases allowed the claims after the aggrieved parties successfully proved that they had sustained non-pecuniary damage as a result of the negligent inaction of the local

authorities as regards solid waste processing (contrast *Dubetska and Others v. Ukraine*, no. 30499/03, § 85, 10 February 2011, where the Government did not present any examples of domestic court practice whereby an individual's claim for compensation against an industrial pollutant had been allowed in a situation similar to that of the applicants in that case).

92. Lastly, the Court considers that in adjudicating the first applicant's civil claim the Klin Town Court made full use of its powers in order to establish the circumstances of the applicant's case, such as hearing the applicant and witnesses, examining other relevant evidence (see paragraphs 8-11 above). The Town Court refused his claim because the first applicant did not provide any medical documents or other relevant evidence in support of his claim as was required under domestic law (see paragraphs 77 and 78 above). It also appears that he neither submitted other documents (for example, copies of requests to the relevant authorities for measurements of air and/or water pollution in the vicinity of Aleksinskiy Quarry or expert reports) in order to prove that there was an interference with his right to safe environment nor requested the court to assist in the gathering of evidence (see paragraph 77 above). He did not therefore, in the opinion of the domestic court, discharge the burden of proof in respect of the facts alleged by him (see paragraph 11 above). In these circumstances and given the principle that effectiveness of a remedy within the meaning of Article 13 does not depend on the certainty of a favourable outcome for the applicant (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 96, 10 January 2012), it cannot be said that judicial review of the applicant's complaint was ineffective for the purposes of Article 13 of the Convention.

93. In the light of the above, the Court concludes that civil proceedings brought by those whose well-being has been allegedly adversely affected by unfavourable environmental conditions are capable of providing an adequate judicial response to their grievances. Furthermore, the Court considers that the applicants who did not bring civil proceedings on their own behalf in the present case cannot be absolved from the obligation to exhaust domestic remedies by virtue of the proceedings brought by the first applicant (see, for example, *Yüksel Erdoğan and Others v. Turkey*, no. 57049/00, §§ 74-75, 15 February 2007, and *Bilbija and Blažević v. Croatia*, no. 62870/13, § 94, 12 January 2016) because the District Court examined individual circumstances of the first applicant's case and its findings did not concern the situation of any other applicants who may have benefited from a different evaluation and different outcome, had they brought their concrete grievance before the District Court and supported it with their own evidence and arguments.

94. Taking into account the above factors, the Court concludes that (i) the applicants had at their disposal an effective domestic remedy (civil proceedings by a private party); (ii) they should have used that remedy for their complaint before bringing it to the Court; and (iii) there existed no

special circumstances in the present case absolving them of their obligation to exhaust the effective domestic remedy available to them.

95. It therefore follows that the complaints of all applicants, except the first applicant, under Article 8 taken in conjunction with Article 13 must be dismissed as an effective domestic remedy was available to them but they either did not pursue that remedy (the fourth and seventh applicants, see paragraph 26 above) or did not pursue it to the end (see paragraph 37 above). The Court will accordingly further examine only the first applicant's complaint under Articles 8 and 13 of the Convention (application no. 6142/18).

2. Applicability of Article 8 (application no. 6142/18)

(a) The parties' submissions

96. The Government contended that Kombinat LLC had carried out its operations in accordance with the relevant regulations and that no serious environmental damage had been caused (see paragraph 122 below).

97. The first applicant pointed out that the Government made no specific submissions on the applicability of Article 8 in the present case. The first applicant submitted that the air, water and soil pollution caused by the operation of Aleksinskiy Quarry in violation of environmental regulations had seriously affected his private life and the enjoyment of his home so as to attract the protection of Article 8.

98. In particular, he submitted that he had experienced nausea, headaches and a rough throat owing to the foul odour emanating from the landfill at Aleksinskiy Quarry. On days when the wind had blown from quarry, he and his family had had to leave their home to escape the smell.

99. He pointed out that the measurements of environmental pollution in Klin had always exceeded the maximum permitted levels (MPL), as evidenced by the judicial decisions, government sources referred to in the domestic proceedings and air monitoring reports prepared by a public interest association. The excessive levels of pollution from the quarry had had a negative impact on his health. With respect to air pollution at the quarry and residential areas around it, the first applicant submitted reports, the contents of which are summarised in Appendix II.

(b) The Court's assessment

100. In so far as the Government can be understood as alleging that no interference with the first applicant's rights under Article 8 has taken place, the Court observes the following.

101. The Court reiterates that in order to fall within the scope of Article 8 of the Convention, complaints relating to environmental nuisances have to show, firstly, that there was an actual interference with the applicant's private sphere, and, secondly, that a level of severity was attained; in other words,

whether the alleged pollution was serious enough to affect adversely, to a sufficient extent, the family and private lives of the applicants and their enjoyment of their homes (see *Fadeyeva v. Russia*, no. 55723/00, § 70, ECHR 2005-IV (with further references), and *Çiçek and Others v. Turkey* (dec.), no. 44837/07, §§ 29-30, 4 February 2020). The assessment of that minimum level is relative and depends on all the circumstances of the case, such as the intensity and duration of the nuisance and its physical or mental effects on the individual's health or quality of life (see *Dubetska and Others*, cited above, § 105, with further references). While there is no doubt that industrial pollution may negatively affect public health in general and worsen the quality of an individual's life, it is often impossible to quantify its effects in each individual case. As regards health impairment, for instance, it is hard to distinguish the effect of environmental hazards from the influence of other relevant factors, such as age, profession or personal lifestyle. "Quality of life", in turn, is a subjective characteristic which hardly lends itself to a precise definition (*ibid.*, § 106).

102. Taking into consideration the evidentiary difficulties usually presented by cases concerning the environment, the Court has had particular, though not exclusive, regard to the findings of the domestic courts and other competent authorities in establishing the factual circumstances of the case, analysing domestic legal provisions determining unsafe levels of pollution and environmental studies commissioned by the authorities (*ibid.*, § 107). The Court has also held that it cannot rely blindly on the decisions of the domestic authorities, especially when they are obviously inconsistent or contradict each other. In such a situation, it has to assess the evidence in its entirety. Further sources of evidence for consideration in addition to the applicant's personal accounts of events, will include, for example, his medical certificates as well as relevant reports, statements or studies made by private entities (*ibid.*).

103. Turning to the facts of the present case, the Court notes at the outset that except the operations that Kombinat LLC carried out at Aleksinskiy Quarry, no other undertakings or industrial entities were indicated by the Government as possible alternative sources of urban and/or industrial pollution in the Klin District. The Court will therefore focus its analysis on Kombinat LLC's waste treatment operations at Aleksinskiy Quarry.

104. The Court observes, firstly, that even though Kombinat LLC was legally required to carry out measurements of its emissions as part of the industrial self-monitoring required by at least two federal laws (see paragraph 79 above (lines 4 and 5)), it appears from the case material that it only started doing so in 2018 or 2019, about ten years after it had begun depositing waste at the quarry in 2009 (see paragraphs 5, 32 and 55 above). On 6 September 2017 and 15 May 2018 Kombinat LLC was found by the State bodies to have had emitted toxic substances in excess of the relevant MPL in the course of its waste processing operations. For example, on 6 September 2017 it emitted ammonia 3 times the MPL, nitrogen oxide

53 times the MPL, phenol 93.8 times the MPL, soot 1.3 times the MPL and xylol 2.3 times the MPL (see paragraph 15 above, line 7). Moreover, according to the reports on air quality testing drawn up by the State laboratories, in June 2017 the concentrations of hydrogen sulphide and hydrogen chloride had been, respectively, 25 and 1.5 times higher than their MPL in the village of Golikovo located near the first applicant's village and the quarry; the level of chloride had varied between 3 and 7 times the MPL near the village of Novotschapovo in March 2018 (see Appendix II) and also a landfill smell was detected in that village (see paragraph 46 above); the concentration of formaldehyde 1.8 times above the MPL had been detected in Klin in June 2018; the level of air pollution had been classified as high, in particular, in July 2018 and higher levels of pollution in 2018 in the city were attributed to landfills (see, respectively, paragraphs 48 and 73 above).

105. The Government submitted reports on air, soil and water quality testing at Aleksinskiy Quarry and in the vicinity for March 2018 to September 2019 and contended that all the test results had been in conformity with the environmental standards. However, as the first applicant indicated (see paragraph 114 below), those reports show that concentrations of some chemical elements higher than their relevant MPL were detected, at different times, in the water and atmospheric air at Aleksinskiy Quarry or in the nearby areas in the Klin District (see Appendix III, highlights), data which is also compatible with the findings made in the reports drawn up by State bodies for that period (see paragraphs 72 - 73 above).

106. Russian legislation defines the MPL as the safe concentration of toxic elements (see paragraph 79 above, line 8). Consequently, where the MPL is exceeded, the pollution becomes potentially harmful to the health and well-being of those exposed to it. This is, however, a presumption, which may not be true in a particular case and it is conceivable that the first applicant did not suffer any special and extraordinary damage (see *Fadeyeva*, cited above, § 87). The Court notes that Kombinat LLC was classified by the authorities as a Category I enterprise meaning that it belonged to a group of entities that caused the most negative impact on the environment (see paragraphs 79 (line 5) and 116 (iv) below) and, as established by measurements, emitted toxic substances in concentrations above the MPL into the air and water sources located at or in the proximity of Aleksinskiy Quarry. The first applicant lives in the town situated very close to the quarry and he also cultivates land in the village in the immediate vicinity. He could therefore have been affected by the excessive pollution from the quarry.

107. The Court notes that the first applicant did complain that the air pollution had had adverse effects on his overall health, such as headaches, nausea and breathing difficulties. He did not however produce any medical evidence of any conditions that he had allegedly developed as a result of the pollution emanating from the quarry and which could clearly establish a direct causal link between any of his specific health problems and the high

levels of pollution. In fact, the first applicant did not submit any medical documents attesting to his state of health; neither did he refer to any impediment preventing him from obtaining such documents. The Court nevertheless considers that even though it cannot be said, owing to the lack of medical evidence, that the pollution from the quarry necessarily caused damage to the applicant's health, it is possible to establish, taking into account the official reports and available evidence, that living in the area marked by pollution in clear excess of the applicable safety standards made him more vulnerable to various illnesses (see, for similar reasoning, *Fadeyeva*, cited above, § 88, and *Dubetska and Others*, cited above, § 111; see also paragraph 72 above).

108. Moreover, the Court also reiterates that severe environmental pollution may affect individuals' well-being in such a way as to affect their private and family life adversely, without, however, seriously endangering their health (see *López Ostra v. Spain*, 9 December 1994, § 51, Series A no. 303-C; *Tătar v. Romania*, no. 67021/01, §§ 96-97, 27 January 2009; and *Brândușe v. Romania*, no. 6586/03, § 67, 7 April 2009). For example, the Court has held in the past that there was an interference with the applicants' Article 8 rights not only on account of excessive emissions but also on account of the reportedly repulsive smell emanating from the source of pollution (see, for example, *López Ostra* and *Brândușe*, both cited above, and also *Giacomelli v. Italy*, no. 59909/00, ECHR 2006-XII). In the present case, the first applicant's account of having experienced nuisances resulting from the operation of the Aleksinskiy Quarry is consistent with the domestic authorities' finding Kombinat LLC liable in numerous administrative proceedings for breaching relevant regulations (see paragraphs 15-24 above), with reports of other residents of Klin complaining about the smell (see paragraphs 10 and 66 above) or requesting to close the quarry (see paragraph 60 above) and with the observations made by a court-appointed expert in his report (see paragraph 50 above).

109. Therefore, having regard to the evidence in the case file and, in particular, the air monitoring data submitted by the parties, the findings made by the domestic authorities, the Court considers that the environmental nuisances that the first applicant experienced from at least 2015 in the course of his everyday life were not negligible compared to the environmental hazards inherent in life in every modern city (see *Hardy and Maile v. the United Kingdom*, no. 31965/07, § 188, 14 February 2012) and that the pollution emanating from the Aleksinskiy Quarry has affected, adversely and to a sufficient extent, his private life during the period under consideration (see, for similar reasoning, *Brândușe*, cited above, § 67; *Guerra and Others v. Italy*, 19 February 1998, § 57, Reports 1998-I; *Jugheli and Others v. Georgia*, no. 38342/05, §§ 67, 68 and 71, 13 July 2017; and *Tătar*, cited above, § 97). The Court, accordingly, holds that his complaint is compatible *ratione materiae* with Article 8 of the Convention.

3. Conclusion as to admissibility of the applicants' complaint under Article 8 taken in conjunction with Article 13

110. The Court has declared inadmissible the complaints under Articles 8 and 13 in respect of all applicants, except the first one (see paragraph 95 above). The first applicant's complaint under Articles 8 and 13 of the Convention is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. The Court therefore declares it admissible.

B. Alleged violation of Article 8 and Article 13 (application no. 6142/18)

1. The parties' submissions

(a) The first applicant's submissions

111. The first applicant indicated that the Government had not shown that Kombinat LLC had complied with the three notices of violation of sanitary and environmental regulations issued to it on 4 August 2017 and 15 and 17 May 2018 (see paragraph 15 above, lines 5, 13 and 14).

112. He further submitted that:

(i) the operating licence of Kombinat LLC submitted by the Government as evidence of its lawful operations had been a mere permission to engage in commercial activities rather than a document setting out operating conditions aimed at preserving the environment and protecting the rights of those affected by pollution;

(ii) the authorities had failed to strictly enforce environmental regulations, which had resulted in both Kombinat LLC operating without an emissions licence until 2015 and the sanitary protection zone around the quarry only being delimited in December 2019, without public consultations and after the communication of the complaint by the Court;

(iii) the sanctions provided for by domestic law and fines imposed on the polluter were lenient and contributed to its continuing non-compliance with environmental requirements; in particular, the first applicant asserted that the fines were too low for Kombinat LLC, which was a large-scale waste management company, and that suspension of its operations was unlikely given the general economic interest;

(iv) information on environmental pollution (including on measurements of specific toxic substances in the atmospheric air) in the area had been scarce or unavailable; and

(v) the public's involvement in decision-making concerning, *inter alia*, the expansion of operations at Aleksinskiy Quarry (construction of the waste processing plant) had been largely ignored by the authorities.

113. The first applicant further contended that even though the Government had relied on domestic law, regulations, social programmes and

studies, they had failed to show that all those measures had improved the environmental situation in Klin.

114. He further submitted that the reports on water quality at Aleksinskiy Quarry and in the vicinity submitted by the Government had indicated that several parameters had exceeded the safe concentrations.

115. In support of his complaint, the first applicant referred to the documentary evidence the contents of which is summarised in paragraphs 43-50 above.

(b) The Government's submissions

116. The Government submitted that in 1987 the use of Aleksinskiy Quarry for solid household waste disposal had been authorised by the municipal authorities. It had been operated by Kombinat LLC, which had been issued with (i) a licence dated 20 February 2017, issued for an indefinite period, for collecting and depositing solid waste of IV type of hazard near the village of Yasenevo in the Klin District of Moscow Region; (ii) two positive environmental impact assessments of Kombinat LLC's activities issued in 2014 and 2015 (iii) a licence dated 7 October 2015 for emitting certain polluting substances into the atmospheric air in compliance with the applicable environmental standards in 2015-2020; (iv) a certificate of registration of Aleksinskiy Quarry as a Category I entity in the State polluting entities register, issued on 6 February 2017; and (v) a certificate of registration of Aleksinskiy Quarry in the State landfill register, issued on 31 July 2015. Kombinat LLC had also been part of the regional waste management scheme.

117. They further submitted a document confirming that the project for a sanitary protection zone of 500 metres around Aleksinskiy Quarry had been approved by the authorities on 26 September 2016 and stated that the first applicant had not lived within its boundaries.

118. The Government also stated that Aleksinskiy Quarry had not been included in the list of six landfills ordered for closure in 2016 by the Russian President because it had been assessed to reach its capacity only in 2018. Moreover, the closure of the quarry or suspension of its operations would be contrary to the overall public interest, owing to the shortage of waste processing facilities in the region. It would also increase the cost of public utilities and cause public tension.

119. They further stated that Kombinat LLC had complied with the notice of violation of 15 May 2018 (see paragraphs 15 and 111 above), as had been confirmed by Kombinat LLC in a letter dated 31 January 2019 in which it had stated that certain technical modifications had been made to gas-burning systems; the Government also pointed out that the notice of violation of 17 May 2018 referred to by the first applicant had been recalled by the State body that had issued it.

120. The air monitoring results (for December 2018 to November 2019) submitted by the applicants could not be considered reliable evidence because the testing had been carried out by the applicants themselves without the participation of an accredited laboratory.

121. The Government also stated that Mr P. had not visited the landfill site at Aleksinskiy Quarry and that his reports could not therefore be taken into account.

122. The Government also stated that waste processing at Aleksinskiy Quarry had been carried out lawfully and had not damaged the environment and submitted detailed information concerning its activities which is summarised in paragraphs 51-64 above.

2. *The Court's assessment*

123. The present application concerns the alleged failure by the public authorities to take steps to ensure the proper functioning of the waste collection, treatment and disposal service by a private third party (see *Moreno Gómez v. Spain*, no. 4143/02, § 57, ECHR 2004-X, and *Guerra and Others*, cited above, § 58). The fact that the domestic authorities handed over the management of a public service to third parties does not relieve them of the duty of care incumbent on them under Article 8 of the Convention (see *Di Sarno and Others v. Italy*, no. 30765/08, § 110, 10 January 2012). The Government did not dispute that, in the present case, they had owed a positive duty to the first applicant under Article 8 of the Convention to address the environmental concerns associated with the waste processing operations of Kombinat LLC at Aleksinskiy Quarry and to secure his rights under the Convention. Their observations described in detail the measures that they had been taking in that regard, which, in their opinion, had been adequate for protecting the right relied on by the first applicant from breaches by a non-State party. The Court considers that sufficient nexus has been established between the pollutant emissions and the State to raise an issue of the State's responsibility under Article 8 of the Convention (see *Fadeyeva*, cited above, §§ 89-92). This is even more so as the landfill site had been leased to the waste management company by the Klin municipal administration (see paragraph 5 above). The Court will accordingly, examine the first applicant's complaint in terms of the duty on the State to take reasonable and appropriate measures to secure his rights under Article 8 of the Convention (*ibid*, § 89).

124. It remains to be determined whether the State, in securing the first applicant's rights, has struck, within its margin of appreciation, a fair balance between the competing interests of the first applicant and the community as a whole, as required by paragraph 2 of Article 8 of the Convention.

125. The Court notes that the regular collection and efficient processing of solid household waste is, without a doubt, crucial for the protection of

public health, socio-economic interests and the overall normal functioning of people's lives in residential and non-residential areas.

126. The Court has also held that the collection, treatment and disposal of waste are, without a doubt, dangerous activities that require special regulations in place geared to the special features of the activity in question, particularly with regard to the level of the potential risk to human lives (see *Di Sarno and Others*, cited above, § 110 (with further references)).

127. Turning to the facts of the present case, the Court observes that under Russian legislation, the activities of Kombinat LLC were subject to strict regulation by the State (see paragraphs 76 and 79 above). The Court however notes from the case material that, despite there being rigid and detailed regulations, Kombinat LLC was depositing waste at Aleksinskiy Quarry with virtually no supervision from the authorities between 2009 – when it started its operations, and 2015 – when the first sanctions for environmental pollution were imposed on it (see, respectively, paragraphs 5 and 15 above). The Court observes, in particular, that the following legal requirements do not appear to have been complied with by Kombinat LLC or enforced by the authorities, in a timely and diligent manner:

Requirement	Imposed since ... (according to the provisions of federal laws summarised in paragraph 79 above)	Complied with/enforced on
Registration of Aleksinskiy Quarry in the State landfill register	(since 1998 but enforceable since 2014)	2015 (see paragraph 116 above)
Registration of Aleksinskiy Quarry in the State polluting entities register	2002	2017 (see paragraphs 27 and 116 above)
Establishing a sanitary protection zone around the landfill site	2007	2014 (see paragraph 27 above)
Receiving a State environmental impact assessment for the landfill site	1995	2014 (see paragraph 27 above)
Industrial environmental self-monitoring, including regularly measuring	2002	either 2019 or 2018 (see paragraphs 32 and 55 above)

and emissions	controlling		
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128. The Court notes that no explanation was provided by the Government as to why the lengthy delays in ensuring Kombinat LLC's compliance with the applicable laws occurred and whether they were or were not avoidable. In the absence of reasonable justification in this regard, the Court cannot but conclude that, for at least some of the time and at least to some extent, Kombinat LLC had probably been carrying out its operations in breach of the relevant regulations since 2009, the year it started its operations at Aleksinskiy Quarry, and that that would not be possible without some omissions on the part of the authorities. That being so, the Court nevertheless reiterates that even where, as in the present case and unlike in cases of direct interference by the State, the domestic authorities did not comply with some aspects of the domestic legal regime, domestic legality is one but not the principal factor to be taken into account in assessing whether the State has fulfilled the obligation to ensure "respect for private life", and the Court has held that the State can choose other means they see as appropriate to ensure "respect for private life" (see *Fadeyeva*, cited above, §§ 96-98). While the choice of the means calculated to secure compliance with Article 8 in the sphere of the relations of individuals between themselves is in principle a matter that falls within the Contracting States' margin of appreciation, the Court makes the final and subsidiary examination as to whether the justification given by the State is relevant and sufficient (*ibid.*, § 124). The Court will therefore also review the specific interventions by the authorities relating to Kombinat LLC's operations with a view to improving the environmental situation in the Klin District.

129. The Court notes that the authorities took a more proactive approach in controlling the operations of Kombinat LLC and enforcing the relevant regulations between 2015 and 2018. During that period, Kombinat LLC was found liable for violating the relevant sanitary, epidemiological and environmental regulations in sixteen separate rounds of administrative proceedings (see paragraph 15 above). The Court accepts the Government's submission that Kombinat LLC remedied the violations uncovered by the supervisory bodies on 4 August 2017 and 15 May 2018 (see paragraphs 25 and 119 above). It also notes that Kombinat LLC had Aleksinskiy Quarry registered in the State landfill register and obtained a licence to emit pollutants, thus correcting the breaches identified in the judgments of 7 April and 15 July 2015 (see, respectively, paragraphs 116 and 15 (lines 1 and 2)).

130. It is however not clear, with respect to the other proceedings, whether Kombinat LLC, in addition to paying the fines under some of the judgments, did in fact implement remedial and decontamination measures for the violations it had been found liable for, particularly as regards emissions. For

example, the Court notes that when particularly high levels of nitrogen oxide, phenol and soot were detected on 6 September 2017 in the atmospheric air of the quarry, Kombinat LLC, for unspecified reasons, only carried out sporadic air quality testing for the presence of those particular pollutants in the air, so it is not possible to determine whether clean-up measures, if any, taken by Kombinat LLC contributed to aligning the emissions with their respective MPL or at least lowering them (see paragraph 15 above, line 7 and Appendix III (highlights)). In this connection, the Court also observes that it was established in the domestic proceedings that a programme for regular air, water and soil quality monitoring at the quarry was only approved by the director of Kombinat LLC in 2019 (see paragraph 32 above). The Court further observes, with respect to emissions, that six months after the heightened levels of ammonia detected on 6 September 2017, even higher levels were detected on 24 April 2018 during an unannounced State inspection (see paragraph 15 above, line 13). The Government submitted that weekly air quality monitoring had been carried out in the municipal districts adjacent to the quarry within 500 metres and 2 km in 2018-2019 and that 1,170 air quality tests for the presence of certain harmful substances had not revealed excessive concentrations (see paragraph 58 above). Thirty-two reports of those tests were submitted to the Court, and a closer look at them in fact reveals deviations from the relevant health standards for certain substances (see Appendix III (highlights)). In addition, the persistent strong foul odour from the quarry, having first been identified by the first applicant in 2015 (see paragraph 9 above), continued to be reported in 2019 (see paragraph 50 above), which can only be indicative of Kombinat LLC's prolonged failure to deposit waste properly and carry out the relevant clean-up measures. Lastly, the Court observes that illegal waste disposal, including beyond the boundaries of the quarry and above the limits of its capacity, appears to have been a repeated violation on the part of Kombinat LLC (see paragraph 15 above, lines 4, 9 and 10; see also paragraphs 49 and 50 above). The Court therefore considers, in the light of material before it, that the sanctions imposed on Kombinat LLC in 2015-2018 did not have the intended effect on the company and did not meaningfully contribute to improving the environmental conditions at Aleksinskiy Quarry and in the Klin District. The failure of Kombinat LLC to comply with the relevant regulations, which, at least in part, was caused and exacerbated by the authorities' lenience in enforcing the regulations more strictly, exposed the first applicant to the long-term environmental nuisances that eventually became the basis of his complaint to the domestic authorities and, more recently, to the Court.

131. At the same time, the Court observes that more robust and encompassing measures aimed at addressing pollution from the quarry have been implemented by the authorities since 2019 (see paragraphs 51, 54, 67, 68 and 71 above). The waste processing plant at Aleksinskiy Quarry started

functioning at full capacity at the end of 2020 (see paragraphs 51, 54 and 69 above). It is currently used to sort, recycle and process solid household waste from the Klin District, which has made it possible to deposit only limited volumes of non-recyclable waste in the landfill and to start addressing long-standing issues caused by the presence of landfill gas, uncollected leachate and exceeding the filling capacity. Equipment for collecting and processing landfill gas was installed at the quarry, technologies for collecting leachates and purifying filters were implemented; and steps have been taken to seal the body of the landfill and its borders to prevent leakage (see paragraphs 54 and 70 above).

132. The Court notes that the plans concerning that construction and its project documentation were heard and reviewed during eighteen public meetings held in 2016-2019, including at a public debate on 29 April 2019, in which the first applicant took part together with other residents of Klin (see paragraphs 62-63 above) and in connection with which he took full advantage of the right, provided for under domestic law, to bring judicial complaints to challenge decisions of the authorities adopted in the process (see paragraphs 39, 76 and 79 (line 5) above). The Court considers, in the light of the above factors and contrary to the applicant's assertion (see paragraph 112 above, subparagraph "v"), that the governmental decision-making process concerning the construction of the waste processing plant at Aleksinskiy Quarry was transparent and attended by sufficient procedural guarantees, including the right of access to information and the right of appeal against allegedly adverse decisions, and due weight was given to the applicant's interests when the decision to proceed with project was being adopted (see *Vilnes and Others v. Norway*, nos. 52806/09 and 22703/10, § 235, 5 December 2013; and *Giacomelli*, cited above, §§ 82-84).

133. Furthermore, the Court notes other measures taken by the authorities which aimed at promoting sustainability and protection of the environment and health of residents (see paragraphs 53, 74 and 75 above).

134. Even though the impact the most recent technological improvements at Aleksinskiy Quarry and other measures may have had on the environmental situation in the Klin District is yet to be assessed, it can already be said that those measures indicate an important shift in waste management policy towards modern, effective and sustainable waste processing schemes and methods. The Court reiterates that its task is not to determine what exactly should have been done in the present situation to reduce pollution in a more efficient way. However, it is certainly within its jurisdiction to assess whether the Government approached the problem with due diligence and gave consideration to all the competing interests (see *Fadeyeva*, cited above, § 128). The Court is also mindful of the fact that an impossible or disproportionate burden must not be imposed on the authorities without consideration being given, in particular, to the operational choices which they must make in terms of priorities and resources (see *Budayeva and Others*

v. Russia, nos. 15339/02 and 4 others, § 135, ECHR 2008 (extracts), with further references).

135. Having regard to all the material before it and its earlier findings (see paragraphs 127-130 above), the Court considers that despite the existence of a strong regulatory framework governing waste management operations, the authorities did not rigorously pursue the enforcement of those regulations with respect to Kombinat LLC between 2015, the year when the first applicant reportedly started experiencing for the first time odour nuisances caused by the operations at Aleksinskiy Quarry and approximately the end of 2018, although the exact date in this case would be difficult to define in view of the scope of the problem and the range of measures taken. They therefore failed in their positive obligation to protect the applicant's right to respect for his private life during that period. The Court is however satisfied, in the light of the detailed data concerning the introducing, financing and active implementation of national and local environmental programmes and the launching of a large-scale multi-level solid waste recycling and processing plant at Aleksinskiy Quarry (see paragraphs 131-133 above), that since 2019 it can be said that the Government have managed to strike a fair balance between the general socio-economic interest in having a sound waste management policy and effective waste treatment practices in place and the first applicant's individual interest in living in favourable environmental conditions.

136. The Court accordingly finds that there has been a violation of the first applicant's right to respect for his private life in 2015-2018, but that there has been no violation of his rights under Article 8 of the Convention between 2019 and the present day. Finally, having regard to its findings in paragraphs 92-95 above, the Court also holds that there has been no violation of Article 13 of the Convention in respect of the first applicant.

III. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

137. The applicants (except Ms Kotova, application no. 106/19) complained that disproportionate measures had been taken against them as participants in a peaceful public assembly against the deposit of waste at Aleksinskiy Quarry, as they had been arrested, taken to a police station and convicted of administrative offences (see Appendix I for details). Mr Kotov also complained that the official refusals to approve notices of public events had been arbitrary. They relied on Article 11 of the Convention, which reads as follows:

“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.”

A. Admissibility

138. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

139. The applicants submitted that their case raised issues similar to those examined by the Court in *Lashmankin and Others v. Russia* (nos. 57818/09 and 14 others, 7 February 2017). In particular, they submitted with respect to their protest on the road leading to Aleksinskiy Quarry that the authorities had failed to point out even one vehicle that had been blocked from accessing the quarry and what other operations of Kombinat LLC had exactly been disrupted by their protest.

140. The Government restated with respect to all the applicants the findings of the domestic courts (see Appendix I for details) as the basis for the justification of their administrative convictions and refusals to approve notices of public events. The Government further submitted that in 2017-2019 Mr Kotov and Mr Mochalov had obtained authorisation to hold five public meetings concerning the environment and had in fact held them.

141. The Court notes that the administrative proceedings in the present case concerned (i) a public meeting at the Klin Ice Palace (ii) three protest actions on the road leading to the landfill site and (iii) four notices of public events submitted to the authorities (see Appendix I for details).

142. It is not disputed in the present case that there has been an interference with the applicants’ right to freedom of assembly in all the applications concerned, that it was prescribed by law and pursued the legitimate aim of providing safety to citizens and keeping public order. The parties did disagree, however, and it remains to be ascertained, as to whether the interference was necessary in democratic society, that is to say, whether it corresponded to a “pressing social need”, was proportionate to the aim pursued and whether the reasons adduced by the national authorities to justify it were “relevant and sufficient” (see, among many other authorities, *Tatár and Fáber v. Hungary*, nos. 26005/08 and 26160/08, §§ 33-34, 12 June 2012, with further references; *Frumkin v. Russia*, no. 74568/12, § 94, 5 January 2016; and *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, § 143, ECHR 2015). The Court will now assess that in respect of each group of episodes mentioned in paragraph 141 above.

1. Meeting of 4 March 2018 at the Klin Ice Palace (application no. 51640/18)

143. It was established in the domestic proceedings that the applicant had “failed to ensure the safety of the participants” during the meeting concerning the environment organised by him and authorised by the authorities that took place at the Klin Ice Palace (see Appendix I (application no. 51640/18) for details). The Court notes however that there is nothing in the case material, including the judgment of the domestic court, to indicate that the safety of the participants or other people at that venue was in any way compromised, or that anyone was injured or at any time risked being injured. The applicant was not found guilty of any violent acts. Nor was it established that any disorder had erupted among the large congregation of people at the venue of the meeting or that the actual number of participants had exceeded the number indicated in the notice of the event. In the Court’s opinion, in the light of that, neither the applicant’s arrest six days after the meeting nor his subsequent conviction for an administrative offence corresponded to a “pressing social need” or was proportionate to the aim of ensuring public safety. The Court further observes that the domestic courts did not establish exactly which actions or inaction of the applicant had put the safety of the participants or other people at risk, stating only that “he had let a significant group of participants congregate in the hallway, obstructing access to the facilities of Klin Ice Palace”. Furthermore, it does not appear from the case material that the police assisted the applicant in any way to ensure its orderly conduct (see *Frumkin*, cited above, § 96) and the domestic courts summarily dismissed his argument concerning this, without any further inquiry. Therefore, considering the rather cursory examination of the circumstances of the applicant’s case by the domestic courts, the Court considers that the reasons given in support of his conviction for an administrative offence were not “relevant and sufficient” for the purposes of Article 11 § 2 of the Convention. Accordingly, in the light of the above factors, his arrest, prosecution and conviction were not necessary in a democratic society.

2. Three protest actions on the road leading to Aleksinskiy Quarry (applications nos. 51015/18, 51020/18, 51022/18, 51685/18, 51777/18, 52169/18, 14282/19, 21963/19 and 21972/19)

144. The Court notes that the applicants were arrested, taken to a police station and charged with administrative offences because their gathering on the road leading to Aleksinskiy Quarry and at the quarry itself had not been authorised and allegedly blocked the passage of transport.

145. The Court has consistently found a violation of Article 11 of the Convention in situations where participants in a public gathering were arrested and convicted of administrative offences for the sole reason that the State authorities perceived their public gathering to be unauthorised (see

Lashmankin and Others, cited above, §§ 459-63 and 475, and the cases cited therein). Having examined the proportionality of the interference in those cases, the Court discerned, in the absence of any acts of violence on the part of the demonstrators, that no “pressing social need” for their arrest and conviction for an administrative offence had existed. The Court observes that there is nothing in the present case file to indicate that the protest actions on the road were violent or that any of the applicants engaged in violent behaviour.

146. As regards the blocking of the road, the Court reiterates that any demonstration in a public place inevitably causes a certain level of disruption to ordinary life, including disruption of traffic, and that 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 *Galstyan v. Armenia*, no. 26986/03, §§ 116-17; 15 November 2007; *Bukta and Others v. Hungary*, no. 25691/04, § 37, ECHR 2007-III; and *Oya Ataman v. Turkey*, no. 74552/01, §§ 38-42, ECHR 2006-XIV).

147. Having examined all the material submitted to it and having regard to its case-law on the subject, the Court considers that in the instant case the measures applied to the applicants as peaceful participants in the public assembly did not correspond to a pressing social need and were thus not necessary in a democratic society. These complaints therefore disclose a breach of Article 11 of the Convention.

3. *Refusal of the authorities to approve four notices of public events (application no. 56764/18)*

148. The Court notes that the three notices of public events submitted by the applicant were not approved by the authorities because another public event had already been planned to take place at the location chosen by the organiser and that they therefore suggested that he change the location. They further did not approve his notice of intention to hold a protest car rally because it had been planned on a road that had only one lane in each direction (see Appendix I (application no. 56764/18)).

149. In this connection, the Court notes that it has already found a violation in respect of similar issues, when, as in the present case, the refusal to approve a public event was issued in the absence of evidence indicating that both events to be held simultaneously could not be adequately managed by the exercise of policing powers or that the authorities had 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 (see *Lashmankin and Others*, cited above, §§ 421-24 and 427).

150. Having examined all the material submitted to it and having regard to its case-law on the subject, the Court considers that in the instant case the

measures applied to the applicant were not necessary in a democratic society and, in particular, were not proportionate to any legitimate aim pursued.

4. Conclusion

151. In the light of the above, the Court accordingly holds that there has been a violation of the applicants' (except Ms Kotova, application no. 106/19) right to freedom of peaceful assembly under Article 11 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

152. 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

153. The applicants fined in the administrative proceedings claimed 140 euros (EUR) in respect of pecuniary damage, and Mr Mochalov claimed an additional EUR 640. All the applicants submitted a claim in respect of non-pecuniary damage but left it to the Court's discretion to determine the amount.

154. The Government submitted that since the fines had been imposed on the applicants as a sanction for the administrative offences of which they had been convicted, their claim in that regard was unfounded. The Government further contended that Mr Mochalov's claim was completely unsubstantiated. With respect to non-pecuniary damage, the Government submitted that no award should be made by the Court under that head because the applicants had not requested a specific sum and because in any case there had been no violation of their rights.

155. The Court considers that there is a direct causal link between the violation of the applicants' rights under Article 11 found by the Court and the fines that the applicants had paid following their conviction of administrative offences (see *Lashmankin and Others*, cited above, § 515). It therefore awards EUR 140 each to the applicants fined in the administrative proceedings (see Appendix I, "Pecuniary damage awarded"). With respect to Mr Mochalov's additional claim in respect of pecuniary damage (application no. 14282/19), the Court rejects it in full, as it has not been properly substantiated.

156. Furthermore, having regard to the nature of the violations found and making its assessment on an equitable basis, the Court awards EUR 9,800 to Mr Kotov (applications nos. 6142/18, 52169/18 and 56764/18) for violation of Articles 8 and 11, and EUR 4,000 to the other applicants, except

Ms Kotova (application no. 106/19), for violation of Article 11, in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

157. The applicants also claimed EUR 9,300 for the costs and expenses incurred in connection with their applications examined by the Court. They furnished a calculation of the total legal costs that they owed that was based on the representative's hourly rates. They also referred to the bill and the fee schedule of their representative, Mr Koroteev, but they did not submit copies of these documents to the Court. Mr Kotov also claimed EUR 85.19 in respect of expenses incurred in the domestic proceedings and for postal costs.

158. The Government submitted that the applicants had not submitted any legal services agreements or receipts confirming that the legal expenses had in fact been incurred and had been reasonable as to a quantum. As to Mr Kotov's claim for costs and expenses, the Government submitted that the expenses incurred by him in connection with the civil proceedings had been processing fees which were due irrespective of the outcome of the proceedings.

159. Regard being had to the case material and the Court's case-law (see *Merabishvili v. Georgia* [GC], no. 72508/13, §§ 371-72, 28 November 2017), the Court finds no basis on which to accept that the costs and expenses claimed by the applicants have actually been incurred by them or that they are under a legal obligation to pay them. The Court further awards EUR 85.19 to Mr Kotov in respect of the expenses incurred by him in the domestic proceedings and for postal costs, plus any tax that may be chargeable to him.

C. Default interest

160. 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

1. *Decides*, unanimously, to join the applications;
2. *Declares*, unanimously, the complaint under Articles 8 and 13 admissible in respect of Mr Kotov (application no. 6142/18) and inadmissible in respect of the other applicants;
3. *Declares*, unanimously, the complaint concerning the interference with the applicants' right to freedom of assembly under Article 11 admissible

in respect of all the applicants, except Ms Kotova (application no. 106/19);

4. *Holds*, unanimously, that there has been a violation of Article 8 of the Convention in respect of Mr Kotov in 2015-2018 and no violation of that Article in 2019 – present time and that there has been no violation of Article 13 of the Convention in respect of him;
5. *Holds*, by six votes to one, that there has been a violation of Article 11 in respect of all the applicants, except Ms Kotova (application no. 106/19);
6. *Holds*, by six votes to one,
 - (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 140 (one hundred and forty euros), plus any tax that may be chargeable, in respect of pecuniary damage, to each of the applicants concerned, as indicated in Appendix I (“Pecuniary damage awarded”);
 - (ii) EUR 9,800 (nine thousand eight hundred euros) to Mr Kotov (applications nos. 6142/18, 52169/18 and 56764/18) and EUR 4,000 (four thousand euros) each to the other applicants, except Ms Kotova (application no. 106/19), in respect of non-pecuniary damage, plus any tax that may be chargeable,
 - (iii) EUR 85.19 (eighty-five euros nineteen cents) to Mr Kotov, plus any tax that may be chargeable to him, in respect of costs and expenses;
 - (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;
7. *Dismisses*, unanimously, the remainder of the applicants’ claim for just satisfaction.

KOTOV AND OTHERS v. RUSSIA JUDGMENT

Done in English, and notified in writing on 11 October 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova
Deputy Registrar

Georges Ravarani
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Serghides is annexed to this judgment.

G.R.
O.C.

CONCURRING OPINION OF JUDGE SERGHIDES

I. Introduction

1. This case concerns the applicants' complaint that the authorities had failed to take protective measures to minimise or eliminate the effects of pollution allegedly caused by the continued operation of a landfill site near their homes in the town of Klin, Moscow Region, in breach of their right to respect for their private life under Article 8 of the Convention. It also concerns a complaint by all but one of the applicants that the authorities had taken disproportionate measures against them as participants in a peaceful public gathering against the depositing of waste at Aleksinskiy Quarry, as they had been arrested, taken to a police station and convicted of administrative offences in breach of their right to freedom of peaceful assembly.

2. Though I am in entire agreement with the judgment and its operative provision for finding a violation of Article 8 (in respect of Mr Kotov in 2015-2018) and Article 11 (in respect of all the applicants except Ms Kotova) and for not finding a violation of Article 13 (in respect of Mr Kotov), I decided to write this concurring opinion in order to go deeper into the source or foundation of the environmental protection under Article 8 and to explain the relationship of such protection with the right to respect for one's private life under Article 8. At the same time, I will examine whether there is a right to a healthy, clean, safe and sustainable environment under Article 8. Furthermore, I will consider the extent to which the Article 11 right to freedom of peaceful assembly can be relevant to the protection of the environment.

3. It is to be noted that I am adopting the same legal analysis, regarding the right to respect for private life under Article 8 and the environmental protection guaranteed through that right, as in my concurring opinion appended to the judgment in *Pavlov and Others v. Russia*, no. 31612/09, 11 October 2022, delivered on the same day as the present judgment.

II. Interrelationship and interdependence between human rights and environmental protection

4. "In a real sense, all human rights are vulnerable to environmental degradation, in that the full enjoyment of all human rights depends on a supportive environment"¹. It is apparent that an unhealthy or generally degraded environment does not allow the right to respect for private life to be exercised and enjoyed effectively. Private life cannot be protected effectively

¹ See paragraph 19 of the UN Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, A/HRC/22/43, 24 December 2012.

if it is not shielded against environmental hazards. Stated even more accurately, a healthy environment is a “precondition” for the full enjoyment of the right to respect for one’s private life, as is the case for almost any other substantive right protected by the Convention². This immediately shows the close relationship and linkage between an environment which is unhealthy, unviable or unsustainable and the right protected under Article 8. The protection of the environment and human rights are thus closely interconnected. In a very recent recommendation, issued shortly after the present judgment was adopted, the Council of Europe’s Committee of Ministers urged member States to “reflect on the nature, content and implications of the right to a clean, healthy and sustainable environment and, on that basis, actively consider recognising at the national level this right as a human right that is important for the enjoyment of human rights and is related to other rights and existing international law” and to “take adequate measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm”³.

As stated by the Human Rights Council in the United Nations General Assembly in 2018⁴:

“Human beings are part of nature, and our human rights are intertwined with the environment in which we live. Environmental harm interferes with the enjoyment of human rights, and the exercise of human rights helps to protect the environment and to promote sustainable development.”

In this connection, John H. Knox and Ramin Pejan observed⁵:

² See also paragraph 6 of “The Strasbourg Principles of International Environmental Human Rights Law – 2022”, in *Journal of Human Rights and the Environment*, vol. 13, special issue, September 2022, p. 196. These Principles were drafted by a group of human rights and environmental law experts who were brought together by the Conference “Human Rights for the Planet” held in 2020 at the European Court of Human Rights in Strasbourg and by the said Special Issue of the *Journal of Human Rights and the Environment*.

³ Recommendation of the Committee of Ministers to member States on human rights and the protection of the environment (adopted by the Committee of Ministers on 27 September 2022 at the 1444th meeting of the Ministers’ Deputies).

⁴ See paragraph 1 of the UN Framework Principles on Human Rights and the Environment (2018), A/HRC/37/59, Annex to the Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of safe, clean, healthy and sustainable environment, available at:

<https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/FrameworkPrinciplesReport.aspx>

Also, the United Nations General Assembly A/76/L.75 of 26 July 2022 “[n]otes that the right to a clean, healthy and sustainable environment is related to other rights and existing international law.”

⁵ See John H. Knox and Ramin Pejan in their introduction to John H. Knox and Ramin Pejan (eds), *The Human Right to a Healthy Environment*, (Cambridge University Press, 2018), p. 1. See also, on the link between human rights and the environment, Natalia Kobylarz, “Balancing its Way Out of Strong Anthropocentrism: Integration of ‘Ecological Minimum Standards’ in the European Court of Human Rights ‘Fair Balance’ Review”, in *Journal of Human Rights and the Environment*, vol. 13, special issue, September 2022, pp. 33-37.

“In the last two decades, however, it has become more and more evident that human rights and environmental protections have a fundamental interdependence: A healthy environment is necessary for the full enjoyment of human rights and, conversely, the exercise of rights (including rights to information, participation, and remedy) is critical to environmental protection.”

5. In *Fredin v. Sweden (No. 1)* (no. 12033/86, § 48, 18 February 1991) it was held that “[t]he Court recognises for its part that in today’s society the protection of the environment is an increasingly important consideration”. As rightly observed by Christina Voigt⁶, the Court “has acknowledged the link between the protection of the environment and human rights by describing it as ‘natural’ that the right to private and family life under Article 8 can be affected by environmental pollution ...”⁷. She adds that the Court “accepts that a healthy environment is a prerequisite for the realization of other human rights, without which the ECHR rights cannot be ensured”⁸. That there is a clear and explicit growing link between a healthy environment and human rights is also acknowledged by the European Committee of Social Rights in *Marangopoulos Foundation for Human Rights (MFHR) v. Greece* (Complaint No. 30/2005, paragraphs 194 and 195, 6 December 2006), where the Committee also highlights that the European Social Charter⁹ is a living instrument.

III. Whether there is a right to a healthy, clean, safe and sustainable environment under the Convention

6. Unlike the Charter of Fundamental Rights of the European Union of 2000¹⁰, there is no explicit or independent or autonomous right to a healthy environment under the Convention, a text which is fifty years older than the former. A healthy environment could and should, however, be secured through the protection of the right to private life and other Convention rights in an indirect way. As Ole W. Pedersen remarked¹¹:

“...the Court’s environmental case law now establishes that where acts of physical pollution attain a certain level of severity, to the extent that there is an ‘actual

⁶ “The Climate Change Dimension of Human Rights: Due Diligence and States’ Positive Obligations”, in *Journal of Human Rights and the Environment*, vol. 13, special issue, September 2022, pp. 152 et seq.

⁷ *Ibid.*, p. 159.

⁸ *Ibid.*

⁹ See Article 11 of the European Social Charter.

¹⁰ See Article 37 of the Charter of Fundamental Rights of the European Union which provides that: “[a] high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.”

¹¹ Ole W. Pedersen, “The European Court of Human Rights and International Environmental Law”, in John H. Knox and Ramin Pejman (eds), *The Human Right to a Healthy Environment*, cited above, pp. 86, 88. The passage above is based on *López Ostra v. Spain*, 9 December 1994, § 51, Series A no. 303-C.

interference with the applicant’s private sphere’ application of the Convention is triggered.”

7. Although there is no such explicit right under the Convention, it has been argued by Irmina Kotiuk, Adam Weiss and Ugo Taddei that the Court “de facto recognises the right to a safe and healthy environment”¹². Similarly, Natalia Kobylarz observes that, though the Convention “does not guarantee a substantive right to healthy environment and none of its provisions are specifically designed to ensure the general protection or the preservation of nature, ... the link between the environment and human rights intrinsically exists”¹³.

8. Indeed, the Convention has been interpreted by the Court as a living instrument to be adapted to the present-day conditions¹⁴, such as to include, apart from negative obligations, also positive obligations relating to the protection of the environment¹⁵. Consequently, like a number of other Convention provisions, Article 8 has been given an evolutive interpretation by the Court so as to encompass environmental protection.

IV. The emergence of a sub-right of an environmental character under Article 8

9. Here I will seek to explain what I believe is the derivation, foundation and nature of a sub-right of an environmental character under Article 8 and the form and place it takes within this provision.

10. I have extensively submitted elsewhere (in other separate opinions and in academic literature) that the principle of effectiveness or otherwise the principle of effective protection of human rights, which is the overarching principle of the Convention, underlying all Convention provisions safeguarding human rights, is not only a method or tool of interpretation, but also a norm of international law embodied in each of those provisions.

11. It is my further submission that the foundation of the environmental protection in the Convention is the norm of effectiveness enshrined in a Convention provision. It is the said norm of effectiveness, as a fundamental

¹² See Irmina Kotiuk, Adam Weiss and Ugo Taddei, “Does the European Convention on Human Rights Guarantee a Human Right to Clean and Healthy Air? Litigating at the Nexus Between Human Rights and the Environment – The Practitioner’s Perspective”, in *Journal of Human Rights and the Environment*, vol. 13, special issue, September 2022, 122, pp. 131-134.

¹³ See Natalia Kobylarz, “The European Court of Human Rights: An Underrated Forum of Environmental Litigation”, in Helle Tegner Ankder and Birgitte Egelund Olsen (eds), *Sustainable Management – Legal Instruments and Approaches* (Intersentia, Cambridge, 2018), p. 100.

¹⁴ *Ibid.*, pp. 107-108.

¹⁵ See on States’ positive obligations to protect the environment and human rights, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, A/75/161, 15 July 2020.

matrix or source which nurtures, generates and develops a right, in this case the Article 8 right, taking into account the object and purpose of the Convention¹⁶, in particular of Article 8, and which right also necessitates and entails the implicit sub-right to a healthy environment which is indispensable for the exercise and enjoyment of the right to respect for one's private life. This sub-right of Article 8 is an implied or implicit or "emergent human right"¹⁷ of an environmental character. It is an implied right in the same way as the right of access to a court is an implied, ancillary or secondary right in relation to the right to a fair trial under Article 6 of the Convention (see *Golder v. The United Kingdom*, no. 4451/70, 21 February 1975 (Plenary)). The emergence of the sub-right in question under Article 8 from the norm of effectiveness can be materialised through a broad, evolutive and dynamic interpretation given by the Court, aided by the living instrument doctrine adapting the Convention to present-day conditions and the developments of international law and the doctrine of positive obligations according to which member States must take the necessary steps in order to ensure the exercise and enjoyment of the right to live a private life free from environmental hazards. These two doctrines are, in my view, capacities or functions or dimensions of the principle of effectiveness as a norm of international law, vested with a particular mission to assist in the development of the norm of effectiveness and to ensure that the Convention rights are always practical and effective. On the other hand, the principle of effectiveness as a method of interpretation can assist the norm of effectiveness in its pragmatic application in the particular circumstances of a case. The principle of effectiveness in both of its capacities, namely, as a norm of international law and as method of interpretation, may enable the flourishing of the "green" and moral dimension¹⁸ of the right concerned.

12. Without the expansion of the norm of effectiveness and the development of this sub-right, one aspect of the right to respect for one's private life would be missing, completely unprotected, and in danger from environmental risks. Therefore this sub-right or indirect right deriving from

¹⁶ See Article 31 § 1 of the Vienna Convention on the Law of Treaties of 1969.

¹⁷ A term used by Richard P. Hiskes, *Human Right to a Green Future – Environmental Rights and Intergenerational Justice* (Cambridge University Press, 2009, repr. 2014), pp. 26-47.

¹⁸ Or "moral reading", to use the term of Ronald Dworkin, "Law's Ambitions for Itself" (1985), 71(2) *Virginia Law Review*, pp. 173, 176, 178, 181-182 and 185; Ronald Dworkin, *Law's Empire* (Bloomsbury, 1986, Hart Publishing, 2021), p. 411; Ronald Dworkin, *Freedom of Law: The Moral Reading of the American Constitution* (Harvard University Press, 1997). See also on moral considerations on a human right to a healthy environment, in César Rodríguez-Garavito, "A Human Right to a Healthy Environment? Moral, Legal, and Empirical Considerations", in John H. Knox and Ramin Pejan (eds), *The Human Right to a Healthy Environment*, cited above, pp. 155 *et seq.*

the norm of effectiveness is extremely important for the protection of the environment. As Natalia Kobylarz insightfully argues¹⁹,

“Strasbourg’s system of indirect protection of the environment can ensure, on the one hand, a more adequate response to the human-rights claims of today’s society and, on the other hand, a more meaningful protection of the natural environment”.

13. It must be clarified that, by being expanded so as to protect the right in question from present and future risks, the norm of effectiveness and the right concerned remain the same. The expansion of the norm of effectiveness so as to protect the right to be free from pollution, noise and other environmental problems should also be examined in the light of international law and can be influenced by the advancement of environmental conscience in Europe and globally, which is a value of civilization closely bound up with respect for human dignity. And dignity underpins every human right, including, of course, Article 8.

14. The norm of effectiveness, underlying environmental protection under Article 8, is not to be found only within the “right” itself, but also within the scope of the “victim” of an alleged violation (see Article 34 of the Convention dealing with the individual applications). According to the Court’s case-law the term “victim” has an autonomous meaning (*Gorraiz Lizarraga and Others v. Spain*, no. 62543/00, § 35, 27 April 2004), and like the term “right” it should be interpreted broadly and in an evolutive manner. The term “victim” should be read in conjunction with the word “everyone” in Article 8 § 1 of the Convention, so as to include without discrimination every person who is a victim of a violation of an environmental character, like Mr Kotov in the present case. It is, in my view, the principle of effectiveness as a norm of international law and the interpretation made by the Court which broaden the scope of both the “right” and the “victim” so as to protect them from any environmental hazards.

15. For the purpose of finding a violation of the right to respect for private life, there must always be a causal link between the environmental pollution or other environmental hazard and its harmful effects on an applicant’s health, like those which affected Mr Kotov in the present case (see paragraphs 107-109 of the judgment), or on an applicant’s well-being or quality of private life and home²⁰. Consequently, the Court rightly found a violation of Article 8 in respect of Mr Kotov for the period 2015-2018 and no violation for the subsequent years (see paragraph 136 of the judgment and point 4 of its operative provisions).

¹⁹ Natalia Kobylarz, “Balancing its Way Out of Strong Anthropocentrism: Integration of ‘Ecological Minimum Standards’ in the European Court of Human Rights ‘Fair Balance’ Review”, cited above, p. 23.

²⁰ See *López Ostra v. Spain*, cited above, § 51 *in fine*; *Taşkın and Others v. Turkey*, no. 46117/99, § 113, ECHR 2004-X; *Tătar v. Romania*, no. 67021/01, § 97, 27 January 2009; *Dzemyuk v. Ukraine*, no. 42488/02, § 82, 4 September 2014; and *Hardy and Maile v. the United Kingdom*, no. 31965/07, § 189, 14 February 2012.

16. It is my submission that the norm of effectiveness, which is included in Article 8, is not only placed within its first paragraph but is enshrined in the said Article in its totality, to the effect that, not only should the right to respect for private life be interpreted broadly, so as to include a sub-right of an environmental character, but also: (a) any interference with the right is to be construed narrowly, and (b) in case of doubt in the fair balance test between the right and the interference (although such doubt was not present in the instant case), the right should prevail over the interference: *in dubio in favore pro jure/libertate/persona*. In the same vein, when the case is analysed in terms of a positive duty or obligation on the State to take reasonable and appropriate measures to secure an applicant's rights under Article 8 § 1, in case of doubt in the fair balance test, the right should prevail over any other competing interests.

17. In my view, the part of the norm of effectiveness which concerns environmental protection, namely, the said sub-right, is not yet a *jus cogens* norm²¹, but it will not be too long before it is developed and becomes such a norm, considering the negative, sometimes cataclysmically negative, direct and indirect implications of climate change – and, of course, the other serious environmental hazards which plague the world – on the effective enjoyment of all human rights²².

V. Is there a sub-norm of an environmental character under Article 11?

18. Article 11 covers any peaceful gathering. “The jurisprudential principles relating to the right to freedom of peaceful assembly apply in a fairly standard manner to environmentalist demonstrations”²³. The sub-right of an environmental character, implicit in Article 8 and other Convention provisions, should be buttressed, not only by procedural rights (such as that of information, participation in environmental decision-making and access to justice)²⁴, but also by the exercise of the Article 11 right to demonstrate peacefully, the demonstration in the present case having been staged by the

²¹ See on whether a right to a healthy environment in international law is a *jus cogens* norm Louis J. Kotsé, “In Search of a Right to a Healthy Environment in International Law: *Jus Cogens* Norms”, in John H. Knox and Ramin Pejman (eds), *The Human Right to a Healthy Environment*, cited above, pp. 136 *et seq.*

²² See the United Nations General Assembly A/76/L.75 of 26 July 2022.

²³ See Court's Guide to the case-law of the European Court of Human Rights – Environment, prepared by the Registry of the Court and updated on 30 April 2022 (available on the Court's website), paragraph 155 under heading: “Environmental demonstrations”. The Guide also refers to *Makhmoudov v. Russia*, no. 35082/04, 26 July 2007, concerning an arbitrary ban on a demonstration which an environmental conservation association had wished to organise to protest against planned new constructions.

²⁴ See the 1998 Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

relevant applicants against the depositing of waste at the place where they lived.

19. The authorities, by applying in the instant case measures which were not necessary in a democratic society, and, in particular were not proportionate to any legitimate aim pursued, discouraged and prevented the applicants from holding a “green” and peaceful public demonstration, and thus from asserting their right to respect for their private life under Article 8 and their environmental sub-right under this provision. Therefore the finding in the present judgment of a violation of Article 11 (see paragraph 151 of the judgment and point 5 of its operative provisions) was necessary. And this finding, together with the additional award by the Court to the relevant applicants in respect of non-pecuniary damage, show that a “green” and peaceful public demonstration can be recognised by the Court as a means of asserting environmental rights in a democratic society.

VI. The need for a new protocol

20. It must be underlined, however, that no new human right can be created under the Convention without the enactment of a new protocol and the jurisdiction of the Court is limited to interpreting and applying the rights guaranteed by the provisions of the Convention and its Protocols (see Article 32 § 1 of the Convention). In this connection, as observed by Natalia Kobylarz, “it is obvious that the ECHR has its limits in that it does not stipulate a substantive right to a healthy environment and thus does not provide the Court with infinite jurisdiction ...”²⁵.

21. Consequently, despite the evolutive case-law of the Court, there is a need for the inclusion of a substantive right to a healthy, clean, safe and sustainable environment in the Convention, by a way of a new protocol.

22. In 2009 the Council of Europe’s Parliamentary Assembly recommended that its Committee of Ministers draft an additional protocol to the Convention in which a right to a healthy environment would be incorporated. Regrettably, however, the Committee did not vote in favour of this, as it was argued that the Convention system had already indirectly contributed to the protection of the environment by the evolving case-law of the Court²⁶. Fortunately, a similar Resolution was passed again by the Parliamentary Assembly at the end of September 2021²⁷. However, no

²⁵ See Natalia Kobylarz, “The European Court of Human Rights: An Underrated Forum of Environmental Litigation”, cited above, p. 118.

²⁶ See “Drafting an additional protocol to the European Convention on Human Rights concerning the right to a healthy environment”, Reply to Recommendation, Doc. 12298, 19 June 2010, available at:

<https://pace.coe.int/en/files/24830/html>, para. 9.

²⁷ See 2021 Council of Europe Parliamentary Assembly Resolution No 2396 (Anchoring the right to a healthy environment: need for enhanced action by the Council of Europe), 29 September 2021, which calls for the recognition of the right to a healthy environment also

decision has yet been taken. It is hoped that the Committee of Ministers will this time recognise the necessity and urgency of adopting such an additional protocol so as to ensure that environmental protection is institutionalised under the Convention.

23. Such an explicit provision in the Convention would be an incentive for stronger domestic environmental laws and a more protection-focused approach by the domestic courts, but, most importantly, it would provide broader and more complete Convention protection of the potential right secured by the Court.

24. It just so happened that the present case could receive the protection of the Convention without a new protocol being enacted. However, Natalia Kobylarz, has pointed out, by referring to a number of cases, that “the lack of a formal legal basis, has led the Court to reject applications that were seeking a general protection of the environment or nature”²⁸. Thus the failure to secure such protection can only be resolved by an additional protocol.

VII. Conclusion

25. I have decided to follow the present judgment, having in mind not only the reasoning developed there, but also the above legal analysis. In order to ensure effective interpretation, by giving a “green” reading to Article 8 and other Convention provisions, it is a prerequisite that there should be an understanding of the interrelationship and interdependence between human rights and environmental protection, as well as an understanding of the source of this protection within Article 8, and of how it can be developed in the future by the Court. This opinion humbly attempts to contribute towards these ends, and, at the same time, seeks to take a step further as to the legal basis, foundation and source of the environmental protection under Article 8 of the Convention.

in its ecocentric dimension (intrinsic value of nature, general protection of the environment, see particularly paragraph 6). See for more details on this Resolution: “The right to a healthy environment: PACE proposes draft of a new protocol to the European Convention on Human Rights”, available at:

<https://pace.coe.int/en/news/8452/the-right-to-a-healthy-environment-pace-proposes-draft-of-a-new-protocol-to-the-european-convention-on-human-rights->

For other ecocentric instruments, see the Council of Europe’s 1979 Bern Convention on the Conservation of European Wildlife and Natural Habitats, Preamble; 1982 World Charter for Nature (Annex, Convinced that: (a)); 1992 UN Convention on Biological Diversity (Preamble); 2000 International Covenant on Environment and Development from the International Union for Conservation of Nature (Article 2); and 2000 Earth Charter (Article 1).

²⁸ See Natalia Kobylarz, “International Conference on Human Rights and Environmental Protection” (Council of Europe, 2020), p. 19.

26. Lastly, this opinion makes the point that a peaceful public demonstration, as protected by Article 11, can serve as a means for applicants to assert their environmental rights in a democratic society.

APPENDIX

List of cases:

No.	Application no. Lodged on Applicant Year of birth Place of residence Represented by	Administrative proceedings related to Article 11 complaints	Pecuniary damage awarded
1.	6142/18 10/01/2018 Aleksey Nikolayevich KOTOV 1983 Klin	none	none
2.	51015/18 15/10/2018 Vasiliy Leonidovich STAROSTIN 1977 Klin	10 March 2018 – participated in a protest near the landfill site against its operation, arrested on administrative charges of “participating in an unauthorised public event and blocking traffic”; 16 March 2018 the Klin Town Court found the applicant guilty of “participating in an unauthorised public gathering and obstructing traffic” and imposed on him a fine of RUB 10,000 (about EUR 140 at the time); 17 April 2018 – the Moscow Regional Court upheld the judgment in full.	EUR 140
3.	51020/18 15/10/2018 Igor Anatolyevich MOCHALOV 1969 Klin	Same as in application no. 51015/18	EUR 140
4.	51022/18 15/10/2018 Yevgeniy Aleksandrovich GOLUBEV 1982 Konoplino, Klin District	Same as in application no. 51015/18	EUR 140
5.	51640/18 15/10/2018 Igor Anatolyevich MOCHALOV 1969 Klin	4 March 2018 – organised a public and authorised event for protection of the environment from pollution caused by the landfill site; 10 March 2018 – arrested and charged with “breach by an organiser of public assembly regulations [on 4 March 2018] resulting in the obstruction of pedestrian traffic and access to infrastructure”;	

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		23 March 2018 – the Klin Town Court reclassified the administrative offence as a lesser one and found the applicant guilty of “breach by an organiser of public assembly regulations relating to people’s safety”. It was established that about 150 participants had gathered in the hallway of the Klin Ice Palace for the meeting concerning the environment organised by the applicant. Witnesses testified that he had encouraged participants over a megaphone to ensure unobstructed entry to the Ice Palace. The applicant also stated that the representatives of law enforcement had also had a duty to ensure peaceful conduct and the safety of citizens during the meeting. The domestic court dismissed that argument. 24 April 2018 – the Moscow Regional Court upheld the judgment.	
6.	51685/18 15/10/2018 Aleksandr Vladimirovich KLIMOV 1980 Klin	10 March 2018 – participated in a protest near the landfill site against its operation, arrested on administrative charges of “participating in an unauthorised public event and blocking traffic”; 20 March 2018 – the Klin Town Court found the applicant guilty of “participating in an unauthorised public gathering and obstructing traffic” and imposed on him a fine of RUB 10,000; 15 May 2018 – the Moscow Regional Court upheld the judgment.	EUR 140
7.	51777/18 21/10/2018 Aleksey Nikolayevich STUDENOV 1973 Klin	10 March 2018 – participated in a protest near the landfill site against its operation, arrested on administrative charges of “participating in an unauthorised public event and blocking traffic”; 26 March 2018 – the Klin Town Court found the applicant guilty of “participating in an unauthorised public gathering and obstructing traffic” and imposed on him a fine of RUB 10,000 (about EUR 140); 24 April 2018 – the Moscow Regional Court upheld the judgment.	EUR 140
8.	52169/18 23/10/2018 Aleksey Nikolayevich KOTOV 1983 Klin	10 March 2018 – participated in a protest near the landfill site against its operation, arrested on administrative charges of “participating in an unauthorised public event and blocking traffic”; 28 March 2018 – the Klin Town Court found the applicant guilty of “participating in an unauthorised public gathering and obstructing traffic” and imposed on him a fine of RUB 10,000; 15 May 2018 – the Moscow Regional Court upheld the judgment.	EUR 140
9.	56764/18 14/11/2018	1) Proceedings against the municipal authorities for refusing to approve the applicant’s notices of a public event on 19, 25 and 26 November 2017 to be held in the town’s park	none

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	Aleksey Nikolayevich KOTOV 18/06/1983 Klin	23 November 2017 – the Klin Town Court refused the applicant’s claim and held, <i>inter alia</i>, that: “... the replies [of the municipal administration] suggesting that the applicant change the venue of the event are well reasoned and do not interfere with [the applicant’s] right to peaceful assembly ... The suggestion to change venue is not arbitrary as another public event has already been scheduled to take place at the same venue and time indicated [by the applicant] in his notice ...” 24 November 2017 – the Moscow Regional Court upheld the judgment in appeal proceedings; 22 February 2018 – the Moscow Regional Court upheld the judgment in cassation appeal proceedings; 27 June 2018 – the Supreme Court of the Russian Federation upheld the judgment in cassation appeal proceedings. 2) Proceedings against the municipal authorities for refusing to approve the applicant’s notice of a protest car rally on 5 May 2018 3 May 2018 – the Klin Town Court refused the applicant’s claim and held, <i>inter alia</i>, that: “ it was established that the route [of the rally] declared [by the applicant] would take place on a two-lane road ... [the municipal administration] did not approve the applicant’s notice of the public event because under [the applicable law], the means of transportation employed during a public event cannot be used on one-way or two-lane roads ... the court concludes that there are no grounds to allow [the applicant’s] claim as it was not established that the decision of [the municipal administration] was unlawful or that it interfered with [the applicant’s] rights ...” 4 May 2018 – the Moscow Regional Court upheld the judgment in appeal proceedings; 25 July 2018 – the Moscow Regional Court upheld the judgment in cassation appeal proceedings; 10 October 2018 – the Supreme Court of the Russian Federation upheld the judgment in cassation appeal proceedings.	
10.	106/19 13/12/2018 Nadezhda Nikolayevna KOTOVA 1955 Klin	8 February 2018 the Moscow Regional Court granted the applicant’s request to quash the decision of the Klin Town Court of 13 October 2017 suspending execution of the administrative sanction imposed on Kombinat LLC.	none

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11.	14282/19 04/03/2019 Igor Anatolyevich MOCHALOV 1969 Klin	29 July 2018 – the applicant participated in a public protest against the operation of the landfill site, together with approximately twenty other people; 2 August 2018 – the Klin Town Court found the applicant guilty of “obstructing traffic” and sentenced him to sixty-four hours’ community service; 06 September 2018 – the Moscow Regional Court upheld the judgment.	none
12.	21963/19 10/04/2019 Aleksandr Nikolayevich BAKHMETYEV 1982 Klin	25 August 2018 – the applicant participated in a public protest against the operation of the landfill site; 11 September 2018 – the Klin Town Court found the applicant guilty of “obstructing traffic” and imposed on him a fine of RUB 10,000; 11 September 2018 – the Klin Town Court terminated the administrative proceedings in respect of the applicant on charges of “disobeying the lawful order of a police officer”; 16 October 2018 – the Moscow Regional Court upheld the judgment of 5 September 2018.	EUR 140
13.	21972/19 10/04/2019 Artem Mikhaylovich DAVYDOVICH 1965 Klin	25 August 2018 - the applicant participated in a public protest against the operation of the landfill site; 5 September 2018 – the Klin Town Court found the applicant guilty of “obstructing traffic” and imposed on him a fine of RUB 10,000; 11 September 2018 – the Klin Town Court terminated the administrative proceedings in respect of the applicant on charges of “disobeying the lawful order of a police officer”; 16 October 2018 – the Moscow Regional Court upheld the judgment of 5 September 2018.	EUR 140
14.	21976/19 10/04/2019 Andrey Vladimirovich VASILEVSKIY 1976 Klin	Same as in application no. 21972/19 (see above)	EUR 140

Appendix II

Extracts from documents submitted by the applicant

Maximum one-time concentrations of harmful substances in the atmospheric air of Klin or its districts

Name of testing organisation	The Ministry of Natural Resources and Environment of the Moscow Region	State Fire and Rescue Service (in the villages of Golikovo and Novotschapovo)	Federal Service for Hydrometeorology and Environmental Monitoring	Public interest group								
Date Substance	Sep. 2017	June 2017	Mar. 2018	June 2018	Dec. 2018	Feb. 2019	Mar. 2019	June 2019	July 2019	Aug. 2019	Oct. 2019	Nov. 2019
Hydrogen sulphide		25 MPL										
Hydrogen chloride		1.5 MPL	0.5 MPL		<1 MPL	<1 MPL	<1 MPL	2 MPL	6.5 MPL	3.5 MPL	<0.5 MPL	4.5 MPL
Formaldehyde				1,8 MPL	17-40 MPL	3-5.6 MPL	<1 MPL	<1 MPL	<1 MPL	9 MPL	<1 MPL	<1 MPL
Ammonia	3 MPL	1 MPL				<0.5 MPL	<0.5 MPL	<0.5 MPL	<0.5 MPL	<0.5 MPL	<0.5 MPL	1 MPL
Chloride			3-7 MPL 1MPL									
Sulphur dioxide		0.6 MPL	0.2 MPL	0.01MPL								

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Nitrogen dioxide	53 MPL		1 MPL	0.3MPL	< 0.5 MPL	< 0.5 MPL	< 0.5 MPL	1.35 MPL	< 0.5 MPL	< 0.5 MPL	1.65 MPL	< 0.5 MPL
Thiols					0.8 MPL	<0.8 MPL	23 MPL	24 MPL	< 0.8 MPL	< 0.8 MPL	2.5 MPL	19.1 MPL
Phenol	93.8 MPL											
Soot	1.3 MPL											
Xylol	2.3 MPL											

Appendix III

Extracts from documents submitted by the Government

Table 1. Excerpts from reports on air quality testing in residential areas near Aleksinskiy Quarry
[highlights added to indicate concentrations above MPL]

Toxic substance	Hydrogen sulphide	Ammonia	Methane	Methylmercaptan	Carbon monoxide	Nitrogen dioxide	Nitrogen oxide	Phenol	Xylol	Sulphur dioxide	Non-organic dust	Ethylbenzene	Toluene	Formaldehyde
MPL	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³	MPL mg/m ³
Date of testing	0.008	0.2	50	0.006	5.0	0.2	0.4	0.5	0.2	0.5	0.15	0.02	0.6	0.05
24/03/2018 (by Promenergo LLC)	0.006	0.018	7.9		2.02				0.05	0.019				
18/04/2018	<0.0048	<0.024	<30	<0.003	2.0	<0.1								
27/04/2018		3.9-17 MPL												
01/10/2018	<0.004	<0.02	26.8		<1.5	<0.02	<0.03	0.01	<0.05	0.052		<0.05		<0.005
01/10/2018	<0.004	<0.02	27.5		<1.5	<0.02	<0.03	0.013	<0.05	0.055		<0.05		<0.005
07/11/2018	<0.0048	<0.024	2.14		2.18				<0.05	<0.03				
13/11/2018	<0.0048	<0.024	2.12		2.15				<0.05	<0.03				
13/11/2018	<0.0048	<0.024	2.14		2.18				<0.05	<0.03				
22/01/2019	<0.0048	<0.024	<25	<0.003				<0.0018		<0.03 – 0.05				

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28/01/2019	<0.048	<0.024	33+/-8	<0.003				<0.0018		<0.03				
29/01/2019	0.004	<0.01			0.36		0.025	0.007	<0.05	0.04			<0.05	<0.01
Toxic substance	Hydrogen sulphide	Ammonia	Methane	Methylmercaptan	Carbon monoxide	Nitrogen dioxide	Nitrogen oxide	Phenol	Xylol	Sulphur dioxide	Non-organic dust	Ethylbenzene	Toluene	Formaldehyde
MPL*	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3
Date of testing	0.008	0.2	50	0.006	5.0	0.2	0.4	0.5	0.2	0.5	0.15	0.02	0.6	0.05
29/01/2019	0.004	<0.01			0.39	0.021		0.009	<0.05	0.03			<0.05	<0.01
29/01/2019	0.004	<0.01			0.34	0.022		0.006	<0.05	0.04			<0.05	<0.01
20/03/2019	<0.004	<0.2	<30		2.0				<0.05	<0.1				
20/03/2019	<0.004	<0.2	<30		2.40				<0.05	<0.1				
20/03/2019	<0.004	<0.2	<30		2.20				<0.05	<0.1				
22/05/2019	<0.004	<0.2	<30		2.20				<0.05	<0.05				
22/05/2019	<0.004	<0.2	<30		2.10				<0.05	<0.05				
22/05/2019	<0.004	<0.2	<30		2.0				<0.05	<0.05				
04/09/2019	<0.004	<0.2	<30		1.90				<0.05	<0.05				
06/09/2019	<0.004	<0.2	<30		2.0				<0.05	<0.05				
09/09/2019	<0.004	<0.2	<30		1.90				<0.05	<0.05				

Table 2. Excerpts from reports on air quality testing at Aleksinskiy Quarry (air in the industrial/working area)

[highlights added to indicate concentrations above MPL]

Toxic substance	Hydrogen sulphide	Ammonia	Methane	Carbon monoxide	Nitrogen dioxide	Nitrogen oxide	Phenol	Soot	Xylol (s)	Sulphur dioxide	Non-organic dust	Ethylbenzene	Toluene	Formaldehyde
MPL	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3
Date of testing	10	20	7000	20	2	5	1/0.3	-	150	10	2	50	4	0.5
24/03/2018	0.032	0.24	396.0	3.79	0.18				0.06	0.10	0.28	0.04	0.04	0.012
(by Promenerg o LLC)	0.031	0.25	396.1	3.85	0.18				0.06				0.04	0.12
07/11/2018	0.027	0.025	64.6	4.84	0.059				0.026	0.028	0.15	0.020	0.022	0.018
13/11/2018	0.027	0.017	64.6	2.42	0.026				0.019				0.022	0.018
13/11/2018	0.027	0.025	50.6	4.84	0.059				0.026	0.028	0.15	0.020	0.023	0.017
20/03/2019	0.010	<0.2	<30	3.0	0.10				<0.05				<0.05	<0.5
20/03/2019	0.008	<0.2	<30	4.0	<0.05				<0.05 /0.10	0.11	0.16		<0.05	<0.05
22/05/2019	0.013	<0.2	<30	3.30	0.08				<0.05				<0.05	<0.5
22/05/2019	0.011	<0.2	<30	2.90	0.09				<0.05				<0.05	<0.5
04/09/2019	0.009	<0.2	<30	2.50	0.10				<0.05				<0.05	<0.5
04/09/2019	0.008	<0.2	<30	2.40	0.06				<0.05				<0.05	<0.5
04/09/2019	0.011	<0.2	<30	20.0	74.0	33.0	<0.3		<0.05	90.0		<0.05	<0.05	<0.5

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04/09/2019	1,800	61.0	330,000	90.00	<0.1	1.60	2.0		0.20/ 0.05	44.00		<0.01	1	2.0
Toxic substance	Hydrogen sulphide	Ammonia	Methane	Carbon monoxide	Nitrogen dioxide	Nitrogen oxide	Phenol	Soot	Xylol (s)	Sulphur dioxide	Non-organic dust	Ethylbenzene Ethylbenzene	Toluene	Formaldehyde
MPL* Date of testing	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3	MPL mg/m3
	10	20	7000	20	2	5	1/0.3	-	150	10	2	50	4	0.5
04/09/2019	1,500	60	360,000	100.00	<0.1	2.10	2.0		0.30/ <0.05	50.00		0.09	2.80	6.50

*Measurements were based on Hygiene regulations no. 2.2.5.1313-03 of 30 April 2003 (Maximum permitted levels of toxic substances in the atmospheric air of working area).

Table 3. Excerpts from reports on water quality testing of water sources at/near Aleksinskiy Quarry in 2019
[highlights added to indicate concentrations above MPL]

Substance	MPL (mg/l, unless specified otherwise)	Fresh water source 0.3 km from the quarry's border	Pond 0.5 km from the quarry	River above the quarry	River below the quarry		Control borehole C4 (groundwater)		Control borehole C9 (groundwater)		Water spring 100 m above release of wastewater	Water spring 100 m below release of wastewater
					May 2019	Sep. 2019	May 2019	Sep. 2019	May 2019	Sep. 2019		
Petroleum	0.05	0.03	0.19	0.19	0.28	0.30	0.80	0.86	0.71	0.75	0.093	0.099
BOD ^{5*}	2.10	1.94	4.4	2.0	2.3	2.4	4.15	5.0	3.7	4.1	14	15
COD**	15.0	4	10	5	6	6.8	10	13	6	7.7	30	31
Hydrogen index	6.5-8.5 (unitary PH)	10.3	7.6	7.8	8.0	8.0	7.2	7.1	7.3	7.2	6.5	6.4
Dry residue [of non-volatile substances]	1000	171	248	189	204	209	191	202	198	195	645	655
Ammonia ions	0.5	0.34	0.31	0.30	0.35	0.37	7.6	6.9	0.17	0.54	1.7	1.8
Nitrites	0.08	<0.02	<0.02	<0.02	<0.02	<0.02	<0.02	<0.02	0.25	0.30	0.070	0.077
Nitrates	40	0.24	7.6	3.0	3.8	4.0	0.36	0.21	0.53	1.0	1.2	2.5
Sulphates	100	<30	<30	<30	<30	<30	<30	<30	<30	<30	<30	<30
Chlorides	300	51	<10	21	43	46	<10	<10	<10	<10	<10	<10
Iron	0.10	0.7	2.4	0.29	0.4	0.43	0.4	0.48	0.7	0.60	2.9	3.0
Copper	0.001	0.005	0.006	0.001	0.006	0.006	0.011	0.013	0.017	0.016	0.001	0.001
Lead	0.006	0.013	0.029	0.005	0.019	0.021	0.039	0.030	0.039	0.041	0.005	0.005

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Chrome	0.07	0.059	0.063	0.048	0.060	0.065	0.066	0.059	0.057	0.054	<0.01	0.01
Nickel	0.01	0.010	0.002	0.006	0.009	0.010	0.009	0.003	<0.0002	0.010	0.006	0.007
Cadmium	0.005	0.002	0.004	0.001	0.003	0.004	0.006	0.009	0.002	0.005	0.004	0.004
Manganese	0.01	0.035	0.056	0.017	0.030	0.035	0.10	0.12	0.041	0.056	0.010	0.010

[* Biochemical oxygen demand – the amount of oxygen required by microorganisms to break down organic waste, water pollution is directly proportionate to this number]

[** Chemical oxygen demand - amount of oxygen required to chemically oxidise organic compounds, such as petroleum, solvents, lubricants, cleaning agents, etc., in water]

Table 4. Excerpts from reports on water quality testing of water sources at/near Aleksinskiy Quarry in June 2018 carried out by Promenergo LLC

[highlights added to indicate concentrations above MPL]

Substance	MPL (mg/l, unless specified otherwise)	Fresh water source B1	River below the quarry	River above the quarry	Borehole no. 4	Borehole no. 9
pH	6.5-8.5 (PH units)	7.00	7.23	7.12	6.89	6.87
Presence of colour	20.0	37.0	46.0	71.0	1.0	74.0
Opacity	1.5	6.51	6.40	16.6	45.9	11.3
BOD ⁵	3.0	1.55	5.77	6.18	2.04	5.12
Suspended particles	10.75	3.50	3.50	7.78	29.2	6.32
Dry residue	1000.0	362.0	412.0	407.0	378.0	575.0
Chlorides	350.0	55.4	14.2	14.0	15.2	15.6
Sulphates	500.0	<10.0	13.2	27.1	13.6	<10.0
Ammonia ion	1.5	<0.10	<0.10	0.269	0.149	0.219
Nitrite ion	3.3	<0.003	<0.003	0.038	0.033	0.619
Nitrate ion	45.0	<0.10	<0.10	<0.10	<0.10	6.45
Phosphates	3.50	0.277	0.386	1.35	<0.05	3.86
Petroleum	0.30	<0.04	0.096	0.060	0.045	<0.04
Iron	0.30	0.908	0.735	2.71	10.1	4.04
Lead	0.01	<0.002	<0.002	<0.002	<0.002	<0.002
Copper	1.0	0.014	0.021	0.026	0.154	0.034
Nickel	0.02	0.029	0.05	0.034	0.043	0.024
Cadmium	0.001	<0.002	<0.002	<0.002	<0.002	<0.002
Manganese	0.1	0.105	<0.005	0.451	0.983	<0.005
Chrome	0.5	<0.01	0.01	<0.01	<0.01	<0.01