



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

FIRST SECTION

CASE OF SERGEY KUZNETSOV v. RUSSIA

(Application no. 10877/04)

JUDGMENT

STRASBOURG

23 October 2008

FINAL

23/01/2009

This judgment may be subject to editorial revision.

In the case of Sergey Kuznetsov v. Russia,

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

Nina Vajić, *President*,

Anatoly Kovler,

Khanlar Hajiyeu,

Dean Spielmann,

Sverre Erik Jebens,

Giorgio Malinverni,

George Nicolaou, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having deliberated in private on 2 October 2008,

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

PROCEDURE

1. The case originated in an application (no. 10877/04) 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 a Russian national, Mr Sergey Vladimirovich Kuznetsov (“the applicant”), on 25 December 2003.

2. The applicant was represented by Mr Yu. Yershov, a lawyer practising in Yekaterinburg. The Russian Government (“the Government”) were represented by Mr P. Laptev, a former Representative of the Russian Federation at the European Court of Human Rights.

3. On 1 March 2005 the President of the First Section decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 3 of the Convention).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1957 and lives in Yekaterinburg.

5. On 18 March 2003 the applicant and two other persons (Mr Sh. and Ms M.) sent a notice to the head of Yekaterinburg town administration of

their intention to stage a picket in front of the Sverdlovsk Regional Court.¹ The picket was to take place between 25 and 28 March 2003 between 9 and 11 a.m. The declared purpose of the picket was “to attract public attention to violations of the human right of access to a court”.

6. On 19 March 2003 the head of the Committee for Public Relations and Mass Media of the Yekaterinburg town administration acknowledged receipt of the notice. He noted that, should the picket cause any inconvenience, such as blocking access to the court-house or impairing its normal functioning, the administration would have to intervene.

7. On 20 March 2003 the head of the Yekaterinburg public security police ordered that the police should maintain public order and traffic safety during the picket.

8. On 25 March 2003 the applicant and others held the picket. They distributed press clippings and leaflets about Mr Ovcharuk, the President of the Sverdlovsk Regional Court, who had allegedly been involved in corruption scandals, and collected signatures for his dismissal.

9. On 27 March 2003 Mr Dementyev, the first deputy president of the Sverdlovsk Regional Court, sent the following letter to the head of the Verkh-Issetskiy police department of Yekaterinburg:

“With the consent of the Yekaterinburg town administration, a group of citizens comprising Mr Sh., Mr Kuznetsov and Ms M., held a picket in front of the building of the Sverdlovsk Regional Court...

The picket notice indicated that the purpose of the picket was ‘to attract public attention to violations of the human right of access to a court’.

As the subsequent events demonstrated, the picket organisers misled the officials of the Yekaterinburg town administration as to the real purposes of their action.

Instead of drawing public attention to the problems of judicial protection and violations of human rights, as it was indicated in the picket notice – if they believed that such problems existed – which would be hard to contradict because the said problems exist in reality, for three days the picket participants distributed printed leaflets and materials of a slanderous and insulting nature which targeted the president of the Sverdlovsk Regional Court personally.

The information contained in the extract from the *Novaya Gazeta* newspaper was more than two years old. It had been checked by the Supreme Qualification Panel of Judges and the Prosecutor General’s Office and found to be slanderous, of which the picket participants, in particular Mr Sh. and Mr Kuznetsov, were perfectly aware.

The above stated begs the conclusion that the picket organisers deliberately and maliciously changed the nature of the action and in that way misled the public whom,

1. Yekaterinburg was called Sverdlovsk in Soviet times. In the 1990s its original name was reinstated, but the name of the surrounding region remained the same, *Sverdlovskaya oblast*, that is the Sverdlovsk Region.

according to the picket notice, they merely intended to acquaint with the state of judicial protection of human rights.

They have committed thereby an administrative offence by violating section 4 of the decree of the Presidium of the USSR Supreme Council of 28 July 1988, as amended by the Presidential decree of 25 May 1992, and, pursuant to section 8 of that decree, they are administratively liable under Article 20.2 § 1 of the Code of Administrative Offences...

Accordingly, I ask you to institute administrative proceedings against Mr Sh., Mr Kuznetsov and Ms M. in accordance with Article 28.3 § 2 (1) of the said Code, prepare a report on an administrative offence and decide on the issue of their legal responsibility for that breach of law. You are requested to inform me of the decision taken.”

10. On 17 April 2003 an official of the Verkh-Issetskiy police department of Yekaterinburg compiled a report on administrative offences committed by the applicant under Article 20.2 §§ 1 and 2 of the Code on Administrative Offences. According to the report, the applicant had given notice of the picket too late, he had distributed leaflets of a slanderous and insulting nature against the president of the regional court and he had also obstructed the passage of citizens into the court-house. Court bailiffs Mr R. and Mr M. were listed as eyewitnesses.

11. On 21 April 2003 the head of the Verkh-Issetskiy police department forwarded the report and supplementary materials to the Verkh-Issetskiy District Court of Yekaterinburg. The matter was assigned to the justice of the peace of the 3rd Court Circuit of the Verkh-Issetskiy district of Yekaterinburg.

12. On 15 May 2003 the applicant challenged the judicial formation and requested that the matter be examined in a neighbouring region. He claimed that objective examination of the matter in Yekaterinburg was impossible because it had been initiated at the instigation of the high-ranking officials of the regional court. The justice dismissed his challenge, holding that under the Code on Administrative Offence there were no legal grounds to change the venue.

13. On 19 May 2003 the justice issued a ruling on an administrative offence (*постановление по делу об административном правонарушении*) in which she found the applicant guilty on three counts.

14. Firstly, the justice held that the applicant had breached the established procedure for organising a picket. He had sent the picket notice eight days before the picket date, whereas both the 1988 USSR Supreme Council’s decree and the local Yekaterinburg regulation on public assemblies established a ten-day notification period.

15. Secondly, the justice found the applicant to have breached public order during the picket. She relied on the following evidence:

“The applicant’s guilt... is confirmed by the report on an administrative offence dated 17 April 2003; the statements by the witnesses Mr M. and Mr R. who testified

in court that they worked as court bailiffs in the Sverdlovsk Regional Court. At about 9.10 a.m. on 25 March 2003 they had gone onto the porch of the Sverdlovsk Regional Court and seen some people with banners – among them Mr Kuznetsov holding the banner ‘Ovcharuk – resign’ – who were standing on the porch right in front of the entrance on the top floor, blocking the passage and distributing leaflets. When they had asked them to show their identity documents and go down the stairs, they had refused but they had gone down after a police officer had approached them. Judges coming to work had told them that the picket participants had blocked access to the court. [List of evidence showing the applicant’s guilt continues:] the report by the court bailiff Mr R. of 25 March 2003; the report by the police officer from the Verkh-Issetskiy police station Mr G. which indicated that between 25 and 28 March 2003 he had been responsible for public order during the picket in front of the Sverdlovsk Regional Court. The picket had been organised by Mr Kuznetsov, Mr Sh. and Ms M., who at 9 a.m. on the day of the picket were standing on the staircase at the entrance to the Sverdlovsk Regional Court and thus obstructing access to the building. Following his intervention and that by the court bailiffs, they had gone down to the pavement in front of the court-house and had not subsequently interfered with the normal functioning of the Regional Court...

The judge does not accept the arguments by Mr Kuznetsov’s representative to the effect that Mr Kuznetsov did not block access to the Sverdlovsk Regional Court, because these arguments contradict the evidence that has already been examined in court and because they cannot be confirmed by the witnesses [for the defence] who were present at the picket from 9.30 a.m., because by that time the picket participants had already descended the staircase on orders of the police officer and were no longer blocking access...

The photographs [produced by the defence and] examined in court cannot prove that Mr Kuznetsov did not block access to the court-house, because they depict solely the moment when they were taken rather than the entire time during which the picket had been held; moreover, the court does not know when the photographs were taken.”

16. Thirdly, the judge found that the picket had been conducted at variance with the aims listed in the notice:

“According to the notice dated 18 March 2003, the initiative group of citizens comprising Mr Sh., Mr Kuznetsov and Ms M. held a protest action against violations of citizens’ right to judicial protection. As [the applicant’s representative] explained in court, the picket aimed at attracting public attention to the problems of judicial protection, such as refusals to accept a claim or unfair judgments. The witness Mr M. stated that he had brought and distributed a newspaper describing certain instances in which citizens’ rights to judicial protection had been breached. At the same time, the picket participants distributed extracts from the *Novaya Gazeta* newspaper containing A. Politkovskaya’s article ‘Ovcharuk and his team’ which in its contents did not correspond to the aims of the picket. The distribution of those extracts was not contested by the applicant’s representative in court and also confirmed by witnesses.”

17. The judge declared the applicant guilty under Article 20.2 §§ 1 and 2 of the Code of Administrative Offences and fined him 1,000 Russian roubles (RUB, approximately 35 euros (EUR)).

18. On 11 July 2003 the Verkh-Issetskiy District Court of Yekaterinburg, on an appeal by the applicant, upheld the ruling of the

justice of the peace, endorsing the reasons that she had given. That judgment was final as no further ordinary appeal lay against it.

II. RELEVANT DOMESTIC LAW

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

20. The Decree of the Presidium of the USSR Supreme Council no. 9306-XI of 28 July 1988 (in force at the material time pursuant to Presidential Decree no. 524 of 25 May 1992) provided that organisers of an assembly were to give written notice to the municipal authorities no later than ten days before the planned assembly (section 2). The authority was to give its response no later than five days before the assembly (section 3). Assemblies were to be conducted in accordance with the aims listed in the notice and with respect for Soviet laws and public order (section 4). Individuals who breached the established procedure for organising and holding assemblies incurred liability under the laws of the USSR and Soviet republics (section 8).

21. Article 20.2 § 1 of the Code on Administrative Offences provides that a breach of the established procedure for organising a demonstration, meeting, procession or picket shall be punishable by a fine of ten to twenty times the minimum monthly wage (that is, RUB 1,000 to 2,000 at the material time). Paragraph 2 of that Article stipulates that a breach of the established procedure for holding a demonstration, meeting or picket shall be punishable by a fine of ten to twenty times the minimum wage for organisers, or five to ten times the minimum wage for participants.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 10 AND 11 OF THE CONVENTION

22. The applicant complained under Articles 10 and 11 of the Convention that he had been subjected to administrative measures for holding a lawful picket and for distributing publications about the president of the Sverdlovsk Regional Court.

23. The Court reiterates that the protection of personal opinions, secured by Article 10, is one of the objectives of freedom of peaceful assembly as enshrined in Article 11. Accordingly, the issue of freedom of expression cannot be separated from that of freedom of assembly and it is not necessary

to consider each provision separately. In the circumstances of the present case, the Court considers that Article 11 takes precedence as the *lex specialis* for assemblies and will deal with the case principally under this provision, whilst interpreting it in the light of Article 10 (see *Galstyan v. Armenia*, no. 26986/03, §§ 95-96, 15 November 2007; *Ezelin v. France*, judgment of 26 April 1991, Series A no. 202, §§ 35, 37, and *Pendragon v. the United Kingdom*, no. 31416/96, Commission decision of 19 October 1998).

24. The relevant Convention provisions read as follows:

Article 10

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...

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

Article 11

“1. Everyone has the right to freedom of peaceful assembly...

2. No restrictions shall be placed on the exercise of [this right] 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...”

A. Admissibility

25. The Government submitted that the application was inadmissible *ratione temporis* because the final decision had been issued on 11 July 2003, whereas the application had only been received by the Court on 14 June 2004 (according to the stamp).

26. The applicant replied that he had lodged the application on 25 December 2003, the date of his first letter to the Court.

27. The Court notes at the outset that the application related to events that occurred after 5 May 1998, which is the date of ratification of the Convention by Russia. It has therefore competence *ratione temporis* to examine it. However, in so far as the Government may be understood as claiming that the application is inadmissible for the applicant’s failure to

comply with the six-month time-limit laid down in Article 35 § 1 of the Convention, the Court reiterates that in accordance with its established practice and Rule 47 § 5 of the Rules of Court, the date of the introduction of an application is the date of the first letter indicating an intention to lodge an application and setting out, even summarily, its object. Where a substantial interval follows before an applicant submits further information about his proposed application or before he returns the application form, the Court may examine the particular circumstances of the case to determine what date should be regarded as the date of introduction with a view to calculating the running of the six-month period imposed by Article 35 of the Convention (see *Barankevich v. Russia* (dec.), no. 10519/03, 20 October 2005, and *Chalkley v. the United Kingdom* (dec.), no. 63831/00, 26 September 2002).

28. The Court notes that the final judgment in the applicant's case was given on 11 July 2003. On 25 December 2003 the applicant dispatched a first letter to the Court, setting out the pertinent facts and alleging a violation of his rights under Articles 6, 10 and 11 of the Convention. He lodged the completed application form on 24 May 2004, that is without undue delay. The Court therefore accepts the date of the applicant's first letter as the date of the introduction of the application. It finds that the application was introduced within six months of the final judgment and rejects the Government's objection.

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

B. Merits

1. Submissions by the parties

30. The applicant submitted that the picket notice had been duly served on the town administration, which had acknowledged its receipt and instructed the local police to maintain public order during the picket. The duty to ensure appropriate organisation of the assembly within the meaning of the 1988 Decree of the USSR Supreme Soviet lay with the authorities, who could ask the participants to stop the assembly in case of breaches of public order. However, in his case no such breaches had been reported.

31. The applicant maintained that there had been no evidence of the alleged obstruction of the passage to the Regional Court. The statements by the court bailiffs were not credible because as employees of the Regional Court they were an interested party and also because it was highly improbable that they would be able to remember in court events that had taken place two months before. In fact, the report by the bailiff Mr M.

which he had drafted on the day of the picket did not mention anything about the obstruction of passage. Likewise, the report by the other bailiff Mr V. – who was not examined in court – indicated that the picket participants had not blocked access to the court-house. The witnesses for the applicant testified, and the photographs showed, that the applicant had not breached the public order, but the court rejected that evidence. The applicant pointed out that the report on an administrative offence had been compiled twenty-three days after the picket, in the absence of any complaints by court visitors or judges about obstruction of the passage to the court. The administrative prosecution had been the result of pressure brought by the first deputy president of the Sverdlovsk Regional Court.

32. As regards the publication which the applicant had disseminated and which had been described by the deputy president of the Regional Court as “slandorous and insulting”, the applicant emphasised that those articles had never been the subject of any defamation action or prosecutor’s inquiry. For that reason, the deputy president’s allegation had no legal basis. Moreover, neither the 1988 Decree nor the Yekaterinburg regulation on assemblies imposed a requirement for the contents of the materials disseminated during an assembly to be compatible with its aims.

33. The applicant finally submitted that he had been found guilty by the Justice of the Peace and the District Court, which were hierarchically subordinate to the Regional Court and its President. He claimed that there had been a violation of his rights under Articles 10 and 11 of the Convention.

34. The Government submitted that the picket held by the applicant had not been interrupted and that the dispute relating to blocking access to the court entrance had been promptly resolved. However, it did not exclude the possibility of subjecting the applicant to administrative measures at a later time. The applicant had been found liable for obstructing citizens’ access to the Regional Court, belated notification of the picket and also dissemination of materials which were at variance with the declared aim of the picket. Having regard to the insignificant amount of the fine, the Government considered that the interference had been justified and proportionate.

2. The Court’s assessment

(a) Whether there was interference

35. The Court reiterates at the outset that the right to freedom of assembly covers both private meetings and meetings on public thoroughfares, as well as static meetings and public processions; this right can be exercised both by individual participants and by those organising the assembly (see *Djavit An v. Turkey*, no. 20652/92, § 56, ECHR 2003-III, and *Christians against Racism and Fascism v. the United Kingdom*, no. 8440/78, Commission decision of 16 July 1980, Decisions and Reports 21,

p. 138, at p. 148). The term “restrictions” in paragraph 2 of Article 11 must be interpreted as including both measures taken before or during the public assembly, and those, such as punitive measures, taken after the meeting (see *Ezelin v. France*, judgment of 26 April 1991, Series A no. 202, § 39).

36. The applicant in the present case held a picket in front of a regional court. Some time later he was found administratively liable and fined for having breached the procedure for organising and holding a public assembly. The Court considers that the administrative prosecution amounted to an interference with the applicant’s right to freedom of assembly, interpreted in the light of his right to freedom of expression. Accordingly, its task is to determine whether the interference was justified.

(b) Whether the interference was justified

37. The Court reiterates that an interference will constitute a breach of Article 11 unless it is “prescribed by law”, pursues one or more legitimate aims under paragraph 2 and is “necessary in a democratic society” for the achievement of those aims.

38. The administrative liability for failure to comply with the established procedure for organising or holding a public assembly was foreseen by Article 20.2 §§ 1 and 2 of the Russian Code of Administrative Offences, which was the legal basis for the applicant’s conviction in the present case. The Court accepts that the interference was “prescribed by law” and that it pursued “legitimate aims” within the meaning of paragraph 2 of Articles 10 and 11, those of preventing disorder and protecting the rights of others. It remains to be determined whether it was “necessary in a democratic society”.

39. As regards the necessity test, the Court reiterates that the right of peaceful assembly enshrined in Article 11 is a fundamental right in a democratic society and, like the right to freedom of expression, one of the foundations of such a society. By virtue of the wording of the second paragraph of Article 11, the only necessity capable of justifying an interference with the rights enshrined in that Article is one that may claim to spring from “democratic society” (see *Christian Democratic People’s Party v. Moldova*, no. 28793/02, §§ 62-63, ECHR 2006-, and *Djavit An*, cited above, § 56). Accordingly, States must not only safeguard the right to assemble peacefully but also refrain from applying unreasonable indirect restrictions upon that right. In view of the essential nature of freedom of assembly and its close relationship with democracy there must be convincing and compelling reasons to justify an interference with this right (see *Ouranio Toxo v. Greece*, no. 74989/01, § 36, ECHR 2005-X (extracts), and *Adalı v. Turkey*, no. 38187/97, § 267, 31 March 2005, with further references).

40. In carrying out its scrutiny of the interference complained of, the Court has to ascertain whether the respondent State exercised its discretion

reasonably, carefully and in good faith. It must also look at the interference complained of in the light of the case as a whole and determine whether it was “proportionate to the legitimate aim pursued” and whether the reasons adduced by the national authorities to justify it are “relevant and sufficient”. In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Articles 10 and 11 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (see, among other authorities, *Christian Democratic People’s Party*, § 70, cited above).

41. Turning to the facts of the case, the Court observes that three charges were upheld against the applicant. Firstly, the courts found that he had sent the picket notice belatedly; secondly, that he had obstructed passage to the court building; and thirdly, that the contents of the materials he had disseminated had been at variance with the declared aims of the pickets.

42. As far as the first ground is concerned, the Court reiterates that the subjection of public assemblies to an authorisation or notification procedure does not normally encroach upon the essence of the right as long as the purpose of the procedure is to allow the authorities to take reasonable and appropriate measures in order to guarantee the smooth conduct of any assembly, meeting or other gathering, be it political, cultural or of another nature (see *Bukta and Others v. Hungary*, no. 25691/04, § 35, ECHR 2007-...; *Oya Ataman v. Turkey*, no. 74552/01, 5 December 2006, § 39; *Rassemblement Jurassien Unité v. Switzerland*, no. 8191/78, Commission decision of 10 October 1979, DR 17, p. 119; and also *Plattform “Ärzte für das Leben” v. Austria*, judgment of 21 June 1988, Series A no. 139, p. 12, §§ 32 and 34).

43. It is undisputed that in the instant case the applicant submitted the picket notice eight days before the planned event, whereas the applicable regulations stipulated a ten-day notification. However, it does not appear that the two-day difference in any way impaired the authorities’ ability to make necessary preparations for the picket. It appears that, given the small scale of the planned event, the town administration did not consider the alleged delay in notification relevant or important. Not only did it promptly acknowledge receipt of the picket notice, but also gave orders to the police five days in advance to ensure public order at the event. The delay was not held against the applicant in any official documents and did not affect the lawfulness of the picket. In fact, that transgression surfaced for the first time in the report on the administrative offence, which was compiled six weeks after the assembly. In these circumstances, the Court considers that a merely formal breach of the notification time-limit was neither relevant nor a sufficient reason for imposing administrative liability on the applicant. In this connection the Court emphasises that the freedom to take part in a peaceful assembly is of such importance that a person cannot be subjected to a sanction – even one at the lower end of the scale of disciplinary

penalties – for participation in a demonstration which has not been prohibited, so long as this person does not himself commit any reprehensible act on such an occasion (see *Ezelin*, cited above, § 53).

44. Where the alleged blocking of passage is concerned, the Court notes that the picket, in which just a few persons participated, began at about 9 a.m. at the top of the stairs leading to the entrance to the Sverdlovsk Regional Court. Shortly afterwards the court bailiffs and a police officer approached the participants and asked them to go down the stairs. They complied with the request and continued to picket in front of the staircase. The witnesses who arrived at 9.30 a.m. saw the applicant and his colleagues, who were already on the pavement downstairs. The Court considers the following elements important for the assessment of this situation. Firstly, it is undisputed that there were no complaints by anyone, whether individual visitors, judges or court employees, about the alleged obstruction of entry to the court-house by the picket participants. Secondly, even assuming that the presence of several individuals on top of the staircase did restrict access to the entrance door, it is creditable that the applicant diligently complied with the officials' request and without further argument descended the stairs onto the pavement. Thirdly, it is notable that the alleged hindrance was of an extremely short duration. Finally, as a general principle, 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*, §§ 116-117; *Bukta*, § 37; and *Oya Ataman*, §§ 38-42, all cited above). Accordingly, the Court is not satisfied that the alleged obstruction of passage, especially in the circumstances where the applicant gave evidence of his flexibility and readiness to cooperate with the authorities, was a relevant and sufficient reason for the interference.

45. As to the third ground for the applicant's conviction, the Court observes that the domestic courts omitted to indicate any factual basis for their findings on that issue. Their judgments did not contain any analysis as to what the alleged differences were between the declared aims of the picket and the contents of the article which the applicant had distributed during the picket. In this connection the Court reiterates that any measures interfering with the freedom of assembly and expression other than in cases of incitement to violence or rejection of democratic principles – however shocking and unacceptable certain views or words used may appear to the authorities – do a disservice to democracy and often even endanger it. In a democratic society based on the rule of law, the ideas which challenge the existing order must be afforded a proper opportunity of expression through the exercise of the right of assembly as well as by other lawful means (see *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*,

nos. 29221/95 and 29225/95, § 97, ECHR 2001-IX). The materials distributed by the applicant and the ideas he advocated during the picket were not shown to contain any defamatory statements, incitement to violence or rejection of democratic principles. Accordingly, however unpleasant the call for dismissal of the President of the Regional Court may have been to him and however insulting he may have considered the article alleging corruption in the Sverdlovsk Regional Court, it was not a relevant or sufficient ground for imposing liability on the applicant for the exercise of his right to freedom of expression and assembly.

46. It is also a matter of concern for the Court that the alleged discrepancy between the aims of the picket and the disseminated materials was raised for the first time in the letter by the deputy President of the Sverdlovsk Regional Court, that is the official reporting directly to the President of the Regional Court who had been the target of criticism in the distributed publications. The terms employed in the deputy president's letter, such as the statement that the picket participants had "committed thereby an administrative offence", prejudged the assessment of the facts by the competent judicial authority and expressed the opinion that the applicant was guilty even before he had been proved guilty according to law (compare *Böhmer v. Germany*, no. 37568/97, §§ 54 and 56, 3 October 2002, and *Nešťák v. Slovakia*, no. 65559/01, §§ 88 and 89, 27 February 2007).

47. Finally, the Court notes that the purpose of the picket was to attract public attention to the alleged dysfunction of the judicial system in the Sverdlovsk Region. This serious matter was undeniably part of a political debate on a matter of general and public concern. The Court reiterates in this connection that it has been its constant approach to require very strong reasons for justifying restrictions on political speech or serious matters of public interest such as corruption in the judiciary, as broad restrictions imposed in individual cases would undoubtedly affect respect for the freedom of expression in general in the State concerned (see, with necessary changes made, *Karman v. Russia*, no. 29372/02, § 36, 14 December 2006; *Feldek v. Slovakia*, no. 29032/95, § 83, ECHR 2001-VIII, and *Sürek v. Turkey (no. 1)* [GC], no. 26682/95, § 61, ECHR 1999-IV). In the instant case no such reasons were put forward either by the domestic courts or by the Government in their observations.

48. In the light of the above considerations, the Court finds that the Russian authorities did not adduce any "relevant and sufficient" reasons which could have justified the interference with the applicant's rights to freedom of expression and assembly. That the amount of the fine was relatively small does not detract from the fact that the interference was not "necessary in a democratic society".

49. There has therefore been a violation of Article 11 of the Convention, interpreted in the light of Article 10.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

50. 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

51. The applicant claimed EUR 10,000 in respect of non-pecuniary damage.

52. The Government submitted that his claim was unreasonable and unsubstantiated.

53. The Court accepts that the applicant has suffered non-pecuniary damage, such as distress and frustration resulting from the administrative prosecution for the exercise of his rights to freedom of expression and assembly, which is not sufficiently compensated for by the finding of a violation of the Convention. However, it finds the amount claimed by the applicant excessive. Making its assessment on an equitable basis, the Court awards the applicant EUR 1,500 under this head, plus any tax that may be chargeable on that amount.

B. Costs and expenses

54. The applicant did not make any claim for costs and expenses. Accordingly, there is no call to make an award under this head.

C. Default interest

55. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 11 of the Convention, interpreted in the light of Article 10;

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,500 (one thousand five hundred euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement, plus any tax that may be chargeable on that amount;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 23 October 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Nina Vajić
President