



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

FIRST SECTION

Application no. 7624/08
Aleksey Ivanovich KANURIN
against Russia
lodged on 19 December 2007

STATEMENT OF FACTS

The applicant, Mr Aleksey Ivanovich Kanurin, is a Russian national, who was born in 1954 and lives in Moscow.

A. The circumstances of the case

The facts of the case, as submitted by the applicant, may be summarised as follows.

On 23 October 2006 the applicant, together with two other individuals, sent a notification to the Moscow Mayor of their intention to organise a procession and a rally on 4 November 2006, the National Unity Day. The procession was to start at 12.30 p.m. at the meeting point on Kaluzhskaya Square, take the route along B. Yakimanka Street, B. Polyanka Street, Mokhovaya Street, Okhotnyy Ryad Street and culminate with a rally at 2.30 p.m. on Teatralnaya Square. They also informed the Mayor as follows:

“Should there be any overlap in terms of timing or route [with other public events], we request you to invite the organisers of the events for adoption of a co-ordinated decision. We are prepared to change the time of the event and, in exceptional cases, the place of the rally and the route of the procession.”

By 27 October 2006, the head of the security co-ordination department of the Moscow Government replied to the applicant as follows:

“The notification ... has been examined.

The route of the procession, as specified in the notification, follows the streets with a dense traffic flow and it does not appear possible to stop traffic [in these streets]. Besides, the specified meeting point (Kaluzhskaya Square) and the place for the rally (Teatralnaya Square) have been previously allocated for public events organised by a

group of citizens (the organiser Mr B.) and the Moscow City Committee of the Russian Communists' Party (the organiser Mr M.).

In the light of the above-stated and in accordance with section 8 § 1 of the Public Gatherings Act no. 54-FZ of 19 June 2004, the decision was made to refuse the approval of the planned public event.”

The applicant challenged the refusal before a court of general jurisdiction.

By judgment of 3 April 2007, the Tverskoy District Court of Moscow rejected his complaint. The text of the judgment contained extensive citations from the Public Gatherings Act and the following conclusion:

“As established by the court, the Moscow Government examined the [applicant's] notification in the light of the absence of a possibility to ensure security of the participants to the event and to prevent disorder.

Taking into account the above-stated and also the fact that the [applicant's] notification was examined in accordance with the established procedure, that he received a written reply with the established time-limit, which mentioned the reasons for the refusal, that as a consequence of that refusal he has not been deprived of his constitutional right to organise gatherings, rallies, demonstrations, processions and pickets in accordance with the Public Gatherings Act, the court reaches the conclusion that there has been no violation of his rights or lawful interests or obstacles to their exercise.”

In his statement of appeal, the applicant pointed out that the Moscow Government failed in their duty to give specific reasons for the refusal and to offer an alternative route or place for the public event.

On 21 June 2007 the Moscow City Court rejected the appeal, repeating essentially the reasoning of the District Court. As to the applicant's argument about the alternative route proposal, it noted:

“The fact that the State officials did not suggest a reasonable change of the place and/or time of the public event is not a ground for granting the complaint because, as it was correctly pointed out [by the District Court], the complainant has not been prevented from filing a notification of a change in the place and time of the public event in accordance with the established procedure.”

B. Relevant domestic law

Section 7 § 1 of the Public Gatherings Act (Law no. 54-FZ of 19 June 2004) provides that the organiser of a public event, except in the case of an assembly or picket held by a single participant, has to send a written notification about the event to the regional executive authorities no earlier than fifteen and no later than ten days before the date of the event.

Section 8 § 1 provides that a public event may be held “in any place that is appropriate for the purposes of the event provided that the event does not endanger the safety of buildings or otherwise compromise the security of the participants”. It also stipulates that the restrictions on public events in specific places or the conditions in which it may be banned should be set out in federal laws. No such laws have been adopted to date.

According to section 12 § 1 (2), the executive body, within three days upon receipt of a notification, must communicate to the organisers a motivated suggestion of a different place or time of the public event.

COMPLAINTS

The applicant complains under Article 6 of the Convention about the arbitrary decisions by the domestic courts and under Article 11 of the Convention about the ban on the public event.

QUESTIONS TO THE PARTIES

Was there a violation of Article 11 of the Convention in the instant case? In particular, what were the specific grounds for banning the public event planned by the applicant? Did the Moscow authorities discharge their duty to suggest an alternative venue for the event? Did they carry out an adequate assessment of the risk to the safety of the participants in the events and to public order (compare, for instance, *Alekseyev v. Russia*, nos. 4916/07, 25924/08 and 14599/09, § 77, 21 October 2010)?