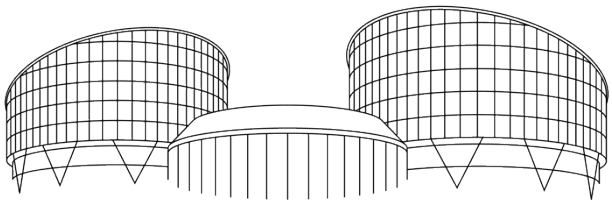

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

Application no. 57818/09
Aleksandr Vladimirovich LASHMANKIN against Russia
and 14 other applications
(see list appended)

STATEMENT OF FACTS

THE CIRCUMSTANCES OF THE CASES AND THE COMPLAINTS

A list of the applicants is set out in the appendix.

I. APPLICATION NO. 57818/09

A. The circumstances of the case

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

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

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

On 27 January 2009 the applicant and Mr A. notified the Samara Town Administration of the date, time, place and purposes of the picket. The picket was scheduled to take place from noon to 2 p.m. on 31 January 2009, with the expected participation of seven people. The organisers of the assembly guaranteed that they would take measures to ensure that no breaches of public order were committed.

On the same day the Samara Town Administration sent a telegram to the applicant, refusing to approve the venue. The town administration noted that Yuri Gagarin Park was a popular recreational place and many families would be walking there with their small children on Saturday, 31 January 2009. The picket might pose a danger to their health and life. They suggested that the organisers change the location and time of the picket. They also warned the applicant and Mr A. that they might be held liable under Article 20.2 § 1 of the Administrative Offences Code for a breach of the established procedure for conducting public assemblies.

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

On an unspecified date the applicant challenged the decision of 27 January 2009 before the Leninskiy District Court of Samara. He complained that the decision had amounted to a ban on the picket because the authorities had not suggested any alternative venue or time for it.

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

B. Complaints

1. The applicant complains of a violation of his rights guaranteed by Articles 10 and 11 of the Convention. He alleges that the authorities' suggestion to change the location and time of the picket, without proposing an alternative venue or time, amounted to a *de facto* ban on it. Moreover, the location and time chosen by him were crucial for the participants and another venue would not have been as relevant to the picket's purpose. Lastly, the reasons advanced by the authorities were unconvincing. For the above reasons the suggestion to change the location of the picket constituted an unlawful and unjustified interference with his freedom of assembly and expression.

2. The applicant complains under Article 6 § 1 of the Convention that the judicial proceedings were unfair. In particular, he complains that only the operative part of the judgment of 3 April 2009 was pronounced publicly, while the reasoned judgment was served on him later.

II. APPLICATION NO. 51169/10

A. The circumstances of the case

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

The applicant is a gay activist.

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

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

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

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

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

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

On 30 October 2009 the Koptevskiy District Court rejected the applicant's complaints. It found that by decision of 20 August 2009 the Prefect of the Northern Administrative District of Moscow had agreed to the holding of the picket on 25 August 2009 from 1 p.m. to 2 p.m. That decision had been sent to the applicant by post. The letter had not been delivered because the applicant did not live at the indicated address. The applicant's argument that the stamp indicated that the decision was to be handed to him personally was unconvincing. As Russian law did not establish any procedure for notifying such decisions, the Prefect's office had been entitled to chose any notification method, including sending the decision by post. The fact that the letter had not been delivered had not rendered the authorities' actions unlawful. Finally, the applicant had not proved that the Prefect's office had refused to give him the decision when he had gone to collect it.

The applicant appealed. He submitted, in particular, that the Prefect's office had at first informed him that the decision would be handed over to him personally but had then refused to give it to him. The letter containing

that decision had not arrived at the local post office until the day of the planned picket. Even if he had received the letter, it would no longer have been possible to hold the picket.

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

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

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

On the same day a deputy Prefect of the Central Administrative District of Moscow informed the applicant that another public assembly was planned at the same location and time and suggested that another venue be chosen.

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

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

The applicant challenged that refusal before the Taganskiy District Court of Moscow. He submitted, in particular, that the Deputy Prefect's finding that he was the organiser of another picket on the same day in the Northern Administrative District of Moscow was incorrect because the authorities had not agreed to that picket.

On 2 November 2009 the Taganskiy District Court rejected his complaint. It found, in particular, that the requirement to change the location of the picket had been justified because a presentation of the new Ikea catalogue had been planned in Novopushkinskiy Park at the same time. The refusal to agree to the picket at other venues had also been justified because the applicant had submitted two notifications in respect of pickets at two different locations, in the Central and Northern Administrative Districts, to be held at the same time. Although the applicant had indeed been informed by the Prefect of the Northern Administrative District that he could not hold a picket at the proposed location, he could still have held a picket at another venue in the Northern Administrative District. Had he done so, it would have been impossible for him to organise a picket in the Central Administrative District at the same time. The refusal to agree to the picket in the Central Administrative District had therefore been reasonable and justified.

The applicant appealed. He submitted, in particular, that domestic law made no provision for an assembly to be banned on the ground that two notifications had been lodged by the same person. The refusal to approve the picket had therefore been unlawful. He had lodged two notifications

with the aim of suggesting alternative venues for the picket. If both of them had been approved, he would have chosen one of the approved sites. He relied on Article 31 of the Constitution and Article 11 of the Convention.

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

B. Complaints

1. The applicant complains of a violation of his rights guaranteed by Article 11 of the Convention. He alleges that the refusal to agree to a picket in the Central Administrative District of Moscow and the belated notification of the approval of a picket in the Northern Administrative District of Moscow constituted an unlawful and unjustified interference with his freedom of assembly.

2. The applicant also complains, under Article 13 of the Convention, that he did not have any procedure at his disposal that would have allowed him to obtain a final decision prior to the date of the planned picket.

III. APPLICATIONS NOS. 64311/10 AND 31040/11

A. The circumstances of the case

The four applicants are Ms Peletskaya (the first applicant), Mr Ponomarev (the second applicant), Mr Ikhlov (the third applicant) and Mr Udaltsov (the fourth applicant). The facts of the case, as submitted by them, may be summarised as follows.

1. The meeting on 20 March 2010 and the first applicant's arrest

On 5 March 2010 the second and fourth applicants notified the Moscow Government of their intention to hold a march and a meeting on 20 March 2010. The aim was "to protest against violations of the civil and social rights of the residents of Moscow and the Moscow Region in the spheres of town planning, land distribution, environmental conditions, housing and communal services and judicial protection". The march was scheduled to start at 2.30 p.m. at Tverskoy Boulevard, from where the participants were to march to Pushkin Square. The notification stated that the participants would cross Tverskaya Street by the underground passage. A meeting would be held at Pushkin Square from 3.30 to 5 p.m. It was expected that 300 people would take part in the march and the meeting. The first and third applicant intended to participate in the meeting and the march.

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

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

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

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

At about 3.30 p.m. on 20 March 2010 about 300 people, including the applicants, gathered in Pushkin Square. The meeting was dispersed by the police and many participants, including the first applicant, were arrested.

2. Administrative proceedings against the first applicant

On 13 April 2010 the Justice of the Peace of the 367th Court Circuit of the Tverskoy District of Moscow found the first applicant guilty of a breach of the established procedure for conducting public assemblies, an offence under Article 20.2 § 2 of the Administrative Offences Code. The court found that the first applicant had participated in the meeting of 20 March 2010 when it had not been approved by the authorities. Her argument that the authorities had not given reasons for their refusal to approve the meeting was irrelevant. The Justice of the Peace ordered that the applicant pay a fine in the amount of 500 Russian roubles (RUB, about 12.5 euros (EUR)).

The applicant appealed to the Tverskoy District Court of Moscow.

On 24 May 2010 the Tverskoy District Court found it established that the meeting of 20 March 2010 had not been approved and had therefore been unlawful. The authorities had given reasons for their refusal to approve the meeting in Pushkin Square and suggested another venue. Despite the authorities' refusal to approve the venue, the first applicant had taken part in the meeting, had chanted slogans calling for the resignation of the Prime Minister, Mr Putin, and the Mayor of Moscow, Mr Luzhkov, and had disregarded the repeated orders of the police to stop the unlawful meeting. Finding that the decision 13 April 2010 had been lawful, well reasoned and justified, the court upheld it on appeal.

3. Judicial review of the refusal to allow the meeting and the march

On 15 March 2010 the second, third and fourth applicants challenged the decision of 12 March 2010 before the Tverskoy District Court of Moscow. They submitted that the Moscow Government had not respected the statutory time-limit of three days for giving a reply and had failed to suggest

an alternative venue for the march. The Moscow authorities had not advanced convincing reasons for their proposal to cancel the march and change the venue of the meeting. Neither the march nor the meeting would have interfered with the normal life of the city if held at the location chosen by the applicants because no blocking of traffic would have been necessary. They reiterated that two meetings had recently been held in Pushkin Square with official approval and they had gone ahead without any trouble or disruption of the normal life of the residents. The applicants asked for an injunction for the Moscow Government to agree to the meeting and the march. They also requested that their complaint be examined before the planned meeting date.

On 9 April 2010 the Tverskoy District Court rejected their complaints, finding that the decision of 12 March 2010 had been lawful, well reasoned and justified.

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

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

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

On 12 November 2010 the Presidium of the Moscow City Court held a hearing. The applicants and a representative of the Moscow Government made oral submissions and were then requested to leave the courtroom. Several minutes later a bailiff announced to the applicants that the Presidium of the Moscow City Court had quashed the judgment of 23 September 2010 and had rejected their complaints. He also announced that the text of the judgment would be sent to them by post.

The judgment of 12 November 2010 was sent to the applicants by post on 16 March 2011. It read as follows. The Presidium of the Moscow City

Court found that the Moscow Government's refusal to agree to the march and the meeting had been lawful and justified. It would have been impossible for the participants in the march to cross Tverskaya Street by the underground passage, which was always crowded with passers-by and street vendors. The participants would therefore have had to cross the roadway, thereby delaying public transport. To protect the interests of citizens who did not take part in public assemblies, the Moscow Government had suggested an alternative venue for the meeting, at the same time requiring the organisers to cancel the march. That decision had not violated the applicants' rights. The Presidium therefore quashed the appeal judgment of 23 September 2010 and upheld the judgment of 9 April 2010 rejecting the applicants' complaints.

B. Complaints

1. The applicants complain of a violation of their rights guaranteed by Articles 10 and 11 of the Convention. They argue that domestic law is not sufficiently clear and foreseeable in its application. In particular, although domestic law permits the authorities to make a reasoned suggestion for changing the venue of an assembly, it does not specify in which cases such suggestions may be made. The law does not prohibit the holding of assemblies at the location proposed by the applicants. The authorities did not submit any evidence in support of their finding that the march and the meeting would hinder traffic or cause serious inconvenience to other citizens. The authorities' suggestion that they cancel the march and change the venue of the meeting therefore had no basis in domestic law. Moreover, domestic law does not provide for any means of resolving disputes that might arise if the organisers of the assembly do not agree with the venue suggested by the authorities. Also, the legitimate aim of protecting public order could have been achieved by other means than dispersing the meeting. The dispersal of the assembly, the first applicant's arrest and the administrative proceedings against her were therefore disproportionate to the legitimate aim pursued.

2. The second, third and fourth applicants complain under Article 13 of the Convention that they did not have any procedure at their disposal that would have allowed them to obtain a final decision prior to the date of the planned assembly.

3. The second, third and fourth applicants also complain, under Article 6 § 1 of the Convention, that the judgment of 23 September 2010 was quashed by way of supervisory review, that the judgment of 12 November 2010 was not pronounced publicly and that the judges were biased.

IV. APPLICATION NO. 4618/11

A. The circumstances of the case

The two applicants are Mr Ponomarev (the first applicant) and Mr Ikhlov (the second applicant). The facts of the case, as submitted by them, may be summarised as follows.

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

The applicants decided to commemorate the anniversary of their murder.

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

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

The second applicant intended to participate in the march and the meeting.

On 11 January 2010 the Moscow Security Department replied that, in accordance with the Public Assemblies Act, the notification had to be submitted no earlier than fifteen days and no later than ten days before the intended public assembly. As the organisers had submitted their notification outside that time-limit, they were not allowed to hold the march and the meeting.

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

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

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

been included in the case file or examined during the hearing. The applicants had not been given an opportunity to present their arguments on that issue.

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

B. Complaints

1. The applicants complain of a violation of their rights guaranteed by Article 11 of the Convention. They submit, in particular, that the refusal to agree to the march and the meeting was unlawful and did not pursue any legitimate aim. The interpretation of domestic law made by the authorities and the courts in their case was too formalistic. It deprived them of any possibility of holding a meeting or a march on 19 January 2010.

2. The applicants also complain, under Article 13 of the Convention, that they did not have at their disposal any procedure that would have allowed them to obtain a final decision prior to the date of the planned public assembly.

V. APPLICATION NO. 19700/11

A. The circumstances of the case

The four applicants are Ms Yefremenkova (the first applicant), Mr Milkov (the second applicant), Mr Gavrikov (the third applicant) and Mr Sheremetyev (the fourth applicant). The facts of the case, as submitted by them, may be summarised as follows.

The applicants are gay human rights activists.

1. 2010 assemblies

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

(i) Notification of a march and a meeting

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

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

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

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

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

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

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

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

(ii) Notifications of pickets

Despairing of obtaining official approval for a march and a meeting, on 22 June 2010 the applicants notified the Administrations of the Petrogradskiy, Tsentralniy, Moskovskiy and Vasileostrovskiy Districts of St Petersburg of their intention to hold a picket with the same aims on 26 June

2010. In each Administrative District a location was chosen to accommodate about forty participants.

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

(iii) Anti-gay meeting

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

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

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

On 24 June 2010 the first applicant challenged the St Petersburg Security Department's decisions of 17 and 21 June 2010 before the Smolninskiy District Court of St Petersburg. She complained that the Security Department had refused, for various reasons, to approve every venue suggested by the organisers for the march and the meeting. It was significant that the authorities alone were in possession of full and updated information about any construction work or other events planned in the city. That being so, they should have suggested a venue where the march and the meeting could take place. They had not, however, made any such suggestion, confining their decisions to rejecting all the numerous locations proposed by the organisers. The first applicant also complained of discrimination on account of sexual orientation.

The first hearing was scheduled for 2 July 2010.

On that day the first applicant submitted additional arguments in writing. She complained that the Security Department's decision of 23 June 2010 had also been unlawful and unjustified. She argued, firstly, that the applicants' reply to the Security Department's suggestion to change the venue had been submitted within the three-day time-limit established by the Public Assemblies Act. To be precise, it had been lodged on 23 June 2010, that is three days before the intended march, which was scheduled for 26 June 2010. Secondly, the applicants could not have replied earlier

because they had not received the Security Department's decision of 21 June 2010 requiring them to change the venue until 23 June 2010. The first applicant further submitted that the reasons advanced by the Security Department in its decisions of 17 and 21 June 2010 had not been sufficient. The Security Department had referred to certain inconveniences that might be caused by the march and the meeting, such as obstructing the traffic, or to other events planned in the city on the same day. However, under section 12 of the Public Assemblies Act it was the authorities' responsibility to take steps to ensure that public order was respected and that public assemblies could proceed smoothly, including by regulating or blocking traffic. She also referred to the Constitutional Court's Ruling of 2 April 2009, which held that neither logistical difficulties that might be encountered by the authorities, nor a certain level of disruption of the ordinary life of citizens could serve as a valid reason for refusing to approve an assembly.

On 13 July 2010 the Smolninskiy District Court rejected the first applicant's complaints. It found that the Security Department had provided convincing reasons for the decisions of 17 and 21 June 2010 refusing to agree to the meeting and the march. Domestic law did not impose an obligation on the authority refusing to approve a location or time for an assembly to suggest an alternative location or time. As to the decision of 23 June 2010, the court found that had also been lawful and justified as the first applicant had missed the time-limit for replying to the suggestion to change the venue. She had not proved that she had been notified belatedly of the decision of 21 June 2010; the list of incoming calls showing that she had indeed received a call from the Security Department late in the evening of 22 June 2010 could not serve as proof of the belated notification. Pursuant to section 12 of the Public Assemblies Act, the authorities had three days to make a reasoned suggestion about a change of the time or location of an assembly. It was logical, therefore, that the reply to a suggestion to change a venue should be lodged no later than three days before the intended assembly. The first applicant had missed that time-limit which, in accordance with the Civil Code, "starts to run on the day following the particular date or event which sets it in motion". Lastly, given that the Security Department had not banned the meeting and march planned by the first applicant, but merely required her to change the venue, her freedom of assembly had not been breached.

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

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

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

On 6 October 2010 the Leninskiy District Court of St Petersburg held that the decision of 23 June 2010 of the Tsentralniy District Administration

had been unlawful. It found that the other assembly to which the District Administration had referred in its decision was to finish before the applicant's picket was due to begin. The authorities' refusal had therefore been unjustified. Further, relying on the Constitutional Court's Ruling of 2 April 2009, the District Court found that, when refusing to agree to the picket, the district administration had an obligation to suggest an alternative venue. No other venue had been proposed, however.

On 18 October 2010 the Petrogradskiy District Court of St Petersburg held that the Petrogradskiy District Administration's decision of 22 June 2010 had been unlawful. It did find that the reasons advanced by the district administration for their refusal to allow the picket at the location and time chosen by the applicants had been convincing. In particular, it had been established that on 26 June 2010 the location in question had been the meeting point for the departure of children to sports camps. A picket in favour of homosexual rights "would not have furthered the development of their morals". By contrast, the requirement to obtain the consent of the private sports complex in the grounds of which the intended picket was to take place had no basis in domestic law. Nor could concerns for public order and the safety of the participants serve as a justification for the refusal to allow the picket, because it was the joint responsibility of the authorities and the organisers to guarantee public order and the safety of all involved. At the same time, the district administration had not suggested an alternative location or time for the picket, which it was obliged to do pursuant to the Constitutional Court's Ruling of 2 April 2009. The failure to suggest an alternative location or time had deprived the first applicant of any possibility to have the picket approved. Lastly, the District Court noted that it was no longer possible to remedy a violation of the first applicant's rights because the planned date had passed months ago. On 25 November 2010 the St Petersburg City Court upheld that judgment on appeal.

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

On 6 December 2010 the Vasileostrovskiy District Court of St Petersburg held that the decision of 22 June 2010 of the Vasileostrovskiy District Administration had also been unlawful. It found that the district administration had not advanced sufficient reasons for their refusal to allow the picket. In particular, they should have found out precisely at which locations the film shooting was scheduled to take place. Depending on that information, they should either have agreed to the picket being held at the location chosen by the applicants or have proposed an alternative location.

2. 2011 assemblies

(a) Vasileostrovskiy Administrative District of St Petersburg

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

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

On 16 June 2011 the applicants replied that the venue proposed by the district administration was unsuitable because it was located in an industrial area among factories and warehouses and was difficult to reach. They proposed an alternative venue for the two events, which they said was separated from the roadway by a five to fifteen metre-wide row of trees, which ruled out any risk of road accidents or hindrance to traffic. They would not be in the way of passers-by either because there was a parallel pedestrian path which would remain free for passage. Lastly, the participants would cross the road at traffic lights by a pedestrian crossing, making it unnecessary to block the traffic.

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

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

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

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

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

On 12 January 2012 St Petersburg City Court examined the case on appeal. It annulled the decision ordering the Vasileostrovskiy District Administration to allow the meeting and the march as the date scheduled for the events had passed months ago. It was therefore no longer possible to remedy a violation of the applicant's rights. It upheld the remainder of the judgment of 14 November 2011, finding that it had been lawful, well reasoned and justified.

(b) Admiralteyskiy Administrative District of St Petersburg

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

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

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

On 21 June 2011 the St Petersburg Security Department again refused to approve the meeting and the march. A Harley Davidson motorbike parade was scheduled to take place at one of the proposed locations. The second location would be occupied by anti-drug campaigners. And the third location was not suitable because of landscaping work in progress there.

The Security Department insisted that the applicants should hold the march in the village of Novoselki or suggest another venue for approval.

On 12 September 2011 the third and fourth applicants challenged the St Petersburg Security Department's decisions of 14 and 21 June 2011 before the Smolnenskiy District Court of St Petersburg. They complained that the refusals to allow the meeting and the march had not been substantiated by sufficient reasons. In particular, the police could have taken measures to control the traffic and thereby prevent road accidents. As to the Youth Day rehearsals, the motorbike parade and the anti-drug campaign, the Security Department could have proposed another time for the meeting and the march which would not have clashed with those events. The landscaping work had not been scheduled to last the entire day, so it would have been possible to organise the meeting after it stopped. The applicants further argued that any assembly in a public place inevitably caused a certain level of disruption to ordinary life. The public authorities and the population had to show a degree of tolerance towards peaceful assemblies in crowded places, because otherwise it would be impossible to hold an assembly at a time and location where it would draw public attention to social or political issues. Lastly, they submitted that the venue proposed by the Security Department was unsuitable because it was located in a sparsely populated area in the middle of a forest. It was therefore not the right venue to draw the attention of society and the authorities to the violation of homosexuals' rights, because there would be no representatives of the authorities or the general public present. The applicants also complained of discrimination on account of sexual orientation.

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

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

(c) The march on 25 June 2011

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

B. Complaints

1. The applicants complain of a violation of their rights guaranteed by Article 11 of the Convention. They submit, in particular, that in 2010 the refusals to agree to their marches, meetings and pickets were unlawful

because the authorities did not propose alternative venues as they were required to do by domestic law. They argue that the judicial decisions on that issue were contradictory: some of them held that the authorities were not obliged to propose an alternative venue, while others found that they were required to do so by the Public Assemblies Act, as interpreted by the Constitutional Court. The applicants further argue that the restrictions imposed on their right to freedom of assembly were not "necessary in a democratic society". The legitimate aim of ensuring road safety could have been achieved through means other than refusing to approve the assemblies, such as the deployment of police to control traffic. Nor could the authorities' reference to various temporary inconveniences that the assemblies might cause to the residents of St Petersburg justify the refusal to allow the assemblies. Any public assembly is bound to cause certain minor disruptions to the ordinary life of the city and it is routine practice for the city authorities to take measures, such as blocking traffic in several streets, to allow a festive event to take place. However the authorities did not consider taking any such measures in the applicants' case. The alternative venues proposed by the authorities in 2011 were entirely unsuitable for the public assemblies concerned because they were located in sparsely populated districts on the outskirts of the city. The applicants argue that those locations were proposed deliberately to banish gay activists from the public eye. Lastly, the fact that some of the refusals were later declared unlawful by the courts did not deprive them of their victim status because the judicial decisions were taken long after the scheduled dates of the events, making it impossible for them to organise a lawful assembly on the date that had a symbolic importance for them.

2. The applicants complain under Article 13 of the Convention, taken in conjunction with Article 11, that they did not have at their disposal any procedure which would have allowed them to obtain a final decision prior to the date of the planned public assemblies.

3. The applicants complain under Article 14 of the Convention, taken in conjunction with Article 11, that they were subjected to discrimination on account of sexual orientation. They argue that the refusals to approve their assemblies were motivated by the authorities' discriminatory attitude towards homosexuals. The same authorities allowed a meeting in support of "traditional family values" organised by the Young Guard pro-government youth movement in protest against the Gay Pride march. That counter meeting took place on the same day and at the location which, when proposed by the applicants for the Gay Pride march, had been rejected by the authorities as unsuitable.

VI. APPLICATION NO. 55306/11

A. The circumstances of the case

The five applicants are Mr Labudin (the first applicant), Mr Kosinov (the second applicant), Mr Khayrullin (the third applicant), Mr Grigoryev (the fourth applicant) and Mr Gorbunov (the fifth applicant). The facts of the case, as submitted by them, may be summarised as follows.

On 28 April 2010 the first applicant, together with Mr O., notified the Kaliningrad Town Administration of their intention to organise a picket on 5 May 2010 from 5 to 6 p.m. on the pavement in front of the Kaliningrad Regional Interior Department headquarters. A hundred people were expected to attend. The aim of the picket was to "support [President] Medvedyev's national policy directed at fighting corruption, reforming the [police] system, detecting 'werewolves in epaulets' and eradicating crime". The other applicants intended to join in the picket.

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

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

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

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

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

The first applicant received the decision of 12 May 2010 on 14 May 2010 in the afternoon. He therefore had no time to inform the participants that the picket had not been given official approval

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

Meanwhile, at about 5 p.m. the third, fourth and fifth applicants went to the Kaliningrad Regional Interior Department headquarters as planned,

where they were immediately arrested. At 5.30 p.m. they were taken to the Tsentralniy District police station. Later that evening they were charged with disobeying a lawful order of the police to stop an unauthorised picket, and with breaching the established procedure for conducting public assemblies, offences under Articles 19.3 § 1 and 20.2 § 2 respectively of the Administrative Offences Code.

The first applicant was also charged with breach of the established procedure for the conduct of public assemblies.

At 8.20 p.m. on the same day the third, fourth and fifth applicants were placed in a police cell, where they remained until the next morning. They were not given proper food or bedding and their access to a lavatory was limited. The cell was damp, dim and stuffy. They were released at 10 p.m. the following day.

By judgments of 25 and 28 June and 9, 12 and 13 July 2010 the Justice of the Peace of the 2nd Court Circuit of the Tsentralniy District of Kaliningrad discontinued the administrative proceedings against the applicants for lack of evidence of an offence.

On an unspecified date the applicants challenged the Kaliningrad Town Administration's refusals to allow the picket before the Tsentralniy District Court of Kaliningrad. The third, fourth and fifth applicants also complained that their arrest had been unlawful and the conditions of their detention inhuman.

On 22 December 2010 the Tsentralniy District Court held that the Kaliningrad Town Administration's refusals to agree to the picket had been lawful and justified. The administration had advanced convincing reasons for their decisions, finding that the applicants' picket might block the passage of vehicles and pedestrians and cause road accidents. It was also established that the Kaliningrad Regional Interior Department had warned the local authorities about the risk of terrorist acts and recommended that public assemblies should not be authorised, especially at times when the police were busy ensuring public order at festive celebrations. The town administration had no legal obligation to verify the validity of that information.

The District Court further found that the administrative proceedings against the first, third, fourth and fifth applicants had been discontinued. The applicants were therefore entitled to compensation for unlawful administrative charges. The third, fourth and fifth applicants were also entitled to compensation for unlawful arrest and detention in conditions which did not meet statutory requirements. The court therefore ordered that the Ministry of Finance pay RUB 1,000 (about EUR 25) to the first applicant and RUB 5,000 (about EUR 125) each to the third, fourth and fifth applicants. It rejected the remainder of the applicants' complaints.

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

B. Complaints

1. The applicants complain of a violation of their rights guaranteed by Articles 10 and 11 of the Convention. They submit that the authorities' refusals to agree to the picket were not justified. In particular, any assembly

in a public place inevitably causes traffic disruptions. It was the responsibility of the authorities to ensure public order and the safety of all involved. As to the alleged risk of terrorist acts, such a risk indeed existed in certain far-off regions of Russia. That was not a valid justification, however, for prohibiting public assemblies in the Kaliningrad Region, where no such risk had ever been identified. The applicants argue that people's freedom of assembly can be lawfully restricted if a state of emergency is declared, which was not the case in the Kaliningrad Region. The applicants further complain under Article 13 of the Convention that they did not have at their disposal any effective remedy in relation to the above complaints.

2. The applicants also complain under Articles 3, 5, 6, 7 and 14 of the Convention that the conditions of their detention were inhuman, that their arrest was unlawful, that the judicial proceedings were unfair and that they were discriminated against.

VII. APPLICATION NO. 7189/12

A. The circumstances of the case

The four applicants are Mr Zhidenkov (the first applicant), Mr Zuyev (the second applicant), Ms Maryasina (the third applicant) and Mr Feldman (the fourth applicant). The facts of the case, as submitted by them, may be summarised as follows.

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

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

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

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

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

On 17 March 2011 the Kaliningrad Town Administration refused to agree to the picket, reiterating that Victory Square was being cleaned and explaining that landscaping work was being carried out at the other location

proposed by the third applicant. They again insisted that the picket should be held in the park mentioned in their letter of 9 March 2011.

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

On 20 March 2011 the applicants went to Victory Square and saw that no cleaning or other work was in progress there. They therefore decided to organise a gathering of about twenty people to protest against the police state. The gathering lasted for about an hour.

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

By judgments of 21, 25 and 26 April 2011 the Justice of the Peace of the 2nd Court Circuit of the Tsentralniy District of Kaliningrad found the applicants guilty as charged. She found that they had taken part in an gathering which had not received an official approval of the authorities. Their argument that no approval was required for gatherings had no basis in domestic law. Section 7 of the Public Assemblies Act provided that all assemblies, except gatherings and pickets involving one participant, required prior approval by the authorities. As the gathering of 20 March 2011 had involved more than one participant, the authorities' approval had been required. However, the Kaliningrad Town Administration had refused to approve a meeting or a picket planned by the applicants and no notification of a gathering had been submitted by them. The gathering of 20 March 2011 had therefore been unlawful. The Justice of the Peace ordered the first, second and fourth applicants to pay a fine of RUB 500 (about EUR12) each and the third applicant to pay a fine of RUB 1,000 (about EUR 24). The Justice of the Peace also warned the applicants that if they failed to pay the fines within 30 days they might be charged with non-payment of an administrative fine, an offence under Article 20.25 of the Administrative Offences Code, punishable with either a doubled fine or up to fifteen days' administrative arrest.

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

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

B. Complaints

1. The applicants complain of a violation of their rights guaranteed by Articles 10 and 11 of the Convention. They submit that the authorities'

refusals to allow the meeting and picket were not justified. The applicants proposed five alternative locations to the authorities, all of which were rejected as unsuitable for reasons the applicants considered unconvincing. Victory Square in particular was often used by pro-government parties and associations for their assemblies, while opposition associations were never allowed to hold meetings there. The location proposed by the authorities was unsuitable because it lacked visibility. Furthermore, domestic law did not require prior notification or approval for gatherings. The gathering organised by them was therefore lawful. Accordingly, the administrative fines they were ordered to pay were unlawful and unjustified. The applicants further complain, under Article 13 of the Convention, that they did not have at their disposal any effective remedy in respect of the above complaints.

2. The applicants also complain under Articles 6 and 14 of the Convention that the administrative offence proceedings were unfair and that they were discriminated against.

VIII. APPLICATIONS NOS. 47609/11, 59410/11, 16128/12, 16134/12, 20273/12, 51540/12 AND 64243/12

A. The circumstances of the case

The four applicants are Mr Nagibin (the first applicant), Mr Yelizarov (the second applicant), Mr Batyy (the third applicant) and Ms Moshiyan (the fourth applicant). The facts of the cases, as submitted by them, may be summarised as follows.

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

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

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

1. Picket of 12 June 2009

On 2 June 2009 the first and third applicants notified the Rostov-on-Don Town Administration of their intention to organise a picket from 7 to 9 p.m. on 12 June 2009 (Russia Day, a national holiday) in the centre of Rostov-on-Don, near the Lenin monument. About thirty people were expected to attend. The aim of the picket was to protest against the ineffective economic policies of the Prime Minister, Mr Putin, and the resulting increase in unemployment, as well as against violations of press

freedom, the persecution of political prisoners, the lack of independence of the judiciary and the lack of free elections and political competition. They intended to collect signatures in support of a petition calling on Mr Putin to resign.

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

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

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

On 8 June 2009 the first and third applicants agreed to hold the picket near the Sports Centre.

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

The applicants decided to cancel the picket. Instead, the third applicant would hold a solo picket. Twenty minutes after the start of the solo picket he was arrested and taken to a police station.

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

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

2. Meetings between October 2009 and October 2010

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

The Rostov-on-Don Town Administration refused to allow the meetings for the following reasons. The meeting of 31 October 2009 was not possible because another assembly was planned at the same venue and time and all other central locations were also occupied. As to the meeting of 31 March 2010, the town administration referred to the heavy pedestrian traffic round the Lenin monument and the inconvenience the meeting would cause to the citizens. The meetings of 31 May and 31 August 2010 were not accepted because pickets organised by the Young Guard, the youth wing of the

pro-government party United Russia, were scheduled to take place near the Lenin monument on those same days. The meeting of 31 July 2010 was not approved because an assembly of members of the Liberal Democratic Party of Russia was planned at the same location and time.

3. Meeting of 31 October 2010

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

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

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

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

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

At about 6.45 the second and third applicants were arrested near the Lenin monument and taken to the Leninskiy District police station. At the police station administrative arrest reports were drawn up and the second and third applicants were charged with disobeying a lawful order of the police, an offence under Article 19.3 § 1 of the Administrative Offences Code. The second applicant was also charged with breach of the established procedure for the conduct of public assemblies, an offence under Article 20.2 § 2 of the Administrative Offences Code.

At about 8.45 p.m. the second and third applicants were placed in a police cell, where they remained until 11 a.m. the next day. There was no bed. The cell was equipped with a 40-centimetre-wide bunk which was unfit for sleeping on. They were given no food or drinking water. There was no lavatory bowl and inmates were taken to the toilet in the corridor upon request. The toilet facilities were filthy. The light was not switched off at night.

The next day, 1 November 2010, the Justice of the Peace of the 9th Court Circuit of the Pervomayskiy District of Rostov-on-Don found the second applicant guilty of the offences under Articles 19.3 § 1 and 20.2 § 2 of the Administrative Offences Code. He found that the second applicant had taken part in an unauthorised picket and refused to obey the order of the

police to follow them to a police station. He ordered the second applicant to pay a fine of RUB 2,000 (about EUR 47). By judgments of 24 November and 14 December 2010 the Pervomayskiy District Court upheld the judgments of 1 November 2010 on appeal.

On 1 November 2010 the Justice of the Peace of the 2nd Court Circuit of the Leninskiy District of Rostov-on-Don also found the third applicant guilty of an offence under Article 19.3 § 1 of the Administrative Offences Code, in that he had attempted to prevent the police from arresting the organisers of the unlawful picket, in particular by grabbing the police officers by their uniform and screaming. The third applicant was ordered to pay a fine of RUB 500 (about EUR 12).

The third applicant appealed. He complained, in particular, that his arrest and detention had been unlawful.

On 16 December 2010 the Leninskiy District Court of Rostov-on-Don upheld the judgment of 1 November 2010 on appeal. It found, in particular, that the third applicant's arrest and detention had been lawful under Article 27.5 of the Administrative Offences Code.

On 17 May 2011 the Pervomayskiy District Court of Rostov-on-Don found that the Rostov-on-Don Town Administration's refusals to approve the meeting planned by the applicant had been unlawful.

4. Picket of 31 December 2010

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

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

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

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

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

On 27 December 2010 the Rostov-on-Don Town Administration refused to allow the picket. They found that by modifying the title the organisers had changed the purposes of the picket, so a new notification should have been submitted. They also reiterated that no assemblies were possible near

the Lenin monument until 14 January 2011 because of the New Year's tree installed there and the New Year celebrations scheduled to take place nearby.

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

On 31 December 2010 the Pervomayskiy District Court of Rostov-on-Don found that the decision of 17 December 2010 had been lawful and justified. The sole purpose of a picket entitled "Russia against Putin" was to harm another person. By contrast, the decision of 27 December 2010 had been unlawful. The requirement to submit a new notification had no basis in domestic law. Moreover, no celebrations were scheduled to take place near the Lenin monument from 6 to 7 p. m. on 31 December 2010. The finding that the picket might hinder the New Year celebrations had therefore been unsubstantiated. No other reasons for the refusal to allow the picket had been given.

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

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

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

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

5. Meeting of 31 March 2011

On 16 March 2010 the second and fourth applicants notified the Rostov-on-Don Town Administration of their intention to organise a meeting from 6 to 7.30 p. m. on 31 March 2010 in the centre of Rostov-on-Don, near the Lenin monument, which fifty people were expected to attend.

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

On 22 March 2010 the second and fourth applicants replied that the proposed venue was unsuitable because it was located in a desolate place far from the town centre. They asked the authorities how many participants

they could bring together without obstructing pedestrian traffic near the Lenin monument.

On 25 March 2010 the Rostov-on-Don Town Administration declined to correspond on the question of freedom of assembly.

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

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

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

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

On 3 November 2010 the Sovetskiy District Court allowed the second and fourth applicants' complaints, finding that the decision of 18 March 2010 had been unlawful. The Rostov-on-Don Town Administration had not provided convincing reasons for its proposal to change the meeting venue. Moreover, they had failed to refute the applicants' argument that the proposed location near the Sports Centre would not serve the purposes of the meeting. The court ordered that the Rostov-on-Don Town Administration allow a meeting of fifty people near the Lenin monument from 6 to 7.30 p.m. on the 31st of the first month with 31 days following the entry into force of the judgment. The court rejected the first applicant's complaints, however, finding that he had no standing to complain to a court because he had not signed the notification of 16 March 2010. His intention to participate in the meeting was irrelevant. It also rejected the applicants' complaints about discrimination on the basis of political opinion. The fact that other meetings had been allowed at the same location was not sufficient to prove discrimination against the applicants.

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

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

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

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

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

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

When the participants arrived at the Lenin monument at 6 p.m. they saw that the location had been fenced off with metal barriers. Police buses were parked along the barriers so that passers-by could not see what was going on in the enclosed area. Moreover, all passers-by were diverted by the police to another road. About 200 policemen were present. Although the enclosed area measured about 3,000 sq. m, only fifty people were allowed to enter and attend the meeting. Many would-be participants were not let in.

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

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

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

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

6. Meeting of 31 July 2011

At 9.04 a.m. on 18 July 2011 the first, third and fourth applicants notified the Rostov-on-Don Town Administration of their intention to organise a meeting from 6 to 8 p.m. on 31 July 2011 near the Lenin monument in front of the Rostov-on-Don Town Administration building in the town centre. One hundred people were expected to attend. They specified that if that venue was occupied, they would agree to hold the meeting in front of the cinema 50 metres from the Lenin monument. The aim of the meeting was to protest against the violations by the town administration of the freedom of assembly guaranteed by Article 31 of the Russian Constitution, and against fraudulent practices in the elections to the State Duma.

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

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

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

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

that the area outside the Public Library, suggested by the town authorities, was not large enough to accommodate all the participants in the applicants' meeting. A copy of that judgment was made available to the applicants on 2 August 2011.

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

On 29 August 2011 the Rostov Regional Court quashed the judgment of 28 July 2011 and rejected the applicants' complaint. It found that the Rostov-on-Don Town Administration's decision of 20 July 2011 had been lawful and justified. As another public assembly had been scheduled at the same time and place as that proposed by the applicants, the town administration had suggested the area outside the Public Library. That was a busy location in the town centre. The applicants had not explained how the flowerbeds prevented them from gathering there.

The applicants submitted a copy of the judgment of the Rostov Regional Court of 22 August 2011 given in an unrelated case, where the court had found, in similar circumstances, that the venue near the Lenin monument was large enough to accommodate two public assemblies simultaneously. It had also found that the alternative location near the Public Library proposed by the authorities was unsuitable given the declared purpose of the meeting.

7. Meeting of 31 August 2011

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

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

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

The applicants then challenged the town administration's refusal to approve the meeting of 31 August 2011 before the Pervomayskiy District Court of Rostov-on-Don, repeating the arguments stated in their letter of

19 August 2011 and adding that they had submitted their notification on the first day of the time-limit, nine minutes after the opening of the town administration offices. It was impossible that anyone else had submitted a notification before them. As to the possible tensions with the people attending the other meeting, the applicants noted that on 31 May 2011 two meetings, each attended by a hundred people, had been held simultaneously near the Lenin monument without any trouble or incidents. Finally, they argued that between October 2009 and July 2011 they had submitted eleven notifications, all of which had been rejected by the Rostov-on-Don Town Administration for various reasons.

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

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

Meanwhile, still before the Pervomayskiy District Court, the applicants also challenged the refusal to approve the meetings of 31 October and 31 December 2011 and 31 January and 31 March 2012. They complained that they had been subjected to discrimination on account of their political opinion. The Mayor of Rostov-on-Don was a member of the United Russia party. The meetings organised by that party or its youth wing had always been allowed to proceed. The Rostov-on-Don Town Administration had approved a series of pickets to be held every day from 1 July to 15 August 2011, for a total of 460 hours, despite the fact that the notification had been submitted by the Young Guard outside the statutory time-limit. A similar notification submitted by the applicants concerning a series of pickets of a total duration of 20 hours, however, had been rejected by the town administration.

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

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

8. Meetings in October and December 2011

In October and December 2011 the applicants notified the Rostov-on-Don Town Administration of their intention to hold meetings on 31 October

and 31 December 2011 near the Lenin monument in the town centre. The authorities agreed to the meeting on 31 October, but not to the one on 31 December, because a New Year's Tree had been installed near the Lenin monument.

9. Meeting of 31 January 2012

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

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

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

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

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

On 30 January 2012 the Pervomayskiy District Court rejected the first applicant's complaints. It found that Mr B. had submitted his notification before the first applicant, at 9.00 a.m. As it was impossible to hold two assemblies at the same location, the town administration had accepted B.'s picket and suggested an alternative venue to the first applicant. That venue was in a busy place in the town centre and therefore suited the purposes of the meeting.

On 31 January 2012 the first applicant appealed. He submitted, in particular, that the town administration had not proved that Mr B. had lodged his notification before him. His request for the entry camera recording had been rejected. He asserted that he had been the first to enter

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

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

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

10. Meetings between March and August 2012

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

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

B. Complaints

All the applicants complain that the Rostov-on-Don Town Administration's refusals to allow their meetings and pickets violated their freedom of assembly guaranteed by Article 11 of the Convention. They argue that over a period of more than two years only one of their proposed meetings was allowed. This amounted to a complete ban on Strategy-31 meetings and meant that the applicants were being subjected to discrimination on account of their political opinions.

The applicants also complain of a violation of their rights under Articles 3, 5, 6, 7, 10, 13, 14 and 18 of the Convention.

The detailed complaints relating to each assembly are summarised below.

1. Picket of 12 June 2009 (application no. 51540/12)

The third applicant complains under Article 11 of the Convention that the location and time proposed by the town administration was unsuitable for the purposes of the picket. In particular, the authorities proposed that particular time and place so as to make sure the picket would not be held in the presence of a crowd. If the organisers had accepted the time and place proposed by the authorities, their picket would have been invisible to the public. The third applicant also complains under Article 14, taken in conjunction with Article 11, that he was discriminated against on account of his political opinion. Referring to the reasoning contained in the town administration's decision of 4 June 2009, he argues that the real reason behind the authorities' suggestion to change the location of the picket from the town centre to the outskirts was the picket's anti-government stance.

2. Meeting of 31 October 2010 (applications nos. 47609/11 and 51540/12)

The second and third applicants complain under Article 3 of the Convention about the allegedly inhuman conditions of their detention, and under Article 5 about their allegedly unlawful arrest. They further complain, under Articles 11 and 18 of the Convention, that the venue proposed by the town administration was unsuitable because it was in a remote and desolate place with no street lighting. Given that at the end of October it was dark at 6 p.m., it would have been impossible to hold a meeting near the Sports Centre. The picket organised by the Young Guard near the Lenin monument finished at 6.30 p.m. The applicants could not possibly have been disturbing that picket when they were arrested at 6.45 p.m. Their arrest and the administrative proceedings against them were therefore not justified. Lastly, they complain under Article 7 that they were subjected to double punishment in the form of an administrative arrest and a fine. The third applicant also complains under Article 6 of the Convention that the courts disregarded the statements by the defence witnesses and preferred the testimony of the arresting police officers. The judges were therefore biased.

3. Picket of 31 December 2010 (application no. 59410/11)

The first applicant complains under Articles 10 and 11 of the Convention that he was not allowed to organise a picket on the theme "Russia against Putin" and was thereby prevented from expressing his opinion. He further complains that the picket of 31 December 2010, despite having the approval a court, was held under pressure from the police which prevented the participants from chanting slogans or waving banners.

4. Meeting of 31 March 2011 (application no. 20273/12)

The first, third and fourth applicants complain under Articles 10, 11 and 14 of the Convention that because of the restrictions imposed by the police the meeting of 31 March 2011 was deprived of its purpose. In particular, the venue was fenced off with metal barriers, making the meeting invisible to the public. The number of participants was limited so that many people who whished to participate were prevented from attending. Such intrusive measures have never been adopted in respect of other meetings, either

before or after 31 March 2011. In particular, no metal barriers were used or searches performed during the meeting of the Young Guard on 5 April 2011 and the public events organised by the town administration on 23 April and 31 May 2011 at the same location. The applicants were therefore subjected to discrimination on account of their political opinion. The first and fourth applicants also complain under Article 13 of the Convention that the courts did not examine their complaints, finding that they had no standing to complain to a court despite the fact that they had helped to organise the meeting and had taken part in it. They were thereby deprived of an effective remedy in respect of their complaint about the restriction of their freedom of expression and assembly.

5. Meeting of 31 July 2011 (applications nos. 16128/12, 16134/12, 51540/12)

The first, third and fourth applicants complain under Article 11 of the Convention that the town administration did not prove that holding two public assemblies simultaneously at the location chosen by them was bound to create tension. The alternative venue proposed by the town administration was unsuitable. They also argue that, given that they had submitted their notification on the first day of the prescribed time-limit, immediately after the opening of the town administration offices, no one else could possibly have submitted a notification before them. They further complain, under Article 6 of the Convention, about the inconsistent case-law of the Rostov Regional Court, which came to opposite conclusions in the judgments of 22 and 29 August 2011.

6. Meeting of 31 August 2011 (applications nos. 16128/12, 16134/12, 51540/12)

The first, third and fourth applicants complain under Article 11 of the Convention that the Town Administration did not prove that holding two public assemblies simultaneously at the location chosen by them was bound to create tension. The alternative venue proposed by the authorities was unsuitable. They also argue that, given that they had submitted their notification on the first day of the prescribed time-limit, immediately after the opening of the town administration offices, no one else could possibly have submitted a notification before them. The first, third and fourth applicants also complain, under Articles 14 and 18 of the Convention in conjunction with Article 11, that they were discriminated against on account of their political views. In particular, the notification submitted by the Young Guard was approved even though it was submitted outside the statutory time-limit, while a similar notification lodged by the applicants was rejected.

7. Meeting of 31 January 2012 (application no. 64243/12)

The first applicant complains under Articles 11, 14 and 18 of the Convention that the town administration's refusal to allow the meeting was unjustified. In particular, Mr B. could not possibly have lodged a notification before him because he was the first to be issued with an entry pass at the town administration's reception desk. If Mr B. really did enter

the building before him, that could only mean that he got in without a pass, using his position in the ruling United Russia party. The opposition organisations were thereby put at a disadvantage and deprived of the opportunity to lodge notifications and organise public assemblies in the same conditions as the pro-government party. Furthermore, the authorities did not prove that it was impossible to hold his meeting in front of the cinema at the same time as Mr B.'s event near the Lenin monument. The alternative venue proposed by the authorities, in front of the Public Library, was unsuitable. Moreover, as neither Mr B. nor any other person showed up for the public event approved by the town administration, Mr B.'s notification was in fact a sham, the sole purpose of which was to prevent the first applicant from holding his meeting. The first applicant also complains, under Article 13 of the Convention, that he did not have any procedure at his disposal that would have allowed him to obtain a final decision prior to the date of the planned meeting.

RELEVANT DOMESTIC LAW AND INTERNATIONAL MATERIAL

A. Relevant domestic law

1. Freedom of peaceful assembly

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

2. Procedure for the conduct of public assemblies

(a) The procedure in force at the material time

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

The Public Assemblies Act provides for the following types of assembly:

— a gathering: that is, an assembly of citizens in a specially designated or arranged location for the purpose of collective discussion of socially important issues;

— a meeting: that is, a mass assembly of citizens at a certain location with the aim of publicly expressing an opinion on topical, mainly social or political issues;

— a demonstration: that is, an organised expression of public opinion by a group of citizens with the use, while advancing, of placards, banners and other means of visual expression;

— a march: that is, a procession of citizens along a predetermined route with the aim of attracting attention to certain problems;

— a picket: that is, a form of public expression of opinion that does not involve movement or the use of loudspeaker equipment, where one or more citizens with placards, banners and other means of visual expression assemble near the target object of the picket (section 2 paragraphs 2 - 6).

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

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

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

Assemblies in the following locations are prohibited:

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

2) on flyovers, main railway lines or railroad rights-of-way, oil, gas or petroleum pipelines, or high-voltage electricity lines;

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

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

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

No earlier than fifteen days and no later than ten days before the intended public assembly, its organisers must notify the competent regional or municipal authorities of the date, time, location or itinerary and purposes of the assembly, its type, the expected number of participants, and the names of the organisers. A notification in respect of a picket involving several

persons must be submitted no later than three days before the intended picket or, if the end of the time-limit falls on a Sunday or a public holiday, no later than four days before the intended picket. No notification is required for gatherings or pickets involving one person (section 7 paragraphs 1 and 3).

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

1) confirm receipt of the notification;

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

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

4) inform the organisers of the assembly about the maximum accommodation capacity of the chosen location;

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

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

7) inform the federal guard services about the intended assembly, if it is to take place on a route or in any place of permanent or temporary presence of a State official requiring a special guard (section 12 paragraph 1).

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

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

No later than three days before the intended date of the assembly (this time-limit does not apply to gatherings and pickets involving one person) the organisers of a public assembly must inform the authorities in writing whether or not they accept the authorities' suggestions for changing the location and/or time of the assembly (section 5 paragraph 4 (2)).

The organisers of a public assembly are entitled to hold meetings, demonstrations, marches or pickets at the location and time indicated in the notification or agreed upon after consultation with the competent regional or municipal authorities (section 5 paragraph 3 (1)). They have no right to hold

an assembly if the notification was submitted outside the time-limits established by this Act, or if the new location and time of the assembly have not been agreed upon following a reasoned suggestion for their change by the competent regional or municipal authorities (section 5 paragraph 5).

The organisers must comply with all the elements of the assembly as indicated in the notification or agreed upon after consultation with the competent regional or municipal authorities (section 5 paragraph 4 (3)).

The participants in the assembly must:

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

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

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

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

A public assembly may be terminated on the following grounds:

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

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

3) if the organisers do not fulfil their obligations set out in section 5 paragraph 4 of the Act (section 16).

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

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

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

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

(b) The amendments introduced on 8 June 2012

On 8 June 2012 the Public Assemblies Act was amended. The amendments are as follows.

A person whose criminal record has not been expunged after a conviction for a criminal offence against the constitutional foundations of government, State security, national security or public order or who has been found guilty more than once within a year of hindering a lawful public assembly, disobeying a lawful order or demand of a police officer, disorderly conduct, a breach of the established procedure for the conduct of public assemblies, public display of Nazi symbols, blocking of transport communications or distribution of extremist materials (administrative offences under Articles 5.38, 19.3, 20.1-3, 20.18 and 20.29 of the Administrative Offences Code) may not be an organiser of a public assembly (section 5 paragraph 2 (1.1)).

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

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

A list of places where public assemblies are prohibited may be established by regional laws in addition to the list established in section 8 paragraph 2 of this Act. A location may be included in such a list if a public assembly there could, for example, interfere with the normal functioning of public utility services, transport, social or communications services, or hinder the passage of pedestrians or vehicles or the access of citizens to residential buildings, transport or social facilities (section 8 paragraph 2.2)

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

(c) Case-law of the Constitutional Court concerning the procedure for the conduct of public assemblies

(i) Ruling of 2 April 2009

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

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

The Constitutional Court further held that the authorities' refusal to agree to an assembly could not be justified by logistical or other similar reasons. The fact that an assembly might cause inconvenience was not sufficient to justify the suggestion to change the location or time. The authorities had to show in a compelling way that public order considerations made it impossible to hold the assembly. The term "agreed upon" contained in section 5 paragraph 5 of the Public Assemblies Act meant that in such circumstances the authorities had an obligation to suggest for discussion with the organisers of the assembly a location and time compatible with the assembly's purposes and its social and political meaning. In particular, it should be taken into account that for an assembly to fulfil its purposes some feedback (including via the media) between the participants in an assembly and the targets of its message was necessary. The organisers, in their turn, were also required to make an effort to reach an agreement with the executive.

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

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

In his dissenting opinion Judge Kononov argued that the provisions challenged by the complainants were incompatible with the Constitution. He observed that the provisions concerned did not specify the criteria for evaluating whether a suggestion to change the location or time of the assembly was justified. Nor did they provide for a mechanism or procedure

for resolving possible disagreements. He pointed out that there was an inequality between the executive and the organisers of an assembly and that, as a rule, the executive simply refused to discuss the controversial issue with the organisers and rejected all their objections.

He further noted that in practice both the executive authorities and the courts interpreted the term "agreed upon" in section 5 paragraph 5 of the Public Assemblies Act as referring to an approval or permission by the executive to hold an assembly at a certain location and time. Given that in the absence of such permission the assembly could not be held, the executive was vested with unlimited discretion to authorise or ban a public assembly. Such a situation was incompatible with the other provisions of the Public Assemblies Act, which established a simple notification procedure for public assemblies and did not give the executive any power to authorise or ban them.

Finally, Judge Kononov opined that by requiring the organisers of an assembly to apply to a court if they did not agree with the location or time proposed by the executive the Constitutional Court imposed an excessive burden on them. Even if the courts were able to examine the complaint speedily, the cumbersome judicial proceedings would make it impossible for the organisers to make the necessary preparations for the intended assembly. Moreover, in practice the courts interpreted the contested provisions as depriving the organisers of the right to hold an assembly if they failed to obtain permission from the executive. In the absence of any criteria for evaluating whether the suggestion to change the location or time of the assembly was justified, any other interpretation would create a serious risk of inconsistency and judicial uncertainty.

(ii) Ruling of 1 June 2010

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

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

(iii) Ruling of 18 May 2012

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

The Constitutional Court found that the contested provisions were compatible with the Constitution and that the requirement to indicate in the notification the expected number of participants was reasonable. The

authorities had to know how many people would take part in the assembly in order to assess whether the location was large enough to hold them all and to decide what measures should be taken to protect public order and the safety of the participants and other persons present. Given that under section 5 paragraph 4 (3) the organisers had an obligation to ensure that all the elements indicated in the notification were complied with, they had to adopt a balanced, considered and responsible approach when indicating the expected number of participants, taking into account the social importance of the issues to be discussed during the assembly.

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

3. *Civil proceedings*

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

The Code of Civil Procedure (the CCP) provides that a citizen may lodge a complaint about an act or decision by any State or municipal authority or official, either with a court of general jurisdiction or by addressing it to the official or authority directly above the one concerned (Article 254). The complaint may concern any decision, act or omission which has violated rights or freedoms, has impeded the exercise of rights or freedoms, or has imposed a duty or liability on the citizen (Article 255).

The complaint must be lodged within three months of the date when the citizen learnt of the breach of his rights. The time-limit may be extended for valid reasons (Article 256). The complaint must be examined within ten days (Article 257).

The court may suspend the decision complained against pending judicial proceedings (Article 254 § 4). Pursuant to Ruling no. 2 of 10 February 2009 of the Plenary Supreme Court of the Russian Federation, the court may suspend the decision complained against, at the request of the complainant or of its own motion, at any stage of the proceedings. A suspension is ordered if the materials in the case file and the complainant's submissions reveal that it may prevent possible negative consequences for the complainant (point 19).

The burden of proof as to the lawfulness of the contested decision, act or omission lies with the authority or official concerned. If necessary, the court may obtain evidence of its own motion (point 20 of Ruling no. 2).

If the court finds the complaint justified, it issues a decision requiring the authority or official to fully remedy the breach of the citizen's rights (Article 258 § 1 of the CCP). The court determines the time-limit for

remedying the violation with regard to the nature of the complaint and the efforts that need to be deployed to remedy the violation in full (point 28 of Supreme Court Ruling no. 2).

The court rejects the complaint if it finds that the challenged act or decision has been taken by a competent authority or official, is lawful and does not breach the citizen's rights (Article 258 § 4 of the CCP).

A party to the proceedings may lodge an appeal with a higher court within ten days of the date when the first decision is taken (Article 338 of the CCP). A statement of appeal should be submitted to the first-instance court (Article 337 § 2 and 321 § 2). The CCP contains no time-limit within which the first-instance court should send the statement of appeal and the case file to the appeal court. The appeal court must decide the appeal within two months after its receipt (Article 348 §§ 1 and 2). Shorter time-limits may be set by federal law for certain categories of cases (Article 348 § 4). The appeal decision enters into force on the day of its delivery (Article 367).

The legal provisions governing the appeal proceedings have recently been amended and the amendments entered into force on 1 January 2012. The amended CCP provided that a party to the proceedings may lodge an appeal with a higher court within a month of the date when the first-instance decision was taken (Article 321 § 2 of the 2012 version of the CCP). A statement of appeal should be submitted to the first-instance court (Article 321 § 1). The appeal court must decide the appeal within two months after its receipt, or three months if the appeal is examined by the Supreme Court. Shorter time-limits may be set by federal law for certain categories of cases (Article 327 § 2). The appeal decision enters into force on the day of its delivery (Article 329 § 5).

(b) Enforcement of court judgments

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

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

As regards complaints about acts or decisions of a State authority or official, a decision allowing such a complaint and requiring the authority or official to remedy the breach of the citizen's rights is dispatched to the head of the authority concerned, to the official concerned or to their superiors within three days of its entry into force. The court and the complainant must be notified of the enforcement of the decision no later than one month after its receipt (Article 258 §§ 2 and 3 of the CCP).

4. Liability for breaches committed in the course of public assemblies

At the material time a breach of the established procedure for the conduct of public assemblies was punishable by a fine of 1,000 to 2,000 Russian roubles (RUB) for the organisers of the assembly, and from RUB 500 to 1,000 for the participants (Article 20.2 §§ 1 and 2 of the Administrative Offences Code).

On 8 June 2012 that Article was amended. The amended Article 20.2 provides that a breach of the established procedure for the conduct of public assemblies committed by an organiser is punishable by a fine of RUB 10,000 to 20,000 or up to forty hours of community work if the organiser is a natural person, or by a fine of RUB 50,000 to 100,000 if the organiser is a legal person. The holding of a public assembly without notification is punishable by a fine of RUB 20,000 to 30,000 or up to fifty hours of community work if the organiser is a natural person, or by a fine of RUB 70,000 to 200,000 if the organiser is a legal person. A breach by an organiser of the established procedure for the conduct of public assemblies which causes the obstruction of pedestrian or road traffic or leads to the exceeding of the maximum capacity of the venue is punishable by a fine of RUB 30,000 to 50,000 or up to a hundred hours of community work if the organiser is a natural person, or by a fine of RUB 250,000 to 500,000 if the organiser is a legal person. A breach by an organiser of the established procedure for the conduct of public assemblies which causes damage to someone's health or property, provided that it does not amount to a criminal offence, is punishable by a fine of RUB 100,000 to 300,000 or up to two hundred hours of community work if the organiser is a natural person, or by a fine of RUB 400,000 to 1,000,000 if the organiser is a legal person. A breach of the established procedure for the conduct of public assemblies committed by a participant is punishable by a fine of RUB 10,000 to 20,000 or up to forty hours of community work. A breach by a participant of the established procedure for the conduct of public assemblies which causes damage to someone's health or property, provided that it does not amount to a criminal offence, is punishable by a fine of RUB 150,000 to 300,000 or up to two hundred hours of community work.

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

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

5. Administrative arrest

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

In exceptional cases a police officer may arrest an individual for a short period if this is necessary for the prompt and proper examination of the administrative case and to secure the enforcement of any penalty imposed (Article 27.3 § 1 of the Code). The duration of such administrative arrest must not normally exceed three hours. Administrative arrest for a longer period, not exceeding forty-eight hours, is permissible only for persons subject to administrative proceedings concerning an offence punishable by administrative detention or offences involving unlawful crossing of the Russian border. This term starts to run from the moment when the person has been escorted to the police station in accordance with Article 27.2 of the Code (Article 25.5 of the Code). The arresting officer must draw up an "administrative arrest report" (Article 27.4 of the Code).

B. Relevant international material

1. United Nations Organisation documents

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

> "28. The Special Rapporteur believes that the exercise of fundamental freedoms should not be subject to previous authorization by the authorities ..., but at the most to a prior notification procedure, whose rationale is to allow State authorities to facilitate the exercise of the right to freedom of peaceful assembly and to take measures to protect public safety and order and the rights and freedoms of others. Such a notification should be subject to a proportionality assessment, not unduly bureaucratic and be required a maximum of, for example, 48 hours prior to the day the assembly is planned to take place ... Prior notification should ideally be required only for large meetings or meetings which may disrupt road traffic ...
>
> 29. Should the organizers fail to notify the authorities, the assembly should not be dissolved automatically ... and the organizers should not be subject to criminal sanctions, or administrative sanctions resulting in fines or imprisonment. This is all the more relevant in the case of spontaneous assemblies where the organizers are unable to comply with the requisite notification requirements, or where there is no existing or identifiable organizer. In this context, the Special Rapporteur holds as best practice legislation allowing the holding of spontaneous assemblies, which should be exempted from prior notification ...
>
> 30. In the case of simultaneous assemblies at the same place and time, the Special Rapporteur considers it good practice to allow, protect and facilitate all events, whenever possible. In the case of counter-demonstrations, which aim at expressing discontent with the message of other assemblies, such demonstrations should take place, but should not dissuade participants of the other assemblies from exercising their right to freedom of peaceful assembly. In this respect, the role of law enforcement authorities in protecting and facilitating the events is crucial.
>
> ...
>
> 33. The Special Rapporteur stresses that States have a positive obligation to actively protect peaceful assemblies ...
>
> ...

37. The Special Rapporteur is opposed to the practice of 'kettling' (or containment) whereby demonstrators are surrounded by law enforcement officials and not allowed to leave ...

...

39. States also have a negative obligation not to unduly interfere with the right to peaceful assembly. The Special Rapporteur holds as best practice 'laws governing freedom of assembly [that] both avoid blanket time and location prohibitions, and provide for the possibility of other less intrusive restrictions ... Prohibition should be a measure of last resort and the authorities may prohibit a peaceful assembly only when a less restrictive response would not achieve the legitimate aim(s) pursued by the authorities'.

40. As mentioned earlier, any restrictions imposed must be necessary and proportionate to the aim pursued ... In addition, [assemblies] must be facilitated within "sight and sound" of its object and target audience, and "organizers of peaceful assemblies should not be coerced to follow the authorities' suggestions if these would undermine the essence of their right to freedom of peaceful assembly". In this connection, he warns against the practice whereby authorities allow a demonstration to take place, but only on the outskirts of the city or in a specific square, where its impact will be muted.

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

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

On 26 April 2012 the Human Rights Committee adopted its views in the case of *Chebotareva* v. Russia (CCPR/C/104/D/1866/2009, communication no. 1866/2009). The case concerned the authorities' refusal to allow pickets to mark the anniversary of the murder of Anna Politkovskaya and to protest against political repression in the country. The authorities proposed another venue for the pickets on the ground that they were planning to celebrate Teachers' Day at the venue chosen by the applicant. The applicant did not accept that venue, arguing that because of its remoteness from the city centre the purpose of the picket would be thwarted. She suggested an alternative location which was not approved by the authorities, who referred to public safety concerns because of the heavy vehicle and pedestrian traffic in the area.

The Human Rights Committee found that the applicant's right to freedom of assembly under article 21 of the International Covenant on Civil and Political Rights had been violated, since she had been arbitrarily prevented from holding a peaceful assembly. The State party had not demonstrated to the Committee's satisfaction that the impeding of the pickets in question had been necessary for the purpose of protecting the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. The reasons advanced by the authorities were in fact mere pretexts given in order to reject the applicant's request.

2. Council of Europe documents

The document entitled "The Compilation of Venice Commission Opinions Concerning Freedom of Assembly", issued by the European Commission for Democracy through Law (Venice Commission) on 25 June 2012 (CDL(2012)014 rev), reads as follows:

> "2.3. Simultaneous assemblies
>
> The Guidelines explicitly provide that where notification is given for two or more assemblies at the same place and time, they should all be permitted and facilitated as much as possible, notwithstanding who submitted the notification first and how close to each other they plan to gather. This owes also to the fact that all persons and groups have an equal right to be present in public places to express their views ... as the OSCE/ODIHR – Venice Commission Guidelines point out, 'related simultaneous assemblies should be facilitated so that they occur within sight and sound of their target insofar as this does not physically interfere with the other assembly'. A prohibition on conducting public events in the place and time of another public event would be a disproportionate response, unless there is a clear and objective indication that both events cannot be managed in an appropriate manner through the exercise of policing powers ...
>
> ...
>
> 5.1. Legitimate grounds for restrictions - Content-based restrictions
>
> ... Restrictions on public assemblies should not be based upon the content of the message they seek to communicate. It is especially unacceptable if the interference with the right to freedom of assembly could be justified simply on the basis of the authorities´ own view of the merits of a particular protest. Any restrictions on the message of any content expressed should face heightened scrutiny and must only be imposed if there is an imminent threat of violence ...
>
> ...
>
> 5.2. Restrictions on Place, Time and Manner of holding Assemblies
>
> Location is therefore one of the key aspects of freedom of assembly. The privilege of the organiser to decide which location fits best for the purpose of the assembly is part of the very essence of freedom of assembly. Assemblies in public spaces should not have to give way to more routine uses of the space, as it has long been recognised that use of public space for an assembly is just as much a legitimate use as any other. Moreover, the purpose of an assembly is often closely linked to a certain location and freedom of assembly includes the right of the assembly to take place within 'sight and sound' of its target object ...

All public spaces should be open and available for the purpose of holding assemblies and so, official designation of sites suitable for assemblies inevitably limits the number of public places that may be used for an assembly as it excludes locations that are suitable for assemblies, simply because they have not been designated ...

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

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

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

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

6. NOTIFICATION OF ASSEMBLIES

... the notification procedure is for the purpose of providing information to the authorities to enable the facilitation of the right to assemble, rather than creating a system where permission must be sought to conduct an assembly. This emphasizes that the freedom to assemble should be enjoyed by all, and anything not expressly forbidden in law should be presumed to be permissible ... Any regime of prior notification must not be such as to frustrate the intention of the organisers to hold a peaceful assembly, and thus indirectly restrict their rights (for instance, by providing for too detailed and complicated requirements, and/or too onerous procedural conditions) ...

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

6.1 Length of the notification period

...

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

...

6.3 Regulatory authority and decision-making

...

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

...

7. REVIEW AND APPEAL

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

...

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

8. ASSEMBLY TERMINATION AND DISPERSAL

The OSCE/ODIHR – Venice Commission Guidelines emphasize that the termination and dispersal of assemblies should be a measure of last resort ... The reasons for suspension, ban or termination of an assembly should be narrowed down to a threat to public safety or danger of imminent violence. Furthermore, dispersal should not occur unless law enforcement officials have taken all reasonable measures to facilitate and to protect the assembly from harm and unless there is an imminent threat of violence ...

10. RESPONSIBILITIES OF THE ORGANISER

... It is also to be pointed out that organisers of assemblies should not be held liable for failure to perform their responsibilities if they made reasonable efforts to do so. The organisers should not be liable for the actions of individual participants nor for the actions of non-participants or *agents provocateurs*. Instead, individual liability should arise for any individual if he or she personally commits an offence or fails to carry out the lawful directions of law enforcement officials ...

13.1 Responsibilities of the law enforcement bodies

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

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

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

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

"21. The Venice Commission stresses that, while the Assembly Law formally does not empower the executive authorities not to accept a notification or to prohibit a public event, it does empower them to alter the format originally envisaged by the organiser for aims which go far beyond the legitimate aims required by the ECHR. One of these aims is the 'need to maintain a normal and smooth operation of vital utilities and transport infrastructures': which is practically impossible in case of large or moving demonstrations. It has further been conceded and is indeed explicitly set out in Article 5.5 of the Assembly Law that if the organisers disagree with the local authorities' motivated proposal to change the format of the public event, the latter is *de facto* prohibited. Therefore, in the Venice Commission's view, since the permission is rarely given, the notification or notice, in substance, amounts to a substitute for a request of a previous permission, to an 'authorization procedure *de facto*'.

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

23. The alteration of the place of the assembly by the authorities means that events cannot be held in places chosen by the organizer within sight and sound of their targeted audiences or at a place with a special meaning for the purpose of the assembly. The Venice Commission recalls that respect for the autonomy of the organizer in deciding on the place of the event should be the norm. The Constitutional Court has rightly specified that the newly proposed time and place must correspond to the social and political objectives of the event, and this requirement provides some safeguard against depriving the proposed public event of any impact. But even assuming that the alternative proposals do comply with this principle, it must be underlined that in principle the organisers should be permitted to choose the venue and the format of the assembly without interference. The Venice Commission agrees with the Institute of Legislation and Comparative Law that 'organisers, while implementing their right to determine the place and time of the event should, in turn, endeavour to reach an agreement on the basis of a balance of interests' and indeed the

Commission has recently pointed out the benefits to the organiser, if he/she is willing to cooperate with the authorities, thus preventing 'the imposition of further restrictions (and even the termination of the entire assembly, if this is proportionate in the circumstances)'. However, this is only true where the changes in the format are caused by *compelling* reasons as required by Article 11 § 2 ECHR. In all other cases, the authorities should respect the organisers' autonomy in the choice of the format of the public assembly. In this respect, the Guidelines clearly state: 'An assembly organizer should not be compelled or coerced either to accept whatever alternative(s) the authorities propose, or to negotiate with the authorities about key aspects (particularly the time or place) of a planned assembly. To require otherwise would undermine the very essence of the right to freedom of peaceful assembly.'

24. As concerns *de facto* prohibitions to hold public events, it must be remembered that 'in order to be 'necessary in a democratic society' the limitation of the freedom must correspond to a pressing social need, be proportionate (i.e. there must be a rational connection between public policy objective and the means employed to achieve it and there must be a fair balance between the demands of the general community and the requirements of the protection of an individual's fundamental rights), and the justification for the limitation must be relevant and sufficient.' Use of public space for an assembly is just as much a legitimate use as any other. Restrictions are only permitted where an assembly will actually disrupt unduly and a mere possibility of an assembly causing inconvenience does not justify its prohibition. Indeed, inconvenience to designated institutions or to the public, including interference with traffic, should not be as such a sufficient basis for prohibition.

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

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

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

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

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

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

...

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

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

40. The Commission delegation was told that the previous organisation of other events, especially cultural events to be held at the venue and on the day of the notified public assembly, regularly entailed the proposal by the municipal authorities to alter the format of the latter. Since such other events are not covered by the time limitation for a notification the organizer of an assembly has to comply with (Article 7 Assembly Law), it violates the freedom of assembly if the assembly cannot take place solely due to the fact that someone else wants to use the place for another kind of event at the same time, who is not bound by the same timeframe-restriction as the organizer of an assembly. Public spaces should be available to all and other events

like cultural events should not have automatic priority. The constitutional protection to conduct cultural or similar events is not superior to the constitutional protection of the freedom of assembly.

...

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

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

3. Other international documents

The 2008 Guidelines on Freedom of Peaceful Assembly (CDL(2008)062), prepared by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE) in consultation with the European Commission for Democracy though Law (the Venice Commission) of the Council of Europe, read as follows:

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

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

Legitimate grounds for imposing restrictions on assemblies

61. Legitimate grounds for restriction (such as the prevention of disorder or crime, or the protection of the rights and freedoms of others) are prescribed by the relevant international and regional human rights instruments, and these should not be supplemented by additional grounds in domestic legislation.

62. The regulatory authorities must not raise obstacles to freedom of assembly unless there are compelling arguments to do so. Applying the guidance below should help the regulatory authorities test the validity of such arguments. The legitimate aims listed below (as provided in the limiting clauses in Article 21 of the ICCPR and Article 11 of the ECHR) are not a licence to impose restrictions, and the onus rests squarely on the authorities to substantiate any justifications for the imposition of restrictions.

Public order

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

Public safety

65. There is a significant overlap between public-safety considerations and those concerning the maintenance of public order. The state has a duty to protect public safety, and under no circumstances should this duty be assigned or delegated to the organizer of an assembly ...

Protection of health and morals

...

69. Measures allegedly safeguarding public morals should also meet an objective standard of whether they answer a pressing social need and comply with the principle of proportionality. There should be a requirement of state neutrality that precludes moral judgments on, for example, preferences for any sexual orientation over another ...

Protection of the rights and freedoms of others

70. The regulatory authority has a duty to strike a proper balance between the important freedom of peaceful assembly and the competing rights of those who live, work, shop, trade, and carry on business in the locality affected by an assembly. That balance should ensure that other activities taking place in the same space may also proceed if they themselves do not impose unreasonable burdens. Mere disruption, or even opposition to an assembly, is not therefore, of itself, a reason to impose prior restrictions on it. Given the need for tolerance in a democratic society, a high threshold will need to be overcome before it can be established that a public assembly will unreasonably infringe the rights and freedoms of others. This is particularly so given that freedom of assembly, by definition, amounts only to temporary interference with these other rights ...

National security

73. The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (1985) limit reliance on national-security grounds to justify restrictions of freedom of expression and assembly:

> 29. National security may be invoked to justify measures limiting certain rights only when they are taken to protect the existence of the nation or its territorial integrity or political independence against force or threat of force.
>
> 30. National security cannot be invoked as a reason for imposing limitations to prevent merely local or relatively isolated threats to law and order.
>
> ...

Types of restrictions

80. **Restrictions on time, place, and manner**. The types of restrictions that might be imposed on an assembly relate to its time, place, and manner. This originates from

US jurisprudence, and it captures the sense that a wide spectrum of possible restrictions that do not interfere with the message communicated is available to the regulatory authority. In other words, rather than the choice for the authorities being between non-intervention and prohibition, there are many midrange limitations that might adequately serve the purpose(s) that they seek to achieve (including the prevention of activity that causes damage to property or harm to persons). These can be in relation to changes to the time or place of an event, or the manner in which the event is conducted. An example of manner restrictions might relate to the use of sound-amplification equipment or lighting and visual effects. In this case, regulation may be appropriate because of the location or time of day for which the assembly is proposed.

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

82. Given that there are often a limited number of ways to effectively communicate a particular message, the scope of any restrictions must be precisely defined. In situations where restrictions are imposed, these should strictly adhere to the principle of proportionality and should always aim to facilitate the assembly within sight and sound of its object/target audience ...

86. **Sanctions and penalties imposed after an assembly**. The imposition of sanctions (such as prosecution) after an event may sometimes be more appropriate than the imposition of restrictions prior to, or during, an assembly. For example, the European Court of Human Rights has held that prior restrictions imposed on the basis of the possibility of minor incidents of violence are likely to be disproportionate. Any isolated outbreak of violence should be dealt with by way of subsequent arrest and prosecution rather than prior restraint. Such measures include prosecution (for example, for participation in an unlawful assembly, or for other public order offences) or other disciplinary action. It is noteworthy, however, that on several occasions, the Human Rights Committee and the European Court of Human Rights have found subsequent sanctions to constitute disproportionate interference with the right to freedom of assembly or expression ...

Advance notification

91. It is common for the regulatory authority to require advance written notice of public assemblies. Such a requirement is justified by the state's positive duty to put in place any necessary arrangements to facilitate freedom of assembly and protect public order, public safety, and the rights and freedom of others ...

92. The notification process should not be onerous or bureaucratic, as this would undermine the freedom of assembly by discouraging those who might wish to hold an assembly. Furthermore, individual demonstrators should not be required to provide advance notification to the authorities of their intention to demonstrate. Where a lone demonstrator is joined by another or others, then the event should be treated as a spontaneous assembly ...

93. The period of notice should not be unnecessarily lengthy (normally no more than a few days), but should still allow adequate time prior to the notified date of the assembly for the relevant state authorities to plan and prepare for the event (deploy police officers, equipment, etc.), for the regulatory body to give a prompt official

response to the initial notification, and for the completion of an expeditious appeal to a tribunal or court should the legality of any restrictions imposed be challenged ...

Notification, not authorization

95. Legal provisions concerning advance notice should require a notice of intent rather than a request for permission. Although lawful in several jurisdictions, a permit requirement accords insufficient value to both the fundamental freedom to assemble and to the corresponding principle that everything not regulated by law should be presumed to be lawful. Those countries where a permit is required are encouraged to amend domestic legislation so as to require notification only. It is significant that, in a number of jurisdictions, permit procedures have been declared unconstitutional. Any permit system must clearly prescribe in law the criteria for issuance of a permit. In addition, the criteria should be confined to considerations of time, place, and manner, and should not provide a basis for content-based regulation ...

Simultaneous assemblies

...

102. Where notification is given for two or more assemblies at the same place and time, each should be facilitated as best possible. A prohibition on conducting public events in the same place and at the same time of another public event is likely to be a disproportionate response. In some jurisdictions, a "first come, first served" rule operates. Such a rule is permissible so long as it does not discriminate between different groups, and an alternative venue and/or time for the other assemblies is provided to the satisfaction of the organizers. The authorities might even hold a ballot to determine which assembly should be facilitated in the notified location ...

Decision-making and review process

103. The regulatory authority should make publicly available a clear explanation of the decision-making procedures. It should fairly and objectively assess all available information to determine whether the organizers and participants of a notified assembly are likely to conduct the event in a peaceful manner, and to ascertain the probable impact of the event on the rights and freedoms of other non-participants. In doing so, it may be necessary to facilitate meetings with the event organizer and other interested parties.

104. The regulatory authority should also ensure that any relevant concerns raised are communicated to the event organizer, and the organizer should be offered an opportunity to respond to any concerns raised. This is especially important if these concerns might later be cited as the basis for imposing restrictions on the event. Providing the organizer with such information allows them the opportunity to address the concerns, thus diminishing the potential for disorder and helping foster a co-operative, rather than confrontational, relationship between the organizers and the authorities.

105. The law should be sufficiently flexible to allow assembly organizers and regulatory authorities should make every effort to reach a mutual agreement on the time, place, and manner of an assembly. Such negotiation serves as a preventive tool helping avoid the imposition of arbitrary and unnecessary restrictions.

106. Any restrictions placed on an assembly should be communicated promptly and in writing to the event organizer with a brief explanation of the reason for each restriction (noting that such explanation must correspond with the permissible grounds enshrined in human rights law and as interpreted by the relevant courts). Such decisions should be communicated to the organizer within a reasonable time frame, i.e., sufficiently far in advance of the date of a proposed event to allow the decision to be appealed to an independent tribunal or court before the notified date of the event.

If, for example, the required notification period is five days prior to the date of the assembly, the regulatory authority should publish its decision at least three days before the date of the event.

107. The regulatory authority should also publish its decisions so that the public has access to reliable information about events taking place in the public domain. This might be done, for example, by posting decisions on a dedicated website.

108. If restrictions are imposed on an assembly, the organizer should have recourse to an effective remedy through a combination of administrative and judicial review. The reviewing body should have access to the evidence on which the regulatory authority based its initial decision (including, for example, relevant police reports), as only then can it assess the proportionality of the restrictions imposed. The burden of proof should be on the regulatory authority to show that the restrictions imposed are reasonable in the circumstances ...

110. The assembly organizers should also be able to appeal the decision of the regulatory authority to an independent court or tribunal. This should be a *de novo* review, empowered to quash the contested decision and to remit the case for a new ruling. Any such review must also be prompt so that the case is heard and the court ruling published before the planned assembly date (in order to make it possible to still hold the assembly if the court invalidates the restrictions). One option to expedite this process would be to require the courts to give priority to appeals against restrictions on assemblies so as to permit the completion of judicial review prior to the date of the assembly ...

127. Restrictions imposed on individuals during an assembly may violate their rights to liberty and freedom of movement. Individuals should not be stopped and searched unless the police have a reasonable suspicion that they have committed, are committing, or are about to commit, an offence, and arrests must not be made simply for the purpose of removing a person from an assembly or preventing their attendance. Indeed, arrests made during an assembly should be limited to persons engaging in conduct that is creating a clear and present danger of imminent violence ...

Regulating peaceful unlawful assemblies

132. Powers to intervene should not always be used. The existence of police powers to intervene and disperse an unlawful assembly or to use force does not mean that such powers should always be exercised. Where an assembly occurs in violation of applicable laws, but is otherwise peaceful, non-intervention or active facilitation may sometimes be the best way to ensure a peaceful outcome. In many cases, dispersal of an event may create more law enforcement problems than accommodating and facilitating it. Post-event prosecution for violation of the law remains an option ...

134. Peaceful assemblies that do not comply with the requisite preconditions established by law or that substantially deviate from the terms of notification. If the organizer fails or refuses to comply with any requisite preconditions for the holding of an assembly (including valid notice requirements, and necessary and proportionate restrictions based on legally prescribed grounds), they might face prosecution. However, such assemblies should still be accommodated by law enforcement authorities as far as is possible. If a small assembly is scheduled to take place and, on the day of the event, it turns into a significantly larger assembly because of an unexpectedly high turnout, the assembly should be accommodated by law enforcement authorities and should be treated as being lawful so long as it remains peaceful ...

137. So long as assemblies remain peaceful, they should not be dispersed by law enforcement officials. Indeed, dispersal of assemblies should be a measure of last resort and should be governed by prospective rules informed by international standards. While these need not be elaborated in legislation, they should be expressed

in domestic police guidelines, and legislation should require that such guidelines be developed ...

139. Dispersal should not therefore result where:

- A small number of participants in an assembly act in a violent manner. In such instances, action should be taken against those particular individuals;

- *Agents provocateurs* infiltrate an otherwise peaceful assembly. Here, the authorities should take appropriate action to remove the *agents provocateurs* rather than terminating or dispersing the assembly, or declaring it to be unlawful; or

- An assembly is deemed to be unlawful either because the organizer has not complied with the requisite preconditions established by law, because the assembly is for a purportedly illegal purpose, or because of the presence of a proscribed organization ..."

GENERAL QUESTIONS TO THE PARTIES

1. Do the restrictions on the location, time or manner of conduct of a public assembly constitute an interference with the freedoms of assembly and expression under Articles 10 and/or 11 of the Convention?

2. Do Russian legal provisions governing public assemblies meet the "quality of law" requirements contained in Articles 10 § 2 and 11 § 2 of the Convention? In particular:

(a) Are there any legal provisions establishing how the time-limit for lodging a notification is calculated in cases where it falls on a week-end or a public holiday?

(b) Are there any legal provisions establishing how the authorities' decision agreeing to an assembly or suggesting the change of its location, time or manner of conduct should be communicated to the organisers?

(c) Are there any legal provisions establishing by which state authority and on the basis of which criteria the perimeter of the zones in which the assemblies are prohibited in accordance with section 8 § 2 of the Public Assemblies Act is determined?

(d) In which cases may the domestic authorities suggest changing the location, time or manner of conduct of an intended assembly?

(e) Do the domestic authorities have an obligation to suggest specific locations for the organisers to choose from?

(f) Is such a suggestion binding on the organisers and participants of the assembly?

(g) Does domestic law provide for any procedure to resolve disagreements that may arise if the organisers of the assembly do not accept the authorities' suggestion?

3. Is a statutory ban on holding public assemblies in certain locations, such as in the vicinity of court buildings or detention facilities contained in section 8 § 2 of the Public Assemblies Act "necessary in a democratic society"?

4. Does the fact that an assembly is considered to be unlawful for failure to comply with the restrictions as to its location, time or manner of conduct justify its dispersal? Is such a measure "necessary in a democratic society" within the meaning of Articles 10 § 2 and 11 § 2 of the Convention?

5. Is there an effective remedy in respect of the complaints under Articles 10 and 11 of the Convention, as required by Article 13 of the Convention? Do the statutory time-limits for notification about a public assembly and those for the judicial review of the authorities' decisions suggesting a change of the assembly's date, time or manner of conduct allow for an enforceable judicial decision to be given before the intended date of the assembly (see *Alekseyev v. Russia*, nos. 4916/07, 25924/08 and 14599/09, §§ 97-100, 21 October 2010)? In particular:

(a) What is the statutory time-limit for the examination of such cases in the first instance and on appeal? What is the average length of the judicial proceedings in practice?

(b) Is there a possibility to apply for an injunction enabling the organiser to proceed with the assembly pending the examination of his judicial complaint? If yes, the Government are requested to provide examples of cases where such an injunction was ordered in circumstances similar to those of the applicants.

(c) When does the judicial decision become enforceable?

(d) Is there a possibility under Russian law to order an immediate enforcement ("*обратить к немедленному исполнению*") of such judicial decisions? If yes, under which conditions is it possible? The Government are requested to provide examples of cases where immediate enforcement was ordered in circumstances similar to those of the applicants.

6. Given that eighty-six applications raising issues under Articles 10, 11, 13 and 14 of the Convention similar to those raised in the present cases are currently pending before the Court and taking into account the Opinion on the Federal Law no. 54-FZ of 19 June 2004 On Assemblies, Meetings, Demonstrations, Marches and Picketing of the Russian Federation, adopted by the Venice Commission at its 90th Plenary Session (Venice, 16-17 March 2012), can it be claimed that there is a systemic problem relating to the freedom of assembly in Russia?

INDIVIDUAL QUESTIONS IN RESPECT OF EACH APPLICATION

1. Application no. 57818/09

Did the authorities' suggestion to change the location and time of the picket of 31 January 2009 interfere with the applicant's rights under Articles 10 and/or 11 of the Convention? Was that interference lawful? Did it pursue a legitimate aim? Were the reasons advanced by the authorities for the change of the location and time "relevant and sufficient" and was the interference "necessary in a democratic society" within the meaning of Articles 10 § 2 and 11 § 2 of the Convention?

2. Application no. 51169/10

1. As regards the picket in the Northern Administrative District of Moscow, was there a violation of the applicant's rights under Article 11 of the Convention? In particular, was the sending of the Prefect's decision allowing the picket of 25 August 2009 by post rather than handing it to the applicant personally lawful? Given common post delivery time, did this fact deprive the applicant of a realistic opportunity to organise a picket as approved by the authorities? Was the alleged refusal to hand the decision to the applicant personally "necessary in a democratic society"?

2. As regards the picket in the Central Administrative District of Moscow, was the authorities' refusal to allow the picket of 24 August 2009 lawful, did it pursue a legitimate aim and was it "necessary in a democratic society" within the meaning of Article 11 of the Convention? In particular, what was the legal basis for the refusal to allow the picket on the ground that two notifications had been submitted by the applicant in respect of different locations? Were the reasons advanced by the authorities for their decision "relevant and sufficient"?

3. Did the applicant have at his disposal an effective domestic remedy for his complaints under Article 11, as required by Article 13 of the Convention? In particular, did he have at his disposal a procedure that would allow him to obtain an enforceable decision prior to the date of the planned assembly?

3. Applications nos. 64311/10 and 31040/11

1. Did the authorities' suggestion to cancel the march and change the location of the meeting of 20 March 2010, the dispersal of the meeting, the arrest of Ms Peletskaya and the administrative proceedings against her interfere with the applicants' rights under Articles 10 and/or 11 of the Convention? Was the interference lawful? Did it pursue a legitimate aim? Were the reasons advanced by the authorities in support of their suggestion to cancel the march and change the location of the meeting "relevant and sufficient"? Were the dispersal of the meeting, the arrest of Ms Peletskaya and the administrative proceedings against her "necessary in a democratic

society" within the meaning of Articles 10 § 2 and 11 § 2 of the Convention?

2. Did Mr Ponomarev, Mr Ikhlov and Mr Udaltsov have at their disposal an effective domestic remedy for their complaints under Articles 10 and 11, as required by Article 13 of the Convention? In particular, did they have at their disposal a procedure that would allow them to obtain an enforceable decision prior to the date of the planned assembly?

3. Was Article 6 of the Convention applicable to the proceedings which ended by the judgment of 12 November 2010 (see *Kuznetsov and Others v. Russia*, no. 184/02, §§ 79-85, 11 January 2007)? If yes, was there a breach of Mr Ponomarev's, Mr Ikhlov's and Mr Udaltsov's "right to a court" as guaranteed by Article 6 § 1 of the Convention, as a result of the quashing, by way of supervisory review, of the judgment of 23 September 2010? Given that the reasoned judgment of 12 November 2010 was not read out in the courtroom or published on the Moscow City Court's official website, was it "pronounced publicly", as required by Article 6 § 1 of the Convention (see *Ryakib Biryukov v. Russia*, no. 14810/02, §§ 28-46, ECHR 2008)?

4. Application no. 4618/11

1. Did the refusal to allow the march and the meeting of 19 January 2009 interfere with the applicants' rights under Article 11 of the Convention? Was that interference lawful? In particular, how is the time-limit for lodging a notification calculated in cases where it falls on a public holiday? Did the interference pursue a legitimate aim? Taking into account that the applicants were allowed to hold a picket on the same day, was the interference proportionate to the legitimate aim pursued?

2. Did the applicants have at their disposal an effective domestic remedy for their complaints under Article 11, as required by Article 13 of the Convention? In particular, did they have at their disposal a procedure that would allow them to obtain an enforceable decision prior to the date of the planned assembly?

5. Application no. 19700/11

1. As regards the refusals to allow the march, the meeting and the pickets of 26 June 2010, was there an interference with the applicants' rights under Article 11 of the Convention? Was that interference lawful? In particular, did the authorities have an obligation under domestic law to suggest a specific location or time for an assembly when refusing to approve the location or time chosen by the organisers? Did the interference pursue a legitimate aim? Were the reasons advanced by the authorities for the refusals to approve the locations chosen by the applicants "relevant and sufficient"? Was a statutory ban on holding public assemblies in the vicinity of court buildings "necessary in a democratic society" within the meaning of Article 11 § 2 of the Convention?

2. As regards the authorities' refusals to agree to the march and the meeting of 25 June 2011, was there an interference with the applicants' rights under Article 11 of the Convention? Was the interference lawful? Did it pursue a legitimate aim? Were the reasons advanced by the authorities for the change of the location "relevant and sufficient"? Were the locations suggested by the authorities suitable considering the purposes of the march and the meeting?

3. Did the applicants have at their disposal an effective domestic remedy for their complaints under Article 11, as required by Article 13 of the Convention? In particular, did they have at their disposal a procedure that would allow them to obtain an enforceable decision prior to the date of the planned assembly?

4. Given that the authorities refused to agree to the applicants' march, meeting and pickets of 26 June 2010, while allowing an anti-gay meeting at the same location and time, and in the light of the reasoning contained in the decision of 18 October 2010 by the Petrogradskiy District Court of St Petersburg, were the applicants subjected to discrimination on account of their sexual orientation, contrary to Article 14 of the Convention read in conjunction with Article 11?

6. Application no. 55306/11

1. The Government are requested to submit copies of the judgments of 25 and 28 June and 9, 12 and 13 July 2010 of the Justice of the Peace of the 2nd Court Circuit of the Tsentralniy District of Kaliningrad.

2. Did the authorities' suggestion to change the location of the picket of 14 May 2010, the dispersal of the picket, the applicants' arrest and the administrative proceedings against them interfere with their rights under Articles 10 and/or 11 of the Convention? Was the interference lawful? Did it pursue a legitimate aim? Were the reasons advanced by the authorities in support of their suggestion to change the location of the picket "relevant and sufficient"? Were the dispersal of the meeting, the applicants' arrest and the administrative proceedings against them "necessary in a democratic society" within the meaning of Articles 10 § 2 and 11 § 2 of the Convention?

3. Did the applicants have at their disposal an effective domestic remedy for their complaints under Articles 10 and 11, as required by Article 13 of the Convention? In particular, did they have at their disposal a procedure that would allow them to obtain an enforceable decision prior to the date of the planned assembly?

7. Application no. 7189/12

1. Did the authorities' suggestion to change the location of the meeting and the picket of 20 March 2011 and the administrative offence proceedings against the applicants interfere with their rights under Articles 10 and/or 11 of the Convention? Was that interference lawful? In particular, does domestic law require a prior notification for gatherings? Did the interference

pursue a legitimate aim? Were the reasons advanced by the authorities for the change of the location "relevant and sufficient"? Was the location suggested by the authorities suitable considering the purposes of the meeting and the picket?

2. Did the applicants have at their disposal an effective domestic remedy for their complaints under Articles 10 and 11, as required by Article 13 of the Convention? In particular, did they have at their disposal a procedure that would allow them to obtain an enforceable decision prior to the date of the planned assembly?

8. Applications nos. 47609/11, 59410/11, 16128/12, 16134/12, 20273/12, 51540/12 and 64243/12

(a) Article 5 of the Convention

Were Mr Yelizarov and Mr Batyy deprived of their liberty in breach of Article 5 § 1 of the Convention? In particular, were their arrest on 31 October 2010 and the subsequent overnight detention carried out in accordance with a procedure prescribed by law?

(b) Articles 10 and 11 of the Convention

Were there violations of the applicants' rights under Articles 10 and 11 of the Convention? In particular:

1. As regards the picket of 12 June 2009, did the authorities' suggestion to change the location and time interfere with Mr Batyy's rights under Article 11 of the Convention? Was that interference lawful? Did it pursue a legitimate aim? Were the reasons advanced by the authorities for the change of the location and time "relevant and sufficient"? Were the location and time suggested by the authorities suitable considering the purposes of the picket?

2. As regards the meeting of 31 October 2010, did the authorities' suggestion to change the location, the dispersal of the meeting, Mr Yelizarov's and Mr Batyy's arrest and the administrative proceedings against them interfere with their rights under Article 11 of the Convention? Was the interference lawful? Did it pursue a legitimate aim? Were the reasons advanced by the authorities in support of their suggestion to change the location of the meeting "relevant and sufficient"? Were the location and time suggested by the authorities suitable considering the purposes of the picket? Were the dispersal of the meeting, the arrest of Mr Yelizarov and Mr Batyy and the administrative proceedings against them "necessary in a democratic society" within the meaning of Article 11 § 2 of the Convention? The Government are requested to submit a copy of the judgment of 17 May 2011 of the Pervomayskiy District Court of Rostov-on-Don, as well as a copy of the appeal judgment, if any.

3. As regards the picket of 31 December 2010, did the refusals to allow the picket and the prohibition to chant slogans or wave banners interfere

with Mr Nagibin's rights under Articles 10 and 11 of the Convention? Was the interference lawful? In particular, what was the legal basis for banning the picket entitled "Russia against Putin"? Were the actions of the police on 31 December 2010 lawful, taking into account that the decision of 27 December 2010 refusing to allow the picket entitled "Strategy-31" had been annulled by the Pervomayskiy District Court of Rostov-on-Don? Did the interference pursue a legitimate aim? Was it "necessary in a democratic society" within the meaning of Articles 10 § 2 and 11 § 2 of the Convention?

4. As regards the meeting of 31 March 2011, did the enclosing of the location, the limiting of the number of participants and the bodily searches interfere with Mr Nagibin's, Mr Batyy's and Ms Moshiyan's rights under Articles 10 and 11 of the Convention? Was that interference lawful? In particular, what was the legal basis for enclosing the location of the meeting, searching the participants and limiting the number of participants? Did the interference pursue a legitimate aim? Was it "necessary in a democratic society" within the meaning of Articles 10 § 2 and 11 § 2 of the Convention?

5. As regards the meeting of 31 July 2011, did the authorities' suggestion to change the location interfere with Mr Nagibin's, Mr Batyy's and Ms Moshiyan's rights under Article 11 of the Convention? Was that interference lawful? Did it pursue a legitimate aim? Were the reasons advanced by the authorities for the change of the location "relevant and sufficient"? Was the location suggested by the authorities suitable considering the purposes of the meeting?

6. As regards the meeting of 31 August 2011, did the authorities' suggestion to change the location interfere with Mr Nagibin's, Mr Batyy's and Ms Moshiyan's rights under Article 11 of the Convention? Was that interference lawful? Did it pursue a legitimate aim? Were the reasons advanced by the authorities for the change of the location "relevant and sufficient"? Was the location suggested by the authorities suitable considering the purposes of the meeting?

7. As regards the meeting of 31 January 2012, did the authorities' suggestion to change the location interfere with Mr Nagibin's rights under Article 11 of the Convention? Was that interference lawful? Did it pursue a legitimate aim? Were the reasons advanced by the authorities for the change of the location "relevant and sufficient"? Was the location suggested by the authorities suitable considering the purposes of the meeting?

(c) Article 13 of the Convention

1. Did the applicants have at their disposal an effective domestic remedy for their complaints under Articles 10 and 11, as required by Article 13 of the Convention? In particular, did they have at their disposal a procedure that would allow them to obtain an enforceable decision prior to the date of the planned assembly?

2. Given that Mr Nagibin's and Ms Moshiyan's complaints were rejected on the ground of their lack of standing in the judgment of 28 July 2011 of the Pervomayskiy District Court of Rostov-on-Don, as upheld on appeal on 22 September 2011, did they have at their disposal an effective domestic remedy for their complaints under Articles 10 and 11 about the meeting of 31 March 2011, as required by Article 13 of the Convention?

(d) Article 14 of the Convention

Were Mr Nagibin, Mr Batyy and Ms Moshiyan subjected to discrimination on account of their political opinion, contrary to Article 14 of the Convention read in conjunction with Articles 10 and 11? When replying to this question the parties are requested to take into account the following elements:

— the reasoning contained in the Town Administration's decision of 4 June 2009 suggesting the change of the location for the picket of 12 June 2009;

— the fact that the meeting of 31 March 2011 was enclosed by the police, the participants searched and their number limited, while no such measures were taken in respect of the meeting of the Young Guard on 5 April 2011 or the public events organised by the Rostov-on-Don Town Administration on 23 April and 31 May 2011 at the same location;

— the fact that the Young Guard was allowed to hold a series of pickets from 1 July to 15 August 2011, while a notification concerning a series of pickets lodged by the applicants on 16 August 2011 was rejected;

— the applicants' allegation that the members of pro-government parties and associations, such as Mr B. on 16 January 2011, were allowed to enter into the Rostov-on-Don Town Administration building without an entry pass and that as a result of that practice the applicants were put in a disadvantaged position and deprived of an opportunity to lodge notifications and organise public assemblies under the same conditions as pro-government parties;

— more generally, the fact that over a period of more than two years only one meeting planned by the applicants near the Lenin monument was approved by the Rostov-on-Don Town Administration, while other associations, such as the Young Guard, were able to held regular public assemblies at the same location.

APPENDIX

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
1.	57818/09	05/10/2009	**Mr Aleksandr Vladimirovich LASHMANKIN** 06/11/1973 Samara	
2.	51169/10	24/08/2010	**Mr Kirill Sergeyevich NEPOMNYASHIY** 05/12/1981 the village of Shushenskoe in the Krasnoyarsk Region	Mr D. BARTENEV
3.	64311/10	07/10/2010	**Ms Natalya Andreyevna PELETSKAYA** 12/02/1990 Moscow	Mr K. TEREKHOV
4.	4618/11	08/12/2010	**Mr Lev Aleksandrovich PONOMAREV** 02/09/1941 Moscow **Mr Yevgeniy Vitalyevich IKHLOV** 08/04/1959 Moscow	Mr V. SHUKHARDIN
5.	19700/11	25/02/2011	**Ms Mariya Vladimirovna YEFREMENKOVA** 02/08/1980 St Petersbourg **Mr Dmitriy Aleksandrovich MILKOV** 01/05/1983	Mr D. BARTENEV

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
			The Nizhniy Novgorod Region **Mr Yuriy Alekseyevich GAVRIKOV** 10/07/1975 The Leningrad Region **Mr Aleksandr Sergeyevich SHEREMETYEV** 08/07/1990 St Petersburg	
6.	31040/11	11/05/2011	**Mr Lev Aleksandrovich PONOMAREV** 02/09/1941 Moscow **Mr Yevgeniy Vitalyevich IKHLOV** 08/04/1959 Moscow **Mr Sergey Stanislavovich UDALTSOV** 16/02/1977 Moscow	Mr V. SHUKHARDIN
7.	47609/11	13/06/2011	**Mr Grigoriy Aleksandrovich YELIZAROV** 05/06/1983 Rostov-On-Don	
8.	55306/11	14/06/2011	**Mr Dmitriy Aleksandrovich KOSINOV** 21/06/1974 Kaliningrad **Mr Yevgeniy Nikolayevich LABUDIN** 09/03/1962	

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
			Kaliningrad **Mr Vadim Vilyevich KHAYRULLIN** 27/01/1972 Kaliningrad **Mr Yakov Aleksandrovich GRIGORYEV** 26/12/1984 The Kaliningrad Region **Mr Viktor Aleksandrovich GORBUNOV** 26/01/1961 Kaliningrad	
9.	59410/11	27/08/2011	**Mr Pavel Nikolayevich NAGIBIN** 06/06/1971 Rostov-on-Don	
10.	7189/12	07/12/2011	**Mr Aleksandr Viktorovich ZHIDENKOV** 20/02/1955 The Kaliningrad region **Mr Petr Ivanovich ZUYEV** 09/05/1946 The Kaliningrad region **Ms Anna Nikolayevna MARYASINA** 13/07/1970 The Kaliningrad region **Mr Mikhail Valeryevich FELDMAN**	

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
			08/07/1971 The Kaliningrad region	
11.	16128/12	28/02/2012	**Mr Pavel Nikolayevich NAGIBIN** 06/06/1971 Rostov-on-Don	
12.	16134/12	28/02/2012	**Ms Siranush Khachaturovna MOSHIYAN** 16/07/1963 Rostov-on-Don	
13.	20273/12	20/03/2012	**Mr Boris Vadimovich BATYY** 13/09/1961 Rostov-On-Don **Mr Pavel Nikolayevich NAGIBIN** 06/06/1971 Rostov-On-Don **Ms Siranush Khachaturovna MOSHIYAN** 16/07/1963 Rostov-On-Don	
14.	51540/12	19/05/2010	**Mr Boris Vadimovich BATYY** 13/09/1961 Rostov-On-Don	
15.	64243/12	21/09/2012	**Mr Pavel Nikolayevich NAGIBIN** 06/06/1971 Rostov-On-Don	