



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

Communicated on 6 March 2014

FIRST SECTION

Application no. 749/07
Igor Petrovich RUDNIKOV against Russia
lodged on 9 November 2006

STATEMENT OF FACTS

The applicant, Mr Igor Petrovich Rudnikov, is a Russian national, who was born in 1965 and lives in Kaliningrad.

Since 2000 the applicant has been an elected member of the Kaliningrad regional legislature (“the Kaliningrad Regional Duma”).

A. Application forms of 5 and 25 September 2007

1. The circumstances of the case

On 24 March 2000 the applicant founded *Kaliningrad New Wheels* regional newspaper. On the same day the newspaper was registered by the Ministry of the Press, Television and Radio Broadcasting and Mass Communications (hereafter “the Ministry of Communications”).

In September 2005 Kaliningrad New Wheels newspaper published an article criticising the allegedly immoral habits of F., the President of the Kaliningrad Regional Court, and K., a deputy-President of the same Regional Court. In October and November 2005 the prosecutor’s office of the Leningradskiy District of Kaliningrad opened criminal proceedings for libel against the applicant at the request of F. and K. F. and K. were both granted victim status.

Later the applicant was also charged with another count of criminal libel, as well as with assaulting and insulting several police officers. He signed an undertaking not to leave the town.

On 17 January 2007 the Supreme Court of the Russian Federation ordered that the criminal case against the applicant be transferred to a District Court in the Pskov Region. It found that, although the applicant’s case was within the territorial jurisdiction of the Leninskiy District Court of Kaliningrad, the judges of that court, as well as the judges of all other District Courts in the Kaliningrad Region, were procedurally subordinate to the Kaliningrad Regional Court whose President was one of the victims in

the criminal case against the applicant. Given that that situation could raise doubts as to the judges' impartiality, it was necessary to transfer the case to another region.

The applicant's case was then transferred to the Pskovskiy District Court of the Pskov Region.

The first hearing was scheduled for 9 March 2007. It was however adjourned until 4 April 2007 because the applicant did not appear in court.

On 3 April 2007 the applicant asked for an adjournment. He submitted that he needed a travel passport to travel to the Pskov Region by train¹. His application for a travel passport had been however rejected on the ground of pending criminal proceedings. Nor did he have sufficient financial means for travel and hotel expenses. He had applied for a bank loan for that purpose and was waiting for a reply. Finally, he submitted that he could not in any way leave Kaliningrad because he had signed an undertaking not to leave the town.

On 4 April 2007 the Pskovskiy District Court ordered the applicant's detention pending trial. It found that the applicant had an employment and an income. His submissions about the lack of financial means to travel were therefore unconvincing. It was possible to travel from Kaliningrad to Pskov by air without a travel passport. As regards the undertaking not to leave Kaliningrad, the summons to attend a court hearing in Pskov could serve as an official permission to leave, as provided by Article 102 of the Code of Criminal Procedure.

On 10 April 2007 the applicant was detained.

On 11 April 2007 the applicant appealed against the detention order. He repeated his arguments set out in his application of 3 April 2007. He further submitted that he did not have any intention to abscond and assured that he would attend all hearings if they were held in Kaliningrad. He asked that the hearings be held in Kaliningrad taking into account that himself, all the victims and all the witnesses lived there.

On 20 April 2007 the Pskov Regional Court upheld the detention order on appeal. It found, in particular, that on two occasions the applicant had failed to attend court hearings without a valid reason.

On 2 May 2007 the applicant lodged an application for release. He complained about frail health and produced a personal surety by the President of the Kaliningrad Regional Duma. On the same day the Pskovskiy District Court rejected his application. It noted that the applicant had previously argued that he did not have financial means to travel to Pskov for hearings. He did not produce any documents showing that his financial situation had changed so that he could afford to pay travel and hotel expenses. The personal surety by the President of the Kaliningrad Regional Duma could not be accepted because it had been submitted by fax rather than by the President in person. On 23 May 2007 the Pskov Regional Court upheld the decision on appeal, finding that it had been lawful, well-reasoned and justified.

¹ Kaliningrad Region is a Russian exclave situated between Poland and Lithuania. It is geographically separated from the rest of Russia so that anyone wishing to travel from Kaliningrad to the mainland Russia by land will have to transit through Lithuania and Latvia or Byelorussia

On 8 June 2007 the applicant submitted a new application for release. He asked to be released on bail. On 9 June 2007 the Pskovskiy District Court rejected his application for the same reasons as before. In particular, the court found that the applicant had not produced any documents showing that he could afford to pay the expenses related to his travel from Kaliningrad to Pskov.

On 14 and 15 June 2007 the Pskovskiy District Court rejected two new applications for release for the same reasons as before.

On 27 June 2007 the Pskov Regional Court upheld the decisions of 8, 14 and 15 June 2007 on appeal, finding that they had been lawful, sufficiently reasoned and justified.

On 2 July 2007 the applicant was released on bail.

On 7 August 2009 the criminal proceedings against the applicant were discontinued.

2. Relevant domestic law

The Code of Criminal Procedure of the Russian Federation (Law no. 174-FZ of 18 December 2001, “the CCrP”) provides that “preventive measures” or “measures of restraint” (*меры пресечения*) include an undertaking not to leave a town or region, personal surety, bail and detention on remand (Article 98).

A suspect or an accused may be required to sign an undertaking not to leave a town or region where he resides without the permission of the investigator, the prosecutor or the court; to appear at the appointed place and at the appointed time at the request of the investigator, the prosecutor or the court; and not to impede the investigation by any other means (Article 102).

Detention may be ordered by a court if the charge carries a sentence of at least two years’ imprisonment, provided that a less restrictive preventive measure cannot be applied. In exceptional circumstances, detention may be ordered by a court if the charges carries a sentence of less than two years’ imprisonment, provided that the defendant has breached a less restrictive preventive measure previously applied to him or if he had no permanent residence in Russia or if his identity could not be ascertained (Article 108 § 1).

3. Complaints

The applicant complains under Article 5 §§ 1 and 3 of the Convention that his arrest and detention were unlawful and unjustified.

B. Application form of 9 November 2006

1. The circumstances of the case

The applicant was a candidate at the elections to the Kaliningrad Regional Duma scheduled for 13 March 2006.

On 8 March 2006 the President of the Kaliningrad Regional electoral commission asked the police to seize all copies of issue no. 302 of *Kaliningrad New Wheels* newspaper due to be distributed on 9 March 2006.

The President stated that he had received information that issue no. 302 contained unlawful electoral campaigning material. In particular, it contained positive information about the People's Party of the Russian Federation and its candidates to the Kaliningrad Regional Duma, such as the applicant, and negative information about the local branch of the United Russia Party. It had been published in Lithuania, while under domestic law electoral campaigning material was to be published in Russia. Moreover, given that *Kaliningrad New Wheels* newspaper had not informed the electoral commission of its intention to participate in the electoral campaign, it was not entitled to publish electoral campaigning material.

On the same day the police stopped the car that was transporting copies of issue no. 302 and seized 15,000 copies.

On 9 March 2006 the applicant lodged a criminal complaint against the police with the prosecutor's office of the Kaliningrad Region, claiming that the seizure of issue no. 302 had been unlawful and had therefore amounted to an abuse of office.

On 13 March 2006 the prosecutor's office of the Kaliningrad Region refused to open criminal proceedings against the police officers who had seized the newspaper copies. It found, in particular, that the police officers had acted lawfully and had followed the procedure prescribed by criminal procedural legislation.

On 20 March 2006 the Baltiyskiy Department of the Federal Mass Communications Supervisory Agency found that, given that issue no. 302 had never been distributed, there was no evidence of an offence under Article 5.5 of the Administrative Offences Code having been committed by *Kaliningrad New Wheels* newspaper.

On 23 March 2006 the prosecutor's office of the Leningradskiy District of Kaliningrad refused to open criminal proceedings against the applicant. It found that unlawful publication of electoral campaigning materials was not punishable under Russian criminal law. Nor was there any evidence of assault or insult of police officers by the applicant.

On 21 April 2006 the prosecutor's office of the Kaliningrad Region annulled the decision of 13 March 2006 and ordered a further inquiry into the applicant's allegations of abuse of office.

On 30 April 2006 the prosecutor's office of the Kaliningrad Region for a second time refused to open criminal proceedings against the police officers who had seized copies of issue no. 302 for the same reasons as before.

On 21 June 2006 the applicant was charged with assaulting and insulting police officers in connection with the incident of 8 March 2006.

In the meantime the applicant complained to the Tsentralniy District Court of Kaliningrad about the seizure of issue no. 302, claiming that it had been unlawful.

On 7 July 2006 the Tsentralniy District Court of Kaliningrad declared the applicant's complaint inadmissible. It found, firstly, that the applicant had not shown that his rights had been breached by the seizure of issue no. 302. Secondly, the issue of whether there existed sufficient evidence of a criminal offence capable of justifying the seizure could not be examined in civil proceedings. It was to be examined in the framework of criminal proceedings.

On 27 September 2006 the Kaliningrad Regional Court upheld that decision on appeal. It found, in particular, that issue no. 302 of *Kaliningrad New Wheels* newspaper had been seized in the framework of a criminal inquiry which had ended up with the decision of 23 March 2006 not to open criminal proceedings against the applicant. All official acts performed during that inquiry were to be challenged in accordance with the procedure set out in Article 125 of the Code of Criminal Procedure rather than in civil proceedings.

The applicant for a second time complained to the Tsentralniy District Court of Kaliningrad about the seizure of issue no. 302, claiming that it had been unlawful. On 25 October 2006 the Tsentralniy District Court of Kaliningrad declared the applicant's complaint inadmissible, repeating the reasons set out in the Regional Court's decision of 27 September 2006.

On an unspecified date the applicant lodged a complaint under Article 125 of the Code of Criminal Procedure, claiming that issue no. 302 of *Kaliningrad New Wheels* newspaper had been seized unlawfully. On 16 January 2007 the Kaliningrad Regional Court rejected his complaint in the final instance. It found that the criminal case against the applicant on the charges of assaulting and insulting the police officers who had seized issue no. 302 had been sent to a court for trial. Given that the lawfulness of the seizure would be examined by the trial court, it could no longer be examined by any other court.

On an unspecified date the criminal proceedings against the applicant were discontinued.

2. *Relevant domestic law*

A breach by a news medium, its editorial board or its editor-in-chief of the statutory rules for publishing electoral complaining materials is punishable by a fine (Article 5.5 § 1 of the Administrative Offences Code).

The Mass Media Act (Law no. 2124-I of 27 December 1991) provides that a seizure or destruction of an issue of a news medium is only permitted on the basis of a final judicial decision (section 28 § 2).

Recommendations on the application of the Administrative Offences Code by electoral commissions, adopted by the Central Electoral Commission on 27 September 2006, explained that the practice of seizure by the police of issues of news media at the request of electoral commissions was unlawful. Domestic legal provisions governing elections did not provide for a procedure to seize issues of news media containing unlawful campaigning materials, while according to section 28 § 2 of the Mass Media Act a seizure of an issue of a news medium was permissible only on the basis of a final court decision. It followed that if an electoral commission considered that an issue of a mass medium contained unlawful electoral campaigning material, it was to lodge an application for a seizure order with a court. It was then for the court to decide whether the materials in question could be classified as electoral campaigning materials, whether their publication was unlawful and whether the seizure of the issue was justified. Simultaneously with the application for a seizure order, the electoral commission was to submit to the court the report on an administrative offence so that the court could determine whether the publication of the materials constituted an administrative offence.

Article 125 of the Code of Criminal Procedure provides for the judicial review of decisions and acts or failures to act by an investigator or a prosecutor that are capable of adversely affecting the constitutional rights or freedoms of the parties to criminal proceedings (Article 125 § 1).

3. Complaints

1. The applicant complains under Article 6 of the Convention that the judicial proceedings initiated by him to contest the seizure of issue no. 302 were unfair.

2. The applicant also complains under Article 10 of the Convention that the seizure of issue no. 302 of *Kaliningrad New Wheels* newspaper was unlawful and unduly restricted his right to freedom of expression.

C. Application form of 23 November 2006

1. The circumstances of the case

Between April and August 2005 *Kaliningrad New Wheels* newspaper published a series of articles describing criminal proceedings against A. The articles reported that A. had confessed to the murder of a local businessman and had stated that the murder had been commissioned by officials of the local department of the Federal Security Service (the FSB). The newspaper published extracts from several documents from the criminal case-file obtained from an unidentified source. In particular, it published an extract from A.'s questioning record describing how A. had been recruited by the FSB as a secret agent, how he had received an order to kill the businessman from his contacts in the FSB and how he had committed the murder. It also published extracts from the transcripts of telephone conversations between several FSB officials discussing the possibilities for arranging A.'s release through their contacts in the prosecutor's office and for opening criminal proceedings for ill-treatment against the police officers who had arrested and questioned A. The articles further deplored that the criminal proceedings against A. were slow and ineffective and that the FSB officials implicated by him had not been charged with any criminal offence or dismissed from the FSB. They continued by supposing that the aim of the criminal proceedings for ill-treatment opened against the police officers who had arrested A. was to invalidate A.'s statements implicating the FSB officials as given under duress.

On 25 July 2005 the Federal Mass Communications Supervisory Agency issued a written warning against the applicant. The Agency found that *Kaliningrad New Wheels* newspaper disclosed, without the investigator's or the prosecutor's permission, information about the criminal proceedings against A. and thereby breached the confidentiality of the investigation. The premature and uncontrolled disclosure by the newspaper of the details of pending investigations might hamper the objectiveness of the investigation, prevent the establishment of the truth and damage the interests of the victims, the defendants and other participants to the proceedings. The newspaper therefore violated section 4 of the Mass Media Act.

On 24 August 2005 the prosecutor's office of the Kalinigrad Region applied to the Federal Mass Communications Supervisory Agency for a new

warning to be issued against the applicant. The prosecutor's office submitted that, despite the previous warning, *Kaliningrad New Wheels* newspaper continued to disclose documents from the criminal case-file against A. It should have been evident to the editorial board that the publication of those documents amounted to a disclosure of investigation materials, which was prohibited by law. The prosecutor's office also suggested that the Federal Mass Communications Supervisory Agency should initiate judicial proceedings under section 16 of the Mass Media Act for the closure of *Kaliningrad New Wheels* newspaper.

On 10 October 2005 the Federal Mass Communications Supervisory Agency issued a second written warning against the applicant, repeating verbatim the warning of 25 July 2005.

On 24 November 2005 the prosecutor's office of the Kaliningrad Region for a second time suggested that the Federal Mass Communications Supervisory Agency should initiate judicial proceedings under section 16 of the Mass Media Act for the closure of *Kaliningrad New Wheels* newspaper.

On an unspecified date the Federal Mass Communications Supervisory Agency applied to the Leningradskiy District Court of Kaliningrad for the closure of *Kaliningrad New Wheels* newspaper.

On 22 June 2006 the Leningradskiy District Court of Kaliningrad rejected the application, finding that there was no proof of receipt by the applicant of the warning of 10 October 2005.

On 16 August 2006 the Kaliningrad Regional Court quashed the judgment of 22 June 2006 and ordered the closure of *Kaliningrad New Wheels* newspaper. It found that between April and August 2005 the newspaper had repeatedly published, without the investigator's or the prosecutor's permission, information and documents relating to the pending criminal investigation against A. Pursuant to Presidential decree no. 188 (see below), that information was confidential. Section 4 of the Mass Media Act prohibited the newspaper from disclosing that information. The fact that the information had been obtained from an unofficial source did not dispense the newspaper from the obligation to comply with the requirements contained in section 4 of the Mass Media Act. The court further found that the applicant, the newspaper's founder, had been warned on 25 July 2005 that the publication of the information relating to pending criminal proceedings had been unlawful. He had however continued to breach the confidentiality of the investigation by publishing further information about the proceedings against A. in the August 2005 issue of his newspaper. It was irrelevant whether the applicant had received the second warning of 10 October 2005. For the liability under section 16 of the Mass Media Act to be imposed it was sufficient that, within twelve months after receiving a warning, the newspaper committed a new breach of section 4 of the Mass Media Act.

2. Relevant domestic law

The Mass Media Act (Law no. 2124-I of 27 December 1991) provides that news media are prohibited from, among others, disclosing State secrets or other secrets protected by law (section 4). It further provides that a court may order the closure of a news medium if within twelve months' period it has more than once breached the requirements of section 4, provided that

the competent authorities have issued written warnings in respect of these breaches to the founder, the editor-in-chief or the editorial board (section 16 § 3)

Presidential Decree no. 188 of 6 March 1997 provides that information constituting the secret of the investigation must be treated as confidential (§ 2).

The 2001 Code of Criminal Procedure provides that investigation materials must not be disclosed. The prosecutor or the investigator must make a written warning to the participants to the criminal proceedings about their duty of non-disclosure and the criminal liability for a violation of that duty. The materials of the investigation may be however disclosed to the public with the prosecutor's or the investigator's permission if such disclosure will not hinder the investigation or violate the rights and interests of the participants to the proceedings (Article 161).

3. *Complaints*

1. The applicant complains under Article 6 of the Convention that the Kaliningrad Regional Court was partial because its president and vice-president were victims in a pending criminal case against him.

2. The applicant complains under Article 10 of the Convention about the closure of *Kaliningrad New Wheels* newspaper. He argues, in particular, that it is permissible to impose a ban on disclosing investigation materials only on the participants of the criminal proceedings after they have been warned about their duty of non-disclosure. Given that the newspaper was not a participant to the criminal proceedings against A. and received the materials relating to that case from an unofficial source, it could not know that the documents were part of the case file and were confidential. It was not therefore bound by the ban. Moreover, the sanction was too severe.

D. Application form of 14 August 2008

1. *The circumstances of the case*

On 16 September 2005 the applicant founded *New Wheels of Igor Rudnikov* regional newspaper. On the same day the newspaper was registered by the Ministry of Communications.

In June 2007 *New Wheels of Igor Rudnikov* newspaper published an article under the headline "In the heat of passion a [police] sergeant put his partner's flat on fire". The article published T.'s account of her relationship with a police sergeant Kh. According to T., Kh. had insulted and beaten her and her five-year old daughter on many occasions and had set fire to her flat. She had complained to the police but they had refused to open criminal proceedings against Kh, supposedly because Kh., being a police officer, had influenced the inquiry against him.

Kh. sued the author of the article and T. for defamation before the Leningradskiy District Court of Kaliningrad.

The District Court took oral evidence from T. who confirmed the accuracy of the story as reproduced in the article. She also stated that, given that her complaints to the police had been ineffective, she had no other

choice but to tell her story on the pages of a newspaper in order to protect herself from Kh.

At the last hearing the District Court decided to summon the applicant, the founder of the newspaper, as a defendant.

The applicant stated to the court that the story had been published at the request of T. who had been unable to obtain protection against Kh.'s violent actions from the police. All her complaints had ended up with the police's refusals to open criminal proceedings against their colleague. Kh. had moreover threatened and silenced all witnesses.

On 5 February 2008 the Leningradskiy District Court granted Kh.'s action in part. It found that the article published by the applicant's newspaper contained allegations of commission by Kh. of criminal and other dishonest acts in respect of T. and her minor daughter and of improper behaviour in private and social life. The applicant had not proved the veracity of those allegations. The allegations of criminal behaviour, such as violence against T. and her daughter and setting fire to their flat, could be confirmed only by a criminal conviction or a decision to discontinue criminal proceedings on grounds that did not exclude criminal guilt. Yet, the criminal proceedings against Kh. had been discontinued on the ground of the absence of evidence of a criminal offence in his actions. The applicant had not produced any proof of his allegations of Kh.'s pressure on witnesses or his interference with the investigation due to his connections with the police and prosecuting authorities. The court also found that the applicant had failed to comply with the duties and responsibilities of a journalist to verify the veracity of T.'s story. In the court's opinion, at the time of the publication, there existed no documents showing that Kh. had committed the acts described in the article.

The District Court ordered that *New Wheels of Igor Rudnikov* newspaper publish a retraction statement. It awarded Kh. damages in the amount of 3,000 Russian roubles (RUB, about 85 euros (EUR)) and legal costs against the applicant. It also awarded Kh. damages against the author of the article and T.

In his appeal submissions the applicant complained that he had been summoned as a defendant at the last hearing immediately before the pronouncement of the judgment. The judicial proceedings had not however been started anew, in breach of Article 40 § 3 of the Code of Civil Procedure. He further argued that the District Court's finding that statements about someone's criminal behaviour could only be published after that person's criminal conviction restricted the freedom of press to report citizens' opinions about violations of their rights. He also submitted that the author of the article had verified the veracity of T.'s statements by studying T.'s complaints to the police, the replies she had received and other documents.

In her appeal submissions T. argued that there was sufficient evidence to confirm her allegations against Kh. In particular, she referred to the decision to open criminal proceedings against Kh. She also stated that criminal proceedings had been recently opened into the allegations of ill-treatment by the police of a witness to Kh.'s assaults on her. The aim of the ill-treatment had been to make the witness withdraw his testimony against Kh.

On 30 April 2008 the Kaliningrad Regional Court upheld the judgment on appeal, finding that it had been lawful, well-reasoned and justified. The fact that criminal proceedings had been opened against Kh. and into the allegations of ill-treatment of a witness could not serve as evidence of Kh.'s criminal behaviour against T.

2. Relevant domestic law

Article 152 of the Civil Code provides that an individual may apply to a court with a request for the rectification of “statements” (“сведения”) that are damaging to his or her honour, dignity or professional reputation if the person who disseminated such statements does not prove their truthfulness. The aggrieved person may also claim compensation for losses and non-pecuniary damage sustained as a result of the dissemination of such statements.

Ruling no. 11 of the Plenary Supreme Court of the Russian Federation, adopted on 18 August 1992 (as amended on 25 April 1995), provided that, in order to be considered damaging, statements had to be untrue and contain allegations of a breach of laws or moral principles (for example, the commission of a dishonest act, or improper behaviour in the workplace or in everyday life). Dissemination of statements was understood as the publication of statements or their broadcasting (paragraph 2). The burden of proof was on the defendant to show that the disseminated statements were true and accurate (paragraph 7).

On 24 February 2005 the Plenary Supreme Court of the Russian Federation adopted Ruling no. 3, requiring courts hearing defamation claims to distinguish between statements of facts which could be checked for veracity and evaluative judgments, opinions and convictions, which were not actionable under Article 152 of the Civil Code because they were expressions of a defendant's subjective opinion and views and therefore could not be checked for veracity (paragraph 9).

The Code of Civil Procedure provides that if the case cannot be effectively examined without someone's participation, that person may be summoned as a defendant of the court's own motion. In that case the proceedings must start anew (Article 40 § 3).

3. Complaints

1. The applicant complains under Article 6 of the Convention that the defamation proceedings were unfair. In particular, although he had not been summoned as a defendant until the last hearing immediately before the pronouncement of the first-instance judgment, the proceedings were not started anew, as required by domestic law.

2. The applicant complains under Article 10 of the Convention that the judgments of the domestic courts in the defamation proceedings unduly restricted his right to freedom of expression.

E. Application form of 12 August 2013

1. The circumstances of the case

On 9 March 2011 the local police held a press conference devoted to the fight against organised crime. During the conference, high ranking police officers told the press about criminal proceedings against Z., a candidate at the elections to the Kalinigrad Regional Duma. They said that Z. was charged with unlawful possession of arms, that during the last ten years he had been known to the police as a member of a local criminal gang and that his nomination for the elections was no more than an attempt by the organised crime to infiltrate the local government. A summary of that press conference was published on the local police's official site.

On 11 March 2011 the State Duma hold debates on the issue of approaching elections in many Russian regions. During the debates one of the members of the State Duma cited a letter by a deputy head of the Kaliningrad Regional police to the Kaliningrad Regional electoral commission. In the letter the police drew the attention of the electoral commission to Z.'s criminal activities and his connections with the leaders of local organised crime, as well as argued that the aim of his nomination for the elections was to gain immunity for his criminal actions. The minutes of the debate were published at the State Duma's official site.

In its March 2011 issue *New Wheels of Igor Rudnikov* newspaper published an article about Z. Referring to the official letter by a deputy head of the local police to the electoral commission and to the information published on the local police's official site, the article maintained that Z. was a prominent member of a local criminal gang, that he was responsible for money laundering for that gang and that, although his criminal activities had been known to the police since 1997, he had always succeeded in avoiding criminal responsibility. The article also affirmed that Z. had misappropriated the funds allocated for his electoral campaign.

Z. sued the applicant for defamation before the Leningradskiy District Court of Kaliningrad. He asked for non-pecuniary damage in the amount of RUB 30 (about EUR 0.7).

At the hearing the applicant submitted that the information about Z.'s criminal activities had been disseminated by the local police. His newspaper, as well as a number of other newspapers, had merely reproduced the information received from official sources. In confirmation he submitted to the court the summary of the press conference of 9 March 2011 printed out from the local police's official site and the minutes of the State Duma's debates of 11 March 2011 printed out from the State Duma's official site. He further argued that, given that Z. was a candidate at local elections, dissemination of information about his activities was in the public interest.

On 6 November 2012 the Leningradskiy District Court of Kaliningrad granted Z.'s action in part. It recognised that, given that Z. was a candidate at regional elections, he was subject to wider limits of acceptable criticism than private individuals. The applicant had not however proved the truthfulness of the contested statements against Z. Nor had he proved that the information about Z.'s alleged criminal activities had been disseminated

by the police. The court accordingly found that the contested article contained untrue information damaging to Z.'s honour.

The District Court ordered that *New Wheels of Igor Rudnikov* newspaper publish a retraction statement. It also awarded Z. damages in the amount of RUB 30 (about EUR 0.7) and legal costs against the applicant.

In his appeal submissions the applicant again referred to the official letter by a deputy head of the local police to the electoral commission and to the information published on the local police's official site and argued that the contested article had faithfully reproduced that official information.

On 13 February 2013 the Kaliningrad Regional Court upheld the judgment on appeal, finding that it had been lawful, well-reasoned and justified. It also rejected the applicant's argument that he should be exempted from liability on the ground of section 57 §§ 3 and 4 of the Mass Media Act because he had reproduced officially published information. The Regional Court noted that the contested statements about Z. were not contained in any official replies to requests for information from the authorities. Nor were they a verbatim citation of a public official's speech.

The applicant lodged a cassation appeal.

On 27 June 2013 a judge of the Kaliningrad Regional Court refused to refer the case for consideration in cassation appeal proceedings

2. Relevant domestic law

The Mass Media Act provides that the editorial board, the editor-in-chief or a journalist may not be held liable for disseminating statements damaging to someone's honour, dignity or professional reputation if such statements (a) reproduce information obtained from the authorities either in reply to a request for information or through their press services; or (b) constitute a verbatim citation of a speech by a public official (section 57 §§ 3 and 4).

3. Complaints

The applicant complains under Article 10 of the Convention that the judgments of the domestic courts in the defamation proceedings unduly restricted his right to freedom of expression.

QUESTIONS TO THE PARTIES

1. Was the applicant's detention from 10 April to 2 July 2007 in breach of Article 5 § 1 of the Convention? In particular:

— Was the applicant's detention justified by non-compliance with a lawful order of a court within the meaning of Article 5 § 1 (b) of the Convention? Given that the applicant had signed an undertaking not to leave Kaliningrad and that he had neither a travel passport to travel by land nor sufficient financial means to travel by air, did he have a realistic opportunity to comply with the summons to appear on 4 April 2007 issued by the Pskovskiy District Court of the Pskov Region (see *Beiere v. Latvia*, no. 30954/05, § 49, 29 November 2011; *Petukhova v. Russia*, no. 28796/07, § 58, 2 May 2013; see also, *mutatis mutandis*, *Khodorkovskiy v. Russia*, no. 5829/04, §§ 134-143, 31 May 2011)?

— Was the applicant's detention lawful within the meaning of Article 5 § 1 (c)?

The parties are requested to submit a copy of the undertaking not to leave the town signed by the applicant.

2. Was the applicant's detention compatible with the requirements of Article 5 § 3 of the Convention? Taking into account the stage of the criminal proceedings and the length of the applicant's detention, did the existence of a reasonable suspicion provided a sufficient ground for his detention (see *McKay v. the United Kingdom* [GC], no. 543/03, §§ 45 and 46, ECHR 2006-X)? If no, was his detention based on "relevant and sufficient" reasons?

3. Did the seizure of issue no. 302 of *Kaliningrad New Wheels* newspaper interfere with the applicants' freedom of expression guaranteed by Article 10 of the Convention? Was the interference prescribed by law? In particular, what was the legal basis for the seizure? Was it "necessary in a democratic society" within the meaning of Article 10 § 2 of the Convention?

4. Did the applicant have at his disposal an effective domestic remedy for his complaint under Article 10 about the seizure of issue no. 302 of *Kaliningrad New Wheels* newspaper, as required by Article 13 of the Convention?

5. Did the closure of *Kaliningrad New Wheels* newspaper interfere with the applicants' freedom of expression guaranteed by Article 10 of the Convention? Was the interference prescribed by law? Was it "necessary in a democratic society" within the meaning of Article 10 § 2 of the Convention?

6. Given that the president and the vice-president of the Kaliningrad Regional Court were the victims in a pending criminal case against the applicant, was the Kaliningrad Regional Court which made the judgment of 16 August 2009 ordering the closure of *Kaliningrad New Wheels* newspaper impartial, as required by Article 6 § 1 of the Convention?

7. As regards the judgments of the domestic courts in the defamation action lodged by Kh., was there a violation of Article 10 of the Convention in respect of the applicant? The parties are requested to submit a copy of the article about Kh.

8. As regards the defamation proceedings initiated by Kh., did the applicant have a fair hearing in the determination of his civil rights and obligations, in accordance with Article 6 § 1 of the Convention? In particular, given that applicant was summoned as a defendant at the last hearing immediately before the pronouncement of the judgment of 5 February 2008, did he have an effective opportunity to participate in the proceedings? Was the principle of the equality of arms respected? The parties are requested to submit a copy of the minutes of all hearings before the Leninskiy District Court of Kaliningrad.

9. As regards the judgments of the domestic courts in the defamation action lodged by Z., was there a violation of Article 10 of the Convention in respect of the applicant? The parties are requested to submit a copy of the article about Z.