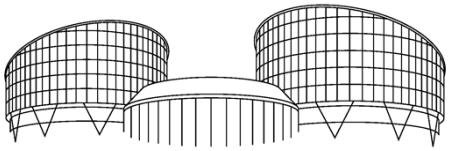

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF NOVIKOVA AND OTHERS v. RUSSIA

(Applications nos. 25501/07, 57569/11, 80153/12, 5790/13 and 35015/13)

JUDGMENT

STRASBOURG

26 April 2016

FINAL

12/09/2016

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

In the case of Novikova and others v. Russia,

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

Luis López Guerra, *President,*
George Nicolaou,
Helen Keller,
Johannes Silvis,
Dmitry Dedov,
Pere Pastor Vilanova,
Alena Poláčková, *judges,*
and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 22 March 2016,

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

PROCEDURE

1. The case originated in five applications against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by five Russian nationals: Ms M. Novikova, Mr Y. Matsnev, Mr V. Savchenko, Mr A. Kirpichev (the applicant changed his name from "Kirpichenko" in the course of the proceedings) and Mr V. Romakhin. The applicants' details and those of their representatives, the dates on which they lodged their applications and the application numbers are set out in the "Facts" section below.

2. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of Russian Federation to the European Court of Human Rights.

3. On 24 March 2014 the complaints under Articles 5, 10, 11 of the Convention and Article 2 of Protocol No. 4 to the Convention were communicated to the Government and the remainder of the first three applications was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASES

A. Application no. 25501/07

4. This application was lodged on 27 April 2007 by Marina Viktorovna Novikova, who was born in 1972 and lives in Moscow. The applicant is represented by Yuriy Yershov, a lawyer practising in Moscow.

5. On 10 November 2006 the applicant staged a demonstration in front of the State Duma in Moscow, holding a poster that read "Psychiatry kills our children on our taxes". According to her, it was a solo static demonstration (*одиночное пикетирование*) (see "Relevant domestic law and practice" below) and, as such, fell outside the statutory requirement to give prior notification to the competent public authority. Moreover, she took care to position herself at a distance from other people who were also present in front of the State Duma.

6. After about ten minutes, the applicant was approached by police officers, who then took her to the district police station. An arrest record was compiled; the reasons for her arrest are unclear.

7. According to the applicant, she spent some three hours in the police station and was then allowed to leave.

8. The Government submitted to the Court a report issued on 11 November 2006 by the senior officer on-duty, Su. The report stated that the applicant and five other people (including A., M. and S.) had been present at 8.30 a.m. in front of the State Duma, holding posters that read "Attention! Psychiatry kills. 7.5 million roubles of public funds spent on the destruction of lives", "Do not force taxpayers to pay for psychiatrists' systematic extermination of Russians", "Psychiatrists need walls to hide their crimes" and other such statements. The Government also submitted to the Court copies of documents relating to administrative offence proceedings against A., M. and S.

9. As for the applicant, the administrative offence record states that she was accused of "taking part, together with other citizens, in a demonstration in respect of which no prior notification had been provided to the public authorities". Her actions were classified under Article 20.2 of the Code of Administrative Offences of the Russian Federation (hereinafter "the CAO"), which regulates the penalties applied to violations of the regulations on public events set out in, *inter alia*, the Public Assemblies Act.

10. Officer G. submitted a written report to his hierarchical superior indicating that the applicant "had been arrested and taken to the police station for violating the regulations on public gatherings, namely Article 20.2 of the CAO".

11. According to the Government, on 14 November 2006 the case against the applicant was received by the justice of the peace of the Tverskoy District, who on the same day scheduled a hearing for 15 November 2006. According to the applicant, she was not informed of the hearing date until it was too late. Thus, she made no written or oral submissions to the court.

12. Having examined the file, on 15 November 2006 the judge considered that the applicant had been apprised of the hearing but had refused to sign the summons. The court decided to proceed with the case in her absence and held that she had been afforded but had not used an adequate opportunity to make written or oral submissions. On the same day, the judge found the applicant guilty under Article 20.2 § 2 of the CAO and imposed a fine of 1,000 Russian roubles (RUB), which was at the time equivalent to 29 euros (EUR).

13. Referring to the arrest record, the offence record and G.'s report (see above), the court considered that the applicant had participated in a demonstration after which some five people and the applicant had been arrested. In the court's view, the applicant's behaviour amounted to participation in a public event requiring prior notification. The justice of the peace then held as follows:

> "[The applicant's] actions constitute a violation of the regulations on static demonstrations in that no notification had been made [to the competent authority] about the possibility of staging a demonstration ... Thus, this demonstration was held without legal grounds. The court takes into account that the applicant's presence next to the object being picketed, together with other people, directly discloses the expression of opinions and attitudes, and thus takes the form of a group public event, namely a static demonstration."

14. The applicant sought re-examination of the case on appeal by the Tverskoy District Court of Moscow. On 5 December 2006 the court heard the applicant and upheld the judgment of the justice of the peace, concluding that the applicant had taken part in a public event held without prior notification to the competent authority; on 10 November 2006 she had been apprised of the hearing to be held before the justice of the peace but had failed to sign the summons.

15. On 23 January 2007 the Deputy President of the Moscow City Court upheld the District Court's decision on supervisory review.

B. Application no. 57569/11

16. This application was lodged on 26 August 2011 by Yuriy Ignatyevich Matsnev, who was born in 1937 and lives in Kaliningrad. He was represented by Aleksandr Koss, a lawyer practising in Kaliningrad.

17. On 30 July 2010 the applicant staged a solo demonstration in front of the Kaliningrad Regional Administration building. He was holding a poster

showing people (apparently, officials he suspected of corruption) behind bars, and saying "They should be found accountable!" and "Mr Boos! Kaliningrad's residents are waiting for you to solicit the President!". Mr S., a journalist, was passing by and filmed the demonstration and the arrival of the police.

18. The applicant was arrested by the police and taken to the police station. He remained there for two hours and was then allowed to leave. No administrative offence proceedings were instituted against him.

19. According to reports subsequently made by the arresting officers, the applicant had not had an identity document on him and had agreed to accompany them to the police station in order to have his identity verified and to have an administrative record compiled.

20. The applicant brought civil proceedings seeking RUB 500,000 as compensation in respect of non-pecuniary damage caused by the authorities' actions. The applicant referred to Article 10 of the Convention.

21. By a judgment of 14 March 2010, the Tsentralnyy District Court of Kaliningrad acknowledged that the taking of the applicant to the police station and his retention there had been unlawful. The court held as follows:

> "Following the escorting of [the applicant] to the police station no administrative offence case was opened ... [Mr S.] testified that the defendant had shown his identity document and had not expressed his consent to go with the police to the police station ... The police officers acted unlawfully when escorting the applicant to the police station ..."

The court awarded the applicant RUB 6,000 in respect of non-pecuniary damage (approximately EUR 149 at the time). It dismissed his claim concerning the alleged destruction of the poster by the police and made no separate findings relating to his freedom of expression.

22. On 25 May 2011 the Kaliningrad Regional Court upheld the judgment.

C. Application no. 80153/12

23. This application was lodged on 10 November 2012 by Viktor Mikhaylovich Savchenko, who was born in 1967 and lives in the village of Platonovo-Petrovka in the Rostov Region.

24. On 23 June 2011, when Mr Putin was visiting the village of Peshkovo, the applicant staged a demonstration, standing at some distance from a road close to the village and holding a poster reading "Mr Putin! In the Rostov region they disregard your Decree on social assistance to families. The Russian Government disregards its obligations to issue housing certificates!"

25. According to the applicant, police officers approached him and ordered him to go to another place where journalists were filming. He arrived there and displayed his poster. He was approached by people in

plain clothes who ordered the police to take him to the police station. The police complied. After some three hours in the police station, the applicant was free to leave.

26. The police drew up a record of the administrative escorting in respect of the applicant.

27. The applicant was accused of disorderly behaviour on account of using foul language in a public place on 23 June 2011. On 24 June 2011 a senior police officer found him guilty under Article 20.1 of the CAO (see paragraph 74 below) and imposed a fine of RUB 500 on him. On 21 December 2011 the Azov Town Court overruled the conviction because the senior police officer had not heard evidence from the applicant. The court then discontinued the case owing to the expiry of the time-limit for prosecution. On 7 February 2012 the Rostov Regional Court upheld the judgment on appeal.

28. The applicant brought civil proceedings challenging the actions of the police in respect of him. On 4 April 2012 the Town Court dismissed his claims. On 14 June 2012 the Regional Court upheld the judgment on appeal. The appeal court noted that the courts dealing with the administrative offence case had not determined whether the applicant had committed the impugned action (using foul language) and whether he had committed an offence, but had simply discontinued the case on procedural grounds. The appeal court concluded that the above "did not disclose any unlawfulness" on the part of the law-enforcement officers, while the applicant had not substantiated, in the current case, that their actions had violated or otherwise impeded the exercise of his protected rights or freedoms.

D. Application no. 5790/13

29. This application was lodged on 30 November 2012 by Aleksandr Mikhaylovich Kirpichev, who was born in 1984 and lives in Astrakhan. He is represented by Konstantin Ilyich Terekhov, a lawyer practising in Moscow.

30. At 7.15 p.m. on 3 July 2012 the applicant staged a solo demonstration at a bus stop. He was holding a poster which read "The Kremlin is not for sale – it is a piece of architecture!". After several minutes some five passers-by stopped and looked at him and his poster.

31. It appears that soon thereafter five police officers approached and warned those present that a meeting required prior notification to the authorities. The passers-by went away.

32. It appears from a video recording submitted by the applicant that one of the police officers refused to listen to the applicant's explanations and told him that he would be taken to the police station. The applicant was then placed in a police car and taken to the police station. He was accused of holding a public event without giving prior notice.

33. According to the Government, the applicant had staged a public meeting first on the road and then on the pavement near a bus stop. The police officers' written reports indicated that the applicant had called passers-by to approach and discuss with him the topic of the event. The police decided to apply the escort procedure (*доставление*) to the applicant because it was necessary to put an end to the administrative offence and because an administrative offence record could not be compiled on the spot since the applicant had no identity document on him. The applicant agreed to go with the police to the police station.

34. On 20 July 2012 a justice of the peace convicted the applicant under Article 20.2 § 2 of the CAO. The court considered that the applicant had held a public event in the form of a meeting (*митинг*); some five people had gathered but then dispersed after a warning from a police officer. The justice of the peace sentenced the applicant to a fine of RUB 20,000 (approximately EUR 505 at the time), noting that the applicant had committed an offence that was similar to another one for which he had already been convicted earlier the same year. The justice of the peace warned the applicant that his failure to pay the fine would constitute an administrative offence under Article 20.25 of the CAO, which was punishable by a fine of double the amount or up to fifteen days' detention.

35. The applicant appealed, arguing that the court had failed to take into account his financial situation when imposing a high fine.

36. On 21 August 2012 the Kirovskiy District Court of Astrakhan upheld the judgment on appeal. The appeal court dismissed the argument concerning the amount of the fine by stating that it was the minimum statutory amount prescribed by Article 20.2 § 2 of the CAO.

37. In September 2012 the justice of the peace allowed the applicant to pay the fine in three monthly instalments.

E. Application no. 35015/13

38. This application was lodged on 20 May 2013 by Valeriy Leonidovich Romakhin, who was born in 1965 and lives in Astrakhan. He is represented by Konstantin Ilyich Terekhov, a lawyer practising in Moscow.

39. At 1.30 p.m. on 10 November 2012 the applicant held a solo demonstration in front of the Maritime University in Astrakhan, to express his disagreement with the recent decision to close the university. The applicant was holding a poster that read "To close the university is to commit a crime".

40. Mr A. was holding a demonstration on the other side of the road, making similar claims. He was holding a poster saying "Annul order no. 101 of 27 September 2012 and find its authors liable". According to the applicant, he was standing some 50 metres away. The Government

submitted that the applicant and A. were at "visual distance from each other".

41. Shortly after starting his demonstration, the applicant was approached by a police officer who warned him that he was in breach of Article 20.2 of the CAO. He then escorted the applicant to the police station. It appears that A. was also taken to the police station. According to the Government, it was not possible to draw up an administrative offence record on the spot because the applicant had no identity document on him.

42. The applicant was allowed to leave the police station after several hours.

43. In the Astrakhan Region, Law no. 80/2012-FZ of 27 November 2012 set the minimum distance between solo demonstrators at twenty metres.

44. On 6 December 2012 a justice of the peace held a hearing. A. stated that he knew the applicant; without any concerted plan, they had both gone to the university to stage solo demonstrations; the applicant had not prepared his own poster and so had taken one of A.'s posters; they had placed themselves at a distance of some fifty metres from each other.

45. On the same day, the justice of the peace convicted the applicant under Article 20.2 § 2 of the CAO (organisation and holding of a public event without prior notification) and imposed a fine of RUB 20,000 on him. On 5 February 2013 the Sovetskiy District Court of Astrakhan upheld the judgment. The courts considered that the applicant and A. had held a public static demonstration (common logistical organisation, timing and claims disclosing a common goal), which by law required them to notify the local authorities in advance. The courts concluded that the offence impinged upon public order and public security, "having a significant adverse impact on protected public relations". According to the Government, the applicant was a "participant" in a demonstration with A.

46. It appears that on 26 April 2013 the Astrakhan Regional Court reviewed the case and reduced the fine to RUB 1,000.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Freedom of assembly and freedom of expression

1. Russian Constitution

47. The Constitution of Russia guarantees the right to freedom of peaceful assembly and the right to hold meetings, demonstrations, marches and pickets (Article 31). It also guarantees the right to freedom of thought and expression, as well as freedom to freely seek, receive, transfer and spread information by any legal means (Article 29).

48. Article 55 of the Constitution provides that rights and freedoms may be limited by a federal statute only in so far as it is necessary for protecting

the foundations of the constitutional regime, the morals, health, rights and legitimate interests of others, and for ensuring national defence and security.

2. Procedure for the conduct of public events

(a) General provisions

49. Federal Law no. FZ-54 of 19 June 2004 on Gatherings, Meetings, Demonstrations, Marches and Pickets ("the Public Assemblies Act"), defines a public event (*публичное мероприятие*) as an open, peaceful event accessible to all, organised on the initiative of Russian citizens, political parties, other public associations or religious associations. The aims of a public event 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(1)).

50. A public event 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(1)). Public events in the immediate vicinity of a court are prohibited (section 8(2)).

51. No earlier than fifteen days and no later than ten days before the intended public event, its organisers must notify the competent regional or municipal authorities of the date, time, location or itinerary and purposes of the event, its type, the expected number of participants, and the names of the organisers. Notification of a picket involving several people must be submitted no later than three days before the intended picket or, if the deadline falls on a Sunday or a public holiday, no later than four days before the intended picket (section 7(1) and (3)). A notification of a public event is a document by which the competent authority is informed, in accordance with the procedure established by the Act, that an event will be held, so that the competent authority may take measures to ensure safety and public order during the event (section 2 (7)).

52. Upon receipt of such notification the competent regional or municipal authorities must, *inter alia*:

(1) confirm receipt of the notification;

(2) provide the organisers of the event, within three days of receiving the notification (or, in the case of a picket involving several people, 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 event, or for amending the purposes, type or other arrangements if they are incompatible with the requirements of the Act;

(3) ensure, in cooperation with the organisers of the event 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 (section 12(1)).

53. The competent regional or municipal authority may refuse to allow a public event only if the person who has submitted the notification is not entitled to organise a public event or if it is prohibited to hold public events at the location chosen by the organisers (section 12(3)).

54. No later than three days before the intended date of the event (this time-limit does not apply to 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 event (section 5(4)(2)).

55. According to the Russian Constitutional Court, the prior notification requirement is aimed at providing advance notice and relevant information (including about the type of event, its place, timing and expected number of participants) to the competent authorities. Otherwise the authorities would be deprived of a real opportunity to comply with their constitutional obligation to respect and protect individual rights and freedoms, and to take the necessary measures aimed at ensuring safety for the participants and other people (Ruling no. 4-P of 14 February 2013; ruling no. 30-P of 5 December 2012).

(b) Provisions on solo static demonstrations (solo "pickets")

56. The Public Assemblies Act defines a "picket" as 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, posters and other means of visual expression assemble near the target object of the picket (section 2(6)).

57. No notification is required for pickets involving one person (section 7(1) and (3)). On 8 June 2012 the Public Assemblies Act was amended. New subsection (1.1) in section 7 provides that the regional statutes will determine the distance between solo demonstrators, which should not exceed fifty metres. It empowers the courts to declare that several solo demonstrations, taken together, constitute a single public event if they share the same goal and organisation.

58. In its ruling no. 4-P of 14 February 2013 the Russian Constitutional Court assessed the above new provision of the Act.

- The court noted that the absence of the notification requirement for solo demonstrations excluded any State interference with such public events, which could be held at any venue and at any time, unless otherwise provided by the law. However, to avoid a group event being disguised as solo demonstrations and to prevent the event's organiser from evading his duty to notify the authority, the legislator imposed the requirement that a minimum distance be kept between solo demonstrators; this distance was to be specified by each region of Russia but could not exceed fifty metres. If

the organiser evaded the duty to notify, the public authorities would be impeded in taking timely and adequate measures to ensure the requisite order for running a given civic initiative and to secure public safety and protection of the rights of the event's participants and other people.

- In some situations even the observance of the minimum distance requirement would not exclude the abusive use of freedom of assembly by way of disguising a group event as simultaneous solo demonstrations. Thus, even where several demonstrations can be formally classified as solo demonstrations, they can be classified as a static demonstration by a group of people on account of the following: if it is sufficiently evident that they have common goals and a common organisation; if they are being held simultaneously and are physically close to each other; if their participants use means of campaigning that are similar or identical, and if they put forward common claims or calls.

- The above findings must be made by a court, following an impartial and independent assessment, which gives an adequate level of protection to the constitutional right to hold a solo demonstration. The court should ascertain that there was no random coincidence of unrelated demonstrations, and should avoid classifying a solo demonstration as a single public event where the event merely attracts normal attention on the part of those who happened to show interest in it. Furthermore, there must be a presumption of lawfulness regarding the actions of a person exercising his or her right to hold a solo demonstration. Thus, the burden of proof in respect of the common design and organisation of a demonstration rests with the officials or authorities initiating the relevant civil, criminal or administrative proceedings. The opposite approach would encroach excessively upon the constitutional freedom of peaceful assembly.

- Overall, the court declared section 7(1.1) of the Act compatible with the Russian Constitution.

Judge Kazantsev expressed a separate opinion that can be summarised as follows. Being the least challenging in terms of security/safety and entailing no movement or use of loud-speaker devices, a solo static demonstration does not pose any real threat to public safety or State security. Nor does it create any serious danger to health, property or morals. It does not encroach upon one's freedom of movement. Therefore, it is not subject to a notification requirement, which is related to the fact that the mere presence of a relatively large number of people in the same place, in itself, carries certain risks and thus the organiser of a public event should receive assistance for such an event. The authorities have the statutory aims of ensuring, together with the event's organiser, public safety and security of people present, and providing urgent medical assistance. The observance of a fifty-metre distance between solo demonstrators excludes, in all cases, a possible lack of balance between the freedom of peaceful assembly and the freedom of movement, even where solo demonstrators have common goals

and organisation. Judicial assessment is an important safeguard. However, the current statutory framework does not prevent the arrest of a person who is not a member of an organisation and carries out a solo demonstration that happens to be close to another demonstration that is wholly unrelated to him. The ensuing judicial review can only confirm the absence of any common design and prevent any further violation of freedom of expression and freedom of assembly. However, such a review cannot make up for the damage suffered on account of the disruption of a demonstration, arrest and court proceedings. Overall, the statutory provision under review is aimed at impeding solo demonstrations.

59. The regional statutes specifying the distance between solo demonstrators vary. For instance:

In the Rostov Region, regional law no. 146-3C of 27 September 2004 complements the federal regulations on public gatherings. In December 2012 that law was amended to provide that the distance between solo demonstrations should be no less than fifty metres (section 2 of the law).

Since January 2013 a similar law in Moscow (law no. 10 of 4 April 2007) has provided for the same distance and specifies that simultaneous demonstrations should be treated as solo demonstrations provided that they do not have a common goal and organisation (section 2.3).

In the Tatarstan Republic, law no. 91-ZRT of 25 December 2012 provides that the relevant distance should be no less than thirty metres (section 8).

In the Sverdlovsk Region, law no. 102-FZ of 7 December 2012 provides that the distance should attain or exceed forty metres (section 5).

In the Astrakhan Region, law no. 80/2012-FZ of 27 November 2012 sets the relevant distance at no less than twenty metres (section 4).

B. Liability for violation of the rules on public events

1. Termination of a public event

60. The organiser of a public event must put an end to it where the event's participants have committed unlawful actions (section 5 of the Public Assemblies Act). A designated official of an executive authority or a municipal authority is empowered to take a decision to stop the public event (section 13). A designated law-enforcement officer is empowered to bar access to the event where the maximum capacity of the venue has been exceeded; or to order the event organiser or its participants to comply with the rules for holding public events (section 14).

61. If the event participants breached the regulations (*правопорядок*) while causing no threat to life or limb, the designated executive or municipal official may require the event organiser to remedy the violation (section 15). If that requirement is not complied with, the executive or

municipal official may suspend the event pending the remedying of the violation. If the violation is not remedied, the event should be ended. The grounds for ending a public event are as follows: a real threat to life, limb or property; unlawful acts committed by the event participants; and the organiser's wilful violation of the regulations concerning the running of a public event (section 16).

62. The procedure for putting an end to a public event is as follows: the designated executive or municipal official orders the organiser to stop the event, providing the reasons for stopping the event; the official sets a time-limit for complying with the order to end the event; if the organiser does not comply, the official himself or herself announces the end of the event and affords time to disperse (section 17). Where the order to stop the event has not been complied with, the police should take the necessary measures to stop the event. Failure to comply with lawful orders of the police or disobedience (that is, resistance) on the part of the event participants entails liability under other provisions of Russian law.

2. Prosecution for an administrative offence

63. Article 3.1 of the CAO defines an administrative penalty as a measure of responsibility for an administrative offence, with the purpose of preventing new offences by the offender or others.

64. Chapter 20 of the CAO lists administrative offences that impinge upon public order and public safety (*общественный порядок и общественная безопасность*).

(a) Before 2012

65. Before June 2012 a breach of the statutory procedure for organising a public event by its organiser was punishable by a fine of up to twenty minimum wages (Article 20.2 § 1 of the CAO), RUB 2,000.

66. A breach of the statutory procedure for the running of a public event was punishable by a fine of up to twenty minimum wages for organisers and up to ten minimum wages (RUB 1,000) for participants (Article 20.2 § 2 of the CAO).

(b) Since 2012

67. Since June 2012, Article 3.5 of the CAO has provided that an individual could not be fined more than RUB 5,000, except for an offence under Articles 5.38, 20.2, 20.2.2, 20.18 and 20.25, for which the fine could be up to RUB 300,000.

68. On 8 June 2012 Article 20.2 of the CAO was redrafted as follows:

- A breach of the procedure for organising or running a public event by an organiser became punishable by a fine of between RUB 10,000 and RUB 20,000 or up to forty hours of community work (Article 20.2 § 1).

- The organisation or running of a public event without notifying the competent public authority became punishable by a fine of between RUB 20,000 and RUB 30,000 or up to fifty hours of community work (Article 20.2 § 2).

- Stricter penalties were introduced for the above actions or inaction where they obstructed pedestrians or traffic, or caused damage to health or property (Article 20.2 §§ 3 and 4). Separate offences concerned violations by an event participant of the procedure for running the event (§ 5) and where such violations caused damage to health or property (§ 6).

69. In its ruling no. 4-P of 14 February 2013 the Constitutional Court declared the minimum statutory fines unconstitutional (in particular under Article 20.2 of the CAO) in so far as the relevant provisions of the CAO did not allow the imposition of a fine below the minimum amount. The court held that any fine should take into account the nature of the offence, the financial situation of the person concerned or other factors relating to the individualisation of the penalty and to the requirements of proportionality and fairness. The Constitutional Court required the legislator to amend the CAO accordingly. Until that time, the courts were instructed to consider the possibility of imposing a fine below the minimum statutory fine.

C. Other relevant legislation

70. A person can be absolved from prosecution for an administrative offence by way of receiving an oral warning only, in view of the low negative impact (*малозначительность*) of the offence (Article 2.9 of the CAO).

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

72. Non-payment of an administrative fine constitutes an administrative offence punishable by a doubled fine or up to fifteen days' administrative detention (Article 20.25 of the CAO).

73. When legislating on the issue of responsibility for an administrative offence consisting in a violation of regulations prescribed by statutes or other general legal provisions, the legislator has discretion to decide, with due regard to the essence of the public relations to protect, whether responsibility arises solely on account of non-observance of the relevant regulation or also on account of any actual damage or (real) threat of such damage to the protected object, for instance life or limb, or to property (Constitutional Court, ruling no. 12-P of 18 May 2012, paragraph 4.1, assessing the legislation as it was before the amendments adopted in June 2012). Under Article 20.2 § 2 of the CAO, responsibility is not conditional on actual damage or consequences: the mere fact of failing to notify the competent public authority of a public event constitutes an unlawful and

punishable omission (ibid.; see also decision no. 485-O of 4 April 2013, paragraph 2.1). This omission creates a risk of a violation of others' rights and freedoms, because it makes it more difficult for the authorities to take adequate measures to prevent or put an end to violations of public order and public safety (decision no. 485-O).

74. Minor hooliganism (violations of public order consisting in actions displaying a manifest disregard to society, accompanied by foul language (*нецензурная брань*) in a public place, harassing others or by damaging property) is punishable by a fine or up to fifteen days' detention (Article 20.1 of the CAO). Assessing a similar provision under the old CAO, the Constitutional Court considered that it aimed at protecting human dignity and personal inviolability against unlawful affronts from another person (decision no. 70-O of 19 April 2001).

D. Fairness and procedural guarantees in cases concerning administrative offences

75. Article 1.5 of the CAO provides for the presumption of innocence. An official or court dealing with an administrative-offence case should establish whether the person concerned is guilty or innocent (ruling no. 5 of 24 March 2005 by the Plenary Supreme Court of Russia).

76. The Constitutional Court stated that Articles 118 § 2 and 123 § 3 of the Russian Constitution provided that the principles of equality of arms and adversarial procedure should apply in court proceedings, including under the CAO. Although those constitutional guarantees applied in cases examined (directly) by the courts, they did not apply in cases examined by non-judicial authorities or officials (decision no. 630-O of 23 April 2013 of the Russian Constitutional Court). However, the person concerned may seek judicial review of their decisions; such review proceedings should provide for equality of arms and adversarial procedure (ibid.).

77. Article 25.1 § 4 of the CAO provides that a person prosecuted under the CAO is entitled to study the case-file material, make submissions, adduce evidence, lodge motions and challenges, and have legal assistance. The Constitutional Court considered that those guarantees enabled the person concerned to refute, in the course of court proceedings, the information contained in the case file, for instance in the offence record (*протокол об административном правонарушении*), thereby exercising his or her right to judicial protection based on the principle of adversarial procedure (decision no. 925-O-O of 17 June 2010).

78. On the other hand, the Constitutional Court held in relation to the Code of Criminal Procedure that requiring or allowing a court to take over the functions normally attributed to a prosecuting authority contradicted Article 123 of the Constitution and impeded independent and impartial administration of justice (see, among others, ruling no. 16-P of 2 July 2013).

79. Article 30.6 of the CAO provides for appeal against a first-instance judgment. The appeal court is required to examine the existing and new evidence in the case file, and to provide a full review of the case.

E. Escorting a person to the police station, arrest and other coercive or preventive measures

1. Police powers

80. Under the old Police Act (Federal Law no. 1036-I of 18 April 1991) the police were empowered to carry out administrative arrests.

81. Under the current Police Act (Federal Law no. 3-FZ of 7 February 2011) the police are empowered to check an individual's identity documents where there are reasons to suspect the person of a criminal offence or if his or her name is on a wanted persons list, where there is a reason for prosecuting him or her for an administrative offence, or where there are other grounds, prescribed by federal law, for arresting the person (section 13 of the Act). The police are also empowered to take the person to the police station in order to decide whether he or she should be arrested if it cannot be done on the spot. The police are empowered to take fingerprints, to take photographs or make video recordings of an arrestee suspected of a criminal offence or where it was not possible to properly identify the arrestee during the arrest (section 13 of the Act).

2. Administrative escorting and administrative arrest

82. Article 27.1 of the CAO provides a number of measures, including administrative escorting (*административное доставление*) and administrative arrest (*административный арест*), which may be used for the purpose of putting an end to an administrative offence, to establish the offender's identity, to compile the administrative offence record if this cannot be done on the spot, or for the purpose of timely and correct examination of the case and enforcement of a decision taken in it.

83. Article 27.2 defines "administrative escorting" as a procedure by which an offender is compelled to follow the competent officer for the purposes of compiling an administrative offence record when it cannot be done on the spot. The Constitutional Court has held that this measure of compulsion, which amounts to temporary restriction of a person's freedom of movement, should be applied only when it is necessary and within short timeframes. Referring to the notion of "deprivation of liberty" under Article 5 of the Convention, the Constitutional Court has ruled that the relevant criteria relating to Article 5 of the Convention are "fully applicable" to the measure (Decision no. 149-O-O of 17 January 2012).

84. In exceptional circumstances relating to the need for a proper and expedient examination of an administrative case, the person concerned may

be placed under "administrative arrest". The arrestee should be informed of his rights and obligations; this notification should be mentioned in the arrest record. 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 as soon as the person has been escorted to the police station in accordance with Article 27.2 of the Code (Article 27.5 of the Code). The Constitutional Court has ruled that such arrest amounts to "deprivation of liberty" as it is understood by the European Court within the meaning of Article 5 §1(c) of the Convention (Ruling no. 9-P of 16 June 2009).

III. OTHER RELEVANT MATERIAL

85. The 2014 Report compiled by the Human Rights Ombudsman of the Russian Federation contains the following section concerning proceedings under the CAO:

> "Legislative guarantees relating to adversarial proceedings in CAO cases have until now been lacking.
>
> The Russian Constitution safeguards the principle of equality of arms and the principle of adversarial procedure as the basis of adjudication, without any exception. This means it is absolutely necessary to provide for adversarial proceedings, including in CAO cases. Adversarial proceedings require that the institution of prosecution, the drafting of accusations and their presentation before a court should be carried out by the authorities or officials, as specified in the statute. However, the CAO indicates that a court hearing may be held without any public official who would be empowered in some way to present the administrative offence charge and to prove it. A prosecutor's participation in the case is not mandatory.
>
> As a rule, the participants in the proceedings are the judge, the defendant and his counsel. As a matter of fact, the defence is not opposed to a prosecuting party but to the court itself. This does not exclude the presence of some *de facto* functions of prosecution with the judge.
>
> The overwhelming majority of CAO cases include examination, as evidence, of public officials' reports, while these officials act, *de facto*, as initiators of the proceedings and as accusers. Their written explanations and their oral testimonies in court are also treated as evidence. Thus, the "bulk of evidence" consists of copying all the information which was provided by the person who initiated the proceedings.
>
> Established judicial practice indicates that accusatory testimonies by public officials are treated as more trustworthy than exculpatory evidence which is submitted by the defence ...
>
> An administrative offence record has the same status as a bill of indictment and thus represents the opinion of one of the parties. The merits of this opinion should be established at a court hearing. It is against the right to a fair hearing (on the basis of equality of arms and adversarial procedure) to use in evidence documents which

contain accusations and opinion on evidence. In such a situation, the opinion of one party is treated as evidence in the case.

Opinion on the defence's testimonies is not treated as proper evidence. If the defendant is not in a position to adduce objective evidence proving his innocence, his explanations or testimonies by witnesses on his behalf are declared, as a rule, to be untruthful.

The above lacunae in the legislation render examinations of CAO cases partial ...

The contents of the complaints lodged with the Ombudsman confirm the existence of a systemic problem, which calls for additional legislative response. In our view, the burden of proving the offence cannot be on the official who compiled the administrative offence record. But it should be on the public official who has powers to put forward the accusation.

The judge should determine the scope of issues to be proven, provide assistance in collecting evidence, and assess the evidence adduced by the parties. Observance of the above conditions can secure an impartial examination of this type of case ..."

86. Opinion no. 686/2012 by the European Commission for Democracy through Law (Venice Commission) on Federal Law no. 65-FZ of 8 June 2012 amending Federal Law no. 54-FZ of 19 June 2004 on Assemblies, Meetings, Demonstrations, Marches and Picketing and the Code of Administrative Offences stated as follows:

"30. Pickets by one single person under the Assembly Act are exempt from notification (indeed an assembly is made up of more than two persons). New Article 7 para. 1.1 specifies that there must be a distance to be determined but of no more than 50 metres between single picketers. The possibility is given to the courts to declare (retrospectively) that the sum of the single picketers "united by a single concept and overall organisation" constituted a public event. The consequences of such a decision would be that the public event has not met the applicable legal regulations, and the organisers and the participants are exposed to administrative liability.

31. The Venice Commission notes in the first place that this provision makes the administrative offence dependent on the subjective assessment carried out a posteriori by a court of the unity of the concept and the common arrangement. This makes it impossible for a picketer to anticipate whether his or her a priori lawful conduct - picketing without prior notice – will lead to an administrative offence, which is incompatible with the requirement of legality of any interference with the right to freedom of free expression as well as of assembly.

32. In addition, the Venice Commission is of the opinion that, as the ECtHR has said, state authorities are entitled to require that the reasonable and lawful regulations on public events be respected and to impose sanctions for failure to respect such regulations. When rules are deliberately circumvented, it is reasonable to expect the authorities to react. The Commission however recalls the important principle stated by the Constitutional Court of the Russian Federation in 2012 that administrative responsibility may not arise only out of the non-respect of the rules, but must be dependent on an actual threat to public order and safety. Where sporadic and scattered picketers do not represent any such threat, they should not be sanctioned even though they did not follow the rules. The fact alone that they do not adhere to the norm does not pose a threat in itself. The Venice Commission welcomes the statement by the Constitutional Court (CDL-REF(2013)012, page 22) that the rules concerning single pickets "... are intended to prevent abuses of the right not to notify the public

authorities of the holding of a one-person picket, [but] they do not rebut the presumption of lawfulness of the actions of a citizen observing the established procedure for holding a one-person picket, and they intend the sum total of picketing actions carried out by a single participant to be declared as a public event only on the basis of a court decision and only where it is established by the court that these picketing actions were from the outset united by a single concept and overall organisation and do not amount to a coincidental coming together of actions of individual pickets" ...

47. The impact of the amendments of the Federal Law on Assemblies on the freedom of Assembly is further increased by the amendments of the Code of administrative offences introduced by the Law of 8 June 2012 ...

50. In their joint guidelines on freedom of assembly, the OSCE/ODIHR and the Venice Commission have argued that "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". They have added that "as with prior restraints, the principle of proportionality also applies to liability arising after the event. Any penalties specified in the law should therefore allow for the imposition of minor sanctions where the offence concerned is of a minor nature."...

54. Even though their actual implementation depends ultimately on the courts, the June 2012 amendments impose penalties (both pecuniary sanctions and community service) which are excessive for administrative offences with no violence involved and would be disproportionate. These amounts will undoubtedly have a considerable chilling effect on potential organisers and participants in peaceful public events. In addition, the different and more severe treatment which is reserved to violations of the Assembly Act as compared to any other administrative offence does not appear to be prima facie justified."

87. The Compilation of the Venice Commission Opinions concerning the freedom of assembly (revised in July 2014) contains the following relevant information:

"Freedom of assembly – as elaborated in human rights case law – is viewed as a fundamental democratic right, which should not be interpreted restrictively and which covers all types of peaceful expressive gathering, whether public or private ... A definition of the term "public assembly" should ... usefully focus on traditional criteria such as a certain number of individuals with a local connection and a common expressive purpose ..."

88. The 2010 OSCE-ODIHR – Venice Commission Guidelines on freedom of peaceful assembly (2nd edition) contain the following relevant information:

"For the purposes of the Guidelines, an assembly means the intentional and temporary presence of a number of individuals in a public place for a common expressive purpose. This definition recognises that although particular forms of assembly may raise specific regulatory issues, all types of peaceful assembly – both static and moving assemblies, and those which take place on publicly or privately owned premises or enclosed structures – deserve protection. ...

16. An assembly, by definition, requires the presence of at least two persons. Nonetheless, an individual protester exercising his or her right to freedom of expression, where their physical presence is an integral part of that expression, should

also be afforded the same protections as those who gather together as part of an assembly. ...

115. It is good practice to require notification only when a substantial number of participants are expected, or not to require prior notification at all for certain types of assembly. Some jurisdictions do not impose a notice requirement for small assemblies ..., or where no significant disruption of others is reasonably anticipated by the organiser (such as might require the redirection of traffic). 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 (see paragraphs 126-131 below). ...

127. While the term 'spontaneous' does not preclude the existence of an organiser, spontaneous assemblies may also include gatherings with no identifiable organiser. Such assemblies are coincidental, and occur for instance, when a crowd gathers at a particular location with no prior advertising or invitation. They often result because of commonly held knowledge, or knowledge disseminated via the internet, about a particular event. Numbers may be swelled by passers-by who choose to join the assembly, although it is also possible that once a crowd begins to gather, mobilisation can be achieved by various forms of instantaneous communication (phone, text message, word of mouth, internet etc). Such communication should not, of itself, be interpreted as evidence of prior organisation. Where a lone demonstrator is joined by another or others, the gathering should be treated similarly to a spontaneous assembly."

THE LAW

I. JOINDER OF THE APPLICATIONS

89. In accordance with Rule 42 § 1 of the Rules of Court, the Court decides to join the applications, given their factual and legal similarities. It considers that joining these applications will highlight the recurring nature of the issues raised in the cases at hand and underscore the general nature of the Court's findings as set out below.

II. ALLEGED VIOLATIONS OF ARTICLES 10 AND 11 OF THE CONVENTION

90. The applicants complained that the authorities' actions in respect of them constituted a violation of Articles 10 and/or 11 of the Convention.

91. The Court notes that the applicants argued that the impugned actions on the part of the authorities related to their solo demonstrations rather than any peaceful assembly with others. While some of the applicants may be understood as ascertaining the existence of and alleging interference with a right not to be associated with somebody else's "expressive conduct"/demonstration (see, *mutatis mutandis*, *Sørensen and Rasmussen*

v. Denmark [GC], nos. 52562/99 and 52620/99, § 54, ECHR 2006-I), the Court finds it appropriate to examine the present case under Article 10 of the Convention (see, *mutatis mutandis*, *Tatár and Fáber v. Hungary*, no. 26005/08 and 26160/08, § 29, 12 June 2012, and *Açık and Others v. Turkey*, no. 31451/03, §§ 35-36 and 40, 13 January 2009), taking into account, where appropriate, the general principles it has established in the context of Article 11 of the Convention (see, in particular, paragraphs 162-168 below in relation to Ms Novikova, Mr Kirpichev and Mr Romakhin; see also *Fáber v. Hungary*, no. 40721/08, § 19, 24 July 2012, and *Palomo Sánchez and Others v. Spain* [GC], nos. 28955/06, 28957/06, 28959/06 and 28964/06, §§ 33 and 52, ECHR 2011).

92. Article 10 of the Convention reads as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

A. Admissibility

93. The Government argued that the authority form in respect of Mr Yershov had not been enclosed with the application form in respect of Ms Novikova (application no. 25501/07) and that the application was therefore incompatible *ratione personae*. The Court observes that the application form lodged on 27 April 2007 was duly signed by the applicant. Therefore, the Government's argument is dismissed.

94. Moreover, as regards each of the applicants, the Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The Government

95. The Government argued that freedom of expression and freedom of peaceful assembly were both constitutional values. However, their exercise

was legitimately subject to statutory regulation, in particular under the Public Assemblies Act. Such regulation was aimed, on one hand, at providing a framework for exercising individual freedoms and, on the other, at securing public order and safety to avoid any harm to morals and the health of other citizens. The regulation sought to strike a fair balance between the interests of the organisers and participants of public events, on the one hand, and the need to secure the protection of other persons' rights and freedoms, on the other. This was done, *inter alia*, by putting in place adequate measures to prevent breaches of public order and safety, and procedures to ensure legal responsibility for such breaches.

96. The requirement of prior notification of public events was aimed at securing public order and national security, and consisted in a procedure in which the event organisers and the competent public authority negotiated (*согласование*) the place and time of the event.

97. The Government submitted that Ms Novikova had taken part in a public event together with other people. As the event was held in breach of the prior notification requirement, her participation constituted an administrative offence under Article 20.2 of the Code of Administrative Offences. Her guilt had been proven and her allegation that she had taken part in a solo demonstration had been refuted by the evidence in the case (namely, the administrative offence record, the administrative arrest record and officer G.'s report). Several other people were also taken to the police station and then convicted under Article 20.2 of the CAO in relation to the same event. While at the time there was no specific regulation concerning the distance to be observed between simultaneous solo demonstrations, the domestic courts rightly considered that the presence of several people in one place at the same time could be classified as a sole group event requiring the observance of the prior notification rule. In 2012 the Public Assemblies Act was amended to clarify that where several people's actions had a common goal and logistical unity, a court could conclude that it was one and the same public event. The applicant's sentence was based on a thorough assessment of the mitigating and aggravating circumstances and was proportionate to the violation found. The taking of the applicant to the police station was a lawful measure of deprivation of liberty and pursued the statutory goals as provided for under Articles 27.1-27.3 of the CAO.

98. The Government argued that the domestic authorities had acknowledged the unlawfulness of the actions concerning stopping Mr Matsnev's demonstration, taking him to the police station and holding him there for some time. He had been awarded reasonable compensation and thus was not a victim of the alleged violations under the Convention.

99. The Government submitted that Mr Savchenko had been taken to the police station because he had breached public order by using foul language in a public place, thus committing an administrative offence under Article 20.1 of the CAO. The authorities' action had no connection with the

exercise of his freedoms under Articles 10 and 11 of the Convention. The measure of escorting him to the police station was lawful and pursued the requisite statutory aims.

100. The Government submitted that it had been necessary to take Mr Kirpichev to the police station because he had had no identity document on him and in order to put an end to his violation of the Public Assemblies Act (and to the administrative offence). The evidence in the case (the administrative offence record and reports by five police officers) confirmed that the applicant had been participating in a public event that required prior notification to the competent authority. He had called passers-by to approach and discuss with him the topic of the demonstration. He was not deprived of his liberty. The amount he had been fined took account of the circumstances of the case, including his financial situation and the fact that he had previously committed a similar offence. He had been afforded an opportunity to pay the fine in three instalments.

101. The Government submitted that the police had been right to consider that the demonstrations held by Mr Romakhin and A. had had a common goal and had been organised jointly, as they had been held in close proximity. The police lawfully applied the escort procedure in order to put an end to the offence and because the applicant had no identity document on him. He was released as soon as he had made a statement and an administrative offence record had been drawn up.

(b) The applicants

102. Ms Novikova argued that she had been engaged in a peaceful solo demonstration on an important topic of public interest, without causing any damage to property, endangering public safety or obstructing the traffic. She had taken care to position herself at a distance from other people who were present before the State Duma. The authorities' response (consisting in stopping her demonstration, arresting her and convicting her of an administrative offence) was disproportionate and lacked the requisite degree of tolerance. The requirement of prior notification did not apply to solo demonstrations. In any event, nothing had prevented the police from drawing up an administrative offence record on the spot. Her arrest and retention in the police station for several hours had not pursued any of the legitimate aims of the procedure under Article 27.3 of the CAO. Indeed, the statutory requirement had not been complied with, as there were no "exceptional circumstances" justifying taking her to the police station. Her conviction had been based merely on the evidence gathered by the police, who instituted the proceedings against her. The first-instance court heard neither the applicant nor the other people who had allegedly participated in the public event, and the administrative offence record contained no such testimonies. The domestic law at the time contained no guidelines for

distinguishing between simultaneous solo demonstrations and a group event.

103. Mr Kirpichev argued, first, that it was a logical and predictable consequence that his solo demonstration had received attention from some passers-by, thus prompting some five people to gather around him. The domestic courts interpreted and applied the Public Assemblies Act in an unpredictable manner. Secondly, the interference (the termination of the event, taking him to the police station, his prosecution and a high fine for the administrative offence) had not pursued any legitimate aims. None of the possible legitimate aims within the meaning of Article 11 of the Convention was applicable. For example, the aim of protecting the rights of others, in particular the right to move around freely, without restrictions, in a public place could not be applied in the circumstances of the case. The applicant claimed that he had been alone and that the national authorities had not taken that fact into account. It had been unnecessary to take him to the police station, especially as he had had an identity document on him.

104. Mr Romakhin argued that both the courts and the Government had wrongly underestimated the relevance of the actual distance of around fifty metres between the applicant and A. Given that the statutory distance had been respected, the courts should not have proceeded to apply the "common design and organisation" criterion for classifying his solo demonstration as an assembly with A. The domestic law was not sufficiently foreseeable, as it was unclear whether the criteria were to be applied cumulatively. Referring to the separate opinion by Judge Kazantsev (see paragraph 58 above), the applicant argued that it was disproportionate to apply the "common design and organisation" criterion to simultaneous solo demonstrations at distances as long as fifty metres or less as prescribed by regional statutes.

105. Mr Matsnev and Mr Savchenko maintained their complaints.

2. The Court's assessment

(a) Applications of Ms Novikova, Mr Kirpichev and Mr Romakhin

(i) Existence and scope of the interference

106. The Court reiterates that in order to fall within the scope of Article 10 or 11 of the Convention, "interference" with the exercise of the freedom of peaceful assembly or the freedom of expression does not need to amount to an outright ban but can consist in various other measures taken by the authorities. The terms "formalities, conditions, restrictions [and] penalties" in Article 10 § 2 must be interpreted as including, for instance, measures taken before or during an assembly and those, such as punitive measures, taken afterwards (see, *mutatis mutandis*, *Ezelin v. France*, 26 April 1991, § 39, Series A no. 202).

107. The Court observes that the applicants delimited the scope of the impugned "interference" to the authorities' actions resulting in the cessation of the demonstrations, their being taken to the police stations and retained there for some time, and their prosecution for an administrative offence resulting in a fine. They also made submissions concerning the provisions of the CAO and the Public Assemblies Act regarding solo demonstrations and their interpretation and application by the domestic courts, including the Russian Constitutional Court.

108. The Court notes that in alleging an "interference" with their solo demonstrations and their related right to freedom of expression falling within the scope of Article 10 of the Convention, the applicants did not claim that the domestic legislation relating to the requirement of prior notification for public events lacked foreseeability or had other defects. They accepted that prior notification was required for group events, possibly followed by a negotiation procedure if the authorities opposed the event organiser's choice of venue and timing.

109. Furthermore, it is noted that the "interference" in question concerned the form and manner of the applicants' conduct rather than the content of the message they were seeking to convey (see, by way of comparison, *Primov and Others v. Russia*, no. 17391/06, §§ 131-36, 12 June 2014).

110. The impugned measures entail a violation of Article 10 of the Convention unless they are prescribed by law, pursued at least one of the legitimate aims mentioned in Article 10 § 2 and were necessary in a democratic society.

111. The Court will proceed to ascertain whether that lawfulness, legitimate aim and pressing social need justifying the interference were present throughout all the stages of the interference.

(ii) Whether the interference was "prescribed by law"

(α) Termination of a demonstration

112. The Court notes that the Public Assemblies Act set out the grounds and the procedure for the termination of a public event, including the possibility for a law-enforcement officer to take the necessary measures for that purpose (see paragraphs 60-62 above).

113. If the participants of a public event have behaved unlawfully, the event organiser must end the event (section 5 of the Public Assemblies Act). A designated official of an executive authority or a municipal authority is empowered to take a decision to stop the public event (section 13 of the Act). A designated law-enforcement officer is empowered to bar access to the event where the maximum capacity of the venue has been exceeded and to order the event organiser or its participants to comply with the rules for holding public events (section 14 of the Act).

114. If the participants of an event have breached the regulations (*правопорядок*) while causing no threat to life or limb, the designated executive or municipal official may require the event organiser to remedy the violation (section 15). If this requirement has not been met, the executive or municipal official may suspend the event until the violation has been remedied. If the violation has not been remedied, the event should be ended. A public event may be terminated if there is a real threat to life, limb or property, or if the participants have violated the law and the organiser has wilfully breached the regulations concerning the running of a public event (section 16).

115. The procedure for putting an end to a public event is as follows: the designated executive or municipal official orders the organiser to stop the event, providing the reasons for stopping the event; the official sets a time-limit for complying with the order to end the event; where the organiser has not complied, the official himself or herself announces the end of the event and allows the participants time to disperse (section 17). If the order to stop the event is not complied with, the police should take the necessary measures to stop the event. Failure to comply with lawful orders from the police or disobedience (resistance) on the part of the event participants entails liability under other provisions of Russian law.

116. The above-mentioned legal provisions do not clearly state that a law-enforcement officer was empowered to stop a demonstration in the absence of a refusal to comply with a similar order issued earlier by a designated executive or municipal official.

117. It remains to be ascertained whether the application of the relevant legal provisions was foreseeable as regards the grounds for putting an end to a demonstration in circumstances where there was no prior notification.

118. The Court notes that the grounds for stopping a demonstration include the organiser's wilful violation of the regulations concerning the running of a public event. An assembly could also be stopped in the event of "unlawful actions" on the part of the participants. The applicants have not contested the foreseeability of those grounds for the termination of a public event.

119. Given the Court's conclusions concerning the insufficient foreseeability of the relevant legislation before 2012 (Ms Novikova's case) (see paragraphs 127-131 below), the question may arise whether the authorities could legitimately consider that a demonstrator's conduct was unlawful, thus requiring her to put an end to such conduct by way of terminating the demonstration. However, the Court will leave this matter open in this case.

120. The Court notes in this connection that the main thrust of the applicants' arguments relates to the proportionality assessment. In the absence of specific arguments and submissions from the parties on this aspect, the Court will proceed on the assumption that (i) the authorities had

a legal basis, in section 16 of the Act, for putting an end to what they perceived as a non-notified public event; (ii) the staging of a non-notified event, *per se*, constituted a "wilful violation" of the regulations or participation in such an event, *per se*, constituted "unlawful actions" on the part of the participants.

(β) Taking of the applicants to police stations

121. The Court observes that the taking of the applicants to police stations had a legal basis in Articles 27.1-27.3 of the CAO and in the Police Act. The CAO provided for a possibility to escort a person to a police station. It also provided for a possibility to then apply an arrest procedure while confining its use to "exceptional circumstances relating to the need for a proper and expedient examination of an administrative case". The above measures could also be used for the purpose of putting an end to an administrative offence or to establish the offender's identity.

122. The Court takes note of the argument submitted by some of the applicants that there had been nothing to prevent the police from compiling the administrative offence record on the spot, without escorting them to the police stations, and that the cases had not constituted "exceptional circumstances", which were required for an administrative arrest to be lawful. The Court prefers to take up the relevant factual and legal issues in the proportionality analysis below.

(γ) Prosecution for an administrative offence

123. The Court notes that the applicants were convicted under Article 20.2 of the CAO before and after the 2012 amendments (see paragraphs 66 and 68 above). It provided that violations of the regulations concerning public events were punishable. The relevant regulations were set out in the Public Assemblies Act. The applicants were prosecuted for organising or participating in public events without giving prior notification to the competent public authorities, thus breaching section 7 of the Act.

124. There is no doubt that the above provisions were accessible to the applicants. It remains to be ascertained whether their application was sufficiently foreseeable.

125. The Court reiterates at this juncture that it is important for associations and others organising demonstrations, as actors in the democratic process, to abide by the rules governing that process by complying with the regulations in force (see *Oya Ataman v. Turkey*, no. 74552/01, § 38, ECHR 2006-XIII, and *Barraco v. France*, no. 31684/05, § 44, 5 March 2009). The principle of discretionary prosecution leaves States considerable room for manoeuvre in deciding whether or not to institute proceedings against someone thought to have committed an offence (see *Pentikäinen v. Finland* [GC], no. 11882/10, § 110, ECHR 2015, and, for comparison, *Dudgeon v. the United Kingdom*, 22 October 1981,

§§ 43-62, Series A no. 45). In addition, where the relevant regulations serve as a basis for prosecuting for a "criminal offence" and/or imposing a "penalty", within the meanings of Articles 6 and 7 of the Convention, in relation to the exercise of one's rights under Article 10 or 11 (see *Kasparov and Others v. Russia*, no. 21613/07, §§ 39-45, 3 October 2013), the relevant offences and penalties must be clearly defined by law. This requirement is satisfied where the individual can know from the wording of the relevant provision, if need be with the assistance of the courts' interpretation of it and after taking appropriate legal advice, what acts and omissions will make him "criminally" liable and what penalty he faces on that account (see *Cantoni v. France*, 15 November 1996, § 29, *Reports of Judgments and Decisions* 1996-V).

126. Turning to the circumstances of the applicants' cases, the Court notes that there is a fundamental disagreement between the parties concerning the factual circumstances and related legal assessments made in respect of Ms Novikova, Mr Romakhin and Mr Kirpichev as to whether they were holding a solo demonstration, simultaneous solo demonstrations or an assembly of two or more people.

127. The Court observes that before 2012 section 7 of the Public Assemblies Act clearly stated that the requirement of prior notification did not apply to solo static demonstrations. The Act contained no specific rules relating to that type of public event. In June 2012 subsection 1.1 was added, introducing a requirement that a certain distance be observed between unrelated solo demonstrators. Although it left the specific distances to be enacted by the regions, it stipulated that they were not to exceed fifty metres. It also empowered the courts to decide whether a public event was an assembly or a solo static demonstration.

128. As can be inferred from the relevant constitutional ruling, at the time there was a perceived need at the domestic level to deal with the issue of group events being disguised as solo demonstrations and to prevent organisers of such group events from evading their duty to notify the relevant public authority (see paragraph 58 above).

129. Thus, the Court considers that the legislative changes at the federal and regional levels in 2012 may be taken as an indication of a possible lacunae or insufficient regulation relating to difficulties of differentiation between simultaneous solo demonstrations and a public event by two or more people requiring notification.

130. The respondent Government have not submitted to the Court any examples of domestic judicial practice which would palliate the legislative lacunae at the time.

131. In view of the above, the Court accepts the submission that before the legislative changes and the Constitutional Court's interpretative findings (see paragraph 58 above) the legislation in force was not sufficiently foreseeable as to what conduct or omission could be classified as an offence

on account of a breach of the notification requirement under the Public Assemblies Act, where there was a doubt as to whether the event in question was a group event (in the form of a meeting or a static demonstration), simultaneous solo demonstrations or merely one solo demonstration (see, for comparison, *Vyerentsov v. Ukraine*, no. 20372/11, § 54, 11 April 2013).

(ε) Conclusion on lawfulness

132. In the present case, despite certain reservations, the Court will proceed on the assumption that the termination of the demonstrations and the taking of the applicants to police stations had a basis in domestic law.

133. The Court concludes that the legal provisions serving as the basis for prosecuting Ms Novikova under Article 20.2 of the CAO were not sufficiently foreseeable. The Court will deal with any other questions regarding the foreseeability of the regulatory framework as amended in 2012 and the relevant procedures in its proportionality assessment below.

(iii) Whether the interference pursued a legitimate aim

134. The Court will now consider what specific legitimate aims the authorities sought to achieve by taking the impugned measures in respect of the applicants.

(α) Termination of the demonstrations

135. First, there is nothing to suggest that any considerations relating to national security were pertinent in the context of the applicants' demonstrations (see, by contrast, *Rai and Evans v. the United Kingdom* (dec.), nos. 26258/07 and 26255/07, 17 November 2009). Similarly, the specific circumstances of the peaceful demonstrations (in which only one person was involved – or, as argued by the Government, several people) clearly did not raise the matter of the protection of the "rights of others" under Article 10 § 2. Nor did they affect the "rights and freedoms of others" as it is put in Article 11 § 2, for instance physical integrity, the right to "peaceful possessions" or other pecuniary interests, or freedom of movement (see, by contrast, *Oya Ataman v. Turkey*, no. 74552/01, § 32, ECHR 2006-XIII).

136. As regards the "prevention of disorder", the Court reiterates its position that this legitimate interest normally relates to situations of riots or other forms of public disturbance (see *Perinçek v. Switzerland* [GC], no. 27510/08, §§ 146-151 *in fine*, 15 October 2015). The Court is mindful that the applicants' demonstrations were stopped solely because they had not observed the notification requirement. Under Russian law, no potential or actual damage (to health or property, or obstruction of pedestrians or traffic) was necessarily required for constituting the relevant offence and, by implication, for justifying related measures such as termination of a non-notified public event. In the present case, in order to rely on the aim of

"prevention of disorder", it was incumbent on the respondent Government to demonstrate that either the applicants' omission to notify the public event or their participation in such a non-notified event was, *per se*, capable of leading or actually led to disorder – for instance, in the form of public disturbance – and that in "interfering" with the applicants' demonstrations, the Russian authorities had that in mind (see *Perinçek*, cited above, § 152).

137. The assessment of the legitimate interest at stake should be done *in concreto*, while bearing in mind the rationale of the relevant legislation. The Court finds it unsatisfactory that the decisions to terminate the demonstrations were not subject to review at the domestic level, in particular as regards the presence and legitimacy of any public interests pursued.

138. In view of the above considerations, the Court is not inclined to proceed on the assumption that the interest of "prevention of disorder" was relevant (see *Bukta and Others v. Hungary*, no. 25691/04, §§ 22, 29-30 and 37, ECHR 2007-III, and *Cisse v. France*, no. 51346/99, § 46, ECHR 2002-III).

139. Furthermore, the Government may be understood as suggesting (see paragraphs 100 and 101 above) that the demonstrations – or some of the applicants' participation in them – were terminated in order to put an end to unlawful conduct, such as holding or participating in what the authorities perceived to be a public event, for which the statutory requirement of prior notification had not been observed.

140. The Court accepts that the aim of "prevention of crime" in the sense of putting an end to punishable unlawful conduct, might be relevant when the police decides to terminate a demonstration, in so far as such unlawful conduct constitutes a criminal offence or, as in the present case, an administrative offence under Russian law (see *Kasparov and Others v. Russia*, no. 21613/07, §§ 41-445, 3 October 2013, concerning the applicability of Article 6 of the Convention under its criminal limb to this type of cases). Admittedly, both types of offences correspond to the "crime" mentioned in Articles 10 § 2 and 11 § 2 of the Convention. However, as presented below, it has not been proven that the applicants organised an assembly or participated in one without prior notification, or, in other words, that they committed an offence.

(β) Taking of the applicants to police stations

141. As to the taking of the applicants to police stations, the Court observes that the statutory aim was for "the purpose of compiling an administrative offence record" (for the "administrative escorting") and "the need for a proper and expedient examination of an administrative case" (for administrative arrest). Those measures could also be used for the purpose of putting an end to an administrative offence or to establish the offender's identity.

142. In the absence of any assessment of the impugned measures by the domestic courts, the Court does not discern what legitimate aim listed in Article 10 § 2 of the Convention, beyond considerations of convenience, the authorities sought to achieve by taking the applicants to police stations after putting an end to their peaceful demonstrations.

143. The Court doubts whether any of the legitimate aims listed under Article 10 § 2 of the Convention was pursued in the specific circumstances of the applicants' demonstrations. However, for the sake of argument and with the same reservations as in paragraph 140 above, the Court will proceed on the assumption that the applicants were taken to police stations for the purpose of "prevention of crime".

(γ) Prosecution for an administrative offence

144. The Court notes that the offence under Article 20.2 belongs to the chapter of the CAO concerning public order and public safety offences. It is relevant to discern the aims underlying the prosecution for the relevant administrative offence, as well as the aims underlying the regulations, the non-observance of which constitutes *corpus delicti* of the relevant offence.

145. As declared by the Government, the Public Assemblies Act, including its requirement of prior notification, concerns the protection of public order and public safety to avoid any harm to the health and "morals" of other citizens; the need to secure protection of other people's rights and freedoms, *inter alia*, by way of putting in place adequate measures for preventing breaches of public order and public safety and measures of legal responsibility for such breaches.

146. As stated by the Constitutional Court, the prior notification requirement was aimed at enabling the public authorities to take timely and adequate measures in order to ensure public safety, the rights of event participants and the rights of others. The Court is aware of the position taken by the Russian Constitutional Court concerning the constitutional aspect of the differentiation between offences that include or do not include the notion of actual damage or a (real) risk of (serious) damage as an essential element of the offence.

147. In the Court's view, nothing in the circumstances of the applicants' demonstrations discloses that their prosecution was aimed at protecting "health or morals", national security or even public safety. However, the Court accepts that prosecution for organising or participating in a demonstration for which no prior notification was made could be aimed at prevention of disorder (see *Ziliberberg v. Moldova* (dec.), no. 61821/00, 4 May 2004).

(ε) Conclusion on legitimate aims

148. The Court concludes, with the reservations expressed in paragraphs 140 and 143 above, that the aim of "prevention of crime" should be taken

into consideration for the purpose of the necessity and proportionality analysis below in respect of the "interference" consisting in the termination of the applicants' demonstration and the taking of the applicants to the police stations. The aim of "prevention of disorder" is relevant in respect of the applicants' prosecution for administrative offences.

(iv) Whether the interference was "necessary in a democratic society"

(α) General principles

149. The general principles concerning the necessity of an interference with freedom of expression are as follows (see *Animal Defenders International v. the United Kingdom* [GC], no. 48876/08, § 100, ECHR 2013 (extracts)):

> "(i) Freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no 'democratic society'. As set forth in Article 10, this freedom is subject to exceptions, which ... must, however, be construed strictly, and the need for any restrictions must be established convincingly ...
>
> (ii) The adjective 'necessary', within the meaning of Article 10 § 2, implies the existence of a 'pressing social need'. The Contracting States have a certain margin of appreciation in assessing whether such a need exists, but it goes hand in hand with European supervision, embracing both the legislation and the decisions applying it, even those given by an independent court. The Court is therefore empowered to give the final ruling on whether a 'restriction' is reconcilable with freedom of expression as protected by Article 10.
>
> (iii) The Court's task, in exercising its supervisory jurisdiction, is not to take the place of the competent national authorities but rather to review under Article 10 the decisions they delivered pursuant to their power of appreciation. This does not mean that the supervision is limited to ascertaining whether the respondent State exercised its discretion reasonably, carefully and in good faith; what the Court has to do is to look at the interference complained of in the light of the case as a whole and determine whether it was 'proportionate to the legitimate aim pursued' and whether the reasons adduced by the national authorities to justify it are 'relevant and sufficient'.... In doing so, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 10 and, moreover, that they relied on an acceptable assessment of the relevant facts ...."

150. The protection of Article 10 of the Convention extends not only to the substance of the opinions, ideas and information expressed but also to the form in which they are conveyed, for instance on account of the way in which a protest was carried out (*Hashman and Harrup v. the United Kingdom* [GC], no. 25594/94, § 28, ECHR 1999-VIII, and *Gough v. the United Kingdom*, no. 49327/11, § 149, 28 October 2014).

151. The expression "necessary in a democratic society" in Article 10 § 2 or Article 11 § 2 of the Convention implies in particular that the interference is proportionate to the legitimate aim pursued. The Court also notes at this juncture that, although the adjective "necessary", within the meaning of Articles 10 § 2 or 11 § 2, is not synonymous with "indispensable", it remains for the national authorities to make the initial assessment of the reality of the pressing social need implied by the notion of "necessity" in this context (see *Handyside v. the United Kingdom*, 7 December 1976, § 48, Series A no. 24).

152. As to the Court's scrutiny, its task is not to substitute its own view for that of the relevant national authorities but rather to review, under Articles 10 or 11 of the Convention, the decisions that they delivered. This does not mean that it has to confine itself to ascertaining whether the respondent State exercised its discretion reasonably, carefully and in good faith; it must look at the interference complained of in the light of the case as a whole and determine, after having established that it pursued a "legitimate aim", whether the interference was proportionate to that aim and whether the reasons adduced by the national authorities to justify it were "relevant and sufficient". In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 10 or 11 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (see *United Communist Party of Turkey and Others v. Turkey*, 30 January 1998, § 47, *Reports* 1998-I).

(β) Application of the above principles to the present case

153. At this juncture, the Court finds it useful to summarise the common features of the cases examined in this judgment.

154. As submitted by the applicants, all their events were planned as solo static demonstrations, because that was the only form of public event not subject to comprehensive regulation under the Public Assemblies Act, first and foremost as regards the requirement of prior notification to the competent authority (see, among others, *Berladir and Others v. Russia*, no. 34202/06, §§ 26-62, 10 July 2012; *Malofeyeva v. Russia*, no. 36673/04, §§ 121-43, 30 May 2013; and *Primov and Others*, cited above, §§ 122-28).

155. According to the domestic definition, a static demonstration (a "picket") was a form of public expression of opinion that did not involve movement or the use of loudspeaker equipment, where one or more citizens with placards, posters and other means of visual expression assembled near the target object of the picketing. A common feature of the applicants' demonstrations was that they chose to express their views and opinions by displaying posters containing slogans or other visual representations. It also appears that at least one of the applicants expressed himself verbally on the

topic of the event. Furthermore, all the events were intended to be and actually were peaceful. There was no violence and no obstruction of traffic.

156. The demonstrations concerned a variety of matters: the use of public funds for various needs; the dissolution of a university; and a local planning-and-construction project. It is common ground between the parties that they concerned matters of public interest. For the Court, the applicants' demonstrations amounted to a form of political expression (see, by comparison, *Tatár and Fáber*, cited above, § 36).

157. As to the venues of the events, the demonstrations were held in front of the lower chamber of the federal Parliament, in front of a university building and near a bus stop.

158. In all the cases, the police immediately ended the demonstrations and took the applicants to police stations.

159. The measures carried out in respect of the applicants concerned the interpretation and application of the prior notification requirement for public events under the Public Assemblies Act. The applicants were convicted of administrative offences and received fines ranging from RUB 1,000 to RUB 20,000.

160. The Court will now examine the proportionality of the elements of the "interference" as defined in paragraph 107 above.

- *Proportionality: swift termination of the demonstrations*

161. One of the common features of the applicants' cases is the swift termination of the demonstrations before the applicants could express their views. On the facts of the present case, the termination of the events was followed by the applicants being taken to police stations. For the Court, these are two interrelated and focal points for the assessment of the proportionality between the authorities' reaction and the applicants' exercise of their right to freedom of expression (see also paragraph 184 below).

162. While the applicants chose solo demonstrations as a form of their expression, the Russian authorities dealt with the situations arising from these demonstrations as matters falling within the ambit of the regulations concerning public events requiring prior notification and one's exercise of the right to freedom of peaceful assembly. In June 2012 the Public Assemblies Act was amended, introducing a requirement that a certain distance be observed between unrelated solo demonstrators. It also empowered the courts to decide whether a public event was a group event or a solo static demonstration. Therefore, the Court finds it particularly pertinent to refer to the principles that it has established in the context of Article 11 of the Convention.

163. While rules governing public assemblies, such as the system of prior notification, may be essential for the smooth conduct of public demonstrations, in so far as they allow the authorities to minimise the disruption to traffic and take other safety measures, their enforcement

cannot become an end in itself (see *Oya Ataman*, cited above, § 42). The Court reiterates its constant position, albeit in the context of Article 11 of the Convention, that a situation of unlawfulness, such as one arising under Russian law from the staging of a demonstration without prior notification, does not necessarily (that is, by itself) justify an interference with a person's right to freedom of assembly (see *Cisse*, cited above, § 50, and, recently, *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, § 150, ECHR 2015). In other words, the absence of prior notification and the ensuing "unlawfulness" of the event, which the authorities consider to be an assembly, do not give *carte blanche* to the authorities; the domestic authorities' reaction to a public event remains restricted by the proportionality and necessity requirements of Article 11 of the Convention (see *Primov and Others*, cited above, § 119).

164. Where demonstrators do not engage in acts of violence it is important for the public authorities to show a degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance (see *Oya Ataman*, cited above, § 42).

165. The appropriate "degree of tolerance" cannot be defined *in abstracto*: the Court must look at the particular circumstances of the case and particularly the extent of the "disruption of ordinary life". In this connection, it is understood that any large-scale gathering in a public place inevitably creates inconvenience for the population or some disruption to ordinary life, including disruption of traffic.

166. The actual degree of such tolerance and its specific manifestations vary on account of the particular circumstances of each case, for instance where dispersal of the event is envisaged with recourse to physical force (see *Oya Ataman*, § 42, and *Primov and Others*, §§ 156-63, both cited above) or where it concerns an event which was not notified in advance to the authorities but was an urgent reaction to an ongoing political event (see *Bukta and Others*, cited above, §§ 36-38).

167. In the Court's view, the principles summarised in the preceding paragraphs are applicable in the present case.

168. Therefore, while dealing with a complaint under Article 10 of the Convention, the Court's task in the present case is to assess the actions and decisions taken by the authorities in relation to the demonstrations and the degree of the "disruption of ordinary life" (see, *mutatis mutandis*, *Primov and Others*, cited above, § 145).

169. The Court would emphasise that it remains in the first place within the purview of the national authorities' discretion, having direct contact with those involved, to determine how to react to a public event.

170. It is common ground between the parties that, in the absence of prior notification, a public assembly and participation in it would be in breach of Russian law. The parties have submitted no documents or court

decisions presenting and assessing the grounds and reasons for the swift termination of the demonstrations. The Court is not satisfied that relevant and sufficient reasons were adduced at the domestic level.

171. In the Court's view, given the number of participants (ranging from two people, in Mr Romakhin's case, to six people, in Mr Kirpichev's and Ms Novikova's cases, if the Government's approach is to be followed), notification would not have served the purpose of enabling the authorities to take necessary measures in order to minimise any disruption to traffic or other security measures such as providing first-aid services at the site of the demonstrations, in order to guarantee the smooth conduct of the events.

172. It is common ground between the parties that, having been informed of the police's position on the unlawful nature of the event and having been ordered to disperse, the applicants complied or were ready to comply with the police order.

173. Importantly, the police order adversely affected the peaceful exercise of the applicant's fundamental right to freedom of expression.

174. In the Court's view, the considerations in the preceding paragraphs indicate that the authorities should have showed a degree of tolerance. The above finding stands, even where the police had *prima facie* valid reasons for assessing the demonstrations as "assemblies" that were unlawful because of the absence of prior notification (see *Cisse*, cited above, § 50).

175. Given that only one person was involved – or, as submitted by the Government for some of the events, several people were involved – the expected "tolerance" could have consisted, for instance, in allowing the applicants to complete their demonstrations. Where appropriate, a measure such as a reasonable fine could have been imposed on the spot or later on.

- *Proportionality: taking of the applicants to police stations*

176. The Court notes that after stopping the applicants' demonstrations, the authorities chose to take them to police stations.

177. The Court finds it conceivable that in certain circumstances the authorities may have legitimate reasons to apply such measures. For instance, someone may be taken to the police station in order to put an end to *prima facie* unlawful conduct where he or she has refused to comply with a lawful order to cease such conduct, or on other grounds, which may be found, for example, in Article 5 § 1 of the Convention (see, *mutatis mutandis*, *Pentikäinen* [GC], §§ 102-05 and 114-15; and *Primov and Others*, §§ 164-65, both cited above). What matters in the context of an Article 10 complaint concerning freedom of expression is whether there was a "pressing social need" requiring such a measure in the specific circumstances of the case, taken as a whole.

178. It is clear that each applicant was taken to the police station in relation to the ongoing public event, rather than for another extraneous reason (see, by way of comparison, *Primov and Others*, cited above, § 102).

179. The Court notes in this connection the Government's submission that Mr Romakhin and Mr Kirpichev were taken to the police stations because the administrative offence record could not be compiled on the spot since they had no identity documents on them. That assertion was first made in the proceedings before the Court and has not been supported by any evidence. The available submissions and material do not allow the Court to establish the relevant facts in this respect, for instance whether under domestic law the applicants were obliged to be in possession of an identity document and whether they refused to confirm their identities by appropriate means (see, for comparison, *Emin Huseynov v. Azerbaijan*, no. 59135/09, § 87, 7 May 2015). Be that as it may, the main, if not the only, reason given by the police for taking the applicants to the police station was the police's position that they had committed an administrative offence by violating the notification requirement for a public event.

180. As regards Ms Novikova, it is common ground between the parties that she was taken to the police station as a direct consequence of the authorities' position that she was taking part in an unlawful public event.

181. Secondly, as the Court has already noted, the present case concerns events involving one person or a small gathering, as argued by the Government. Nothing suggests that the authorities had any additional reasons to consider that the situation gave or was likely to give rise to particular security or public safety concerns, which would have justified taking the applicants away from the venues of the demonstrations to police stations.

182. Indeed, the events consisted of static demonstrations or a meeting, which did not involve obstructing pedestrians or road traffic. The Court observes in this connection that there was no allegation or proof of any calls for violence, nor any actual violent behaviour, on the part of the applicants. Nor did they refuse to cease their *prima facie* unlawful conduct. In the Court's view, nothing in the present case has shown that administrative offence records could not have been compiled on the spot.

183. Hence, there were no compelling reasons to take the applicants to police stations in order to achieve any of the legitimate aims (see paragraph 142 above; see also, by way of comparison, *Lütfiye Zengin and Others v. Turkey*, no. 36443/06, §§ 55-56, 14 April 2015, and *Navalnyy and Yashin v. Russia*, no. 76204/11, §§ 64 and 68-69, 4 December 2014).

184. For the Court, the above findings concerning the termination of the events and the taking of the applicants to police stations constitute a strong indication of disproportionate interference in the exercise of their right to freedom of expression.

185. However, the Court finds it pertinent to complete the analysis by assessing the remaining aspect concerning the authorities' reaction to the applicants' demonstrations, that is their prosecution for an administrative offence.

- *Proportionality: prosecution for an administrative offence*

186. The Court observes that in addition to the unjustified swift termination of the demonstrations and the unjustified taking of the applicants to police stations, the applicants were prosecuted for an administrative offence. This prosecution was not related to the content of their protests but was rather related to the manner in which they were protesting, which was classified as a public event held without prior notification to the competent authority.

187. The Court reiterates again that the principle of discretionary prosecution leaves States considerable room for manoeuvre in deciding whether or not to institute proceedings against someone thought to have committed an offence (for instance, in relation to non-compliance with the rules concerning public assemblies) and, more generally, whether a certain action or omission should be subject to prosecution by way of criminal or other proceedings (see the cases cited in paragraph 125 above). With due regard to the above considerations, clear and reasonable procedural requirements to be observed in relation to a public event and penalties for breaching those requirements are both capable of being in conformity with the requirements of necessity and proportionality under Articles 10 or 11 of the Convention (see, for this approach, *Kudrevičius and Others* [GC], cited above, §§ 147-49).

188. Turning to the circumstances of the present case and having examined the domestic decisions, the Court is not satisfied that the applicants' right to exercise their freedom of expression was properly taken into consideration during the examination of the administrative-offence charges against them. The Court has doubts as to whether the administrative-offence procedure was conceptualised, or at least applied, in such a way as to allow the freedom-of-expression arguments to have any weight and to accommodate a proportionality analysis or, at least, an assessment leading to a result which would be proportionate in the particular circumstances of a given case (see, however, paragraph 70 above; see, for comparison, *Alim v. Russia*, no. 39417/07, § 95, 27 September 2011).

189. As regards the applicable legislation before 2012, the Court has already found that it did not comply with the "quality-of-law" requirement, as it was insufficiently foreseeable in so far as its application entailed prosecution for an administrative offence (see paragraph 131 above). Such a state of affairs was conducive to creating a "chilling effect" on legitimate recourse to expression in the form of a solo demonstration (see *Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, § 116, ECHR 2004-XI, and, by contrast, *Pentikäinen* [GC], cited above, § 113). The considerations in the preceding paragraph are applicable in Ms Novikova's case. The Court notes that the documents submitted by the Government in respect of Ms Novikova's application might have lent some substantiation to the

argument that a single group event had taken place and that the applicant had taken part in it (see paragraph 8 above). However, it remains unclear whether those documents were adduced and examined during the applicant's trial or on appeal. In any event, the domestic judgments do not adequately assess the relevant circumstances with due regard to the presumption of innocence that was applicable in the case.

190. As regards the applicable regulatory framework after the adoption of the 2012 amendments and the authoritative interpretation given to the new rules by the Russian Constitutional Court, the Court would make the following four general observations.

191. Firstly, the rationale for the distance requirement is to avoid public assemblies being disguised as solo demonstrations and to prevent an assembly organiser from evading his duty to notify the relevant authority. However, the primary consideration is the same as for the notification requirement: if an organiser evades his or her duty to notify, the public authorities are impeded in taking timely and adequate measures to ensure the requisite order for running a given civic initiative and to secure public safety and protection of the rights of the event participants and other people (see paragraph 58 above).

192. The Court has doubts about the applicability of the distance requirement. For instance, a "picket" is usually staged in the immediate vicinity of the object being picketed. Such a form of protest is understandable, but becomes impracticable if a second demonstrator or further solo demonstrators have to stage their "picket" at a considerable distance from the picketed building, for instance, because the first unrelated demonstrator happened to be already in place there.

193. Secondly, as non-observation of the distance requirement was not directly at stake in the present case, the Court will focus on section 7(1.1) of the Public Assemblies Act, which empowers a court to classify an event as an "assembly" *post facto*. This allows the relevant authority to insist on the observance of the prior notification requirement and to punish its non-observance. In this connection, the Court has taken note of the Constitutional Court's position that the "reclassification rule" could be enforced even where the statutory distance between demonstrators has been observed.

194. The Court reiterates that in order to determine the proportionality of a general measure, it must primarily assess the legislative choices underlying it. The quality of parliamentary and judicial review of the necessity of the measure is of particular importance in this respect, including to the operation of the relevant margin of appreciation (see *Animal Defenders International* [GC], cited above, § 108). It is also relevant to take into account the risk of abuse if a general measure were to be relaxed, that being a risk which is primarily for the State to assess. The more convincing the general justifications for the general measure are, the less

importance the Court will attach to its impact in the particular case (ibid., § 109).

195. As can be inferred from the relevant constitutional ruling, at the time there was a perceived need at the domestic level to deal with the issue of avoiding the situation of public assemblies being disguised as solo demonstrations and to prevent assembly organisers from evading their duty to notify the public authority (see paragraph 58 above). Furthermore, the Court is mindful of the position taken by the Constitutional Court concerning the constitutional aspect of differentiating between offences that include the notion of actual damage or a (real) risk of (serious) damage as an essential element of the offence (see paragraphs 68 and 73 above) and those that do not include that notion. In other words, under Russian law a conviction for lack of prior notification did not require proof of potential or actual damage.

196. While reiterating the State's wide margin of appreciation when it comes to deciding whether or not to institute proceedings against someone thought to have committed an offence, the Court considers that the legislative choice to make conduct or omission a criminal or other assimilated offence should not run counter to the very essence of a fundamental Convention right or freedom, such as freedom of expression in the present case.

197. The Constitutional Court makes it clear that the rationale for imposing a notification requirement rule is to provide the authorities with an opportunity to comply with their constitutional obligation to respect and protect individual rights and freedoms, and to take the necessary measures aimed at ensuring that participants in an event and other people are safe (see paragraph 55 above). In this Court's view, prosecution for failure to notify a public event which was subject to the "reclassification rule" should correspond to the need to achieve the above-mentioned aims.

198. In the Court's view, the intended primary purposes specified in paragraphs 191 and 197 above would, normally, be fully attainable through the reasonable application of the distance requirement, without any "pressing social need" for the "reclassification rule" under section 7(1.1) of the Public Assemblies Act and for bringing into play the notification requirement, thus impinging upon the freedom of expression exercised by solo demonstrators.

199. Therefore, the Court cannot see what legitimate aim, in terms of Article 10 of the Convention, the authorities genuinely sought to achieve. It fails to discern sufficient reasons constituting a "pressing social need" for convicting for non-observance of the notification requirement, where they were merely standing in a peaceful and non-disruptive manner at a distance of some fifty metres from each other. Indeed, no compelling consideration relating to public safety, prevention of disorder or protection of the rights of others was at stake. The only relevant consideration was the need to punish

unlawful conduct. This is not a sufficient consideration in this context, in terms of Article 10 of the Convention, in the absence of any aggravating elements.

200. The above findings can be demonstrated by the circumstances that obtained in Mr Romakhin's case. The Court notes that the specific distance to be observed between solo demonstrators was not set at regional level until December 2012, that is after Mr Romakhin's demonstration. At the relevant time, the federal legislation provided only guidance, stating that the distance to be specified at regional level could not be more than fifty metres. Leaving aside this element of uncertainty and insufficient foreseeability, the Court notes that the applicant's conviction was rather based on the finding that the common design of the event was that of a public assembly rather than two unrelated simultaneous solo demonstrations (see paragraph 45 above).

201. As already mentioned, the prior notification rule for a public assembly (including, as in Russia, a requirement to submit information about the expected number of participants, the timing and the place of the planned event) may be intended to afford the authorities reasonable time in advance of the planned event to ponder various public safety, security or other risks and, where appropriate, to make arrangements to avert such risks. Undoubtedly, no such considerations were at stake before or during Mr Romakhin's demonstration.

202. Moreover, the domestic courts' findings of concerted actions on the part of Mr Romakhin and Mr A. are not sufficiently substantiated. The fact that their simultaneous demonstrations concerned the same topic did not suffice to confirm that their actions were of a concerted and premeditated nature. Be that as it may, the Court considers that the applicant's prosecution, taken together with the unjustified swift termination of his demonstration and his unjustified taking to the police station, constituted a disproportionate reaction given the low gravity of a violation of the notification requirement in the specific circumstances of the case.

203. In other words, the Court considers that the manner in which section 7(1.1) of the Act was interpreted and applied in Mr Romakhin's case led to a result that was incompatible with Article 10 of the Convention.

204. Thirdly, the Court agrees with the Russian Constitutional Court's finding that a solo demonstration should not be classified as an assembly merely because it has attracted attention from the public (see paragraph 58 above). For its part, the Court considers that such a form of expression as a solo demonstration displaying a poster, accompanied or not by vocal expression, is by its nature capable of and is aimed at attracting some attention from passers-by. For the Court, the mere presence of two or more people in the same place at the same time is not sufficient for classifying the situation as an "assembly", as it is understood under Article 11 of the Convention, with a view to connecting the holding of this assembly to the

observance of the requirement of prior notification (see, in this connection, the domestic definition of a "public event" in paragraphs 49-50 above and paragraphs 87-88 above).

205. The courts adopted a formalistic approach in Mr Kirpichev's case in finding that he had held a public "meeting" (and not participated in it, as affirmed by the Government). Although the applicant's exact behaviour was of relevance (see, *mutatis mutandis*, *Kokkinakis v. Greece*, 25 May 1993, §§ 47-49, Series A no. 260-A), in view of the insufficient domestic assessment and bearing in mind the presumption of innocence, the Court is inclined to accept that the applicant's behaviour did not go beyond that of a solo demonstrator delivering a message that happened to receive some interest from passers-by. In any event, it is difficult for the Court to conceive that such an event could have generated a significant gathering warranting specific measures from the authorities.

206. Nor is there anything to suggest that the applicant *ab initio* conceived his event as an assembly and thus should have complied with the notification requirement. With due regard to the presumption of innocence, where the authorities suspect intentional actions aimed at evading the notification requirement, they should bear the burden of proving the relevant factual and legal elements. This requirement was underlined by the Russian Constitutional Court in its ruling of 14 February 2013 where it set out the various criteria to be applied (see paragraph 58 above).

207. By qualifying the applicant's interaction with passers-by as a group event, the authorities brought the notification requirement into play. In the Court's view, there was no need for coordination to ensure public safety and prevent disorder in the present case, since there was nothing to indicate that either public order or the rights of others might be affected. The authorities' approach to the concept of an assembly did not correspond to the rationale of the notification rule (see, in the same vein, *Tatár and Fáber*, cited above, § 40). Indeed, the application of that rule to expressions – rather than only to assemblies – would create a situation which is incompatible with the free communication of ideas and might undermine freedom of expression (ibid.).

208. Moreover, even accepting that the applicant did call passers-by to approach and to engage in discussion with him, the Court remains unconvinced that the authorities' reaction to the event in imposing a fine on him was proportionate (see below).

209. Fourthly, the Court has taken note of the severity of the penalty imposed, since it is among the factors to be taken into consideration, by the domestic courts and eventually the Court, when assessing the proportionality of the interference under Article 10 § 2 (see *Cumpănă and Mazăre* [GC], cited above, § 111, and *Tešić v. Serbia*, nos. 4678/07 and 50591/12, § 63, 11 February 2014).

210. The Court notes the ten-fold increase of fines in 2012 for an offence under Article 20.2 of the CAO (along with several other offences),

whereas most other offences remained punishable by a fine of up to RUB 5,000 for physical persons (the equivalent of some EUR 125). Admittedly, this reflected the legislator's perception of the increased danger posed by the specific offences, even where the reprehensible conduct consisted only in organising or participating in a non-notified assembly, or/and because the existing legislative framework was initially inadequate.

211. In the Court's view, the high level of fines was conducive to creating a "chilling effect" on legitimate recourse to protests and such form of expression as a solo demonstration (see, *mutatis mutandis*, *Guja v. Moldova* [GC], no. 14277/04, § 95, ECHR 2008, and *Goodwin v. the United Kingdom*, 27 March 1996, § 39, *Reports* 1996-II).

212. The Court notes in this connection that Mr Kirpichev received a fine equivalent at the time to EUR 505, which was, however, the minimum statutory amount for an offence under Article 20.2 § 2 of the CAO. Even assuming that Mr Kirpichev was legitimately convicted of organising a public event without giving prior notice to the authorities, the Court considers that the amount of the fine was, in the circumstances, a disproportionate penalty *vis-à-vis* the applicant's right to freedom of expression. When assessing the proportionality of this penalty, it is relevant to note that the failure to notify the event in question did not cause any damage whatsoever. The Government's argument that the event had started on the road (thus, arguably, obstructing the traffic) has not been substantiated and was not part of the domestic assessment. Importantly, this Court notes that the Russian Constitutional Court found it necessary in 2013 to afford the courts a possibility to impose fines below the statutory minimum amount in order to take proper account of the circumstances of the case. This allowed the courts to impose individualised sentences that were fair and proportionate (see also paragraphs 69, 73 and 86 above). However, this possibility was not properly implemented in Mr Kirpichev's case.

(v) Conclusion

213. The Court considers that, in the absence of aggravating factors, the swift termination of the events followed by the taking of the applicants to police stations and the prosecution for an administrative offence consisting solely in organising or participating in a non-notified public event, constituted a disproportionate interference with the applicants' freedom of expression.

214. The Court concludes that there has been a violation of Article 10 of the Convention in respect of Ms Novikova, Mr Kirpichev and Mr Romakhin.

215. In view of the above considerations, there is no need to make any separate findings under Article 11 of the Convention.

(b) Regarding Mr Matsnev

216. The Government argued that the domestic authorities had acknowledged the unlawful actions concerning stopping the applicant's demonstration, taking him to the police station and holding him there for some time. In the Government's view, the applicant had been awarded reasonable compensation and thus was not a victim of the alleged violations under the Convention.

217. The Court reiterates that a decision or measure favourable to the applicant is not in principle sufficient to deprive him of his status as a "victim", unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention. Redress so afforded must be appropriate and sufficient, failing which a party can continue to claim to be a victim of the violation (see *Scordino v. Italy* (no. 1) [GC], no. 36813/97, § 181, ECHR 2006-V, and *Cocchiarella v. Italy* [GC], no. 64886/01, § 72, ECHR 2006-V). The Court does not overlook the fact that Mr Matsnev claimed and received compensation at the domestic level before lodging an application before the Court.

218. Although the domestic courts accepted that there was no need to escort Mr Matsnev to the police station, they did not acknowledge the violation relating to the exercise of his freedom of expression. Even assuming that the domestic court's finding of unlawfulness regarding the taking of the applicant to the police station from the place of his solo demonstration constituted, in substance, an acknowledgment of the violation of his freedom of expression, the Court is not satisfied that the award of EUR 149 constituted adequate and sufficient redress in respect of the interference, which was both unlawful and disproportionate. The award was by no means comparable to what could be awarded under Article 41 of the Convention (see, for the approach, *Scordino* (no. 1), cited above, §§ 181 and 202, and *Rakhimberdiyev v. Russia*, no. 47837/06, § 42, 18 September 2014 in a comparable situation, albeit in the context of Article 5 of the Convention only; see also paragraph 231 below). Thus, the applicant was a victim of the alleged violation when he lodged the application before the Court.

219. For its part, the Court does not discern any compelling circumstances that justified terminating the applicant's solo demonstration and taking him to the police station.

220. The Court concludes that Mr Matsnev was a victim of unlawful and disproportionate interference with his freedom of expression on account of his demonstration being stopped and his being taken to the police station.

221. There has accordingly been a violation of Article 10 of the Convention in respect of Mr Matsnev.

(c) Regarding Mr Savchenko

222. Mr Savchenko was prosecuted under Article 20.1 of the CAO for minor hooliganism consisting of the use of "foul language". It has not been argued, and the Court does not consider, that the applicant is not a victim for the purpose of the Article 10 complaint, on account of the discontinuation of the prosecution following the expiry of the statutory period. At the same time, the fact that the prosecution did not result in a conviction and imposition of a sentence bears significantly in assessing the proportionality of the "interference". Thus, it remains to be ascertained whether the other aspects of the "interference" by the authorities with the applicant's solo demonstration were proportionate.

223. The Government argued that the taking of Mr Savchenko to the police station and, indirectly, the termination of his solo demonstration were related to his use of foul language in a public place rather than to the fact that he was holding a demonstration. While the applicant has not argued that use of foul language was protected under Article 10 of the Convention, he has contested that during his demonstration he used any utterances that could be perceived as foul language. Indeed, it remains unclear what exact words were allegedly uttered by and held against the applicant. The domestic decisions, in particular those issued by the courts, do not contain an adequate assessment as to whether the words concerned could be reasonably classified as "foul language".

224. The Court considers, with due regard to the presumption of innocence, that the applicant did not use foul language to the extent or in a way that constituted an administrative offence which might justify his being taken to the police station and the termination of his demonstration. The domestic courts (see paragraph 28 above) failed to make a specific assessment of the factual and legal issues pertaining to the lawfulness and necessity of taking the applicant to the police station and the adverse effect it had on the exercise of his freedom of expression. In this context, leaving aside the lawfulness issue, the Court cannot but conclude that the termination of the demonstration and the taking of the applicant to the police station were not justified.

225. There has therefore been a violation of Article 10 of the Convention on account of the authorities' disproportionate reaction to Mr Savchenko's demonstration.

III. ALLEGED VIOLATIONS OF ARTICLE 5 OF THE CONVENTION AND ARTICLE 2 OF PROTOCOL No. 4 TO THE CONVENTION

226. Some of the applicants complained that their taking to the police station had lacked reasons or had been arbitrary. One of the applicants also complained that the compensation awarded to him had been derisory (application no. 57569/11).

227. Having regard to the finding relating to Article 10 of the Convention above, the Court considers that it is not necessary to examine whether, in the applicants' cases, Article 5 of the Convention or Article 2 of Protocol No. 4 to the Convention was applicable and whether any of these provisions was violated.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

228. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

229. Mr Matsnev's lawyer made no claim for just satisfaction within the indicated time-limit. The Court therefore makes no award.

230. Ms Novikova claimed 35,000 euros (EUR) in respect of non-pecuniary damage. The Government contested her claim as excessive. Having regard to the nature of the violation found, the Court awards the applicant EUR 7,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

231. Mr Savchenko claimed EUR 500 in respect of pecuniary damage and EUR 10,000 in respect of non-pecuniary damage. The Government argued that the pecuniary claim was not specific and did not relate to the violation; the non-pecuniary claim was excessive. The Court dismisses the pecuniary claim because the applicant has not specified what it relates to. Having regard to the nature and scope of the violation found, the Court awards the applicant EUR 6,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

232. Mr Kirpichev claimed EUR 10,000 in respect of non-pecuniary damage and EUR 120 in respect of pecuniary damage (a part of the paid fine). The Government contested the sums as excessive and properly paid, respectively. The Court considers that there is a direct causal link between the violation found and the part of the fine the applicant had paid following his conviction for the administrative offence. The Court awards the applicant EUR 7,500 and EUR 120 in respect of non-pecuniary damage and pecuniary damage respectively, plus any tax that may be chargeable.

233. Mr Romakhin claimed EUR 9,000 in respect of non-pecuniary damage. The Court awards him EUR 7,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

234. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum.

235. Ms Novikova claimed EUR 1,500 for legal representation costs incurred before the Court. The Government argued that the applicant had submitted no documentary proof (a contract, for instance) that she had a legally enforceable obligation to pay for the lawyer's services or that she had in fact paid them. The Court agrees with the Government and dismisses the claim.

236. Mr Kirpichev and Mr Romakhin claimed EUR 6,500 and EUR 3,500 respectively for legal representation before the Court by Mr K. Terekhov. The Government contested the amounts as excessive and unnecessarily incurred because the same representative had submitted observations on similar complaints on behalf of other applicants. Regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award each applicant a sum of EUR 3,000, plus any tax that may be chargeable to the applicants. The resulting amount of EUR 6,000 should be payable as requested directly to Mr K. Terekhov.

C. Default interest

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

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the complaints under Article 10 of the Convention admissible;

3. *Holds* that there has been a violation of Article 10 of the Convention in respect of each applicant;

4. *Holds* that there is no need to examine the complaints under Article 5 of the Convention and Article 2 of Protocol No. 4 to the Convention and to make separate findings under Article 11 of the Convention;

5. *Holds*

(a) that the respondent State is to pay, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage to each of the following applicants: Ms Novikova, Mr Kirpichev and Mr Romakhin; EUR 6,000 (six thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage to Mr Savchenko;

(ii) EUR 120 (one hundred and twenty euros), plus any tax that may be chargeable, in respect of pecuniary damage to Mr Kirpichev;

(iii) EUR 6,000 (six thousand euros), plus any tax that may be chargeable to Mr Kirpichev or Mr Romakhin, in respect of costs and expenses, to be paid directly to Mr K. Terekhov;

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

6. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 26 April 2016, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips	Luis López Guerra
Registrar	President

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

L.L.G.
J.S.P.

CONCURRING OPINION OF JUDGE PASTOR VILANOVA

(Translation)

I voted in favour of finding a violation of Article 10 of the Convention in the present case, but on the basis of different reasoning from that of the other judges in the Chamber. I wish to set out briefly the reasons why I disagree with their approach.

It is well known that it is for the State to demonstrate the lawfulness of grounds justifying any interference with the exercise of a person's right to freedom of expression or freedom of assembly. Those grounds constitute a *numerus clausus* to be interpreted strictly (see, *inter alia*, *Animal Defenders International v. the United Kingdom* [GC], no. 48876/08, § 100, ECHR 2013).

The Government argued that the interference was lawful and could be justified by grounds relating to the protection of public order and national security or public safety (see paragraphs 95, 96 and 145 of the judgment).

It so happens that the judgment has attributed a different legal characterisation to the interference. After some hesitation, the Court decided to analyse the decision of the Russian authorities to put an end to the applicants' peaceful demonstrations as being based on considerations related to the "prevention of crime" (paragraphs 140, 143 and 148). However, no crime had been committed; nor had the possibility of a crime being committed even been envisaged. The wrongdoing for which the applicants were officially reproached consisted, essentially, in a failure to give prior notice to the administrative authorities that a demonstration was taking place. An administrative offence cannot, in my view, be treated as a "crime" for the purposes of Articles 10 § 2 or 11 § 2 of the Convention. The inclusion of administrative sanctions within the scope of Article 6 § 1, in view of the autonomous notion of criminal charge, stems from a completely different logic, based in particular on a concern to improve the protection of fundamental rights.

Consequently, I am of the view that the failure to carry out the formality in question could not be assimilated to a criminal offence, unless the permitted limitations to freedom of expression or freedom of assembly were to be given an extensive interpretation. I would point out that the demonstration was a peaceful one and was limited to a single individual.

In the present case, I consider, unlike the other judges, that the only reasonable ground that could have been relied on to justify the interference with the applicants' right to freedom of expression or freedom of assembly was the classical concept of the "prevention of disorder", as the respondent State itself had indeed claimed. Given that, according to the precedent of *Perinçek v. Switzerland* ([GC], no. 27510/08, §§ 146 and 153, ECHR 2015), the "prevention of disorder" concerns the risk of "riots" or "clashes", it could have been rapidly concluded that the premature termination of the demonstration constituted a disproportionate measure.