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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

EXTRACTS OF THE JUDGMENT OF THE CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION OF 14 FEBRUARY 2013 RELATING TO THE AMENDMENTS TO THE LAW ON ASSEMBLY

OF THE RUSSIAN FEDERATION

(unofficial translation)

CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION

JUDGMENT

in the case reviewing the constitutionality of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"" in connection with the request made by a group of deputies of the State Duma and the complaint lodged by Mr E.V. Savenko

Saint Petersburg, 14 February 2013

The Constitutional Court of the Russian Federation [...], in open sitting, has reviewed the constitutionality of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"".

[…]

This review was prompted by the application lodged by a group of deputies of the State Duma and the complaint lodged by Mr E.V. Savenko. The ground for examining the complaint was the uncertainty that had emerged as to whether the Federal Law challenged by the applicant conformed to the Russian Federation Constitution both on the whole in terms of the procedure of its adoption by the State Duma and as regards the content of the individual norms set out therein.

[…]

The Constitutional Court of the Russian Federation

H a s e s t a b l i s h e d a s f o l l o w s :

1. The group of deputies of the State Duma which lodged an application with the Constitutional Court of the Russian Federation under the procedure set out in Article 125 (paragraph 2 sub-paragraph "a") of the Russian Federation Constitution has challenged the constitutionality of Federal Law no. 65-FZ of 8 June 2012 "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"" in terms of the procedure of its adoption by the State Duma and as regards the content of the individual norms set out therein; the citizen E.V. Savenko, who has complained to the Constitutional Court of the Russian Federation of a violation of his constitutional rights under the procedure set out in Article 125 (paragraph 4) of the Russian Federation Constitution, has challenged the constitutionality of one of the provisions of that Federal Law, which falls within the subject matter of the application by the group of deputies of the State Duma. In the light of these circumstances, the Constitutional Court of the Russian Federation, proceeding on the basis of Article 48 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", has combined the case concerning its application, with the citizen's complaint in a single set of proceedings.

1.1. The group of deputies of the State Duma has asked the Court to declare that Federal Law no. 65-FZ of 8 June 2012 does not conform on the whole with Articles 3, 72 (sub-paragraph "j" *[‘к’ in the original Russian]* of paragraph 1), 76 (paragraph 2), 94 and 101 (paragraph 4) of the Russian Federation Constitution, […] in terms of the procedure of its adoption.

[…]

According to the applicants, the failure to comply with the requirements of the Rules of procedure of the State Duma was manifested as follows. Firstly, the corresponding draft law […] relates to acts regulating matters falling within the joint authority of the Russian Federation and constituent entities of the Russian Federation, […] and was not sent for comment to the legislative/representative and highest executive authorities of Russian Federation constituent entities, either before or after its first reading. Secondly, the concept bill, which was initially introduced by its authors and passed at its first reading as a draft federal law "Amending the Code of Administrative Infringements of the Russian Federation", underwent a fundamental revision at its second reading, as a result of which it was supplemented with provisions affecting the procedure for holding public events and thereby causing amendments to be made not only to the Code of Administrative Infringements of the Russian Federation, but also to Federal Law no. 54-FZ of 19 June 2004 "On assemblies, rallies, demonstrations, marches and picketing". Thirdly, there was a violation of the procedure for examination of a draft law by the State Duma, specifically: during the debate of amendments to the draft law at its second reading, the period of three minutes of speaking time for each amendment guaranteed to State Duma deputies who were authors of amendments in order to justify them was shortened twice (first to one minute and then to thirty seconds); at its third reading the draft law was adopted without the final text being presented to the deputies (despite the fact that the passing of a law as a whole in one day with the adoption of the bill at its second reading is permitted only if the final text is made available); as a result of the substantial shortening of timeframes for the introduction of the draft law for examination by the State Duma and the presenting of amendments to it after its adoption at the first reading (together with violations of other established timeframes), the entire legislative procedure in the State Duma took 26 days instead of the set minimum of 112 days.

In addition, the group of deputies of the State Duma claims that the following provisions of Article 1 of Federal Law no. 65-FZ of 8 June 2012, amending the Code of Administrative Infringements of the Russian Federation, and of Article 2 of that Federal Law, amending the Federal Law "On assemblies, rallies, demonstrations, marches and picketing" do not comply with Articles 19 (paragraphs 1 and 2), 31 and 55 (paragraph 3) of the Russian Federation Constitution:

paragraphs 3, 6, 7, 8, 9 and 10 of Article 1 – insofar as they provide for extreme increases in the amounts of administrative fines for infringing the established procedure for organising and holding public events, namely up to three hundred thousand roubles for citizens and up to six hundred thousand roubles for officials;

paragraphs 4, 7, 8, 9 and 10 of Article 1 – insofar as they provide for extremely lengthy (up to two hundred hours) administrative punishment in the form of compulsory community work;

paragraph 5 of Article 1 – insofar as, without good reason, it increases (up to one year) the statute of limitation for prosecution in administrative proceedings for violating the legislation on assemblies, rallies, demonstrations, marches and picketing;

paragraph 7 of Article 1 and the fourth and fifth sentences of sub-paragraph "c" *[‘ѳ’ in the original Russian]* of paragraph 1 of Article 2 – insofar as they provide for the imposing on the organiser of a public event the obligation (that is actually impossible to fulfil) to take measures to prevent the anticipated number of participants announced in the notice of the holding of the event from being exceeded and for the organiser's liability for not fulfilling this obligation, the establishment of which furthermore entails the danger that the announced number of participants in a public event may be exceeded as a result of provocations by those opposing the holding of the event;

paragraphs 7 and 8 of Article 1 and sub-paragraph "d" *['e' in the original Russian]* of paragraph 1 of Article 2 – where the organiser of a public event is made liable for damage caused by participants in it, essentially shifting onto that person the entire responsibility for any excesses during the holding of the public event without taking account of the fact that the upholding of order during assemblies, rallies, demonstrations, marches and picketing requires the special/specific knowledge, skills and powers intrinsic to police work;

paragraph 7 of Article 1, sub-paragraph "d" *['e' in the original Russian]* of paragraph 1, paragraphs 6 and 8 of Article 2 – insofar as they provide for mandatory agreement to the holding of a public event and thereby, in essence, introduce a procedure for giving permission for the exercise of the right to organise and hold assemblies, rallies, demonstrations, marches and picketing;

sub-paragraph "a" of paragraph 1 of Article 2 – insofar as it establishes a ban on organising public events on an individual who has been prosecuted in an administrative court on two or more occasions for administrative infringements, related to the organisation and holding of public events;

paragraph 3 of Article 2 – regarding the regulation of picketing carried out by a single participant, whose excessive nature may result in the elimination of this form of exercising the right to freedom of peaceful assembly;

sub-paragraph "a" of paragraph 4 of Article 2 – insofar as, in empowering the executive authorities of Russian Federation constituent entities to define specially designated places for the holding of public events, it refers to neither the type of corresponding legal/regulatory act nor the criteria that must guide the executive authorities in adopting such an act, which opens up broad scope for the further substantial restriction of the right to freedom of peaceful assembly at the level of Russian Federation constituent entities.

Regarding a number of provisions of Federal Law no. 65-FZ of 8 June 2012, which, according to the authors of the application, fail to specify for which violations of the established procedure for organising or holding a public event its organiser may be prosecuted in an administrative court (paragraph 7 of Article 1), contain no criteria for distinguishing between compulsory community work as a form of administrative punishment and compulsory labour given as punishment in accordance with the Criminal Code of the Russian Federation for the committing of a crime, do not reveal the content of the notions of "repeated refusal to carry out community service" and "repeated failure by that person to report for community service without legitimate reasons", do not determine a mechanism for agreeing on the list of organisations in which persons subjected to community service for the committing of administrative infringements are to serve that type of administrative punishment (paragraph 17 of Article 1), the applicants believe that these provisions must be reviewed to establish whether they conform to the requirements - flowing from the principles of the rule of law, equality, justice and the supremacy of law - of certainty, clarity and consistency of a legal norm and its coherency with the system of applicable legal regulation (Article 4 paragraph 2; Article 15 paragraph 1 and 4; Article 19 paragraph 1 of the Russian Federation Constitution).

Whereas paragraph 7 of Article 1 of Federal Law no. 65-FZ of 8 June 2012 and, accordingly, Article 20.2 of the Code of Administrative Infringements of the Russian Federation contained therein, where they provide for administrative liability for infringing the established procedure for organising or holding assemblies, rallies, demonstrations, marches and picketing, are of a blanket nature, the degree of certainty contained in their concepts must be assessed, as the Constitutional Court of the Russian Federation has repeatedly pointed out, on the basis not only of the text of the law itself which uses these formulations but also of their place within the system of normative prescription; regulatory norms directly enshrining given rules of conduct need not be set out in the same legal/regulatory act as the norms establishing legal liability for their violation (Judgment no. 9-P of 27 May 2003, Rulings

no. 122-O of 21 April 2005, no. 1486-O-O of 1 December 2009, no. 1253-O of 28 June 2012 and others).

Since it clearly follows from the content of Articles 1 and 3 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing" in conjunction with other provisions in it that the procedure for organising and holding the public events mentioned in it is established by the said Federal Law and other legislative acts of the Russian Federation relating to the guaranteeing of the right to hold assemblies, rallies, demonstrations, marches and picketing, and in the cases it provides for by legal/regulatory acts issued by the President of the Russian Federation (paragraph 4 of Article 8), the Russian Federation Government (paragraph 1 of Article 11) and state authorities of Russian Federation constituent entities (paragraph 2 of Article 7, paragraphs 1^1, 2^2, 3 and 3^1 of Article 8 and paragraph 1 of Article 11), the Constitutional Court of the Russian Federation does not perceive uncertainty in the question of the constitutionality of paragraph 7 of Article 1 of Federal Law no. 65-FZ of 8 June 2012 in connection with the aspect referred to by the applicants and, consequently, the proceedings regarding the application, where this aspect is concerned should be dismissed, pursuant to the inter-linked provisions of the second paragraph of Article 36 and sub-paragraph 2 of the first paragraph of Article 43 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation".

[…]

1.2. Mr E.V. Savenko has challenged the constitutionality of sub-paragraph "a" of paragraph 1 of Article 2 of Federal Law no. 65-FZ of 8 June 2012, supplementing paragraph 2 of Article 5 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing" with a sub-paragraph 1^1, according to which a person with an unquashed or outstanding conviction for the committing of a premeditated crime against the fundaments of the constitutional structure and security of the State or a crime against public safety and public order or having been prosecuted under administrative law on two or more occasions for administrative infringements provided for in Articles 5.38, 19.3, 20.1–20.3, 20.18, 20.29 of the Code of Administrative Infringements of the Russian Federation, during a period when that person is considered subject to administrative punishment, may not be an organiser of a public event.

[…]

On the basis of the requirements set out in Articles 36, 37, 74, 84, 85, 96 and 97 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", the subject for examination by the Constitutional Court of the Russian Federation in the present case is Federal Law no. 65-FZ of 8 June 2012 "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"" as a whole, as regards the conformity with the Russian Federation Constitution of the procedure of its adoption by the State Duma, and also the following provisions of that Federal Law:

sub-paragraph "a" of paragraph 1 of Article 2, banning a person having been prosecuted under administrative law on two or more occasions for administrative infringements provided for in Articles 5.38, 19.3, 20.1–20.3, 20.18 and 20.29 of the Code of Administrative Infringements of the Russian Federation, during a period when that person is considered subject to administrative punishment, from being an organiser of a public event;

paragraph 6 of Article 2, permitting prior promotion of an event from the time of agreement with the executive authority of the Russian Federation constituent entity or the local authority on the place and/or time for holding the public event;

paragraph 7 of Article 1 and the fourth and fifth sentences of sub-paragraph "c" *['e' in the original Russian]* of paragraph 1 of Article 2 – insofar as they impose on the organiser of a public event the obligation to take measures to prevent the number of participants announced in the notice of the holding of the event from being exceeded, where exceeding

that number of participants creates a threat to public order and/or public safety, the safety of the participants in the public event or other persons or a risk of damage to property, and provide for the administrative liability of the organiser of a public event for failing to fulfil this obligation;

sub-paragraph "d" *[‘a’ in the original Russian]* of paragraph 1 of Article 2, establishing the liability under civil law of the organiser of a public event in the event of their failure to fulfil the obligations provided for in law for the damage caused by participants in that public event;

paragraph 3 of Article 2, allowing the possibility of the sum total of picketing actions carried out by a single participant united by a single concept and overall organisation to be declared by decision of the court in a specific civil, administrative or criminal case as a public event;

sub-paragraph "a" of paragraph 4 of Article 2, empowering the executive authorities of Russian Federation constituent entities to define specially designated places for the holding of public events;

paragraphs 3, 6, 7, 8, 9 and 10 of Article 1 – where these provide for the imposition of an administrative fine on citizens of up to three hundred thousand roubles and on officials of up to six hundred thousand roubles for a violation of the established procedure for organising or holding a public event or organising another mass event that is not a public event, resulting in a breach of public order;

paragraphs 4, 7, 8, 9 and 10 of Article 1 – where these establish the possibility of imposing community work as a form of administrative punishment for administrative infringements and determine the periods for which it is assigned;

paragraph 5 of Article 1, where it establishes the statute of limitation for prosecution in administrative proceedings for violating the legislation on assemblies, rallies, demonstrations, marches and picketing;

paragraphs 7 and 8 of Article 1, where these make the organisers of public events liable under administrative law for a violation of the established procedure for organising or holding a public event resulting in harm to human health or property or for organising another mass event resulting in a breach of public order.

The constitutionality of the aforementioned law provisions are not challenged by the applicants in other aspects and, accordingly, will not be reviewed by the Constitutional Court of the Russian Federation from that viewpoint in the present case.

2. The right of Russian Federation citizens enshrined in Article 31 of the Russian Federation Constitution to assemble peacefully, without weapons, and hold rallies, meetings and demonstrations, marches and pickets is one of the fundamental and inalienable elements of the legal status of a person in the Russian Federation as a democratic State ruled by law and is among the recognised fundaments of the constitutional structure that include ideological and political pluralism and a multi-party system, and the State bears an obligation to guarantee protection, including judicial protection, for human and civil rights and freedoms (Article 1 paragraph 1; Article 2; Article 13 paragraphs 1 and 3; Article 45 paragraph 1; Article 46 paragraphs 1 and 2; Article 64 of the Russian Federation Constitution). In conjunction with other rights and freedoms guaranteed under the Russian Federation Constitution, above all by its Articles 29, 30, 32 and 33, this constitutional right guarantees citizens the real possibility of influencing the action of public authorities through the holding of public events (assemblies, rallies, demonstrations, marches and picketing) and thereby fostering sustained peaceful dialogue between civil society and the State. This does not rule out public events along the lines of protests, which may be expressed in criticism both of individual actions and decisions of state and local authorities and of policies pursued by them on the whole. Accordingly, it is to be expected that the reaction of a public authority to the organisation and holding of assemblies, rallies, demonstrations, marches and picketing

must be neutral and in all cases - irrespectively of the political views of their initiators and participants – geared to ensuring conditions (in terms of both legislative regulation and law-enforcement activities) for the lawful exercise by citizens and associations thereof of their right to freedom of peaceful assembly, including through the devising of clear rules for the organisation and holding of such events that do not extend beyond the framework of admissible restrictions of citizens' rights and freedoms within a democratic society ruled by law.

As the Constitutional Court of the Russian Federation pointed out in Judgment no. 12-P of 18 May 2012, on the basis of the aim of establishing civil peace and accord proclaimed in the Russian Federation Constitution and considering that, by their nature, public events (assemblies, rallies, demonstrations, marches and picketing) may impinge on the rights and lawful interests of a broad spectrum of people – both participants in public events and persons not directly participating in them – the guarantee of state protection is afforded only to the right to hold peaceful public events, which may nevertheless be restricted by federal law in accordance with criteria predetermined by the requirements of Article 17 (paragraph 3), 19 (paragraphs 1 and 2) and 55 (paragraph 3) of the Russian Federation Constitution, on the basis of the principle of legal equality and of the principle of proportionality flowing therefrom, ie to the extent necessary for the protection of the fundaments of the constitutional structure, morality, health, the rights and lawful interests of others, national defence and state security.

This approach is in line with the universally recognised principles and standards of international law, including those enshrined in the Universal Declaration of human rights, in which Article 20 paragraph 1 states that everyone has the right to freedom of peaceful assembly and association, and the International Covenant on civil and political rights, whose Article 21, recognising the right of peaceful assembly, permits the imposing of well-founded restrictions on that right in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

The right to freedom of peaceful assembly is also defined in Article 11 of the Convention for the protection of human rights and fundamental freedoms as not being subject to any restrictions other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. The European Court of Human Rights proceeds, in its practice, on the basis that, in a democratic society, freedom of assembly is a fundamental right and, alongside the freedom of thought, conscience and religion, constitutes the basis of such a society (judgments of 25 May 1993 in the case of "Kokkinakis v. Greece", of 20 February 2003 in the case of "Djavit An v. Turkey", of 23 October 2008 in the case of "Sergey Kuznetsov v. Russia" and others); it relates to both closed and public assemblies and applies equally to assemblies in a defined location and public processions and may be exercised by the individual participants and organisers (judgment of 31 March 2005 in the case of "Adalı v. Turkey"); the State, in turn, must refrain from applying arbitrary measures capable of interfering with the right to assemble peacefully (judgment of 26 July 2007 in the case of "Barankevich v. Russia"); moreover, it is important that public authorities show a degree of tolerance towards peaceful assemblies even when they may cause some disruption of day-to-day life, including hindrance to road traffic, since the freedom of assembly would otherwise be made devoid of substance (judgments of 15 November 2007 in the case of "Galstyan v. Armenia", of 17 May 2011 in the case of "Akgol and Gol v. Turkey", of 10 July 2012 in the case of "Berladir and others v. Russia" and others).

Interference by public authorities with the freedom of peaceful assembly, unless it is “prescribed by law”, has one or more lawful aims that are listed in Article 11 of the Convention for the protection of human rights and fundamental freedoms and is “necessary in a democratic society” to achieve such an aim or aims is regarded by the European Court

of Human Rights as a violation of that article (judgment of 14 February 2006 in the case of "Christian Democratic People's Party v. Moldova"); moreover, real respect of the freedom of assembly may not be reduced to an obligation of non-interference in its exercise on the part of the State, – there may in addition be positive obligations to secure the effective enjoyment of these rights, which takes on particular significance for persons supporting unpopular views or belonging to minorities (judgments of 2 July 2002 in the case of "Wilson, National Union of Journalists and others v. the United Kingdom"), of 20 October 2005 in the case of "Ouranio Toxo [political party] and others v. Greece" and of 21 October 2010 in the case of "Alekseyev v. Russia").

[…]

To these ends, the federal legislator, exercising the power entrusted to it by the Russian Federation Constitution to regulate and protect human and civil rights and freedoms (Article 71, paragraphs "c", "l" *['в', 'м' in the original Russian]*; Article 72, sub-paragraph "b" *['б' in the original Russian]* of paragraph 1; Article 76, paragraphs 1 and 2), has established in the Federal Law "On assemblies, rallies, demonstrations, marches and picketing" a procedure for organising and holding such public events. The additions and refinements made to the procedure by Federal Law no. 65-FZ of 8 June 2012 are aimed, as follows from the explanatory memorandum to the draft of that federal law, at striking the necessary balance between the rights and interests of the organisers and participants of public events on the one hand, and of citizens who, as a result of such events being held, experience difficulties in exercising their own constitutional rights on the other hand.

2.1. Sub-paragraph "a" of paragraph 1 of Article 2 of Federal Law no. 65-FZ of 8 June 2012 supplements paragraph 2 of Article 5 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing" with a paragraph 1^1, stipulating that a person with an unquashed or outstanding conviction for the committing of a premeditated crime against the fundaments of the constitutional structure and security of the State or a crime against public safety and public order or having been prosecuted under administrative law on two or more occasions for administrative infringements provided for in Articles 5.38, 19.3, 20.1–20.3, 20.18, 20.29 of the Code of Administrative Infringements of the Russian Federation, during a period when that person is considered as being subject to administrative punishment, may not be an organiser of a public event.

[…]

Neither in the aims pursued nor in the content of the restrictions introduced does the legal regulation established by sub-paragraph "a" of paragraph 1 of Article 2 of Federal Law no. 65-FZ of 8 June 2012 encroach upon the very essence of the right to freedom of peaceful assembly, as it does not create insurmountable barriers to the organisation and holding of a public event and does not hinder participation in it by a citizen in respect of whom such a ban is imposed: a citizen in this situation is restricted only in their right to be the organiser of a public event, and only for a defined period; they are not deprived of the right to take part in public events and retain the possibility of requesting other citizens and also political parties, other public associations and religious associations, their regional branches and other structural sub-divisions to organise such events; they are not prohibited from providing assistance to the organisers of public events, including the performing of administrative/stewardship functions, in the capacity of persons authorised by the organiser, relating to the organisation and holding of a public event, as provided for in sub-paragraph 3 of paragraph 3 of Article 5 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing".

Moreover, Article 1 (paragraph 1), 2, 17 (paragraphs 1 and 2), 18 and 55 (paragraph 3) of the Russian Federation Constitution, establishing the obligation to proceed on the basis of an interpretation of a norm that is the least restrictive of the rights and lawful interests of citizens, and Article 4.6 of the Code of Administrative Infringements of the Russian Federation, stipulating that a person receiving administrative punishment for committing an administrative infringement shall be considered as being subject to that punishment for the period of one year from the date of completion of execution of the order imposing it, exclude any interpretation or application of the law provision under consideration that does not attach importance either to the time interval between the first and the next instances of prosecution under administrative law or to the outcome of the administrative prosecution – irrespectively of how it ended: imposing of administrative punishment, dismissal of administrative infringement proceedings, including as a result of expiry of the statute of limitation for administrative prosecution, discharging of the individual having committed the administrative infringement from administrative liability with a verbal warning.

[…]

Accordingly, the provision of sub-paragraph "a" of paragraph 1 of Article 2 of Federal Law no. 65-FZ of 8 June 2012, banning a person having been prosecuted under administrative law on two or more occasions for administrative infringements provided for in Articles 5.38, 19.3, 20.1–20.3, 20.18, 20.29 of the Code of Administrative Infringements of the Russian Federation, during a period when that person is considered as being subject to administrative punishment, from being an organiser of a public event is not contrary to the Russian Federation Constitution since, according to its constitutional law meaning within the system of applicable legal regulation, it means that the aforementioned prohibition may be imposed only in a case where a repeat administrative prosecution of that person for the corresponding administrative infringement has occurred within a period for which administrative punishment is applicable for an administrative infringement previously committed by them and has resulted in the imposing of administrative punishment, and only for the period during which the person in question is considered to be subject to administrative punishment, […]

2.2. Paragraph 6 of Article 2 of Federal Law no. 65-FZ of 8 June 2012 makes an amendment to paragraph 1 of Article 10 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing", under which unimpeded prior promotion of a public event shall be permitted from the time of agreement with the executive authority of the Russian Federation constituent entity or the local authority on the place and/or time for holding the public event, and not from the time of submitting notice of the holding of the event, as was previously the case.

[…]

Imposing an obligation on the organiser of a public event to submit prior notice of the holding of the public event pursues the aim of timely provision of necessary information to the public authorities concerned on the form, place/route to be taken and start and end times of the public event, the anticipated number of participants, the means/methods of ensuring public order and organising medical assistance, and also on the organisers and persons authorised to fulfil administrative/stewardship functions for the organising and holding of the public event. Were this not to be the case, the public authorities, not having a full picture of the planned public event, its nature and scale, would have no real possibility of fulfilling the obligation placed on them by the Russian Federation Constitution (above all by Article 2) to observe and protect human and civil rights and freedoms and then take the necessary measures, including preventive and organisational measures, aimed at ensuring safe

conditions for the holding of the public event, both for the participants in the event and for other people.

In the opinion of the European Court of Human Rights, a notification (and even authorisation) procedure for organising a public event does not usually encroach on the substance of the right to freedom of assembly and is not incompatible with Article 11 of the Convention for the protection of human rights and fundamental freedoms; not only does it make it possible to reconcile this right, in particular, with the right of free movement and the lawful interests of other persons, but it also serves to prevent public disorder and crime, as well as enabling the authorities to take reasonable and expedient measures to ensure the proper holding of any assembly, rally or other event of a political, cultural or other nature;

[…]

Where consent to a public event is concerned, the authorised representatives of the public authorities must present a strong case for justifying that the holding of the public event in the announced location and/or at the announced time is not merely undesirable but impossible in the light of the necessity of protecting constitutionally recognised values and propose to the organisers of the public event an alternative that would make it possible to achieve its aims, including the free formulation and expression by participants in the public event of their demands, including political demands, and the conveying of those demands to the addressees concerned. The organisers of the public event, in turn, must make reasonable and sufficient efforts to strike a possible compromise on the basis of a balancing of interests enabling them to exercise their constitutional right to freedom of peaceful assembly.

[…]

In the event of failure to reach agreement with the executive authorities of a Russian Federation constituent entity or the local authorities on the place and/or time for holding a public event, the organisers of the public event are entitled to defend their rights in judicial proceedings. In settling such a dispute, the court, proceeding on the basis of the criteria laid down in Article 55 (paragraph 3) of the Russian Federation Constitution, assesses the corresponding decisions and actions of the public authority from the viewpoint of their lawfulness and well-foundedness, in order to rule out any disproportionate restrictions in each specific case of the rights guaranteed by Article 31 of the Russian Federation Constitution; in this process, the judicial examination must be carried out on the basis of the applicable procedural legislation within the shortest possible time, as provided for the examination of disputes in the sphere of electoral rights, ie before the planned date for holding the public event. If not, judicial protection would largely lose its sense, which would not be permissible under Article 46 of the Russian Federation Constitution (Ruling no. 484-O-P of the Constitutional Court of the Russian Federation of 2 April 2009).

[…]

The linkage of the beginning of the event promotion period with the agreement of the public event, and not with the submitting of notice of its holding, as was previously the case prior to the entry into force of the federal law in question, is not tantamount to establishing a procedure for authorising Russian Federation citizens to exercise the rights guaranteed to them by Article 31 of the Russian Federation Constitution. The change introduced by the federal legislator is due to the fact that until the place and/or time for holding public events such as rallies, demonstrations, marches or picketing by a group of people, no information on them may be considered as being complete and definitively reliable – besides the fact that, after notice has been submitted to an executive authority of the Russian Federation constituent entity or a local authority, the possibility cannot be ruled out that the organiser

decides not to hold the public event, which places that person under obligation to take measures to curtail prior promotion and inform the interested parties of the decision taken (paragraph 5 of Article 10 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"), – hence, the dissemination of calls to take part in an event whose place and time have not yet been authorised may mislead citizens and their associations. That said, in cases where the holding of public events does not require the submitting of notice and, consequently, agreement either (paragraph 1^1 of Article 7 and paragraph 1^1 of Article 8 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"), their organisers are entitled to commence prior promotion of the event at any time convenient to them.

Permitting prior promotion of a public event following agreement with the corresponding public authority on its place and/or time does not mean that, prior to that time, the organiser of a public event is not entitled to disseminate any information on it whatsoever: Article 4 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing" does not rule out informing potential participants of a public event – both before and after the corresponding notice is submitted to an executive authority of the Russian Federation or a local authority. Informing potential participants of a public event – as distinct from prior promotion of an event, which, within the meaning of the legal viewpoint expressed by the Constitutional Court of the Russian Federation in Judgment no. 15-P of 30 October 2003, pursues the aim of inciting citizens and their associations to take part in the public event, – enables its organisers to provide timely information to potential public event participants on a planned rally, demonstration, march or picketing and also, where necessary, on the process of its agreement. In providing such early warning, the organiser of a public event is entitled to disseminate information through any means on the aims, form and announced place and time of the event, the anticipated number of participants and other details of the public event; however, that information must not contain invitations or incitements to take part in it.

Consequently, – taking account of the fact that, once the public event is agreed, prior promotion of it may be carried out through the media, verbal calls, the distribution of leaflets, posters and notices, and also through the use of any forms of promotion not prohibited by Russian Federation legislation, and, as a result, the organisers of a public event have virtually unlimited possibilities to disseminate information on the place and time of its holding in order to draw public attention to the public event and incite citizens/associations thereof to take part in it, – the federal legislator, when amending legal regulation concerning the beginning of the period when unimpeded prior promotion of a public event may take place, did not exceed its discretionary powers defined by the Russian Federation Constitution, including its Articles 17 (paragraph 3), 29 (paragraph 4), 31 and 55 (paragraph 3).

[…]

2.3. The constitutionality of the provisions of paragraph 7 of Article 1 and the fourth and fifth sentences of sub-paragraph "c" *['в ' in the original Russian]* of paragraph 1 of Article 2 of Federal Law no. 65-FZ of 8 June 2012 is called into question by the group of deputies of the State Duma insofar as it provides for an obligation imposed on the organiser of a public event to take steps to prevent the number of participants announced in the notice of the holding of a public event being exceeded and establishes liability under administrative law for the failure to do so.

[…]

Under the principle of presumption of innocence flowing from Article 49 of the Russian Federation Constitution, a mandatory condition for the administrative prosecution of an organiser of a public event as a result of the number of participants announced in the notice of the holding of a public event being exceeded is that that person is directly at fault for the anticipated number of public event participants being exceeded. Moreover – since the individual being prosecuted under administrative law is not bound to prove their innocence, whereas irremediable doubt as to their guilt must be interpreted in their favour – when resolving the question of whether to apply administrative sanctions to the organiser of a public event, special attention must be devoted to clarifying what objective possibility that person had of correctly estimating what the real number of participants in the public event would be. Besides this, prosecuting the organiser of a public event under administrative law for their failure to fulfil the aforementioned obligation does not rule out legal appraisal of their actions/failure to act and of the decisions of the authorised representatives of the executive authority of the Russian Federation constituent entity or local authority or internal affairs authority, including as regards their responsibility for not properly executing their duties to provide assistance to the organiser of the public event and ensure public order and safety during the holding of the event.

On this basis, the provisions of paragraph 7 of Article 1 and the fourth and fifth sentences of sub-paragraph "c" *['e ' in the original Russian]* of paragraph 1 of Article 2 of Federal Law no. 65-FZ of 8 June 2012, in imposing an obligation on the organiser of a public event to take steps to prevent the number of participants announced in the notice of the holding of a public event being exceeded, where exceeding that number of participants creates a threat to public order and/or public safety, the safety of the participants in the public event or other persons or a risk of damage to property, and establishing the liability of the organiser of the public event under administrative law for the failure to do so, do not contravene the Russian Federation Constitution.

[…]

2.4. Sub-paragraph "d" *['e' in the original Russian]* of paragraph 1 of Article 2 of Federal Law no. 65-FZ of 8 June 2012 supplements Article 5 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing" with a paragraph 6, according to which, in the event of failure by an organiser of a public event to fulfil the obligations provided for in paragraph 4 of that Article, they shall bear liability under civil law for the damage caused by participants in that public event. Such damage shall be compensated for under civil law proceedings.

[…]

The Russian Federation Constitution, directly establishing the principle of guilt in relation to criminal liability (Article 49) and stipulating that no one may bear liability for an action which was not regarded as a crime when it was committed (Article 54 paragraph 2), at the same time does not rule out the possibility of prosecuting physical individuals and corporate entities under civil law for the actions/failure to act of other people. In implementing the corresponding legal regulation, the federal legislator is bound by the criteria flowing from Article 1 (paragraph 1), 19 (paragraph 1) and 55 (paragraph 3) of the Russian Federation Constitution of well-foundedness, proportionality, adequacy and fairness of restrictions introduced on citizens' rights and freedoms, including the legally protected right of property (Article 35 paragraph 1 of the Russian Federation Constitution), as well as by the requirements of Protocol no. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, whose Article 1, recognising the right of every natural or legal person to the peaceful enjoyment of their possessions, proceeds on the basis that no one

may be deprived of their possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

[…]

The right to freedom of peaceful assembly, being a universally recognised democratic value, needs special protection, as it is through this means that the opinions and demands of diverse political forces and public groups are formed and expressed and that the necessary prerequisites are created for a two-way relationship between citizens (and associations thereof) and public authority institutions. For that reason – even taking into account the fact that the exercise of that right is objectively linked with obvious risks, substantially more likely to be materialised in the event of organisers of public events failing to fulfil their obligations – the State must not, despite the preventive aims pursued, introduce sanctions for damage caused by the participants in a public event that would knowingly place the organiser in the position of a party bearing civil liability for the actions of other persons regardless of the presence (or absence) of the organiser's guilt in causing damage.

[…]

The European Court of Human Rights has repeatedly stressed in its judgments that the freedom to participate in peaceful assembly is of such importance that persons may not be subjected to punishment, even of the mildest form, for participating in a public event that was not banned, provided that they themselves did not commit any reprehensible actions; specific individuals taking part in such events must bear responsibility for their own actions (judgments of 26 April 1991 in the case of "Ezelin v. France and of 23 October 2008 in the case of "Sergey Kuznetsov v. Russia"). The inadmissibility of engaging the liability of organisers of public events for the actions of others, including actions causing damage to property, is also a matter considered in the OSCE/ODIHR – Venice Commission Guidelines on Freedom of Peaceful Assembly (adopted by the Venice Commission on 4 June 2010), according to which organisers should not be liable for the actions of individual participants or for the actions of non-participants or agents provocateurs. Instead, there should be individual liability for any individual who personally commits an offence (paragraph 5.7); organisers should not be liable for the actions of individual participants or of stewards, who must bear individual liability if they commit an offence or fail to carry out the lawful directions of law-enforcement officials (paragraph 197); if an assembly degenerates into serious public disorder it is the responsibility of the State – not the organisers or event stewards – to limit the damage caused. In no circumstances should the organisers of a lawful and peaceful assembly be held liable for disruption caused to others (paragraph 198).

Making the organiser of the public event bear civil liability for the damage caused by a participant in that public event in essence places the organiser under obligation to indemnify the damage even when the causing of the damage was not linked to the actions/failure to act of the event organiser himself. Accordingly, already at the time of submitting notice of the holding of the event, the organiser has a choice – either to take upon himself the obligation to indemnify any damage that may be caused by participants in the public event or to refrain from exercising the right guaranteed to him by Article 31 of the Russian Federation Constitution, which not only is incompatible with the universally recognised democratic standards of freedom of peaceful assembly but also does not conform to the general principles of legal liability, including fairness, adequacy and proportionality, as it essentially has a deterrent effect on the exercise of the right to freedom of peaceful assembly and results in the unjustified restriction of the property rights of persons who are organisers of public events.

[…]

2.5. Sub-paragraph 3 of Article 2 of Federal Law no. 65-FZ of 8 June 2012 supplements Article 7 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing" with a paragraph 1^1, stating that notice of picketing carried out by a single participant shall not be required. The minimum permissible distance between persons carrying out such picketing shall be determined by a law of the Russian Federation constituent entity concerned. That minimum distance may not be more than fifty metres. The sum total of picketing actions carried out by a single participant united by a single concept and overall organisation may be declared by decision of the court in a specific civil, administrative or criminal case as a public event.

The stipulation in the aforementioned legal provisions that notice of picketing carried out by a single participant does not require prior notice to be given to an executive authority of a Russian Federation constituent entity or local authority merely duplicates the prescription in paragraph 1 of Article 7 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing", from which it follows that the organiser of such picketing is not under obligation to submit notice thereof, and, as such, not only does it not prevent the organisation of one-person pickets but it also allows them to be carried out, without any interference whatsoever by the State, in any place and at any time, unless otherwise expressly provided by law.

[…]

Accordingly, the provisions of paragraph 3 of Article 2 of Federal Law no. 65-FZ of 8 June 2012, establishing the requirement for persons carrying out one-person pickets to observe a minimum permissible distance between them and providing for the possibility declaring the sum total of picketing actions carried out by a single participant united by a single concept and overall organisation, by decision of the court in a specific civil, administrative or criminal case, as a public event are not contrary to the Russian Federation Constitution, since – in their constitutional law meaning within the system of applicable legal regulation – they are intended to prevent abuses of the right not to notify the public authorities of the holding of a one-person picket, 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.

2.6. Sub-paragraph "a" of paragraph 4 of Article 2 of Federal Law no. 65-FZ of 8 June 2012 supplements Article 8 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing" with a paragraph 1^1, stipulating that the executive authorities of the Russian Federation constituent entities concerned shall determine common sites specially designated or adapted for collective discussion of publicly significant questions and the expression of public sentiment and also for mass gatherings of citizens for the public expression of public opinion on topical issues of a primarily socio-political nature (hereinafter – specially designated sites). The procedure for using specially designated sites and the norms for their maximum capacity and the maximum number of people participating in public events for which notice is not required shall be established by a law of the Russian Federation constituent entity concerned, whereupon the aforementioned maximum number of participants may not be fewer than one hundred people.

The possibility of assigning this power to executive authorities of Russian Federation constituent entities derives from the Russian Federation Constitution, Article 72 (sub-paragraph "b" *['6' in the original Russian]* of paragraph 1), assigning the protection of human and civil rights and freedoms and also the ensuring of lawfulness, law and order and public security to the joint jurisdiction of the Russian Federation and its constituent entities, and Article 76 (paragraph 2), which infers that Russian Federation constituent entities are entitled

to adopt their own laws – corresponding to federal laws - and other legal/regulatory acts governing matters within that joint jurisdiction. As the Constitutional Court of the Russian Federation has repeatedly pointed out, in this manner the constituent entities of the Russian Federation have the possibility, alongside the fundamental guarantees of civil rights established in federal law, of establishing additional guarantees of those rights in their own law or other legal/regulatory acts intended to further specify them and create additional mechanisms for their exercise, taking account of regional characteristics/conditions and with due regard for constitutional requirements that the laws of Russian Federation constituent entities must not be contrary to federal laws and that civil and human rights and freedoms must not be restricted in other ways than they are in federal law; in all cases, when implementing such regulation, the legislator of a Russian Federation constituent entity must not introduce procedures and conditions that distort the very essence of a given constitutional right or reduce the level of their federal guarantees, established on the basis of the Russian Federation Constitution by federal laws; nor may they introduce any restrictions whatsoever of constitutional rights and freedoms, as such restrictions – for the purposes and within the limits defined by the Russian Federation Constitution – may be established solely by the federal legislator (Judgments no. 15-P of 21 June 1996, no. 19-P of 18 July 2012 and others).

[…]

Accordingly, sub-paragraph "a" of paragraph 4 of Article 2 of Federal Law no. 65-FZ of 8 June 2012, in assigning powers to executive authorities of Russian Federation constituent entities to determine common sites specially designated or adapted for the holding of public events, does not conform to the Russian Federation Constitution, its Articles 19 (paragraphs 1 and 2), 31 and 55 (paragraph 3), in that they do not – despite the requirements flowing from the Russian Federation Constitution of certainty, clarity and non-ambiguity of legal regulation – establish statutory criteria guaranteeing observance of equal legal conditions for citizens' exercise of their rights to freedom of peaceful assembly in the determining by executive authorities of Russian Federation constituent entities of sites specially designated or adapted for the holding of public events, giving rise to the possibility of differing interpretations and, consequently, arbitrary application.

The federal legislator should – proceeding on the basis of the requirements of the Russian Federation Constitution and taking due account of the present Judgment – make the necessary amendments to the legal regulation of the determination of specially designated sites. Pending the introduction of the corresponding amendments to the system of legal regulation, when determining specially designated sites for the holding of public events the executive authorities of a Russian Federation constituent entity must take as a premise the necessity of such sites in at least every urban district and municipal district.

3. When determining the procedure for the exercise by citizens and associations thereof of the right to freely hold assemblies, rallies, demonstrations, marches and pickets, the federal legislator, as follows from Articles 15 (paragraph 2), 31, 55 (paragraph 3), 71 (paragraphs "c", "l" *['е', 'м' in the original Russian]*), 72 (sub-paragraphs "b", "j" *['б', 'к' in the original Russian]* of paragraph 1) and 76 (paragraphs 1 and 2) of the Russian Federation Constitution taken in conjunction, is entitled to stipulate administrative liability for infringing the rules for organising and holding public events, following in that process the general principles of legal liability, which have constitutional significance and, through their substance, form part of the fundaments of the constitutional order.

[…]

When establishing and amending the constituent elements of administrative infringements and measures of liability for committing them, the federal legislator is bound by the criteria flowing from Article 55 (paragraph 3) of the Russian Federation Constitution of

necessity, proportionality and adequacy of restrictions placed on citizens' rights and freedoms to constitutionally significant purposes, and is also bound to observe the equality of all before the law guaranteed by Article 19 (paragraph 1) of the Russian Federation Constitution, meaning that any administrative infringement and also the sanctions for committing it must be clearly defined in the law, moreover in such a way that, proceeding directly from the text of the corresponding norm – where necessary with the help of the interpretation given to it by courts – everyone is able to foresee the administrative law consequences of their actions/failure to act. Otherwise, contradictory practices in applying the law might arise, weakening guarantees of state protection of the rights, freedoms and lawful interests of citizens from arbitrary prosecution and punishment.

[…]

3.1. The constitutionality of the inter-related provisions of paragraphs 3, 6, 7, 8, 9 and 10 of Article 1 of Federal Law no. 65-FZ of 8 June 2012 is challenged on the lines that the amendments introduced by them to the Code of Administrative Infringements of the Russian Federation increase the amounts of administrative fines for administrative infringements linked to the organisation and holding of public events or other mass events resulting in breaches of public order, up to three hundred thousand roubles for citizens and up to six hundred thousand roubles for officials.

[…]

The introduction of increased scales of administrative fines for administrative infringements linked to the organisation and holding of public events or other mass events resulting in breaches of public order does not mean that the maximum amounts must always be applied whenever the corresponding administrative infringement has caused damage to human health or property or the onset of other consequences indicated in Articles 20.2 and 20.2^2 of the Code of Administrative Infringements of the Russian Federation.

[…]

The situation is different as regards the minimum amount of the administrative fine for breaching the procedure for organising or holding assemblies, rallies, demonstrations, marches and picketing or organising other mass events resulting in a breach of public order: for citizens it is in any case higher than five thousand roubles and amounts to between ten thousand roubles (Article 5.38, paragraphs 1 and 5 of Article 20.2, paragraph 1 of Article 20.2^2 of the Code of Administrative Infringements of the Russian Federation) and one hundred and fifty thousand roubles (paragraphs 6 and 7 of Article 20.2, paragraph 2 of Article 20.2^2 of the Code of Administrative Infringements of the Russian Federation); where officials are concerned, the minimum amount of the administrative fine applicable to them for separate types of violation of the established procedure for organising or holding public events or organising other mass events resulting in a breach of public order may either amount to fifty thousand roubles (paragraph 3 of Article 20.2 and paragraph 1 of Article 20.2^2 of the Code of Administrative Infringements of the Russian Federation) or be higher and amount to between one hundred and fifty thousand roubles (Article 20.18 of the Code of Administrative Infringements of the Russian Federation) and three hundred thousand roubles (paragraph 2 of Article 20.2^2 of the Code of Administrative Infringements of the Russian Federation).

Such legislative regulation in practice results in the minimum amount of administrative fines for administrative infringements linked to the organisation and holding of public events or other mass events resulting in breaches of public order being established either at the level of the maximum amount provided for in the Code of Administrative Infringements of the Russian Federation (paragraph 1 of Article 3.5) for all other administrative infringements or many times higher. As a result, when even the minimum possible amount of the

administrative fine for the aforementioned administrative infringements is applied, citizens and officials have to bear financial losses that frequently exceed their average monthly wage.

[…]

On the strength of this, with no possibility of determining an amount lower than the lowest limit established for the corresponding administrative infringement when imposing an administrative fine on an individual having committed an administrative infringement provided for in Articles 5.38, 20.2, 20.2^2 or 20.18 of the Code of Administrative Infringements of the Russian Federation, judges are obliged to proceed on the basis of the minimum possible amount of the sanction which for citizens amounts to ten thousand roubles and for officials to fifty thousand roubles. In such a situation, the application of an administrative fine for breaching the procedure for organising or holding public events or organising other mass events resulting in a breach of public order does not make it possible in all cases to fully take into account all the circumstances of essence to the individualisation of administrative liability, characterised by both the administrative infringement itself and by the personality of the offender, and thereby – within the meaning of the legal position formulated by the Constitutional Court of the Russian Federation in its Judgment no. 1-P of 17 January 2013 – does not rule out the transformation of an administrative fine from a measure of effect intended to prevent infringements into an instrument of extreme restriction of citizens' right to property that is incompatible with the requirements of fairness when imposing administrative punishment.

[…]

The federal legislator should – proceeding on the basis of the requirements of the Russian Federation Constitution and taking due account of the present Judgment – make the necessary amendments to the legal regulation of the minimum scales of fines for the administrative infringements provided for in Articles 5.38, 20.2, 20.2^2 and 20.18 of the Code of Administrative Infringements of the Russian Federation. Pending the appropriate amendment of the Code of Administrative Infringements of the Russian Federation, the amount of an administrative fine imposed for the aforementioned administrative infringements on citizens and officials may be reduced by the court to an amount that is lower than the lowest possible limit established for the corresponding administrative infringement.

3.2. Paragraph 4 of Article 1 of Federal Law no. 65-FZ of 8 June 2012 supplements chapter 3 of the Code of Administrative Infringements of the Russian Federation with an Article 3.13, stipulating that community work as a form of administrative punishment imposed by a judge shall entail unpaid work of public utility performed by a physical individual having committed an administrative infringement, carried out during free time outside their principal work, duties or studies (paragraph 1), shall be established for a period of between 20 and 200 hours and shall be performed for no more than four hours a day (paragraph 2) and shall not be applicable to pregnant women, women with children under three years of age, category-I and -II invalids, servicemen, citizens conscripted for military training or special-ranked staff of internal affairs agencies, criminal law enforcement system authorities and institutions, the state fire service, agencies combating trade in narcotics and psychotropic substances and customs authorities (paragraph 3). Through paragraphs 7–9 of Article 1 of that Federal law, community work was incorporated as a sanction for the administrative infringements provided for in Articles 20.2, 20.2^2 and 20.18 of the Code of Administrative Infringements of the Russian Federation.

[…]

The presence of a direct prohibition of forced labour in the Russian Federation Constitution (Article 37, paragraph 2) and the lack of any reference to compulsory work is not the result of any kind of substantive differences between them but, on the contrary, must be regarded as recognition of the fact that compulsory work (rendered by the concept of 'community work' in legal provisions) is nothing other than an analogue of forced labour. No distinctions are drawn between forced and compulsory labour by the corresponding, constitutionally enforced provisions of the International Covenant on civil and political rights (paragraph 3 of Article 8) and the Convention for the protection of human rights and fundamental freedoms (paragraph 2 of Article 4), which states that no one shall be forced to perform forced or compulsory labour.

Moreover, within the meaning of paragraph 3 of Article 4 of the Convention for the protection of human rights and fundamental freedoms taken in conjunction with Article 5, any work that must habitually be performed by a person who is lawfully apprehended, placed in detention/arrested or held in custody or conditionally released from such detention may not be regarded as diverging from the prohibition of forced or compulsory labour. Since this exception is not directly linked to the use of constraint solely in respect of persons suspected or accused of committing a crime, its meaning is not limited to the sphere of prosecution, which is confirmed by the stance of the European Court of Human Rights in the case of "Stummer v. Austria" when considering the definition of forced/compulsory labour contained in International Labour Organisation documents as a starting point for the interpretation of Article 4 of the Convention, in which it concluded that sight should not be lost of the Convention's special features or of the fact that it was a living instrument to be read "in the light of the notions currently prevailing in democratic States" (judgment of 7 July 2011).

[…]

Proceeding on the basis that the international treaties of the Russian Federation are a constituent element of its legal system and that human and civil rights and freedoms are recognised and guaranteed in the Russian Federation in accordance with the universally recognised principles and norms of international law and in accordance with the Russian Federation Constitution (Article 15 paragraph 4; Article 17 paragraph 1 of the Russian Federation Constitution), and also taking into consideration that, in the system of applicable legal regulation, the use of compulsory work as a sanction for administrative infringements linked exclusively with the organisation or holding of public or other mass events (Articles 20.2, 20.2^2 and 20.18 of the Code of Administrative Infringements of the Russian Federation) may be considered as a means of crushing dissent, including political dissent, the introduction by Federal Law no. 65-FZ of 8 June 2012 of this form of administrative punishment solely for breaching the established procedure for organising or holding public events or organising other mass events resulting in a breach of public order (including where such an infringement is of a strictly formal nature and has not caused damage to human health or the property of a physical individual or corporate entity or the onset of other similar consequences) does not conform to the Russian Federation Constitution.

[…]

The federal legislator should – proceeding on the basis of the requirements of the Russian Federation Constitution and taking due account of the legal positions expressed by the Constitutional Court of the Russian Federation, including in the present Judgment – make the necessary amendments to the legal regulation of administrative punishment in the form of community work. Pending the introduction of the appropriate amendments to the current system of legal regulation community work may be applied as an administrative sanction for the administrative infringements provided for in articles 20.2, 20.2^2 and 20.18 of the Code of Administrative Infringements of the Russian Federation, only where these have

caused damage to human health or the property of a physical individual or corporate entity or the onset of other similar consequences.

[…]

3.4. The constitutionality of paragraph 7 of Article 1 of Federal Law no. 65-FZ of 8 June 2012, which re-words Article 20.2 of the Code of Administrative Infringements of the Russian Federation, and of paragraph 8 of Article 1, which supplements that Code with an Article 20.2^2, is challenged by the group of deputies of the State Duma insofar as, in the view of the applicants, the corresponding provisions of the Code of Administrative Infringements of the Russian Federation, and specifically paragraphs 4 and 6 of Article 20.2 and paragraph 2 of Article 20.2^2, establish the liability under administrative law of the organiser of a public or other mass event for the damage caused to human health or property by participants in that public event.

[…]

Paragraphs 7 and 8 of Article 1 of Federal Law no. 65-FZ of 8 June 2012 in the aspects mentioned (paragraph 4 of Article 20.2 and paragraph 2 of Article 20.2^2 of the Code of Administrative Infringements of the Russian Federation respectively) are not contrary to the Russian Federation Constitution as, according to their administrative law meaning within the system of applicable legal regulation, administrative liability for the administrative infringements provided for in them is incurred only where there is a causal link between the culpable, unlawful actions/failure to act on the part of the organiser of a public event or a mass simultaneous presence and/or movement of citizens in a public place that is not a public event resulting in a breach of public order, and consequences in the form of damage to human health or property.

As regards paragraph 6 of Article 20.2 of the Code of Administrative Infringements of the Russian Federation in the version of paragraph 7 of Article 1 of Federal Law no. 65-FZ of 8 June 2012, its provision establishing administrative liability for an infringement of the established procedure for organising or holding assemblies, rallies, demonstrations, marches and picketing resulting in damage to human health or property caused by a participant in the event, where their actions/failure to act entail no action that is punishable under criminal law, applies, as is directly clear from its content, to persons who are participants in a public event and, accordingly, cannot be interpreted as establishing the administrative liability of the organiser, as the person fulfilling the functions of organising and holding the public event, for damage to human health or property caused by a participant in that public event.

4. The constitutional declaration of the Russian Federation as a democratic federative State ruled by law with a republican form of government, an imperative of which is compliance with the Russian Federation Constitution and laws by all state authorities, local authorities, officials, citizens and associations thereof, predicates the special importance of the activity of the Federal Assembly, as the Russian Federation parliament, and the legislative/representative authorities of Russian Federation constituent entities as having – pursuant to the exercise of state power in the Russian Federation on the basis of separation of legislative, executive, and judicial powers – exclusive powers to adopt laws (Article 1 paragraph 1; Article 10; Article 11 paragraph 2; Article 15 paragraph 2 of the Russian Federation Constitution).

[…]

The State Duma's infringement of the procedural rules flowing from the Russian Federation Constitution points to a departure from its requirements. At the same time – within the meaning of the legal viewpoints expressed in Judgments no. 12-P of 20 July 1999, no. 11-P of 5 July 2001 and no. 8-P of 23 April 2004 of the Constitutional Court of the Russian Federation – for the appraisal of a federal law as regards its conformity with the Russian

Federation Constitution in terms of the procedure of its adoption, the all-important issue is the infringement of those procedural rules which have a decisive influence on the taking of the decision, ie rules based directly on the prescriptions of Articles 104–108 of the Constitution or which lay down such essential conditions for the adoption of federal laws that, if not complied with, it cannot be established with certitude whether the decision taken reflects the true intent of the legislator, and consequently of the multi-national Russian people it represents.

A similar position was adopted by the European Court of Human Rights in its case-law, linking the requirement to observe parliamentary procedure in taking decisions affecting rights and freedoms with the inadmissibility of a decision of a chamber of parliament infringing the principle of legal certainty (judgment of 9 January 2013 in the case of "Oleksandr Volkov v. Ukraine").

The question of whether infringements of this nature took place in the adoption of the federal law and, consequently, whether or not its content was in line with the true intent expressed by the deputies, in other words whether this federal law conforms to the Russian Federation Constitution in terms of the procedure of its adoption is – on condition of an application meeting the criteria of admissibility in each specific case – a matter to be resolved by the Constitutional Court of the Russian Federation. In so doing, the Constitutional Court of the Russian Federation, pursuant to the powers assigned to it by Article 125 of the Russian Federation Constitution and the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", is not bound by an obligation to interpret any violation of the established procedure for adopting a federal law as evidence of its unconstitutionality – otherwise this would be tantamount to reviewing the conformity of a federal law in terms of its adoption not with the Russian Federation Constitution but with other legal or regulatory acts.

4.1. In accordance with the legal position expressed by the Constitutional Court of the Russian Federation in Judgment no. 8-P of 23 April 2004, the Russian Federation Constitution, and in particular its Articles 71 (paragraph "a") and 76, does not imply an obligation to send draft laws on matters of joint competence to the constituent entities of the Russian Federation and a special examination of their provisions by the Federal Assembly but, since it is the State Duma to which draft federal laws are submitted and which adopts federal laws (Article 104 paragraph 2; Article 105 paragraph 1 of the Russian Federation Constitution), the State Duma itself is entitled to provide in its own Rules of procedure for the sending of draft laws on matters of joint competence to the constituent entities of the Russian Federation for suggestions and comments. The corresponding rules, coupled with the Rules of procedure of the State Duma (Article 109, second and fifth paragraphs of Article 118, first, fifth, seventh and eighth paragraphs of Article 119), are set out in Federal Law no. 184-FZ of 6 October 1999 "On the general principles of organisation of the legislative/representative and executive authorities of Russian Federation constituent entities" (paragraphs 1 and 4 of Article 26^4).

[…]

On this basis, in the present case, the Constitutional Court of the Russian Federation does not perceive grounds for declaring Federal Law no. 65-FZ of 8 June 2012, in connection with the State Duma's non-compliance with the requirement to send a draft law on a matter of joint jurisdiction to the legislative/representative and highest executive authorities of Russian Federation constituent entities prior to its examination at the first and second readings, as not conforming to the Russian Federation Constitution in terms of its adoption, which does not rule out the possibility of improving legislative procedures, including through amendments to the Rules of procedure of the State Duma, in respect of the adoption of federal laws whose provisions relate to both matters of federal jurisdiction and matters of joint jurisdiction.

[…]

4.4. Accordingly, the Constitutional Court of the Russian Federation does not perceive sufficient grounds for declaring Federal Law no. 65-FZ of 8 June 2012 "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"" to be contrary to the Russian Federation Constitution in terms of the procedure of its adoption by the State Duma.

In the light of the aforegoing and in accordance with Article 6, the second paragraph of Article 71, and Articles 72, 74, 75, 78, 79, 87 and 100 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", the Constitutional Court of the Russian Federation

f i n d s a s f o l l o w s :

1. The provision of sub-paragraph "a" of paragraph 1 of Article 2 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"", introducing a ban on being the organiser of a public event on an individual who has been prosecuted in an administrative court on two or more occasions for administrative infringements provided for in Articles 5.38, 19.3, 20.1–20.3, 20.18 and 20.29 of the Code of Administrative Infringements of the Russian Federation, during a period when that person is subject to administrative punishment, is hereby declared as not contravening the Russian Federation Constitution as, according to its constitutional law meaning within the system of existing legal regulation, the provision in question means that the aforementioned prohibition may be exercised only in a case where the repeated administrative prosecution of that person for the corresponding administrative infringement has occurred within a period for which administrative punishment is applicable for an administrative infringement previously committed by them and has resulted in the imposing of administrative punishment, and only for the period during which the person in question is considered to be subject to administrative punishment, which does not prevent them requesting other citizens and also political parties, other public associations and religious associations, their regional branches and other structural sub-divisions to organise such events and does not deprive them of the possibility of taking part in public events, including in the capacity of persons authorised by the organiser of a public event to perform administrative/stewardship functions relating to the organisation and holding of a public event.

2. Paragraph 6 of Article 2 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"", permitting unimpeded prior promotion of a public event from the time of agreement with the executive authority of the Russian Federation constituent entity or the local authority on the place and/or time for holding the public event, is hereby declared as not contravening the Russian Federation Constitution as, according to its constitutional law meaning within the system of existing legal regulation, it does not imply the introduction of an authorisation procedure for organising public events and does not prevent the organiser of the public event from informing potential participants of its proposed aims, form, place, time and other conditions relating to the holding of it prior to agreement on the place and/or time for holding the event.

3. The provisions of paragraph 7 of Article 1 and the fourth and fifth sentences of sub-paragraph "c" *[‘в’ in the original Russian]* of paragraph 1 of Article 2 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"", insofar as they impose an obligation on the organiser of a public event to take steps to prevent the number of participants announced in the notice of the holding of a public event being exceeded, where exceeding that number of participants creates a threat to public order and/or public safety, the safety of the participants in the public event or other persons or a risk of damage to property, and establish the liability of the organiser of the public event under administrative law for the failure to do so, are hereby declared as not contravening the

Russian Federation Constitution, as, according to their constitutional law meaning within the system of existing legal regulation, these provisions:

assume the use by the organiser of a public event of all the means available to them to ensure that the number of participants in the public event did not exceed the number of participants announced in the notice of the holding of the event or, at least, irrespective of that number being exceeded, including in respect of the maximum occupancy norm applying to the premises/area where the event was held, did not create a threat to public order and/or public safety or the lives and health of citizens or of damage being caused to the property of physical individuals or corporate entities;

establish that the organiser of the public event incurs liability under administrative law for failing to fulfil that obligation only in a case where the exceeding of the number of participants announced in the notice of the holding of the event and the creation thereby of a threat to public safety and order were caused directly by the actions/failure to act of the event organiser or, having allowed the announced number of participants to be exceeded, the organiser of the public event failed to take steps, including at the request of an authorised representative of the executive authority of the Russian Federation constituent entity or local authority or an authorised representative of an internal affairs authority, to restrict citizens' access to participation in the public event, which they were under obligation to take in accordance with the Federal Law "On assemblies, rallies, demonstrations, marches and picketing", which then gave rise to a threat to public order and/or public safety, the safety of the participants in the public event or other persons or a risk of damage to property;

do not rule out holding authorised representatives of the executive authority of the Russian Federation constituent entity or local authority or internal affairs authority liable for not properly exercising their powers to provide assistance to the organiser of the public event and ensure public order and safety during the holding of the event.

4. Sub-paragraph "d" *['ə' in the original Russian]* of paragraph 1 of Article 2 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"" is hereby declared as not conforming to the Russian Federation Constitution, its Articles 31, 35 (paragraph 1) and 55 (paragraph 3), as it implies that the organiser of a public event incurs civil liability in the event of them failing to fulfil the obligations provided for in paragraph 4 of Article 5 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing" for damage caused by participants in the public event irrespective of the organiser having demonstrated due care for the upholding of public order and not being at fault for the causing of that damage.

5. The provisions of paragraph 3 of Article 2 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"", establishing the requirement for persons carrying out one-person pickets to observe a minimum permissible distance between them and providing for the possibility of declaring the sum total of picketing actions carried out by a single participant united by a single concept and overall organisation, by decision of the court in a specific civil, administrative or criminal case, as a public event, are hereby declared as not contravening the Russian Federation Constitution, as, according to their constitutional law meaning within the system of existing legal regulation, they are intended to prevent abuses of the right not to notify the public authorities of the holding of a one-person picket, 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 individual pickets to be declared as one public event only on the basis of a court decision and only where it is established by the court that these pickets 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.

6. Sub-paragraph "a" of paragraph 4 of Article 2 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"", insofar as it empowers the executive authorities of Russian Federation constituent entities to define common sites specially designated or adapted for the holding of public events, is hereby declared as not conforming to the Russian Federation Constitution, its Articles 19 (paragraphs 1 and 2), 31 and 55 (paragraph 3), as it does not – despite the requirements flowing from the Russian Federation Constitution of certainty, clarity and non-ambiguity of legal regulation – establish statutory criteria guaranteeing observance of equal legal conditions for citizens' exercise of their rights to freedom of peaceful assembly in the determining by executive authorities of Russian Federation constituent entities of common sites specially designated or adapted for the holding of public events, giving rise to the possibility of differing interpretations and, consequently, arbitrary application.

The federal legislator should – proceeding on the basis of the requirements of the Russian Federation Constitution and taking due account of the present Judgment – make the necessary amendments to the legal regulation of the determination of specially designated sites.

Pending the introduction of the corresponding amendments to the system of legal regulation, when determining specially designated sites for the holding of public events the executive authorities of a Russian Federation constituent entity must take as a premise the necessity of such sites in at least every urban district and municipal district.

7. The inter-linked provisions of paragraphs 3, 6, 7, 8, 9 and 10 of Article 1 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"":

insofar as they establish administrative fines of up to three hundred thousand roubles for citizens and up to six hundred thousand roubles for officials for the administrative infringements provided for in Articles 5.38, 20.2, 20.2^2 and 20.18 of the Code of Administrative Infringements of the Russian Federation, are hereby declared as conforming to the Russian Federation Constitution;

insofar as they establish the minimum amount of fines for the aforementioned administrative infringements as being ten thousand roubles for citizens and fifty thousand roubles for officials, are hereby declared as not conforming to the Russian Federation Constitution, its Articles 19 (paragraphs 1 and 2), 35 (paragraph 1) and 55 (paragraph 3), as – within a system of applicable legal regulation that does not permit the imposing of administrative punishment that is lower than the lowest possible limit established for the corresponding administrative sanction, – they do not make it possible to take the fullest account of the nature of the infringement committed or the material circumstances of the offender, as well as other circumstances of essence to the individualisation of liability and thereby to guarantee the imposing of fair and commensurate punishment.

The federal legislator should – proceeding on the basis of the requirements of the Russian Federation Constitution and taking due account of the present Judgment – make the necessary amendments to the legal regulation of the minimum scales of fines for the administrative infringements provided for in Articles 5.38, 20.2, 20.2^2 and 20.18 of the Code of Administrative Infringements of the Russian Federation.

Pending the appropriate amendment of the Code of Administrative Infringements of the Russian Federation, the amount of an administrative fine imposed for the aforementioned administrative infringements on citizens and officials may be reduced by the court to an amount that is lower than the lowest possible limit established for the corresponding administrative infringement.

8. The inter-linked provisions of paragraphs 4, 7, 8, 9 and 10 of Article 1 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"", providing for community work as a form of administrative punishment for infringements linked to the organisation or holding of assemblies, rallies, demonstrations, marches and picketing or the organisation of a mass simultaneous presence and/or movement of citizens in a public place resulting in a breach of public order:

insofar as they are not linked to an encroachment of the property rights of citizens, do not imply a deprivation of liberty for the offender and do not constitute an inadmissible method of forcing a person to carry out labour, are hereby declared as conforming to the Russian Federation Constitution;

insofar as within the current system of legal regulation that type of administrative punishment may be imposed not only in the event of damage being caused to human health or the property of a physical individual or corporate entity or the onset of other similar consequences, but also for a purely formal breach of the established procedure for organising or holding public events, are hereby declared as not conforming to the Russian Federation Constitution, its Articles 1 (paragraph 1), 19 (paragraph 1), 31, 37 (paragraph 2) and 55 (paragraph 3).

The federal legislator should – proceeding on the basis of the requirements of the Russian Federation Constitution and taking due account of the legal positions expressed by the Constitutional Court of the Russian Federation, including in the present Judgment – make the necessary amendments to the legal regulation of administrative punishment in the form of community work.

Pending the introduction of the appropriate amendments to the current system of legal regulation, community work may be applied as an administrative sanction for the administrative infringements provided for in Articles 20.2, 20.2^2 and 20.18 of the Code of Administrative Infringements of the Russian Federation only where these have caused damage to human health or the property of a physical individual or corporate entity or the onset of other similar consequences.

9. Paragraph 5 of Article 1 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"" is hereby declared as not contravening the Russian Federation Constitution, as the provision contained therein increasing the period of statutory limitation for prosecution in administrative proceedings for violating the legislation on assemblies, rallies, demonstrations, marches and picketing to one year from the date when the administrative infringement was committed, according to its constitutional law meaning, is intended to guarantee the inevitability of administrative liability (taking due account of the specific nature of the circumstances in which the corresponding administrative infringements were committed) and does not imply any worsening of the situation of persons prosecuted under administrative law having committed administrative infringements prior to the entry into force of the given Federal Law.

10. Paragraphs 7 and 8 of Article 1 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"", insofar as they provide for liability under administrative law for a violation of the established procedure for organising or holding a public event resulting in harm to human health or property or for organising a mass simultaneous presence and/or movement of citizens in a public place that is not a public event resulting in a breach of public order, where the corresponding actions/failure to act of the organiser of such an event entail no action that is punishable under criminal law, are hereby declared as not contravening the Russian Federation Constitution, as, according to their constitutional law meaning within the system of existing legal regulation, they imply that administrative liability for the administrative infringements they provide for is incurred only

where there is a causal link between the culpable, unlawful actions/failure to act on the part of the organiser of a public event or other mass event resulting in a breach of public order and consequences in the form of damage to human health or property.

11. The Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"" is hereby declared as not contravening the Russian Federation Constitution in terms of the procedure of its adoption by the State Duma.

12. The constitutional law meaning of the provisions of paragraphs 5, 7 and 8 of Article 1, of sub-paragraph "a" and the fourth and fifth sentences of sub-paragraph "c" *['в' in the original Russian]* of paragraph 1, and of paragraphs 3 and 6 of Article 2 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"" elucidated in the present Judgment is binding throughout the territory of the Russian Federation for all representative, executive and judicial state authorities, local authorities, enterprises, establishments, organisations, officials, citizens and associations thereof.

Any other interpretation of the aforementioned legal provisions will be at odds with their true meaning and inadmissible in law enforcement practice, as contrary to the Russian Federation Constitution, its Articles 17 (paragraph 3), 19 (paragraphs 1 and 2), 31 and 55 (paragraph 3).

Acts based on an interpretation of the aforementioned legal provisions diverging from their restrictive constitutional law meaning elucidated by the Constitutional Court of the Russian Federation in the present Judgment, may not be applied and shall be subject to repeal as not conforming to Article 125 (paragraph 6) of the Russian Federation Constitution and Articles 6, 79 and 80 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation".

13. Judgments in application of the law pronounced in respect of Mr Eduard Veniaminovich Savenko shall be subjected to review, if they are founded on sub-paragraph 1^1 of paragraph 2 of Article 5 of the Federal Law "On assemblies, rallies, demonstrations, marches and picketing" (in the version of sub-paragraph "a" of paragraph 1 of Article 2 of the Federal Law "Amending the Code of Administrative Infringements of the Russian Federation and the Federal Law "On assemblies, rallies, demonstrations, marches and picketing"") in an interpretation diverging from its constitutional law meaning elucidated in the present Judgment, and where there are no other impediments to this.

14. The present Judgment is final, is not subject to appeal, shall enter into force immediately after its proclamation, shall be directly applicable and does not require ratification by other authorities or officials.

15. The present Judgment shall be published immediately in the *"Rossiyskaya Gazeta"* official gazette and the Compendium of Legislation of the Russian Federation *[Собрание законодательства Российской Федерации]*. The Judgment must also be published in the "Bulletin of the Constitutional Court of the Russian Federation".

Constitutional Court of the Russian Federation

no. 4-P