IN THE NAME OF THE RUSSIAN FEDERATION

Constitutional Court of the Russian Federation

Judgment

of 14 February 2013 No. 4-П

In the case concerning the review of constitutionality of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" in connection with the request of a group of deputies of the State Duma and the complaint of E.V.Savenko

The Constitutional Court of the Russian Federation composed of the President V.D.Zor'kin, Judges K.V.Aranovsky, A.I.Boitsov, N.S.Bondar', G.A.Gadzhiev, Yu.M.Danilov, L.M.Zharkova, G.A.Zhilin, S.M.Kazantsev, M.I.Kleandrov, S.D.Knyazev, A.N.Kokotov, L.O.Krasavchikova, S.P.Mavrin, N.V.Mel'nikov, Yu.D.Rudkin, O.S.Khokhryakova, V.G.Yaroslavtsev,

in the attendance of the representative of a group of deputies of the State Duma having petitioned the Constitutional Court of the Russian Federation – deputy of the State Duma Ye.B.Mizulina and V.G.Solovyov, E.V.Savenko and his representative – lawyer G.S.Lavrentyev, Plenipotentiary Representative of the State Duma to the Constitutional Court of the Russian Federation D.F.Vyatkin, representative of the Council of Federation A.S.Solomatkin, Plenipotentiary Representative of the President of the Russian Federation to the Constitutional Court of the Russian Federation M.V.Krotov,

pursuant to Article 125 (Sections 2 and 4) of the Constitution of the Russian Federation, Item 3 of Section 1, Sections 3 and 4 of Article 3, Item 3 of Section 2 of Article 21, Articles 36, 74, 84, 85, 86, 96, 97 and 99 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation",

in an open hearing considered the case concerning the review of constitutionality of the Federal Law "On Amendments to the Administrative

Offences Code of the Russian Federation and the Federal Law “On Assemblies, Meetings, Demonstrations, Processions and Picketings”.

The reason for the consideration of the case was the request of a group of deputies of the State Duma and the complaint of E.V.Savenko. The ground for the consideration of the case was the discovered uncertainty of whether the contested Federal Law is in conformity with the Constitution of the Russian Federation, both in its entirety with regard to the procedure of its adoption by the State Duma and to the content of individual norms.

Having heard the report of Judge-Rapporteur S.D. Knyazev, statements by parties’ representatives, interventions by representatives invited to the hearing: M.A.Mel’nikova for the Ministry of Justice of the Russian Federation, V.K.Mikhailov for the Commissioner for Human Rights in the Russian Federation, having considered submitted documents and other materials, the Constitutional Court of the Russian Federation

e s t a b l i s h e d:

1. A group of deputies of the State Duma, having appealed to the Constitutional Court of the Russian Federation with the request in the procedure of Article 125 (Item “a” of Section 2) of the Constitution of the Russian Federation, contests constitutionality of the Federal Law of 8 June 2012 No. 65-ФЗ “On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law “On Assemblies, Meetings, Demonstrations, Processions and Picketings” as to the procedure of adoption and the content of individual norms; E.V.Savenko, having appealed to the Constitutional Court of the Russian Federation with the complaint on violation of his constitutional rights in the procedure of Article 125 (Section 4) of the Constitution of the Russian Federation, contests constitutionality of one of the provisions of the said Federal Law, which is contained also in the subject-matter of the petition of the group of deputies of the State Duma.

Proceeding from this, the Constitutional Court of the Russian Federation, guided by Article 48 of the Federal Constitutional Law “On the Constitutional

Court of the Russian Federation", merged the cases on the request and the complaint in one proceeding.

1.1. A group of deputies of the State Duma requests to recognize the Federal Law of 8 June 2012 No. 65-ФЗ in its entirety as not conforming to Articles 3, 72 (Item "к" of Section 1), 76 (Section 2), 94 and 101 (Section 4) of the Constitution of the Russian Federation, so far as supposes that substantial breaches of the requirements of Section 2 of Article 56, Article 109, Section 3 of Article 114, Article 118, Sections 5 and 7 of Article 119 and Sections 7 and 13 of Article 123 of the Rules of the State Duma, committed during passage of this Federal Law in the State Duma, exceed the limits of internal organization of work of the legislative body and therefore have constitutional-law significance and constitute evident and sufficient grounds for its recognition as not conforming to the Constitution of the Russian Federation as to the procedure of adoption.

As the applicants claim, non-observance of the requirements of the Rules of the State Duma manifested itself in the following. First, respective draft law, which by its content pertains to acts regulating matters of joint jurisdiction of the Russian Federation and subjects of the Russian Federation, was not sent for submission of opinions to legislative (representative) and higher executive bodies of State power of subjects of the Russian Federation neither before nor after its consideration in the first reading. Secondly, the concept of the draft law, which primordially was brought in by the authors and was adopted in the first reading as a draft federal law "On Amendments to the Administrative Offences Code of the Russian Federation", in the second reading underwent principle revision, as a result of which the draft law was supplemented with the provisions, broaching the order of holding of public events and thereby conditioning making amendments not only to the Administrative Offences Code of the Russian Federation, but also to the Federal Law of 19 June 2004 No. 54-ФЗ "On Assemblies, Meetings, Demonstrations, Processions and Picketings". Thirdly, the procedure of consideration of the draft law by the State Duma was broken, namely: in the course of discussion of amendments to the draft law in the second reading, the duration of a three-minutes

speech on each amendment with the aim of its substantiation, guaranteed to deputies of the State Duma – authors of the amendments, was twice shortened (first down to one minute, then to thirty seconds); in the third reading the draft law was adopted without presenting its final text to the deputies (contrary to the rule that adoption of a law as a whole in the same day with adoption of the draft law in the second reading is admissible only in the presence of its final text); as a result of substantial shortening of the terms of submission of the draft law for consideration of the State Duma and presentation of amendments to it after its adoption in the first reading (together with violation of other established terms) the entire legislative procedure in the State Duma took 26 days instead of determined minimum of 112 days.

Besides, the group of deputies of the State Duma assumes that the following provisions of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ, making amendments to the Administrative Offences Code of the Russian Federation and of Article 2 of this Federal Law, making amendments to the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" which, in the opinion of the applicants, contain unfounded and excessive restrictions of the right to freedom of peaceful assembly, not determined by constitutionally recognized goals and encroaching upon the very essence of this constitutional right, do not conform to Article 19 (Sections 1 and 2), 31 and 55 (Section 3) of the Constitution of the Russian Federation:

Items 3, 6, 7, 8, 9 and 10 of Article 1 – to the extent to which they provide for excessive increase of administrative fines for breach of the established order of organization and holding of a public event, namely up to 300 000 roubles for citizens and up to 600 000 roubles for officials;

Items 4, 7, 8, 9 and 10 of Article 1 – to the extent to which they provide for excessive in duration (up to two hours) administrative penalty in the form of compulsory works;

Item 5 of Article 1 – to the extent to which it unfoundedly increase (up to one year) term of limitation for making administratively answerable for breach of the legislation on assemblies, meetings, demonstrations, processions and picketings;

Item 7 of Article 1 and Paragraphs 4 and 5 of Sub-Item "в" of Item 1 of Article 2 – to the extent to which they provide for placing on the organizer of a public event actually unfeasible obligation to take measures to prevent excess of the presumed number of participants of a public event, indicated in the notification on holding of it and responsibility for non-execution of this obligation, fixing of which in addition entails the danger of excess of the declared number of participants of a public event as a result of provocative actions on the part of opponents of its holding;

Items 7 and 8 of Article 1 and Sub-Item "г" of Item 1 of Article 2 – in the part placing responsibility for damage, caused by the participants of a public event, on the organizer of the public event, and in substance – shifting off the responsibility on to him/her in its entirety for any excesses during holding of a public event without consideration that guarding of order during assemblies, meetings, demonstrations, processions and picketings requires special (particular) knowledge, skills and powers, inherent in police activity;

Item 7 of Article 1, Sub-Item "г" of Item 1, Items 6 and 8 of Article 2 – to the extent to which they provide for obligatory coordination of holding of a public event and thus, in essence, licensing order of realization of the right to organize and hold assemblies, meetings, demonstrations, processions and picketings is being introduced;

Sub-Item "a" of Item 1 of Article 2 – to the extent to which it establishes ban for a person, having two or more times been made administratively answerable for administrative offences connected with organization and holding of public events to be organizer of a public event;

Item 3 of Article 2 – in the part, concerning regulation of picketing conducted by one participant, the abundance of which can lead to liquidation of this form of realization of the right to freedom of peaceful assembly;

Sub-Item “a” of Item 4 of Article 2 – to the extent to which, vesting bodies of State power of subjects of the Russian Federation with the power to determine specially allotted places for holding of public events, it indicates neither the kind of respective legal act nor the criteria, which a body of executive power must be guided by when adopting such act, in result of which wide possibilities are being opened for additional substantial restriction of the right to freedom of peaceful assembly on the level of subjects of the Russian Federation.

As far as a number of provisions of the Federal Law of 8 June 2012 No. 65-ФЗ are concerned, which, as the request’s authors claim, do not clarify for what breaches of the established order of organization or holding of a public event its organizer may be made administratively answerable (Item 7 of Article 1), contain no criteria of delimitation of compulsory works as a kind of administrative penalty and compulsory works, prescribed in accordance with the Criminal Code of the Russian Federation for commission of a crime, do not disclose the content of the notions “repeated refusal to fulfill compulsory works” and “repeated non-appearance of a person at compulsory works without good reasons”, do not determine mechanism of coordination of the list of organizations, in which persons, subjected to compulsory works for commission of an administrative offence, serve this kind of administrative penalty (Item 17 of Article 1), in the applicants’ opinion, these provisions are subject to review from the point of view of conformity to the requirement of certainty, clarity, non-contradictoriness of a legal norm and its coordination with the system of operating legal regulation, following from the principles of law-governed State, equality, fairness and supremacy of the law (Article 4, Section 2; Article 15, Sections 1 and 4; Article 19, Section 1, of the Constitution of the Russian Federation).

Meanwhile, Item 7 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ and, accordingly, Article 20.2 of the Administrative Offences Code of the Russian Federation, expounded in its wording, in the part, envisaging administrative responsibility for breach of the established order of organization or holding of an assembly, meeting, demonstration, procession or picketing, have blank character,

and therefore assessment of the degree of certainty of notions contained in them must be carried out, as the Constitutional Court of the Russian Federation repeatedly pointed out, proceeding not only from the text of the law itself, formulations used, but also from their place in the system of normative prescriptions; regulative norms, directly fixing some or other rules of behavior, must not obligatorily be contained in the same normative legal act as are norms establishing legal responsibility for breach of them (Judgment of 27 May 2003 No. 9-П, Rulings of 21 April 2005 No. 122-O, of 1 December 2009 No. 1486-O-O, of 28 June 2012 No. 1253-O and others).

So far as it obviously follows from the content of Articles 1 and 3 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" in the interconnection with its other provisions that the order of organization and holding of public events mentioned in it is established by the said Federal Law and other legislative acts of the Russian Federation, related to ensuring of the right to holding of assemblies, meetings, demonstrations, processions and picketings, and in cases envisaged by it – by normative legal acts, issued by the President of the Russian Federation (Section 4 of Article 8), the Government of the Russian Federation (Section 1 of Article 11) and bodies of State power of subjects of the Russian Federation (Section 2 of Article 7, Sections 1^1, 2^2, 3 and 3^1 of Article 8 and Section 1 of Article 11), the Constitutional Court of the Russian Federation sees no uncertainty in the question of constitutionality of Item 7 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ in the aspect indicated by the applicants and, consequently, the proceeding on the request in this part is subject to discontinuance by virtue of the interconnected provisions of Section 2 of Article 36 and Item 2 of Section 1 of Article 43 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation".

This equally relates to Item 17 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ, which supplemented Chapter 32 of the Administrative Offences Code of the Russian Federation with Article 32.13, envisaging the order of execution of a resolution on prescription of compulsory works as administrative penalty,

including in case of evasion of serving it. As such, the indicated legislative provisions are not aimed at fixing the criteria of delimitation of this kind of administrative penalty from analogous kind of criminal penalty – distinctions, concerning grounds of prescription of these sanctions, their terms, the circle of persons to whom they may not be applied, the consequences of evasion of serving them and other characteristics are directly fixed in respective provisions of criminal legislation and the legislation on administrative offences.

Neither any uncertainty is being perceived with respect to conditions, with which making administratively answerable of a person, evading from serving administrative penalty in the form of compulsory works prescribed to him/her, by way of repeated refusal to fulfill them and (or) repeated non-appearance at compulsory works without good reasons, is connected: within the meaning of legislative provisions under consideration, administrative responsibility may come only in case if a person to whom this administrative penalty is prescribed refuses to fulfill compulsory works and (or) does not appear at these works more than once without good reasons; in this case absence of special indication as to what reasons are good means that any circumstances can be recognized as such (illness, death of closed relatives, effect of a *force majeure* etc.), the presence of which with sufficient clarity excludes ascription of respective actions (inaction) to evasion of compulsory works.

The rule, introduced by Item 17 of Article 1 the Federal Law of 8 June 2012 No. 65-ФЗ and directly establishing that kinds of compulsory works and the list of organizations in which persons subjected to this administrative penalty serve it are determined by bodies of local self-government upon coordination with territorial bodies of a federal body of executive power, authorized to carry out functions of forced execution of executive documents and ensuring of the established order of court activity, in the interconnection with the indication that kinds of compulsory works, for fulfillment of which special skills or knowledge are needed, may not be determined in respect of persons, not possessing such skills or knowledge, contains no uncertainty either, which would hinder, in the applicants' opinion, elucidation

of the mechanism of coordination of the list of organization, where compulsory works are served.

The applicants perceive unconstitutionality of the provisions of Item 7 of Article 1 and Sub-Item "г" of Item 1, Items 6 and 8 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ in the presumption that they restrict the right to freedom of peaceful assembly, introducing, in essence, licensing order of its realization. Meanwhile, neither Item 7 of Article 1 of this Federal Law, establishing administrative responsibility for breach of the order of organization or holding of an assembly, meeting, demonstration, procession or picketing, nor Sub-Item "г" of Item 1 of its Article 2, placing on the organizer of a public event, in case of non-execution of his/her duties by him/her, civil-law responsibility for damage caused by its participants, nor Item 8 of Article 2, determining that one of the grounds of discontinuance of a public event is non-execution of respective duties by its organizer (Section 4 of Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings"), in themselves broach questions, concerning coordination of holding of assemblies, meetings, demonstrations, processions and picketings.

Consequently, constitutionality of Item 7 of Article 1, Sub-Item "г" of Item 1 and Item 8 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ in the aspect indicated by the applicants (as introducing licensing order of realization of the right to freedom of peaceful assembly) may not be a subject-matter of review in the present case from the point of view of general requirements to petitions to the Constitutional Court of the Russian Federation, brought forward by Article 37 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", and therefore proceedings on the request in this part are also subject to discontinuance.

1.2. E.V.Savenko contests constitutionality of Sub-Item "а" of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ, which supplemented Section 2 of Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" by Item 1^1, according to which a

person having unexpunged or uncancelled criminal record for commission of an intentional crime against the basis of the constitutional system and security of the State or a crime against social security and social order or having two or more times been made administratively answerable for administrative offences, envisaged by Articles 5.38, 19.3, 20.1 – 20.3, 20.18, 20.29 of the Administrative Offences Code of the Russian Federation may not be organizer of a public event during the term when he/she is considered exposed to administrative penalty.

As follows from the materials submitted to the Constitutional Court of the Russian Federation, the Department of Regional Security of the City of Moscow with reference to the contested norm refused a group of citizens, among whom was E.V.Savenko, which submitted notification on holding of a meeting and a demonstration on 31 July 2012, to coordinate holding of these public events. On 31 July 2012 in respect of E.V.Savenko, detained on the spot of holding of a public event by them, a protocol was drawn up on administrative offence envisaged by Section 1 of Article 20.2 “Breach of Established Order of Organization or Holding of an Assembly, Meeting, Demonstration, Procession or Picketing” of the Administrative Offences Code of the Russian Federation. By the resolution of the Justice of the Peace of court circuit No. 423 of the Tverskoy District of the City of Moscow of 9 August 2012, left unchanged by the decision of the Tverskoy District Court of 26 September 2012, he was recognized as guilty of having committed this administrative offence: as is pointed out in the motivation part of the resolution, E.V.Savenko was repeatedly during a year made administratively answerable for offences, envisaged by Articles 19.3 and 20.2 of the Administrative Offences Code of the Russian Federation, and therefore, having taken functions of organizer of a public event within the limits of the term when a person is considered exposed to administrative penalty, directly broke the ban introduced by Sub-Item “a” of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ.

In E.V.Savenko’s opinion, the legislative provision applied by court does not conform to Articles 19 (Sections 1 and 2), 31, 50 (Section 1), 54 (Section 1) and 55 (Section 2) of the Constitution of the Russian Federation, so far as it disparages the

right of the category of citizens, indicated in it, to which the applicant himself also pertains, to assemble peacefully, without weapons, hold assemblies, meetings and demonstrations, processions and picketing, puts them in unequal position with other citizens and establishes additional responsibility contrary to constitutional ban of repeated conviction for one and the same crime, as well as extends its effect to persons who were made administratively answerable for offences indicated in it before entering of the Federal Law of 8 June 2012 No. 65-ФЗ into force.

1.3. Thus, proceeding from the requirements of Articles 36, 37, 74, 84, 85, 96 and 97 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", the subject-matter of consideration by the Constitutional Court of the Russian Federation in the present case is the Federal Law of 8 June 2012 No. 65-ФЗ "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" in its entirety – from the point of view of its conformity to the Constitution of the Russian Federation as to the procedure of its adoption by the State Duma, as well as the following provisions of this Federal Law:

Sub-Item "a" of Item 1 of Article 2, forbidding a person having two or more times been made administratively answerable for administrative offences, envisaged by Articles 5.38, 19.3, 20.1 – 20.3, 20.18 and 20.29 of the Administrative Offences Code of the Russian Federation, to be organizer of a public event in the course of the term during which a person is considered as exposed to administrative penalty;

Item 6 of Article 2, allowing conduct of preliminary agitation from the moment of coordination of the place and (or) time of holding of a public event with a body of executive power of a subject of the Russian Federation or a body of local self-government;

Item 7 of Article 1 and Paragraphs 4 and 5 of Sub-Item "в" of Item 1 of Article 2 – in the part, placing on the organizer of a public event the obligation to take measures to prevent excess of the number of participants of a public event,

indicated in the notification on the holding of a public event, if the excess of such participants creates threat to public order and (or) public security, the security of participants of this public event or other persons or a threat to cause damage to property, and envisaging administrative responsibility of the organizer of a public event for non-execution of this obligation;

Sub-Item "г" of Item 1 of Article 2, establishing civil-law responsibility of the organizer of a public event for damage caused by the participants of a public event in case of his/her non-execution of duties envisaged by law;

Item 3 of Article 2, admitting the possibility to recognize a number of acts of picketing carried out by one participant, united by a uniform idea and common organization, as one public event by a court decision within the framework of a concrete civil, administrative or criminal case;

Sub-Item "a" of Item 4 of Article 2, vesting the bodies of executive power of the subjects of the Russian Federation with the power to determine specially allotted places for holding of public events;

Items 3, 6, 7, 8, 9 and 10 of Article 1 – in the part, envisaging administrative fine for citizens at the rate of up to 300 000 roubles, and for officials – up to 600 000 roubles for breach of the established order of organization or holding of a public event or for organization of other mass event not being public, having entailed violation of public order;

Items 4, 7, 8, 9 and 10 of Article 1 – in the part, fixing the possibility to apply compulsory works as a kind of administrative penalty for commission of administrative offences and determining the term for which they are prescribed;

Item 5 of Article 1 – in the part, establishing term of limitation of making administratively answerable for breach of the legislation on assemblies, meetings, demonstrations, processions and picketings;

Items 7 and 8 of Article 1 – in the part, providing for imposition of administrative responsibility for breaches, having entailed damage to human health or property, of the established order of organization or holding of a public event or

organization of other mass event, having entailed violation of public order, on their organizers.

Constitutionality of the indicated legislative provisions in other aspects is not contested by the applicants, and therefore is not reviewed by the Constitutional Court of the Russian Federation in the present case.

2. The right of citizens of the Russian Federation to assemble peacefully, without weapons, hold assemblies, meetings and demonstrations, processions and picketing, fixed by Article 31 of the Constitution of the Russian Federation, is one of the basic and inalienable elements of legal status of a person in the Russian Federation as a democratic law-governed State, among whose fundamentals of constitutional system ideological and political diversity and multi-party system are recognized and on which lies the obligation to ensure protection, including judicial, of human and civil rights and freedoms (Article 1, Section 1; Article 2; Article 13, Sections 1 and 3; Article 45, Section 1; Article 46, Sections 1 and 2; Article 64 of the Constitution of the Russian Federation). In the interconnection with other rights and freedoms, guaranteed by the Constitution of the Russian Federation, first of all by its Articles 29, 30, 32 and 33, this constitutional right ensures for citizens real possibility by means of holding of public events (assemblies, meetings, demonstrations, processions and picketing) to influence the activity of bodies of public authority and thereby make for maintenance of peaceful dialogue between civil society and the State, which does not exclude protest character of such public events, which may express itself in criticism both of individual actions and decisions of bodies of State power and bodies of local self-government and their policy as a whole. Accordingly, it is intended that the reaction of public authority to organization and holding of assemblies, meetings, demonstrations, processions and picketing must be neutral and in any event – irrespective of political views of their organizers and participants – aimed at providing conditions (both on the level of legislative regulation and in law-applying activity) for lawful realization by citizens and their associations of the right to freedom of peaceful assembly, including by way of working out clear-cut rules of their organization and holding,

not exceeding the limits of admissible restrictions of the rights and freedoms of citizens in a democratic law-governed State.

As the Constitutional Court of the Russian Federation has pointed out in the Judgment of 18 May 2012 No. 12-П, proceeding from the goal of securing civil peace and accord, proclaimed in the Preamble of the Constitution of the Russian Federation, and considering that by virtue of their nature public events (assemblies, meetings, demonstrations, processions and picketing) can broach the rights and lawful interests of a broad circle of persons – both participants of public events and persons, not directly participating in them, – State protection is guaranteed only to the right to hold peaceful public events which, nevertheless, may be restricted by federal law in accordance with the criteria, predetermined by the requirements of Articles 17 (Section 3), 19 (Sections 1 and 2) and 55 (Section 3) of the Constitution of the Russian Federation, on the basis of the principle of legal equality and the principle of proportionality following from it, i.e. to the extent necessary for the protection of the basis of the constitutional order, morality, health, rights and lawful interests of other persons, for ensuring the defence of the country and the security of the State.

Such an approach conforms to the universally recognized principles and norms of international law, including those fixed in the Universal Declaration of Human Rights, according to Item 1 of Article 20 of which everyone has the right to freedom of peaceful assembly, and in the International Covenant on Civil and Political Rights, Article 21 of which, recognizing the right to peaceful assemblies, admits introduction of well-founded restrictions of this right, imposed in conformity with the law and 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 defined also in Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms as subject to no 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 the protection of the rights and freedoms of others. The European Court of Human Rights in its practice proceeds from the idea that in a democratic society the freedom of assembly is a fundamental right and in addition to the freedom of thought, conscience and religion constitutes the basis of such society (judgments of 25 May 1993 on the case "Kokkinakis vs. Greece", of 20 February 2003 on the case "Djavit An vs. Turkey", of 23 October 2008 on the case "Sergey Kuznetsov vs. Russia" and others); it concerns both closed and public assemblies, as well as assemblies in a certain place and public processions and may be carried out by their individual participants and organizers (judgment of 31 March 2005 on the case "Adaly vs. Turkey"); the State, in its turn, must refrain from application of arbitrary measures, able to violate this right (judgment of 26 July 2007 on the case "Barankevich vs. Russia"); herewith it is important that public authorities manifest certain tolerance with respect to peaceful assemblies even when they can cause some infringement on everyday life, including hindrances to traffic, otherwise the freedom of assembly would be deprived of its content (judgments of 15 November 2007 on the case "Galstyan vs. Armenia", of 17 May 2011 on the case "Acgöl and Göl vs. Turkey", of 10 July 2012 on the case "Berladir and others vs. Russia" and others).

Interference of public authorities in the freedom of peaceful assembly, if it is not provided for by law, does not pursue one or several lawful ends, enumerated in Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, and is not necessary in a democratic society for achievement of one of these goals, is regarded by the European Court of Human Rights as breach of this Article (judgment of 14 February 2006 on the case "Christian Democratic People's Party vs. Moldova"); what is more, real respect of the freedom of assembly can not be reduced to the obligation on the part of a State of non-interference in its realization; it may be supplemented with positive obligation to ensure effective realization of this right, which acquires particular significance for persons holding unpopular opinions or belonging to minorities (judgments of 2 July 2002 on the

case “Wilson and the National Union of Journalists and others vs. the United Kingdom”, of 20 October 2005 on the case “Political Party “Ouranio Toxo” and others vs. Greece” and of 21 October 2010 on the case “Alexeev vs. Russia”).

Legislative, organizational and other measures, taken by bodies of public authority in order to appropriately ensure the right to freedom of peaceful assembly, must not lead to excessive State control over the activity of organizers and participants of public events, attended by unfounded restrictions of free holding of assemblies, meetings and demonstrations, processions and picketing. At the same time, taking into consideration the nature of the right guaranteed by Article 31 of the Constitution of the Russian Federation, contemplating exceptionally peaceful way of expressing their views and informing respective addressees of them by citizens, in cases when organizers or participants of a public event behave destructively, in particular, obviously intend to commit or, what is more, commit any actions, threatening public order and (or) public security, the State – in discharge of its constitutional duty to protect human and civil rights and freedoms – must use all lawful means for non-admission and interruption of manifests, not answering the substance of the right to peaceful assemblies.

Thus, the right of citizens of the Russian Federation to assemble peacefully, without weapons, to hold assemblies, meetings and demonstrations, processions and picketing, guaranteed by the Constitution of the Russian Federation and the said international-law acts as an integral part of the legal system of the Russian Federation (Article 15, Section 4, of the Constitution of the Russian Federation), is not absolute and may be restricted by a federal law with the aim to protect constitutionally significant values with obligatory observance of the principles of necessity, proportionality and commensurateness, so that restrictions introduced by it do not encroach upon the very essence of this constitutional right and do not hinder open and free expression of their views, opinions and demands by citizens by way of organization and holding of peaceful public actions.

Accordingly, such federal law must ensure the possibility of full-value realization of the right to freedom of peaceful assembly and simultaneously –

observance of appropriate public order and security without detriment to health and morals of citizens on the basis of balance of interests of organizers and participants of public events, on the one hand, and third persons – on the other, proceeding from the need of State protection of the rights and freedoms of all persons (both participating and not participating in a public event), including by way of introduction of adequate measures of prevention and averting of breaches of public order and security, rights and freedoms of citizens, as well as establishment of effective public-law responsibility for actions, breaking them or creating threat of their breach.

With this object the federal legislator, realizing powers of regulation and protection of human and civil rights and freedoms granted to him by the Constitution of the Russian Federation (Article 71, Items "в", "м"; Article 72, Item "б" of Section 1; Article 76, Sections 1 and 2), established in the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" the order of organization and holding of such public events. Supplements and amplifications, inserted in this order by the Federal Law of 8 June 2012 No. 65-ФЗ, are aimed, as it follows from the explanatory note to the draft of this Federal Law, at achievement of the necessary balance of the rights and interests of organizers and participants of public events, on the one hand, and citizens who experience difficulties in realization of their constitutional rights in connection with holding of such events – on the other.

2.1. Sub-Item "a" of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ Section 2 of Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" was supplemented by Item 1^1, according to which a person having unexpunged or uncancelled criminal record for commission of an intentional crime against the basis of the constitutional system and security of the State or a crime against social security and social order or having two or more times been made administratively answerable for administrative offences, envisaged by Articles 5.38, 19.3, 20.1 – 20.3, 20.18, 20.29 of the Administrative Offences Code of the Russian Federation may not be

organizer of a public event during the term when he/she is considered as exposed to administrative penalty.

Bringing forward particular requirements to initiators of holding of assemblies, meetings, demonstrations, processions and picketings is determined by the fact that one of the main goals of any public event is attraction of public attention and, consequently, it objectively broaches the interests of significant number of citizens (both taking direct part in a public event and those suffering some or other consequences of its holding), which create potential danger of breach of public order. Proceeding from this, the federal legislator introduced a ban to be organizer of a public event during certain period for persons, having repeatedly (two times or more) been made administratively answerable for the following actions envisaged by the Administrative Offences Code of the Russian Federation, the nature of which, as well as the repeated character of their commission allow to doubt the ability of such persons to organize and, the main thing, to hold peaceful public event with observance of order established by law: breach of the legislation on assemblies, meetings, demonstrations, processions and picketing (Article 5.38); disobedience to a lawful order of a police official, military serviceman, official of the bodies for control over turnover of drugs and psychotropic matters, official of bodies of the Federal Service of Security, official of bodies of State guard, official of bodies, authorized to carry out functions of control and supervision in the field of migration or an official or institution of criminal-executive system (Article 19.3); petty hooliganism (Article 20.1); breach of established order of organization or holding of an assembly, meeting, demonstration, procession or picketing (Article 20.2); organization of mass simultaneous stay and (or) movement of citizens in public places, having entailed breach of public order (Article 20.2^2); propaganda and public demonstration of Nazi attributes or symbols or public demonstration of attributes or symbols of extremist organizations (Article 20.3); blockading of transport communications (Article 20.18); manufacturing and dissemination of extremist materials (Article 20.29).

Administrative responsibility for some of the aforementioned administrative offences, as follows from Articles 2.1, 2.10, 19.3, 20.2, 20.2^2, 20.3, 20.18 and 20.29 of the Administrative Offences Code of the Russian Federation, may be applied both to citizens and to political parties, public associations and religious associations (their regional branches and other structural subdivisions), possessing the status of juridical person. But the ban, introduced in respect of persons having committed such administrative offences, by Sub-Item "a" of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ, as follows from the interconnected provisions of Section 1 and Items 1^1 and 2 of Section 2 of Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", may be extended exclusively to citizens of the Russian Federation, in addition having reached certain age, since by virtue of the direct instruction of the law a political party, other public association and religious association, their regional branches and other structural subdivisions may not be organizer of a public event only in case if their activity has been suspended or banned or if they have been liquidated in the order established by law.

Other interpretation of Sub-Item "a" of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ would not only conflict with the meaning of Sections 1 and 2 of Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", but also – in breach of Articles 13 (Section 4) and 19 (Section 1) of the Constitution of the Russian Federation, guaranteeing equality of public associations before the law, – would lead to objectively unjustified differentiation of public associations in the field of realization of the right to freedom of peaceful assembly, depending on presence (absence) of their status as juridical persons, although in the system of operating legal regulation the right of political parties, other public associations and religious associations (their regional branches and other structural subdivisions) to be organizer of a public event is not conditioned by possession of this status.

By its legal nature, the ban to be organizer of a public event for a person having two or more times been made administratively answerable for respective

administrative offences, during a term when the person is considered as exposed to administrative penalty, is a measure of administrative constraint of ensuring character, directed at averting of breaches of public order and security of citizens in the course of organization and holding of assemblies, meetings, demonstrations, processions and picketings. As such, this measure is not linked with repeated punishment of a citizen for administrative offences committed by him/her and, consequently, its application can not be evidence of deviation from the requirements of Article 50 (Section 1) of the Constitution of the Russian Federation, within the meaning of which nobody must be twice responsible for one and the same crime.

Neither by the objects pursued nor by the content of restrictions introduced, legal regulation established by Sub-Item "a" of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ encroaches upon the very essence of the right to freedom of peaceful assembly, so far as does not create insurmountable barriers for organization and holding of a public event and does not hinder the participation in it of a citizen, in respect of whom respective ban is applied: such citizen is restricted only in the right to be organizer of public events and only for a certain period of time; he/she is not deprived of the right to take part in public events and retains possibility to turn with requests to organize them to other citizens, as well as political parties, other public associations and religious associations, their regional branches and other structural subdivisions; he/she is not forbidden to render help to organizers of public events, including carrying out managing functions of organization and holding of a public event as a person, authorized by organizer, as it is provided for by Item 3 of Section 3 of Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings".

Herewith, by virtue of Articles 1 (Section 1), 2, 17 (Sections 1 and 2), 18 and 55 (Section 3) of the Constitution of the Russian Federation, obliging to proceed from such interpretation of a norm, which burdens the rights and lawful interests of citizens to the least extent, and Article 4.6 of the Administrative Offences Code of the Russian Federation, envisaging that a person, to whom administrative penalty

has been prescribed for commission of an administrative offence, is considered as exposed to this punishment during one year from the day of termination of execution of the resolution on its prescription, such interpretation and application of legislative provision under consideration, at which importance is attached neither to time interval having taken place between the first and subsequent cases of making a person administratively answerable nor to the result of administrative persecution, irrespective of what it ended with: prescription of administrative penalty, discontinuance of the proceedings on the case on administrative offence, including in view of expiry of the period of limitation of making administratively answerable, release of a person, having committed administrative offence, from administrative responsibility with declaration of oral reprimand to him/her.

Therefore, Sub-Item "a" of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ, within its constitutional-law meaning in the system of operating legal regulation, contemplates that the ban to be organizer of a public event may take place in respect of a particular person only in case when repeated making him/her administratively answerable for respective administrative offence took place within the bounds of the term of administrative penalty, i.e. during the period when the person is considered as exposed to administrative penalty for administrative offence committed by him/her earlier, and entailed prescription of administrative penalty. Other would lead to restriction of the right to freedom of peaceful assemblies, meetings and demonstrations, processions and picketing, not meeting the requirements of necessity, commensurateness and proportionality and would thus contradict Articles 31 and 55 (Section 3) of the Constitution of the Russian Federation.

As far as the extension of the ban to be organizer of a public event, side by side with persons, having committed certain administrative offences, to persons, having unexpunged or uncancelled criminal record for commission of intentional crime against the basis of the constitutional system and security of the State or a crime against social security and social order is concerned, when determining grounds for application of this ban and terms of its operation with respect to the

indicated categories of citizens, the federal legislator considered different extent of public danger of respective unlawful acts and persons, having committed them: if to citizens found guilty of commission of administrative offences, envisaged by Articles 5.38, 19.3, 20.1 – 20.3, 20.18 and 20.29 of the Administrative Offences Code of the Russian Federation, this ban is extended only in case when they were made administratively answerable repeatedly (two times or more) and only during one year from the day of termination of execution of the resolution on its prescription, to citizens having committed the indicated crimes it is applied without any additional conditions, moreover, such citizen is deprived of the right to be organizer of a public event for far longer period of time, since, for instance, criminal record with respect to persons convicted for particularly grave crimes, is cancelled only upon expiry of 8 years after having served the sentence (Article 86 of the Criminal Code of the Russian Federation).

Thus, the provision of Sub-Item "a" of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ, introducing the ban to be organizer of a public event for a person, having two or more times been made administratively answerable for administrative offences, envisaged by Articles 5.38, 19.3, 20.1 – 20.3, 20.18, 20.29 of the Administrative Offences Code of the Russian Federation, during the term when the person is considered as exposed to administrative penalty, does not contradict the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of operating legal regulation means that this ban may take place only in case, when repeated making him/her administratively answerable for respective administrative offence took place within the bounds of the term of administrative penalty for administrative offence committed by him/her earlier and entailed prescription of administrative penalty, and only for the period when the person is considered as exposed to administrative penalty, which does not hinder him/her to turn with requests to organize a public event to other citizens, political parties, other public associations and religious associations (their regional branches and other structural subdivisions) and does not deprive him/her of the possibility to take part in public events, including

carrying out managing functions of organization and holding of a public event as a person, authorized by the organizer.

2.2. Item 6 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ makes amendment to Section 1 of Article 10 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", by virtue of which unimpeded conduct of preliminary agitation about a public event is allowed from the moment of coordination of the place and (or) time of holding of a public event with a body of executive power of a subject of the Russian Federation or a body of local self-government, and not from the moment of submission of notification on its holding, as was envisaged before.

As follows from the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", notification on holding of a public event (with the exception of an assembly or picketing held by one participant) is handed in by its organizer to a body of executive power of a subject of the Russian Federation or a body of local self-government in the time no earlier than 15 and no later than 10 days before the day of holding of a public event; when picketing is being held by a group of persons, notification may be handed in the time no later than 3 days before the day of its holding, and if the indicated days coincide with Sunday and (or) non-working holiday (non-working holidays) – no later than 4 days before the day of its holding; the order of handing in of notification on holding of a public event is regulated by a respective law of a subject of the Russian Federation (Sections 1 and 2 of Article 7); preliminary notification on holding of public events in specially allotted places, which are determined by bodies of executive power of a subject of the Russian Federation, is not required if a number of persons participating in such public event does not exceed maximum number which is established by a law of a subject of the Russian Federation and may not be less than a 100 people (Section 1^1 of Article 8).

Placing on the organizer of a public event of the obligation to hand in preliminary notification on holding of a public event pursues the end to present to respective bodies of public authority information on the form, place (itinerary of

movement), time of beginning and end of the public event, presupposed number of its participants, means (methods) of ensuring public order and organization of medical aid, as well as on organizers and persons, authorized to carry out managing functions of organization and holding of the public event well in advance. Otherwise bodies of public authority, having no adequate notion about the planned public event, its character and scale, are deprived of real possibility to fulfill the duty to observe and protect human and civil rights and freedoms, placed on them by the Constitution of the Russian Federation, first of all by its Article 2, and to take necessary measures, including prophylactic and organizational, aimed at ensuring conditions of holding of a public event, secure both for participants of the public event and for other persons.

In the opinion of the European Court of Human Rights, notification (and even licensing) order of organization of a public event usually does not encroach on the essence 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; it not only allows to reconcile this right, in particular, with the right to free travel and lawful interests of other persons, but also serves to averting disorders and crimes, as well as gives the possibility to authorities to take reasonable and expedient measures for securing appropriate holding of any assembly, meeting or other event of political, cultural and other character; the European Court of Human Rights supposes that there is no task before it to standardize systems existing in Europe, the number of which the Russian order, defined as notification and coordination, also pertains to (judgments of 5 December 2007 on the case “Oya Ataman vs. Turkey”, of 18 December 2007 on the case “Nurettin Aldemir and others vs. Turkey”, of 7 October 2008 on the case “Molnar vs. Hungary” and of 10 July 2012 on the case “Berladir and others vs. Russia”).

The Federal Law “On Assemblies, Meetings, Demonstrations, Processions and Picketings” obliges a body of executive power of a subject of the Russian Federation or a body of local self-government in the course of 3 days from the day of receipt of the notification (and if notification on holding of picketing by a group

of persons is handed in less than 5 days before the day of its holding – on the day of its receipt) to transmit to the organizer of a public event substantiated proposal to change place and (or) time of holding of a public event, as well as proposals to the organizer of a public event to eliminate non-conformity of the goals, forms and other conditions of holding of a public event to the requirements of this Federal Law, as well as information on the established maximum filling of a territory (premises) in the place of holding of a public event (Items 1, 2 and 4 of Section 1 of Article 12); refusal to coordinate holding of a public event is admitted only in cases if the notification on holding of it has been handed in by a person who in accordance with this Federal Law is not entitled to be organizer of a public event or if as a place of holding of a public event in the notification a place is indicated, in which holding of a public event is forbidden by this Federal Law or a law of a subject of the Russian Federation (Section 3 of Article 12).

As follows from the legal position, formulated by the Constitutional Court of the Russian Federation in the Ruling of 2 April 2009 No. 484-O-П, the notion "coordination of holding of a public event with a body of public authority" within its constitutional-law meaning does not contemplate that a body of public authority may, on its own discretion, forbid holding of a public event or change its goals, place, time or form; it is only entitled to suggest to change place and (or) time of its holding, and such suggestion must be motivated and be caused either by the need to preserve normal and uninterrupted functioning of vitally important objects of communal or transport infrastructure or the need to maintain public order, ensuring of the security of citizens (both the participants of a public event and persons who may stay in the place of its holding in the time announced by the organizer), or other similar reasons, exhaustive legislative determination of which would limit the discretion of public authority in fulfillment of its constitutional duties.

When coordinating a public event, the authorized representatives of public authority must adduce weighty arguments in substantiation of the position that holding of a public event in the announced place and (or) announced time is not

simply undesirable, but impossible in connection with the need to protect constitutionally recognized values, and offer to organizers of a public event such a variant, which would allow to realize its goals, including free formation and bringing forward of their claims, including political, by the participants of a public event and their transmission to respective addressees. Organizers of a public event, in their turn, must undertake reasonable and sufficient efforts for achieving possible compromise on the basis of balance of interests in order to realize their constitutional right to freedom of peaceful assembly. Analogous approach at assessment of the procedure of coordination of a public event and obligations of parties of such coordination is shared by the European Court of Human Rights, in whose opinion in a situation when authorities do not ban a public event, but offer alternative place of holding, its organizers may not reject, without some convincing reasons, the offer of the authorities, allowing them to hold a public event in another place, particularly if it is located in the city centre and is obviously bigger in size (judgment of 10 July 2012 on the case “Berladir and others vs. Russia”).

At non-attainment of accord with a body of executive authority of a subject of the Russian Federation or a body of local self-government concerning the place and (or) time of holding of a public event, organizers of a public event have the right to protect their rights in court. Resolving such a dispute, the court, proceeding from the criteria fixed in Article 55 (Section 3) of the Constitution of the Russian Federation, assesses respective decisions and actions of a body of public authority from the point of view of their legality and validity, in order not to admit in every particular case disproportionate restriction of the right, guaranteed by Article 31 of the Constitution of the Russian Federation; in this case court consideration must be carried out on the basis of operating procedural legislation in the maximum short time, as it is provided for consideration of disputes in the field of electoral rights, i.e. before the date of holding of the planned public event; otherwise court protection would loose its sense in many respects, which is inadmissible by virtue of Article 46 of the Constitution of the Russian Federation (Ruling of the Constitutional Court of the Russian Federation of 2 April 2009 No. 484-O-П).

The requirement to coordinate holding of a public event, addressed to its organizer, – within the meaning of the interconnected provisions of Item 7 of Article2, Article 7, Section 1 of Article 10 and Article 12 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" – does not mean that a body of executive power of a subject of the Russian Federation or a body of local self-government, having received notification, in any case is obliged to react to it by way of transmitting to the organizer its suggestions on altering the place and (or) time of holding of a public event. On the contrary, having made certain of absence of circumstances, excluding the possibility of its holding (Section 3 of Article 12 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings"), respective body of public authority must undertake all measures depending on it for it to take place in the location announced by the organizer and in the planned time and not to try on any pretext to find reasons which could justify the need to deviate from the suggestions of the organizer of a public event. Public event must be considered as coordinated not only after receipt of confirmation of a body of executive power of a subject of the Russian Federation or a body of local self-government, but also in case if the indicated bodies did not transmit to the organizer of a public event suggestion on altering of the place and (or) time of its holding in the time established by law.

Other not only would contradict the prescriptions of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" itself, according to which organizer of a public event is entitled to hold it in the place and time indicated in the notification on holding, if they were not altered as a result of coordination with a body of executive power of a subject of the Russian Federation or a body of local self-government (Section 3 of Article 5), but would also not conform to the Constitution of the Russian Federation, which proceeds from the postulate that human and civil rights and freedoms have direct force and determine the meaning, content and implementation of laws, the functioning of legislative and executive authority, of local self-government (Article 18) and admits restriction of constitutional rights and freedoms, including the right to freedom of

peaceful assembly (Article 31) only in cases when it is necessary for the protection of the basis of the constitutional order, morality, health, rights and lawful interests of other people, ensuring the defence of the country and the security of the State (Article 55, Section 3).

This conclusion has universal significance for assessment of legal regime of organization and holding of public events, including in respect of the provision on conduct of preliminary agitation on a public event from the moment of coordination with a body of executive power of a subject of the Russian Federation or a body of local self-government of the place and (or) time of its holding, introduced by Item 6 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ.

Tying up the beginning of the period of agitation with the procedure of coordination of a public event, and not handing in of notification on its holding, as it was taking place before entering into force of the indicated Federal Law, does not mean establishment of licensing order of realization of the right, guaranteed by Article 31 of the Constitution of the Russian Federation, by citizens of the Russian Federation. The amendment made by the federal legislator is determined by the fact that up to the moment of coordination of the place and (or) time of holding of such public events as meeting, demonstration, procession or picketing by a group of persons, any information about them can not be regarded as fully authentic, moreover, after handing in of notification to a body of executive power of a subject of the Russian Federation or a body of local self-government possibility of organizer's refusal to hold it is not excluded, which places on him/her obligation to take measures to discontinue preliminary agitation and to inform interested subjects of the decision adopted (Section 5 of Article 10 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings"), and therefore dissemination of calls to take part in an event, place and time of holding of which have not been coordinated yet, can delude citizens and their associations. And in cases when holding of public events requires no handing in of respective notification and, consequently, coordination either (Section $1^1$of Article 7 and Section 1^1 of Article 8 of the Federal Law "On Assemblies, Meetings,

Demonstrations, Processions and Picketings"), their organizers may begin to conduct preliminary agitation at any time convenient for them.

Permission to conduct preliminary agitation about a public event from the moment of coordination of the place and (or) time of its holding with respective body of public authority does not mean that before this moment the organizer of a public event is not entitled to disseminate any information about it: by virtue of Article 4 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" informing possible participants of a public event is not excluded both before and after handing in respective notification to a body of executive power of a subject of the Russian Federation or a body of local self-government. Notification of possible participants of a public event – in contradistinction to preliminary agitation which, within the meaning of the legal position expressed by the Constitutional Court of the Russian Federation in the Judgment of 30 October 2003 No. 15-П, has the aim to induce citizens and their associations to take part in a public event, – allows its organizers to transmit to possible participants of a public event information on a planned meeting, demonstration, procession or picketing, as well as, if necessary, on the process of coordination, well in advance. Carrying out such notification, the organizer of a public event has the right to disseminate information about the goals, form, declared place and time of holding, presupposed number of participants and other details of a public event by any means, but this information must not contain invitations and calls to take part in it.

Therefore, considering that from the moment of coordination of a public event preliminary agitation may be conducted through mass media, oral calls, dissemination of leaflets, posters and advertisements, as well as by way of using other forms of agitation, not forbidden by the legislation of the Russian Federation, thanks to which organizers of a public event have practically unlimited possibility of disseminating information on the place and time of its holding in order to attract public attention to a public event and induce citizens (their associations) to participate in it, the federal legislator, amending legal regulation in respect of the

beginning of unimpeded conduct of preliminary agitation about a public event, did not exceed the limits of his discretionary powers, determined by the Constitution of the Russian Federation, including its Articles 17 (Section 3), 29 (Section 4), 31 and 55 (Section 3).

Accordingly, Item 6 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ, admitting unimpeded conduct of preliminary agitation about a public event from the moment of coordination of the place and (or) time of its holding with a body of executive power of a subject of the Russian Federation or a body of local self-government, does not contradict the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of operating legal regulation contemplates no introduction of a licensing order of organization of public events and does not hinder the organizer of a public event to carry out notification of possible participants of a public event about its presupposed goals, form, place, time and other conditions of holding before the moment of coordination of the place and (or) time of its holding.

This does not remove from the federal legislator the obligation, proceeding from the requirements of the Constitution of the Russian Federation and with regard to the present Judgment, to make changes in the regulation of terms of court consideration of disputes, arising in connection with coordination of the place and (or) time of holding of public events, in order to ensure settlement of such disputes before the date of holding of a planned public event, announced by the organizer.

2.3. Constitutionality of the provisions of Item 7 of Article 1 and Paragraphs 4 and 5 of Sub-Item “в” of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ is called in question by a group of deputies of the State Duma in the part, envisaging placing on the organizer of a public event of the obligation to take measures to prevent excess of the number of participants of a public event, indicated in the notification on holding of a public event, and establishing administrative responsibility for its non-execution.

The question of assessment of constitutionality of the requirements, placing on the organizer the obligation to indicate the presupposed number of participants

in the notification on holding of a public event, has already been a subject-matter of consideration by the Constitutional Court of the Russian Federation. As follows from the legal position expounded by it in the Judgment of 18 May 2012 No. 12-П, the choice, including by means of coordination, of the place (places) of its holding, as well as, if need be, the itineraries of movement of its participants to a great extent depends on adequate idea of possible number of participants of a public event; accordingly, organizer of a public event must particularly weightily, considerably and responsibly approach the determination of potential number of its participants, considering actuality and public significance of a question, with regard to which free expression and forming of opinions, advancement of claims is contemplated proceeding from the goals of a public event, determined by Article 2 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings"; otherwise, it is fairly difficult (or impossible) to understand whether the place chosen for holding of a public event (be it an assembly, meeting, demonstration, procession or picketing) will allow all persons interested to realize their right to peaceful participation in a public event, i.e. not breaking public order and public security, not causing damage to rights and lawful interests of other persons, and authorized bodies of State power or local self-government to take necessary and justified measures, both prophylactic and organizational, including assignment of adequate forces and means for securing public order and security of citizens during its holding.

Placing on the organizer of a public event of the obligation to take measures to prevent excess of the number of participants of a public event, indicated in the notification on its holding, if excess of such participants creates threat to public order and (or) public security, the security of the participants of this public event or other persons or a threat to cause damage to property, is aimed at securing public order and security of citizens and contemplates use by the organizer of a public event of all possibilities accessible to him/her so that the number of participants of a public event does not exceed the one declared in the notification or at least, in spite of an excess present, including with regard to the norm of maximum filling of

the territory (premises) in the place of holding of a public event, a threat is not created to public security, to the life and health of citizens, of causing damage to property of natural and juridical persons.

At the same time one must take into account that ensuring of public order and security of citizens, as well as observance of legality during holding of a public event in accordance with Item5 of Section 1 of Article 12, Items 2 and 3 of Section 2 of Article 13 and Section 3 of Article 14 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" is placed not only on organizer of a public event, but also on authorized representatives of a body of executive power of a subject of the Russian federation or a body of local self-government and a body of internal affairs, who must render assistance to the organizer of a public event in its holding. Therefore, when deciding a question whether the organizer of a public event undertook timely and necessary measures to prevent participation in it of a larger number of citizens than was indicated in the notification, it is important to consider the reaction of the indicated authorized persons at admitted excess of the number of participants of a public event, so far as they in the first place must in case of need, namely if such excess creates threat to public order and security of citizens, take necessary measures within the framework of their competence.

Participation of a larger number of people in a public event than was primordially declared by its organizer, at that the right to freedom of peaceful assembly is guaranteed to everyone, and nobody, including organizer of a public event, may hinder citizens in its lawful realization, in itself is not a sufficient ground for making organizer of a public event administratively answerable. Such responsibility may come only in case when excess of the number of participants of a public event declared in the notification and creation by this of a real threat to public security and legal order were conditioned by actions (inaction) of the organizer of a public event or when organizer of a public event, having admitted excess of the number of its participants, took no measures, including upon demand of an authorized representative of a body of executive power of a subject of the

Russian Federation or a body of local self-government or an authorized representative of a body of internal affairs, aimed at limitation of citizens' access to participation in a public event, that he/she was obliged to take in accordance with the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", which entailed rise of a threat to public order and (or) public security, the security of the participants of a public event and other persons or the threat of causing damage to property.

By virtue of the principle of the presumption of innocence, following from Article 49 of the Constitution of the Russian Federation, compulsory condition of making organizer of a public event administratively answerable for participation in this public event of larger number of participants than was indicated in the notification on its holding, is presence of his/her direct guilt in excess of presupposed number of participants of a public event. Herewith, so far as the person being made administratively answerable is not obliged to prove his/her innocence, and unremovable doubts about guilt of such person must be interpreted in his/her favour, when deciding the question of application of administrative sanctions to the organizer of a public event particular attention must be paid to clarification of whether he/she had objective possibility to make up adequate idea about the real number of participants of a public event. Besides, making organizer of a public event administratively answerable for non-execution of the indicated obligation does not exclude legal assessment of actions (inaction) and decisions of authorized representatives of a body of executive power of a subject of the Russian Federation or a body of local self-government or a body of internal affairs, including concerning their responsibility for inappropriate fulfillment of duties of rendering assistance to the organizer of a public event and ensuring public order and security of citizens during its holding.

Proceeding from this, the provisions of Item 7 of Article 1 and Paragraphs 4 and 5 of Sub-Item "в" of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ in the part, placing on the organizer of a public event the obligation to take measures to prevent excess of the number of its participants, indicated in the

notification on holding of a public event, if such excess creates threat to public order and (or) public security, the security of participants of this public event or other persons or a threat of causing damage to property, and envisaging administrative responsibility of the organizer of a public event for non-execution of this obligation, do not contradict the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of operating legal regulation these provisions:

contemplate use by the organizer of a public event of all possibilities available to him/her so that the number of participants of a public event does not exceed the one declared in the notification on its holding or, at least, in spite of the excess present, including with regard to the norm of maximum filling of a territory (premises) in the place of holding of a public event, does not create threat to public order and (or) public security, life and health of citizens, as well as causing damage to property of natural and juridical persons;

envisage coming of administrative responsibility of the organizer of a public event for non-execution of this obligation only in case if excess of the number of participants of a public event declared in the notification and creation by this of a threat to public security and legal order were conditioned by actions (inaction) of the organizer of a public event or if he/she, having admitted excess of the number of its participants, took no measures, including upon demand of an authorized representative of a body of executive power of a subject of the Russian Federation or a body of local self-government or an authorized representative of a body of internal affairs, aimed at limitation of citizens' access to participation in a public event, that he/she was obliged to take in accordance with the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", which entailed rise of a threat to public order and (or) public security, the security of the participants of the public event and other persons or the threat of causing damage to property;

do not exclude making authorized representatives of a body of executive power of a subject of the Russian Federation or a body of local self-government or

a body of internal affairs answerable for inappropriate fulfillment of powers for rendering assistance to the organizer of a public event and ensuring of public order and security of citizens during its holding.

2.4. By Sub-Item "г" of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" was supplemented with Section 6, according to which organizer of a public event in case of non-execution of obligations, provided for by Section 4 of the same Article, by him/her bears civil-law responsibility for damage caused by participants of a public event; compensation of the damage is carried out in the procedure of civil judicial proceedings.

In accordance with Section 4 of Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" (in the wording of the Federal Law of 8 June 2012 No. 65-ФЗ), when holding a coordinated public event its organizer is obliged, in particular, to ensure observance of the conditions of holding of a public event, indicated in the notification on its holding or changed as a result of coordination with a body of executive power of a subject of the Russian Federation or a body of local self-government (Item 3), demand from the participants of a public event observance of public order and the rules of holding of a public event, discontinuance of breach of the law (Item 4), to ensure, within the bounds of his/her competence, public order and security of citizens, and in cases envisaged by this Federal Law to fulfill this duty together with authorized representative of a body of executive power of a subject of the Russian Federation or a body of local self-government and authorized representative of a body of internal affairs, fulfilling all their lawful demands (Item 5), suspend a public event or discontinue it in case of commission of unlawful action by its participants (Item 6), ensure observance of the norm of maximum filling of a territory (premises) in the place of holding of a public event, established by a body of executive power of a subject of the Russian Federation or a body of local self-government (Item 7), take measures for prevention of excess of the number of participants of a public

event, indicated in the notification, if excess of the number of such participants creates threat to public order and (or) public security, the security of participants of this public event or other persons or the threat of causing damage to property (Item 7^1), ensure safety of plantations, premises, buildings, structures, erections, equipment, furniture, inventory and other property in the place of holding of a public event (Item 8), transmit to participants of a public event the demand of an authorized representative of a body of executive power of a subject of the Russian Federation or a body of local self-government of suspension or discontinuance of a public event (Item 9), to have distinguishing sign of the organizer of a public event, as well as ensure the presence of such a sign on persons, authorized to carry out managing functions of organization and holding of a public event (Item 10), demand from the participants of a public event not to hide their faces, including no use of masks, means of camouflage and other objects, specially intended to hamper establishing identity (Item 11).

Placing of such a broad circle of obligations on the organizer of a public event is determined by the fact that the initiative to realize the right to freedom of peaceful assembly in one or another form admitted by law, coming from him/her, objectively contemplates his/her interest in taking of all possible measures so that a public event held by him/her attains its goal and does not entail breach of public order and public security, rights and freedoms both of the participants of a public event and persons not taking part in it, as well as extermination or damage of property of natural and juridical persons. Non-execution of these obligations, moreover, if it caused harm to values (objects) protected by law, may serve as a ground for making organizer of a public event legally answerable.

The Constitution of the Russian Federation, directly fixing the principle of guilt in respect of criminal responsibility (Article 49) and establishing that nobody may bear liability for an action, which was not regarded as a crime when it was committed (Article 54, Section 2), at the same time does not exclude the possibility to call natural and juridical persons to civil-law account for actions (inaction) of other persons. Carrying out respective legal regulation, federal legislator is bound

by the criteria of validity, proportionality, commensurateness and fairness of the introduced restrictions of the rights and freedoms of citizens, following from Articles 1 (Section 1), 19 (Section 1) and 55 (Section 3) of the Constitution of the Russian Federation, including the right of property, protected by law (Article 35, Section 1, of the Constitution of the Russian Federation), as well as by the requirements of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 1 of which, recognizing the right of every natural or juridical person to respect of one's property, proceeds from the notion that nobody may be deprived of his/her property except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The operating civil legislation, establishing as a general condition of coming of civil-law responsibility the rule, according to which damage caused to a person or property of a citizen, as well as damage caused to property of a juridical person, is subject to compensation in full amount by the person having caused damage (Item 1 of Article 1064 of the Civil Code of the Russian Federation), admits placing of the obligation of compensation of damage also on a person who is not its causer. For instance, according to Article 1068 of the Civil Code of the Russian Federation, juridical person or a citizen compensates damage, caused by his employee at fulfilling labour (service, official) duties (Item 1), and economic partnerships and production cooperatives – damage caused by their participants (members) at carrying out entrepreneurial, production or other activity of the partnership or cooperative (Item 2). In this, as well as in other cases (Articles 1073-1076 of the Civil Code of the Russian Federation) the requirement of compensation of damage, caused by actions of other persons, is determined by the fact that citizens (juridical persons), called to civil-law account, and persons being direct causers of the damage, find themselves in stable legal relations, for instance, labour, service or family, which by virtue of their legal nature contemplate one or another extent of responsibility of some subjects of respective legal relations

(employers, parents, guardians and others) for actions of others (employees, minors, incapable).

Meanwhile, holding of an assembly, meeting, demonstration, procession or picketing contemplates with necessity the possibility of participation of uncertain circle of persons in them, among whom accidental people, unknown to the organizer of a public event, can be found with large share of probability. This circumstance has principal legal significance for elucidation of the character of interrelations of organizer and participants of a public event who, independently and voluntarily taking the decision to participate in it, must carry out all lawful demands of the organizer of a public event (persons authorized by him/her), authorized representative of a body of executive power of a subject of the Russian Federation or a body of local self-government and an authorized representative of a body of internal affairs, as well as observe public order and the rules of holding of a public event. Proceeding from this, at revelation of the facts of breach of the indicated obligations, envisaged by Items 1 and 2 of Section 3 of Article 6 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", by participants of a public event, moreover, if such breach caused damage to someone else's property, just they must bear legal responsibility, including compensation of damage caused to natural and juridical persons by their actions.

The right to freedom of peaceful assembly, being universally recognized democratic value, is in need of particular protection, so far as with the help of it forming and expression of opinions and demands of various political forces and social groups are reached and thereby the necessary pre-requisites for ensuring feedback of citizens (their associations) with institutions of public authority are created. Therefore, even taking into account the circumstance that realization of this right is objectively connected with obvious risks, the danger of coming of which essentially grows in case of non-execution by organizers of public events of their duties, the State must not, notwithstanding the preventive objects pursued, introduce sanctions for damage caused by participants of a public event, which

would wittingly put its organizer in the position of a party, bearing civil-law responsibility for actions of other persons irrespective of the presence (absence) of his/her guilt in causing of damage.

Non-execution of obligations, envisaged by Section 4 of Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" by the organizer of a public event, although the obligation to guard public order and ensure security of citizens lies first of all on the bodies of public authority, in itself can not serve as a sufficient ground for placing of civil-law responsibility on him/her for damage caused by participants of a public event, otherwise he/she would be compelled to answer also for actions, which did not depend on execution (non-execution) of his/her duties by him/her and could not be controlled by him/her, while the direct causers of damage (both participants of a public event and other persons) would have remained unpunished.

At the same time, one can not but consider that the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" not only places on the organizer of a public event respective obligations, realized in cases established by law together with authorized representative of a body of executive power of a subject of the Russian Federation or a body of local self-government and authorized representative of a body of internal affairs (Item 5 of Section 4 of Article 5), but also grants him/her the right to address to authorized representative of a body of internal affairs with request to remove citizens, not executing lawful demands of organizer of a public event, from the place of its holding (Item 3 of Section 2 of Article 14).

Thereby particular role in maintaining public order and public security during holding of a public event is allotted to its organizer, contemplating the need to manifest appropriate care about observance of the conditions and rules of holding of a public event by all citizens, taking part in an assembly, meeting, demonstration, procession or picketing. Therefore, placing of civil-law responsibility on the organizer of a public event is admissible only in case of his/her evasion of execution of obligations of maintenance of public order and

guarding of citizens' security, linked with imprudence or, what is more, with premeditated actions, causing harm to natural or juridical persons by participants of a public event as their consequences. But if the organizer of a public event acts with judicious circumspection, does not evade of obligations placed on him/her and by his/her own behavior does not provoke breach of public order by participants of a public event, the burden of compensation of damage caused during its holding must be borne by direct causers of the damage, and not the organizer of a public event.

The European Court of Human Rights repeatedly pointed out in its decisions that freedom of participation in a peaceful meeting has such a great importance that a person may not be exposed to penalty, even from the number of the most mild, for participation in a public event which was not forbidden, if only him/herself has not committed any blamed actions; particular persons, participating in such event, must bear responsibility for their actions (judgments of 26 April 1991 on the case "Ezlin vs. France" and of 23 October 2008 on the case "Sergey Kuznetsov vs. Russia"). Attention is paid to inadmissibility of calling organizers of public events to account for actions of other persons, including those having entailed causing of property damage, also in the Guiding Principles of OSCE – the Venice Commission on Freedom of Peaceful Assembly (adopted by the Venice Commission on 4 July 2010), according to which organizers must not be made answerable neither for actions of individual participants nor for actions of persons, having not participated in a public event or *agents provocateurs*; instead, individual responsibility for any person, if he/she personally commits offence, must exist (Item 5.7); responsibility for actions of individual participants or managers, who must bear responsibility in individual order, if they are guilty of an offence or non-execution of lawful demands of officials of law-enforcement bodies, must not be placed on organizers (Item 197); if an assembly grows into serious public disturbances, the responsibility for causing of damage lies on the State, but not on organizers of an assembly or managers; under no conditions

organizers of an assembly or manager must be made answerable for damage which an assembly caused to other persons (Item 198).

Placing of responsibility for damage, caused by a participant of a public event, on organizer of a public event, in essence, obliges him/her to compensate the damage even when causing of it is not connected with actions (inaction) of the organizer of a public event him/herself. Accordingly, already when handing in notification the organizer of a public event is put before a choice: either to assume the obligation to compensate any harm, which may be caused by participants of a public event, or to refrain from carrying out the right, guaranteed to him/her by Article 31 of the Constitution of the Russian Federation, which is not only incompatible with universally recognized democratic standards of freedom of peaceful assembly, but also does not accord with general principles of legal responsibility, including fairness, commensurateness and proportionality, so far as it has, in essence, restraining effect upon realization of the right to freedom of peaceful assembly and leads to unfounded restriction of property rights of a person being organizer of a public event.

Thus, Sub-Item "г" of Item 1 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ does not conform to the Constitution of the Russian Federation, its Articles 31, 35 (Section 1) and 55 (Section 3) to the extent to which it contemplates coming of civil-law responsibility of organizer of a public event in case of non-execution by him/her of obligations, envisaged by Section 4 of Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", for damage caused by participants of a public event irrespective of his/her manifesting appropriate care about maintenance of public order and absence of his/her guilt in causing of such damage.

2.5. By Item 3 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ Article 7 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" was supplemented with Section 1^1, according to which notification on picketing carried out by one participant is not required; minimum admissible distance between persons carrying out one-man picketing is determined

by a law of a subject of the Russian Federation; the indicated minimum distance may not be more than 50 meters; the totality of acts of picketing carried out by one participant, united by a uniform idea and a common organization, may be recognized as one public event by a court decision on concrete civil, administrative or criminal case.

Indication that picketing held by one participant requires no preliminary notification of a body of executive power of a subject of the Russian Federation or a body of local self-government, contained in the said legislative provision, only duplicates the prescription of Section 1 of Article 7 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", from which it follows that organizer of such picketing is not obliged to hand in such notification and as such not only does not hinder organization of one-man pickets, but also allows to hold them in any places and at any time without any interference of the State, if a law does not establish otherwise.

So far as such form of a public event as one-man picketing may be used by citizens practically without restrictions, the federal legislator, in order to prevent organization of collective public actions under the guise of picketing, carried out by one participant, has obliged persons, carrying out one-man picketing, to observe minimum admissible (but no more than 50 meters) distance, established by the law of a subject of the Russian Federation in order to prevent evasion of the organizer of such public event as picketing by a group of persons of the procedure of notification on its holding which, in its turn, would hinder bodies of executive power and bodies of local self-government to opportunely take adequate measures to ensure appropriate order of realization of respective civil initiative, as well as to maintain public security and guarding the rights and lawful interests of the participants of a public event and other persons.

At the same time, even with observance of minimum admissible distance between persons carrying out one-man picketing, especially in big cities, abuses of the right to freedom of peaceful assembly by means of organization of collective public actions under the guise of individual one-man pickets are not excluded. If

several pickets, each of which formally falls under the signs of a one-man, are sufficiently obviously united by uniformity of goals and common organization, are held simultaneously and territorially gravitate towards each other, and their participants use associatively recognizable (or, what is more, identical) visual means of agitation and advance common demands and calls, they can be perceived and assessed, including from the point of view of conformity to the established order of organization and holding of public events, as picketing carried out by a group of persons.

Recognition of a totality of acts of one-man picketing as one public event may take place, as it is envisaged by Section 1^1 of Article 7 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", only within the limits of judicial procedure, the use of which at resolving this question, within the meaning of the legal position, expressed by the Constitutional Court of the Russian Federation in a number of decisions (Judgment of 16 October 1997 No. 14-П, Rulings of 14 January 2000 No. 2-O, of 2 July 2009 No. 1006-O-O and others), contemplates with necessity participation of a court as impartial and independent arbiter and thereby in many respects predetermines the level of protection of the constitutional right of citizens to one-man picketing.

Taking respective decision, the court must make certain that the totality of acts of one-man picketings represents not an accidental coincidence of actions of individual picketers, but an action, united by a uniform idea and common organization, and avoid qualification of a picketing carried out by one participant as one public event in case of manifestation of usual attention to him/her from persons having become interested by his/her actions. Herewith, by virtue of the presumption of lawfulness of actions of every citizen, having enjoyed the right to one-man picketing on conditions envisaged by law, following from Articles 2, 17 (Section 3) and 18 of the Constitution of the Russian Federation, the obligation to prove that holding of one-man pickets by several persons was primordially planned and united by a uniform idea and common organization and represents none other than a concealed form of a collective public event, must lie on the subjects who

initiated consideration of particular civil, administrative or criminal case in court. Otherwise, appropriate guarantees of realization of the right to one-man picketing by citizens would not be ensured, which would lead to excessive restriction of the right to freedom of peaceful assembly in breach of Articles 17 (Section 3), 31 and 55 (Section 3) of the Constitution of the Russian Federation.

Thus, the provisions of Item 3 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ, establishing the requirement of observance by persons, carrying out one-man picketing, of minimum admissible distance between them and envisaging the possibility of recognition of a totality of acts of picketing, united by a uniform idea and common organization, as one public event by a court decision in a particular civil, administrative or criminal case, do not contradict the Constitution of the Russian Federation, so far as within their constitutional-law meaning in the system of operating legal regulation they are aimed at hindering abuse of the right not to notify bodies of public authority on holding of a one-man picketing, do not refute the presumption of lawfulness of actions of a citizen, observing the established order of holding of a one-man picketing and contemplate recognition of a totality of one-man pickets as one public event solely on the basis of a court decision and only in case if the court establishes that these pickets were primordially united by a uniform idea and common organization and do not represent accidental coincidence of actions of individual picketers.

2.6. By Sub-Item “a” of Item 4 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ Article 8 of the Federal Law “On Assemblies, Meetings, Demonstrations, Processions and Picketings” was supplemented with Section 1^1, according to which bodies of executive power of subjects of the Russian Federation determine unified specially allotted or adapted places (specially allotted places) for collective discussion of socially significant questions and expression of public mood, as well as for mass presence of citizens for public expression of public opinion on actual problems mainly of socio-political character; the order of use of specially allotted places, the norms of their maximum filling and maximum numbers of persons, participating in public events, notification on holding of which

is not required, are established by a law of a subject of the Russian Federation, at that the indicated maximum numbers must not be less than 100 people.

The possibility of vesting bodies of executive power of subjects of the Russian Federation with the said authority follows from the Constitution of the Russian Federation, its Article 72 (Item "б" of Section 1), ascribing protection of human and civil rights and freedoms, as well as ensuring lawfulness, law and order, public security to the field of joint jurisdiction of the Russian Federation and its subjects, and Article 76 (Section 2), within the meaning of which presence on subjects of the Russian Federation of the right to adopt their own laws and normative acts on matters of joint jurisdiction, conforming to federal laws, is contemplated. As the Constitutional Court of the Russian Federation repeatedly pointed out, subjects of the Russian Federation thus have the possibility to establish, side by side with basic guarantees of human rights fixed by a federal law, in their law or other normative legal act additional guarantees of these rights, aimed at rendering them concrete, creation of additional mechanisms of their realization with regard to regional peculiarities (conditions) and with observance of constitutional requirements of non-contradiction of laws of subjects of the Russian Federation to federal laws and of inadmissibility of restriction of human and civil rights and freedoms in a form, different from that of a federal law; in any event, carrying out such regulation, legislator of a subject of the Russian Federation must not introduce procedures and conditions, which distort the very essence of some or other constitutional rights, and reduce the level of their federal guarantees, fixed by federal laws on the basis of the Constitution of the Russian Federation, as well as introduce any restrictions of constitutional rights and freedoms, since they may be established only by the federal legislator within goals and bounds determined by the Constitution of the Russian Federation (Judgment of 21 June 1996 No. 15-П, of 18 July 2012 No. 19-П and others).

Accordingly, it is particularly specified in the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" (in the wording of the Federal Law of 8 June 2012 No. 65-ФЗ) that when determining socially allotted

places and establishing the order of their use the possibility to achieve the goals of public events, transport accessibility of specially allotted places, the possibility to use objects of infrastructure by organizers and participants of public events, observance of sanitary norms and rules, security of organizers and participants of public events, other persons must be ensured; in case of sending by organizers of several public events of notifications on their holding in specially allotted places at one and the same time, the order of priority of use of such places is determined depending on the time of receipt of respective notification by a body of executive power of a subject of the Russian Federation or a body of local self-government (section 1^2 of Article 8); after determination of specially allotted places by a body of executive power of a subject of the Russian Federation in the established order, public events are held, as a rule, in these places; this does not exclude holding of a public event out of specially allotted places, moreover, coordination of holding of a public event may be refused in such case also, only if the notification is handed in by a person, who in accordance with the law is not entitled to be organizer of a public event or if in the notification a place is indicated as a place of holding of a public event, where holding of public events is forbidden by this Federal Law or a law of a subject of the Russian Federation (Section 2^1 of Article 8 and Section 3 of Article 12).

The adduced legislative provisions, as follows from their content in the interconnection with other provisions of the Federal Law “On Assemblies, Meetings, Demonstrations, Processions and Picketings”, have the object of creation of additional conditions for unimpeded realization of the right to freedom of peaceful assembly by citizens and their associations, including without preliminary sending of respective notification to bodies of public authority under the condition that the number of presupposed participants of a public event does not exceed maximum numbers, established by a law of a subject of the Russian Federation: they grant to all interested persons alternative possibilities at choosing of the place of holding of a public event, allow bodies of public authority to take necessary measures for ensuring public order and security of citizens in specially

allotted places well in advance and at the same time do not hinder organizers of a public event to choose other place of its holding; requirements contained in them orientate bodies of executive power of subjects of the Russian Federation at the use of powers granted to them at determination of expanse-territorial location of specially allotted places, which most fully answers the nature and destination of public events.

Proceeding from this, Sub-Item "a" of Item 4 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ, to the extent to which it is aimed at creation of additional conditions for unimpeded realization of the right to peaceful assembly by citizens and their associations, does not contradict the Constitution of the Russian Federation.

In spite of absence of indication, what body of executive power of a subject of the Russian Federation concretely is authorized to determine specially allotted places for holding of public events in the legislative provisions under consideration, they are in any event sufficient for organization of respective work by a higher executive body of State power of a subject of the Russian Federation, and, consequently, its inaction with respect to this question may be appealed to court. Herewith, even in absence of direct prescriptions, establishing the terms of determination of specially allotted places, one should take into account that since by virtue of Section 4 of Article 3 of the Federal Law of 8 June 2012 No. 65-ФЗ the order of use of such places, norms of their maximum filling and maximum numbers of persons, participating in public events, notification of holding of which is not required, must be established by a law of a subject of the Russian Federation, adopted and having entered into force before 1 January 2013, these places themselves must already be determined in all subjects of the Russian Federation by this moment.

Not elaborating whether it is necessary, when determining specially allotted places, to ensure their presence in every municipal entity and not specifying what must be the minimum admissible norm of their maximum filling, Sub-Item "a" of Item 4 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ, in essence, does

not limit the discretion of bodies of executive power of subjects of the Russian Federation in resolving this question. As a result, in breach of the constitutional principles of a law-governed State and supremacy of the law, determination on the entire territory of a subject of the Russian Federation only of solitary specially allotted places is not excluded and, consequently, additional possibilities of holding of public events not only in every settlement (inhabited locality), but also, what is more, in every city circuit and municipal district, connected with presence of such places, are not guaranteed, which in the conditions of significant dimensions of the territory of a subject of the Russian Federation, even with formal observance of the requirement of transport accessibility, as not rendered concrete on the form and time of realization, can lead to substantial inequality of legal conditions of carrying out of the right to freedom of peaceful assembly by citizens depending on the place of residence.

Thus, Sub-Item "a" of Item 4 of Article 2 of the Federal Law of 8 June 2012 No. 65-ФЗ in the part, vesting bodies of executive power of a subject of the Russian Federation with authority to determine unified places, specially allotted or adapted for holding of public events, does not conform to the Constitution of the Russian Federation, its Articles 19 (Sections 1 and 2), 31 and 55 (Section 3) to the extent to which it, contrary to the requirements of certainty, clarity and unambiguousness of legal regulation, following from the Constitution of the Russian Federation, does not normatively fix the criteria, ensuring observance of equality of legal conditions of realization of the right to freedom of peaceful assembly at determination of places, specially allotted or adapted for holding of public events by bodies of executive power of subjects of the Russian Federation, which engenders the possibility of its poly-semantic interpretation and, consequently, arbitrary application.

The federal legislator must, proceeding from the requirements of the Constitution of the Russian Federation and considering the present Judgment, make necessary amendments to the legal regulation of determination of specially allotted places. Until respective amendments to the legal regulation are made,

bodies of executive power of a subject of the Russian Federation, when determining places, specially allotted for holding of public events, must proceed from the need to have such places as a minimum in every city circuit and municipal district.

3. Determining the order of realization of the right to freedom of assemblies, meetings and demonstrations, processions and picketing by citizens and their associations, the federal legislator, as it follows from Articles 15 (Section 2), 31, 55 (Section 3), 71 (Items "в", "м"), 72 (Items "б", "к" of Section 1) and 76 (Sections 1 and 2) of the Constitution of the Russian Federation in their interconnection, is entitled to stipulate for administrative responsibility for breach of the rules of organization and holding of public events, following the general principles of legal responsibility, which have constitutional significance and by its essence pertain to the basis of constitutional legal order.

As the Constitutional Court of the Russian Federation repeatedly pointed out, legal responsibility, within the meaning of Article 54 (Section 2) of the Constitution of the Russian Federation, may come only for actions which are recognized as offences by a law operating at the moment of their commission; the presence of *corpus delicti* is a necessary ground for all kinds of legal responsibility, and its signs, first of all in the public-law sphere, as well as the content of particular formal elements of offences, must conform to constitutional principles of a democratic law-governed State, including the requirement of fairness, in its interrelations with natural and juridical persons as subjects of legal responsibility; herewith the presence of guilt is as an element of subjective side of *corpus delicti* is a universally recognized principle of making legally answerable, and any exception from it must be expressed directly and unequivocally, i.e. immediately fixed in the law (Judgments of 25 January 2001 No. 1-П, of 17 July 2002 No. 13-П, of 18 May 2012 No. 12-П and others).

Fixing and altering formal elements of administrative offences and measures of responsibility for their commission, the federal legislator is bound by the criteria of necessity, proportionality and commensurateness of restriction of rights and

freedoms of citizens to constitutionally significant goals, following from Article 55 (Section 3) of the Constitution of the Russian Federation, as well as is obliged to observe equality of all before the law, guaranteed by Article 19 (Section 1) of the Constitution of the Russian Federation, meaning that any administrative offence, as well as sanctions for its commission must be precisely defined in the law, and in the manner that everyone can foresee consequences of his/her actions (inaction), proceeding directly from the text of respective norm, if need be, with the help of interpretation given to it by courts. Otherwise, contradictory law-applying practices may take place, which weakens guarantees of State protection of rights, freedoms and lawful interests of citizens against arbitrary persecution and punishment.

Accordingly, the rules of application of measures of administrative responsibility, established in the legislation on administrative offences, must take into account not only the character of an offence, its danger for values protected by law, but also ensure consideration of causes and conditions of its commission, as well as of the offender's personality and the degree of his/her guilt, thereby guaranteeing adequacy of engendered consequences (including for the person made answerable) to the damage which has been caused as a result of administrative offence, not admitting surplus State compulsion and ensuring the balance of basic rights of an individual (juridical person) and common interest, consisting in protection of a person, society and the State against administrative offences; other, by virtue of constitutional ban of discrimination and the ideas of fairness and humanism, expressed in the Constitution of the Russian Federation, would be incompatible with the principle of individualization of responsibility for administrative offences (Judgments of the Constitutional Court of the Russian Federation of 19 March 2003 No. 3-П, of 13 March 2008 No. 5-П, of 27 May 2008 No. 8-П, of 13 July 2010 No. 15-П, of 17 January 2013 No. 1-П and others).

Thus, when realizing law-making powers in the field of establishment of administrative responsibility for breach of the legislation on assemblies, meetings, demonstrations, processions and picketing, the federal legislator possesses wide discretion with regard to constructing the composition of particular administrative

offences, determination and alteration of the kinds and dimensions of sanctions for their commission, prescribed to natural and juridical persons at making them administratively answerable, which, however, is limited by the principles and requirements following from Articles 1 (Section 1), 19 (Section 1), 49, 54 and 55 (Section 3) of the Constitution of the Russian Federation and in their totality forming initial elements of the institution of administrative responsibility in the legal system of the Russian Federation.

3.1. Constitutionality of the interconnected provisions of Items 3, 6, 7, 8, 9 and 10 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ is being contested in the part in which amendments made by them to the Administrative Offences Code of the Russian Federation increase the dimensions of administrative fines for administrative offences, connected with organization or holding of public events or other mass events, having entailed breach of public order, for citizens – up to 300 000 roubles, for officials – up to 600 000 roubles.

In accordance with the Administrative Offences Code of the Russian Federation, administrative fine is one of the basic kinds of administrative penalties, is established for commission of administrative offences, stipulated for by this Code and laws of subjects of the Russian Federation, may be applied both in judicial and administrative order to natural and juridical persons (Article 3.2 and Section 1 of Article 3.3); being monetary penalty, administrative fine, as a general rule, expresses itself in roubles, must not be less than 100 roubles and is established for citizens at the rate not exceeding 5 000 roubles, and in cases envisaged by Articles 5.38, 20.2, 20.2^2, 20.18, Section 4 of Article 20.25 of this Code – 300 000 roubles; for officials – 50 000 roubles, and in cases envisaged by Article 5.38, Sections 1 – 4 of Article 20.2, Articles 20.2^2 and 20.18 of this Code – 600 000 roubles (Sections 1 and 2 of Article 3.5).

The analysis of Article 5.38 “Breach of the Legislation on Assemblies, Meetings, Demonstrations, Processions and Picketings”, Article 20.2 “Breach of Established Order of Organization or Holding of an Assembly, Meeting, Demonstration, Procession or Picketing”, Article 20.2^2 “Organization of Mass

Simultaneous Stay and (or) Movement of Citizens in Public Places, Having Entailed Breach of Public Order" and Article 20.18 "Blockading of Transport Communications" of the Administrative Offences Code of the Russian Federation shows that offences envisaged by them are in one way or another linked with breaches of the rules of organization or holding of public events. To a certain extent this relates also to Section 4 of Article 20.25 "Evasion of Serving Administrative Penalty" of the Administrative Offences Code of the Russian Federation, stipulating for responsibility for evasion of serving compulsory works, since administrative penalty in the form of compulsory works in the system of operating legal regulation is established only for administrative offences, stipulated for by Articles 20.2, 20.2^2 of the Administrative Offences Code of the Russian Federation.

Maximum dimensions of administrative fine (for citizens – up to 300 000 roubles, for officials – up to 600 000 roubles) is established exceptionally for breach of the order of organization or holding of public events or organization of other mass events, having entailed breach of public order, outcome of which was causing damage to human health or property, if they do not contain criminally punishable action (Sections 4 and 6 of Article 20.2 and Section 2 of Article 20.2^2 of the Administrative Offences Code of the Russian Federation), as well as for organization or holding of a non-sanctioned assembly, meeting, demonstration, procession, picketing or active participation in them in the immediate proximity to the territory of a nuclear installation, radiation source or a post of storage of nuclear materials and radioactive substances, if it has complicated fulfillment of their official duties by the employees of the indicated installation, source or post or created threat to security of the population and the environment (Section 7 of Article 20.2 of the Administrative Offences Code of the Russian Federation).

The indicated actions pertain to the number of the most serious administrative offences: as encroaching upon the rights, freedoms and lawful interests of natural and juridical persons, security of the environment, public order and public security, they by the degree of their public dangerousness gravitate towards criminally

punishable actions and testify that a public or other mass event has lost peaceful character, which is an indispensable condition of realization of the right to freedom of assemblies, meetings and demonstrations, processions and picketing. This determines the possibility to use more severe administrative penalties for commission of this kind of administrative offences, proportionate to modern day socio-political realities, including by means of rise of the dimensions of administrative fines as means of reacting to breach of the established order of organization or holding of a public event or of organization of other mass event, having entailed breach of public order, absence of which in the system of administrative penalties could have seriously complicated appropriate administrative-law guarding of human and civil rights and freedoms and effective prevention of aggressive actions, encroaching upon public order and public security, rights and freedoms of natural and juridical persons.

Introduction of the increased dimensions of administrative fines for commission of administrative offences connected with organization or holding of public events or other mass events, having entailed breach of public order, does not mean that their maximum dimensions must be applied always when respective administrative offence entailed causing damage to human health or property or coming of other consequences, indicated in Articles 20.2 and 20.2^2 of the Administrative Offences Code of the Russian Federation. Resolving the question of the dimensions of the administrative fine for commission of offences, envisaged by Sections 4, 6 and 7 of Article 20.2 and Section 2 of Article 20.2^2 of the Administrative Offences Code of the Russian Federation, the court, in accordance with instructions of Section 2 of Article 4.1 of this Code, must consider the form of a public or other mass event and the number of its participants, significance of committed breaches of the rules of its organization and holding, scale and character of the damage caused by them, as well as other circumstances and apply maximum dimensions of administrative fine only if imposition of the administrative fine in a lesser dimensions does not allow to ensure prevention of commission of new offences both by the offender him/herself and other persons in a proper way.

Otherwise, requirements of necessity and commensurateness when restricting human and civil rights and freedoms, following from Article 55 (Section 3) of the Constitution of the Russian Federation and addressed, within the meaning of its Article 18, not only to federal legislator, but also to law-appliers, including courts, would not be observed.

Proceeding from this, increase of the dimensions of the administrative fine (for citizens – up to 300 000 roubles, for officials – up to 600 000 roubles) for commission of administrative offences connected with organization or holding of public events or other mass events, having entailed breach of public order, can not be regarded as having no constitutional substantiation. Aimed at ensuring differentiation of administrative responsibility and punishment, it does not exceed the limits of discretionary powers of the legislator and thereby, particularly taking into account that for all cases of establishment of increased dimensions of administrative fine for citizens the Administrative Offences Code of the Russian Federation stipulates for possibility of application of alternative administrative penalty, does not contradict the Constitution of the Russian Federation.

It is going the other way with a minimum dimensions of the administrative fine for breach of the order of organization or holding of assemblies, meetings, demonstrations, processions, picketing or organization of other mass events, having entailed breach of public order: for citizens it exceeds 5 000 roubles in all cases and amounts from 10 000 roubles (Articles 5.38, Sections 1 and 5 of Article 20.2, Section 1 of Article 20.2^2 of the Administrative Offences Code of the Russian Federation) to 150 000 roubles (Sections 6 and 7 of Article 20.2, Section 2 of Article 20.2^2 of the Administrative Offences Code of the Russian Federation); as far as officials are concerned, in relation to them minimum dimensions of administrative fine for individual kinds of breach of the established order of organization or holding of public events or organization of other mass events, having entailed breach of public order, may be either equal to 50 000 roubles (Section 3 of Article 20.2 and Section 1 of Article 20.2^2 of the Administrative Offences Code of the Russian Federation) or to be more and amount from 150 000

roubles (Article 20.18 of the Administrative Offences Code of the Russian Federation) to 300 000 roubles (Section 2 of Article 20.2^2 of the Administrative Offences Code of the Russian Federation).

Such legislative regulation in practice leads to the situation when minimum dimensions of the administrative fine for commission of an offence, connected with organization or holding of public events or other mass events, having entailed breach of public order, is established either on the level of the maximum dimensions, stipulated for by the Administrative Offences Code of the Russian Federation (Section 1 of Article 3.5) for all other administrative offences or multiply exceeds it. As a result, when for the indicated administrative offences even the minimum possible dimensions of administrative fine is applied, citizens and officials are forced to incur money losses, quite often exceeding the level of their average monthly salary.

According to Section 1 of Article 4.1 of the Administrative Offences Code of the Russian Federation, penalty for commission of an administrative offence is prescribed within the bounds established by the law, stipulating for responsibility for a respective administrative offence. In essence, this means that a body (official), authorized to consider a case on administrative offence, is not only not entitled to prescribe a penalty, not envisaged by the sanction of a respective norm to a person made administratively answerable, but also to exceed the limits, including lower, of the penalty established by law. Consistent application of this general rule of prescription of administrative penalties at imposition of fines for commission of administrative offences connected with breach of the established order of organization or holding of public events or organization of other mass events, having entailed breach of public order, can in certain circumstances contradict the aims of administrative responsibility and lead to excessive restriction of rights and freedoms of citizens.

As is directly fixed by the Administrative Offences Code of the Russian Federation, administrative penalty is a measure of responsibility for commission of an administrative offence, established by the State, is applied with the aim to

prevent commission of new offences both by the offender him/herself and other persons and has no aim of humiliation of human dignity of a natural person, having committed administrative offence or causing physical suffering to him/her (Article 3.1); when prescribing administrative penalty to a natural person, the character of administrative offence committed by him/her, the personality of the guilty person, his/her property status, circumstances extenuating administrative responsibility and circumstances aggravating administrative responsibility (Section 2 of Article 4.1). Observance of these requirements, following from the constitutional principles of equality, proportionality and commensurateness, is called upon to ensure individualization of punishment of persons guilty of commission of administrative offences, and at the same time not to admit calling in question the belief in good and fairness and disparaging personal dignity, protected by law, when administrative responsibility is applied (Preamble; Article 19, Sections 1 and 2; Article 21, Section 1; Article 55, Section 3, of the Constitution of the Russian Federation).

Meanwhile, in cases when the lower bound of administrative fines, envisaged for breach of the order of organization or holding of public events or organization of other mass events, having entailed breach of public order, is equal to the maximum dimension of the fine amounting, as a general rule, for citizens to 5 000 roubles, and for officials – 50 000 roubles or, what is more, exceeds it, ensuring of individual approach to determination of the dimensions of an administrative fine, considering not only the character and consequences of the committed offence, but also personality of the guilty person and his/her property status becomes extremely difficult, and often impossible. It manifests itself most perceptibly in relation to officials who may be subjected only to administrative fines for commission of the indicated offences, as well as to those categories of citizens, to which, in accordance with the Administrative Offences Code of the Russian Federation, alternative penalties in the form of administrative arrest (Section 3 of Article 3.9) or compulsory works (Section 3 of Article 3.13) may not be applied.

In such cases the only variant known to the operating legislation on administrative offences, allowing to avoid excessive (surplus) restriction of property rights of persons made administratively answerable for breach of the established order of organization or holding of a public event or organization of other mass event, having entailed breach of public order, is the possibility of release from administrative responsibility if the administrative offence was of little significance, stipulated for by Article 2.9 of the Administrative Offences Code of the Russian Federation. But its use, especially if the breach of the order of organization or holding of an assembly, meeting, demonstration, procession or picketing or organization of mass simultaneous stay and (or) movement of citizens in public places have entailed causing of damage to human health or property, is admissible only in exceptional cases, since other would help to form the atmosphere of impunity and would be incompatible with the principle of inevitability of responsibility of the offender.

By virtue of this, having no possibility, when prescribing for person, having committed administrative offence, envisaged by Articles 5.38, 20.2, 20.2^2 or 20.18 of the Administrative Offences Code of the Russian Federation, administrative fine, to determine its dimensions lower than the lowest bound established for respective administrative offence, the judges are forced to proceed from the minimum possible dimensions of the sanction, which for citizens amounts to 10 000 roubles, and for officials – 50 000 roubles. In such a situation application of administrative fine for breach of the established order of organization or holding of a public event or organization of other mass event, having entailed breach of public order, does not allow in all cases to fully consider all circumstances, having substantial importance for individualization of administrative responsibility and characterizing both the administrative offence itself and the offender's personality, and thereby, within the meaning of the legal position formulated by the Constitutional Court of the Russian Federation in the Judgment of 17 January 2013 No. 1-П, does not exclude transformation of administrative fine from a measure of influence, aimed at preventing offences, to the instrument of excessive restriction

of citizens' right to property, incompatible with the requirements of fairness at prescription of administrative penalty.

Accordingly, establishment of administrative fines for commission by citizens and officials of administrative offences, connected with organization or holding of public events or other mass events, having entailed breach of public order, the lower bound of which is equal to or exceeds maximum dimensions of administrative fine stipulated for by the Administrative Offences Code of the Russian Federation for any other administrative offences, disproportionally, contrary to the requirements of Article 55 (Section 3) of the Constitution of the Russian Federation, restricts the right of private property being under the protection of Article 35 (Section 1) of the Constitution of the Russian Federation, and does not answer the principle of individualization of responsibility, the imperative requirement of which is ensuring of conditions for prescription of fair and commensurate penalty for an administrative offence.

Thus, interconnected provisions of Items 3, 6, 7, 8, 9 and 10 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ in the part, establishing for commission of administrative offences, envisaged by Articles 5.38, 20.2, 20.2^2 and 20.18 of the Administrative Offences Code of the Russian Federation, administrative fines for citizens at the rate up to 300 000 roubles and for officials at the rate up to 600 000 roubles conform to the Constitution of the Russian Federation, and in the part establishing for commission of the indicated administrative offences minimum dimensions of fines for citizens from 10 000 roubles and for officials – from 50 000 roubles do not conform to the Constitution of the Russian Federation, its Articles 19 (Sections 1 and 2), 35 (Section 1) and 55 (Section 3) to the extent to which they, in the system of legal regulation, not admitting prescription of a penalty lower than the lowest bound of respective administrative sanction, do not allow most fully consider the character of the committed offence, property status of the offender, as well as other circumstances, having substantial significance for individualization of responsibility and thereby to ensure prescription of fair and proportional penalty.

The federal legislator must, proceeding from the requirements of the Constitution of the Russian Federation and this Judgment, make necessary amendments to the legal regulation of the minimum dimensions of fines for administrative offences, envisaged by articles 5.38, 20.2, 20.2^2 and 20.18 of the Administrative Offences Code of the Russian Federation. Until appropriate amendments to the Administrative Offences Code of the Russian Federation are made, the dimensions of an administrative fine prescribed for the indicated administrative offences to citizens and officials may be reduced by court lower than the lowest bound established for commission of a respective administrative offence.

3.2. By Item 4 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ Chapter 3 of the Administrative Offences Code of the Russian Federation was supplemented by Article 3.13, according to which compulsory works as a kind of administrative penalty prescribed by a judge consist in performing of free socially useful works by a natural person, having committed administrative offence, at time free from work, service or studies (Section 1), are established for the term from 20 to 200 hours and are served for no more than 4 hours a day (Section 2), may not be applied to pregnant women, women having children below 3 years of age, persons with disabilities of I and II groups, military servicemen, citizens called to military training, as well as staff-members of bodies of internal affairs, bodies and agencies of criminal-execution system, State Anti-Fire Service, bodies for control over the turnover of narcotic drugs and psychotropic substances and customs bodies (Section 3). By Items 7 – 9 of Article 1 of the indicated Law compulsory works were included as a sanction for the commission of administrative offences, envisaged by Articles 20.2, 20.2^2 and 20.18 of the Administrative Offences Code of the Russian Federation.

The practice of legislative regulation of legal responsibility for administrative offences, formed after adoption of the Administrative Offences Code of the Russian Federation, shows that the list of the kinds of administrative penalties, fixed in its Article 3.2, is not regarded as closed and may be supplemented and

elaborated by the federal legislator, possessing wide discretion in establishing measures of reaction at commission of administrative offences, helping the most effective attainment of goals of administrative responsibility at one or another concrete historical stage of State development. In this connection, expansion of the list of administrative penalties by way of inclusion of compulsory works in it by the Federal Law of 8 June 2012 No. 65-ФЗ in itself can not be regarded as not conforming to the Constitution of the Russian Federation.

At the same time, fixing kinds of administrative penalties and establishing rules of their prescription and execution, the federal legislator must take into consideration that in the Russian Federation human and civil rights and freedoms are recognized and guaranteed according to the universally recognized principles and norms of international law and in accordance with the Constitution of the Russian Federation, and not admit issue of laws abrogating or disparaging human and civil rights and freedoms (Article 17, Section 1; Article 55, Section 2, of the Constitution of the Russian Federation). Proceeding from this and by virtue of constitutional recognition of the freedom of labour, application of administrative penalty in the form of compulsory works, contemplating calling persons, serving such penalty, to free socially useful labour, is impossible without observance of Article 37 (Section 1) of the Constitution of the Russian Federation, according to which everyone has the right freely to use his/her labour skills and to choose the type of activity and occupation.

Presence of direct ban of forced labour in the Constitution of the Russian Federation (Article 37, Section 2) and absence of indication at ban of compulsory labour is not conditioned by any substantial differences between them, but, on the contrary, must be regarded as recognition of the fact that compulsory labour is none other than an analogue of forced labour. The provisions of the International Covenant on Civil and Political Rights (Item 3 of Article 8) and the Convention for the Protection of Human Rights and Fundamental Freedoms (Item 2 of Article 4), corresponding to the adduced constitutional prescriptions, according to which no

one shall be required to perform forced or compulsory labour, do not draw differences between forced and compulsory labour either.

Herewith, within the meaning of Item3 of Article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms in the interconnection with its Article 5, any work required to be done by a person lawfully subjected to detention, taking into custody (arrest) or keeping in custody or during conditional release from such detention, may not be regarded as deviation from the ban of forced or compulsory labour. So far as this exception is not directly tied up with application of compulsion only in respect of persons, suspected or accused of commission of a crime, its significance is not limited by the sphere of criminal persecution, which is confirmed by the position of the European Court of Human Rights which, considering in the case "Stummer vs. Austria" definitions of forced (compulsory) labour, contained in the documents of the International Labour Organization, as a starting-point for interpretation of Article 4 of the Convention, came to the conclusion that one should not overlook particular qualities of the Convention, which is a living instrument subject to interpretation "in the light of notions prevailing at present in democratic States" (Judgment of 7 July 2011).

In such context exactly it is necessary to assess ascription of some or other works, prescribed as a penalty for commission of an unlawful action, to the field of forced (compulsory) labour which, as follows from Sub-Item "c" of Item 2 of Article 2 of the ILO Convention of 1930 No. 29 on forced labour, does not include any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations. The General Review (Report), concerning the ILO Forced Labour Convention of 1930 No. 29 and the ILO Abolition of Forced Labour Convention of 1957 No. 105, adopted by the ILO in 2007, also proceeds from the idea that exception from the general ban established by Item 2 of Article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms may have the form of compulsory

labour in prison or labour, exacted as a result of prescription of other kinds of penalty, such as conviction to public (in the wording of the General Review) works (Item 48); public works do not fall under the conventional ban of forced labour, if they meet necessary conditions, namely, if they are a measure of punishment, prescribed exceptionally by court, and are performed for the State or its structures – administrations, regions, public services, agencies etc. (Item 125).

Introduction of compulsory works as a kind of an administrative penalty prescribed exceptionally in judicial order (Section 1 of Article 32.13 of the Administrative Offences Code of the Russian Federation) and consisting in performing by a person, subjected to this administrative penalty, of free socially useful works in places determined by bodies of local self-government upon coordination with territorial subdivisions of respective federal bodies of executive power (Section 2 of Article 32.13 of the Administrative Offences Code of the Russian Federation) ensures, on the basis of the balance of private and public elements, reaction of the State to commission of administrative offences, which, on the one hand, is not connected with intrusion into property rights of citizens and does not entail (in contradistinction to administrative arrest) deprivation of the offender of liberty, and on the other – does not contradict the goals of administrative responsibility and is not an inadmissible means of compulsion to labour, in addition used solely in socially-useful goals under the control of the State bodies.

Evasion of execution of administrative penalty in the form of compulsory works, which can express itself in repeated refusal of performing of works, non-appearance at compulsory works without good reasons, breach of labour discipline (Section 12 of Article 32.13 of the Administrative Offences Code of the Russian Federation), is an independent kind of administrative offence and entails imposition of an administrative fine at the rate of 150 000 up to 300 000 roubles or administrative arrest for the term of 15 days (Section 4 of Article 20.25 of the Administrative Offences Code of the Russian Federation). Such dimensions of sanction for evasion of serving compulsory works, introduced by the Federal Law

of 8 June 2012 No. 65-ФЗ, in itself does not testify, contrary to assertions of a group of deputies of the State Duma, to transformation of the very nature of administrative responsibility, leading to its identification with criminal responsibility, especially as the application of administrative arrest for evasion of compulsory works accords with the position of the International Labour Organization, regarding public works "in the first place and first and foremost as an alternative to imprisonment" (Item 124 of the General Review).

Compulsory works as a kind of administrative penalty and compulsory works, prescribed in accordance with the Criminal Code of the Russian Federation for commission of crimes, must not be recognized as identical penalties: compulsory works served in accordance with the Administrative Offences Code of the Russian Federation are smaller in duration than respective criminal penalty, which is prescribed for the term of 60 up to 480 hours (Section 2 of Article 49 of the Criminal Code of the Russian Federation), and their prescription, although is carried out on a judge's resolution, does not entail coming of criminal record, which as a specific criminal-law state is linked with much larger, compared with administrative punishment, restrictions of rights and freedoms, and not only with regard to terms, but also with regard to the character of negative consequences.

There are no grounds either for the conclusion about constitutionally significant non-commensurateness of the restriction of rights and freedoms of a person, exposed to this kind of administrative penalty, so far as, within the meaning of the interconnected provisions of Articles 20.25 and 32.13 of the Administrative Offences Code of the Russian Federation, prescription of administrative fine or administrative arrest for evasion of compulsory works means substitution of one kind of administrative penalty (unserved part of it) for another kind of administrative penalty, excluding further serving of compulsory works, – other would not conform to the general legal principle *non bis in idem*, reflected in Article 50 (Section 1) of the Constitution of the Russian Federation.

Thus, establishment of compulsory works as a kind of administrative penalty by the Federal Law of 8 June 2012 No. 65-ФЗ, as not connected with restriction of

property rights of a person, exposed to this administrative penalty and not contemplating his/her deprivation of liberty, bearing in mind that they are subject to application only in case if a person has been recognized as guilty of commission of an administrative offence in an appropriate judicial procedure, doe not contradict the Constitution of the Russian Federation.

At the same time, according to Article 1 of the ILO Abolition of Forced Labour Convention of 1957 No. 105, every State having ratified this Convention undertakes not to resort to any form of forced or compulsory labour as a means of political pressure or education or as a measure of punishment for the presence or expression of political views or ideological convictions, opposed to the established political, social or economic system.

Proceeding from the provision that international treaties of the Russian Federation are an integral part of its legal system and that human and civil rights and freedoms are recognized and guaranteed according to the universally recognized principles and norms of international law and in accordance with the Constitution of the Russian Federation (Article 15, Section 4; Article 17, Section 1, of the Constitution of the Russian Federation), as well as taking into consideration that in the system of operating legal regulation application of compulsory works as a sanction for those administrative offences, which are connected exclusively with organization or holding of public or other mass events (Articles 20.2, 20.2^2 and 20.18 of the Administrative Offences Code of the Russian Federation), may be regarded as a means of suppression of heterodoxy, including political, the introduction of this kind of administrative penalty by the Federal Law of 8 June 2012 No. 65-ФЗ only for breach of the established order of organization or holding of a public event or organization of other mass event, having entailed breach of public order (including if such offence had exclusively formal character and did not entail causing of damage to human health, property of natural and juridical persons or coming of other similar consequences), does not conform to the Constitution of the Russian Federation.

This conclusion does not mean principal impossibility to use compulsory works as a kind of administrative penalty, including conformably to administrative offences, connected with organization or holding of public or other mass events. However, in the system of operating legal regulation compulsory works, since they may be prescribed only for breach of the legislation on assemblies, meetings, demonstrations, processions and picketing, acquire meaning, discrediting this kind of administrative penalty, so far as are inevitably perceived as a sanction for political activity, the form of manifesting of which, although illegal, is, in particular, failure to observe the established order of organization or holding of public events or organization of other mass events, having entailed breach of public order.

Thus, the interconnected provisions of Items 4, 7, 8, 9 and 10 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ, stipulating for compulsory works as a kind of administrative penalty for breaches, connected with organization or holding of assemblies, meetings, demonstrations, processions and picketing or organization of mass simultaneous stay and (or) movement of citizens in public places, having entailed breach of public order, are in conformity with the Constitution of the Russian Federation to the extent to which they are not connected with intrusion into property rights of citizens, do not contemplate deprivation of the offender of liberty and are not inadmissible means of compulsion to labour, and are not in conformity with the Constitution of the Russian Federation, its Articles 1 (Section 1), 19 (Section 1), 31, 37 (Section 2) and 55 (Section 3) to the extent to which in the system of operating legal regulation prescription of this kind of administrative penalty is admitted not only in case of causing damage to human health, property of natural or juridical persons or coming of other similar consequences, but also at only one formal breach of the established order of organization or holding of public events.

The federal legislator must, proceeding from the requirements of the Constitution of the Russian Federation and with regard to legal positions of the Constitutional Court of the Russian Federation, including expressed in the present

Judgment, make necessary amendments to the legal regulation of administrative penalty in the form of compulsory works. Until appropriate amendments to the operating legal regulation are made, compulsory works may be applied as an administrative penalty for administrative offences, envisaged by Articles 20.2, 20.2^2 and 20.18 of the Administrative Offences Code of the Russian Federation, only if they entailed causing damage to human health, property of natural or juridical persons or coming of other similar consequences.

3.3. Term of limitation of making administratively answerable represents a period, established in the legislation on administrative offences, upon expiry of which a person, having committed administrative offence, may not be exposed to administrative penalty. Fixing such terms and determining the rules of their calculation, the federal legislator must, guided by the requirement of observance of the balance of private and public interests when carrying out legal regulation of human and civil rights and freedoms, following from Article 17 (Section 3) and 55 (Section 3) of the Constitution of the Russian Federation, create conditions necessary for ensuring inevitability of administrative responsibility and at the same time not admit that persons, having committed administrative offences, both natural and juridical, find themselves under the threat of the possibility of administrative persecution and application of administrative penalty during unjustified long time.

Before adoption of the Federal Law of 8 June 2012 No. 65-ФЗ, when making a person administratively answerable for commission of administrative offences connected with organization or holding of public or other mass events, general rule was applied, in accordance with which the resolution on a case on administrative offence may not be issued on the expiry of two months since the day of commission of an administrative offence (in a case on administrative offence, considered by a judge, on the expiry of three months). By Item 5 of Article 1 of this Federal Law Section 1 of Article 4.5 of the Administrative Offences Code of the Russian Federation, regulating limitation of making administratively answerable, was supplemented by a provision, by virtue of which the term of

limitation of making administratively answerable for breach of the legislation on assemblies, meetings, demonstrations, processions and picketing amounts to 1 year since the day of commission of an administrative offence.

Administrative offences, connected with organization or holding of public or other mass events, are committed, as a rule, in places of mass concentration (stay and (or) movement) of people, which seriously hampers timely revelation both of the offences themselves and of persons having committed them, as well as collection of proofs necessary for thorough elucidation of circumstances of each case on such administrative offence and its resolution in accordance with the law (Article 24.1 of the Administrative Offences Code of the Russian Federation), especially as the legislation on administrative offences does not envisage suspension of the current of the term of limitation of making administratively answerable (cases of satisfaction of an application of a person, in respect of whom the proceeding on a case on administrative offence is carried out, on consideration of the case in the place of his/her residence, indicated in Section 5 of Article 4.5 of the Administrative Offences Code of the Russian Federation, constitute exceptions).

Accordingly, considerable organizational, temporal and other expenses, linked with the need to ensure observance of the principle of inevitability of administrative penalty, without which full-value protection of human and civil rights and freedoms, including the right to freedom of peaceful assembly, guaranteed by Article 31 of the Constitution of the Russian Federation and Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, is impossible, lead to a situation when general term of limitation of making administratively answerable, stipulated for by Section 1 of Article 4.5 of the Administrative Offences Code of the Russian Federation, far from always appears sufficient for revelation and punishment of an offender. Besides, yearly term of limitation, introduced by Item 5 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ conformably to making administratively answerable for breach of the legislation on assemblies, meetings, demonstrations, processions and picketing,

is not a novel in the regulation of terms of limitation of making administratively answerable – it is applied in respect of a number of other administrative offences (breach of the legislation on taxes and duties, on elections and referenda, on fire security and others). What is more, for breach of customs legislation of customs union and (or) the legislation of the Russian Federation on customs business it constitutes 2 years, and for breach of the legislation of the Russian Federation on counteraction against corruption – 6 years since the day of commission of an administrative offence.

Herewith, so far as, according to Section 2 of Article 1.7 of the Administrative Offences Code of the Russian Federation, rendering concrete Article 54 (Section 1) of the Constitution of the Russian Federation, a law establishing or aggravating administrative responsibility for an administrative offence or deteriorating the state of a person, having committed administrative offence, in another way have no retroactive effect, yearly term of limitation of making administratively answerable for breach of the legislation on assemblies, meetings, demonstrations, processions and picketing, introduced by Item 5 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ, is not subject to application to persons, having committed administrative offences before entering of this Federal Law into force.

Thus, Item 5 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ, increasing the term of limitation of making administratively answerable for breach of the legislation on assemblies, meetings, demonstrations, processions and picketing up to 1 year since the day of commission of an administrative offence, is aimed at ensuring inevitability of administrative responsibility (with regard to specific character of circumstances in which respective administrative offences are committed), contemplates no deterioration of persons made administratively answerable, having committed administrative offences before entering of this Federal Law into force, and as such does not contradict the Constitution of the Russian Federation.

3.4. Constitutionality of Item 7 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ, which expounds Article 20.2 of the Administrative Offences Code of the Russian Federation in the new wording, and Item 8 of Article 1, which introduces Article 20.2^2 in this Code, is contested by a group of deputies of the State Duma so far as, in the applicants' opinion, respective provisions of the Administrative Offences Code of the Russian Federation, namely Sections 4 and 6 of Article 20.2 and Section 2 of Article 20.2^2, contemplate placing on organizer of a public or other mass event of administrative responsibility for damage caused to human health or property by participants of this event.

According to Section 4 of Article 20.2 of the Administrative Offences Code of the Russian Federation in the wording of Item 7 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ, breach of the established order of organization or holding of an assembly, meeting, demonstration, procession or picketing by organizer of a public event, as well as organization or holding of a public event without presenting notification on its holding in the established order, having entailed causing damage to human health or property, if these actions (inaction) contain no criminally punishable action, entail imposition of an administrative fine on citizens at the rate of 100 000 to 300 000 roubles or compulsory works for the term of up to 200 hours, on officials – 200 000 to 600 000 roubles, on juridical persons – 400 000 to 1 000 000 roubles.

According to Section 2 of Article 20.2^2 of the Administrative Offences Code of the Russian Federation, organization of a mass simultaneous stay and (or) movement of citizens in public places, not being a public event, public calls for mass simultaneous stay and (or) movement in public places or participation in a mass simultaneous stay and (or) movement in public places, if mass simultaneous stay and (or) movement in public places entailed breach of public order or sanitary norms or rules, difficulties to functioning and safety of the objects of life-maintenance or communication or causing damage to plantations or created obstacles for movement of pedestrians or means of transport or for access of citizens to housing or objects of transport or social infrastructure, having entailed

causing damage to human health or property, provided that these actions contain no criminally punishable action, entail imposition of an administrative fine on citizens at the rate of 150 000 to 300 000 roubles or compulsory works for the term of up to 200 hours, on officials – 300 000 to 600 000 roubles, on juridical persons – 500 000 to 1 000 000 roubles. In this case, in accordance with the footnote to this Article, a person having actually performed organizational-managing functions of organization or holding of the indicated stay and (or) movement of citizens in public places is recognized as organizer of a mass simultaneous stay and (or) movement of citizens in public places, not being a public event.

Establishing administrative responsibility, the federal legislator, by virtue of his discretion, can construct compositions of administrative offences and their individual elements in different ways, depending on the substance of the protected social relations, in particular, determine such element of *corpus delicti* of an administrative offence as objective side proceeding from the provisions of the federal law, regulating respective relations, to which unlawful action causes damage or creates threat of causing damage (Judgment of the Constitutional Court of the Russian Federation of 18 May 2012 No. 12-П).

Taking into account substantial influence, which negative consequences having ensued from commission of administrative offences may exert upon assessment of their social danger, the federal legislator is entitled to approach differently to fixing of the signs of the objective side of administrative offences on the basis of demarcation of their formal and material compositions. Herewith, coming of harmful consequences is obligatorily included in the number of signs of the objective side of the material composition of an administrative offence side by side with the action (inaction) itself, as well as the place, time, means of commission and other characteristics of its external manifestation, indicated in the disposition of a respective norm. In such case, in order to make a person administratively answerable, it is not sufficient to establish their presence itself: it is necessary to prove causal connection between the action (or inaction) and

ensued consequences, i.e. to make certain that they were results of breach of administrative-law bans exactly by a person made administratively answerable.

Proceeding from this, making organizer of a public event or a mass simultaneous stay and (or) movement of citizens in public places, not being a public event, administratively answerable on the basis of, respectively, Section 4 of Article 20.2 or Section 2 of Article 20.2^2 of the Administrative Offences Code of the Russian Federation is possible, provided that causing of damage to human health or property was a direct consequence of unlawful actions or inaction (if they contain no signs of a criminally-punishable action) of exactly the organizer of a respective event him/herself – natural or juridical person, having undertaken to organize and holding of a public event or having actually performed organizational-managing functions of organization and holding of a mass simultaneous stay and (or) movement of citizens in public places, not being a public event.

Within the meaning of Articles 49, 50 and 64 of the Constitution of the Russian Federation and by virtue of the constitutional requirements of fairness and proportionality, presence of guilt is a necessary sign of *corpus delicti* of an offence (and, accordingly, a ground for making legally answerable), and the burden of proof of it is placed, as a general rule, on the authorized bodies of the State and their officials (Judgments of the Constitutional Court of the Russian Federation of 27 April 2001 No. 7-П, of 25 April 2011 No. 6-П, of 18 May 2012 No. 12-П and others). Rendering these requirements concrete, the Administrative Offences Code of the Russian Federation fixes the principle of the presumption of innocence in the field of making answerable for administrative offences: according to its Article 1.5 a person is subject to administrative responsibility only for those administrative offences, in respect of which his/her guilt is established (Section 1); a person, in respect of whom proceedings on a case of administrative offence is carried out, is regarded as innocent until his/her guilt is proved in the order provided for by the law and established by a resolution of a judge, a body, official who considered the case, having entered into legal force (Section 2); unremovable doubts about guilt of

a perso, made administratively answerable are interpreted in favour of this person (Section 4). At this, as applied to a natural person, this Code recognizes administrative offence as committed intentionally, if a person having committed it was conscious of unlawful character of his/her action (inaction), foresaw its harmful consequences and wished for coming of such consequences or deliberately admitted them or was indifferent to them (Section 1 of Article 2.2), and committed by carelessness, if a person having committed it foresaw the possibility of coming of harmful consequences of his/her action (inaction), but self-sufficiently counted on the prevention of such consequences without sufficient reasons for it or did not foresee the possibility of coming of such consequences, although must have and could have foreseen them (Section 2 of Article 2.2); and a juridical person is recognized as guilty of commission of an administrative offence, if it is established that it had the possibility to observe rules and norms, for breach of which administrative responsibility is envisaged by this Code or laws of subjects of the Russian Federation, but this person did not take all measures depending on it for their observance (Section 2 of Article 2.1).

The adduced legislative provisions have universal significance in the legal regulation of application of penalties for commission of administrative offences, and therefore exclude the possibility of making an organizer of a public event administratively answerable on the basis of Section 4 of Article 20.2 of the Administrative Offences Code of the Russian Federation, and an organizer of a mass simultaneous stay and (or) movement of citizens in public places, not being a public event – on the basis of Section 2 of Article 20.2^2 in absence of guilt of respective natural or juridical person, answering the indicated normative characteristics and proved in the order established by law. Other interpretation of punishability of actions (inaction), formally falling under the signs of *corpus delicti* of an administrative offence, would contradict the principles of the presumption of innocence and guilty responsibility, would lead to objective imputation and in the end – to deviation from the principles of law-governed State,

legal equality and fairness, following from the Constitution of the Russian Federation (Preamble; Article 1, Section 1; Article 19, Section 1; Article 49).

Thus, Items 7 and 8 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ in the indicated part (Section 4 of Article 20.2 and Section 2 of Article 20.2^2 of the Administrative Offences Code of the Russian Federation accordingly) does not contradict the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of operating legal regulation contemplates coming of administrative responsibility for administrative offences stipulated for by them only in the presence of causal connection between the guilty unlawful actions (inaction) of an organizer of a public event or a mass simultaneous stay and (or) movement of citizens in public places, not being a public event, having entailed breach of public order, and ensued consequences in the form of causing damage to human health or property.

As far as Section 6 of Article 20.2 of the Administrative Offences Code of the Russian Federation in the wording of Item 7 of Article 1 of the Federal Law of 8 June 2012 No. 65-ФЗ is concerned, its provision, fixing administrative responsibility for breach of the established order of holding of an assembly, meeting, demonstration, procession or picketing, having entailed causing damage to human health or property, committed by a participant of a public event, if his/her actions (inaction) do not form criminally-punishable action, extends, as directly follows from its content, to persons, being participants of a public event and, accordingly, may not be interpreted as imposing administrative responsibility on its organizer as a person who carries out exactly the functions of organization and holding of a public event, for causing damage to human health or property by a participant of this public event.

4. Particular significance of the activity of the Federal Assembly – the Parliament of the Russian Federation and legislative (representative) bodies of subjects of the Russian Federation, as possessing, by virtue of carrying out of the State power in the Russian Federation on the basis of its division into legislative, executive and judicial, exceptional powers of adoption of laws is determined by the

constitutional recognition of the Russian Federation as a democratic federative law-governed State with a republican form of government, the imperative of which is observance of the Constitution of the Russian Federation and laws by all bodies of State power, bodies of local self-government, officials, citizens and their associations (Article 1, Section 1; Article 10; Article 11, Section 2; Article 15, Section 2, of the Constitution of the Russian Federation).

Developing these provisions, forming the basis of the constitutional system of the Russian Federation, the Constitution of the Russian Federation establishes that adoption and amending of federal laws, being the matter of authority of the Russian Federation (Article 71, Item "a"), falls within the competence of the State Duma, which realizes it both within the jurisdiction of the Russian Federation and within joint jurisdiction of the Russian Federation and its subjects (Article 76, Sections 1 and 2; Article 105, Section 1). When carrying out its legislative powers, the State Duma is obliged to observe the order of adoption of federal laws, and not only the one directly fixed by Articles 104 – 108 of the Constitution of the Russian Federation, but also flowing from its other provisions, rendered concrete in the Rules of the State Duma, the presence of which is regarded by the Constitution of the Russian Federation as a binding condition of organization of parliamentary activity (Article 101, Section 4).

Observance of the procedures of the legislative activity by the State Duma is a necessary procedural element of the appropriate order of adoption of federal laws, based on the requirements of the Constitution of the Russian Federation, which answers the essence of the true people's representation, so far as it guarantees conformity of the content of federal laws to free and realized will of the deputies, called upon to be guided by the principles of independence and objective expression of voters' interests in their activity, and thereby, by virtue of Articles 3 (Section 3), 32 (Sections 1 and 2) and 94 of the Constitution of the Russian Federation, accords with the goals of power of the people and securing of citizens' participation through their representatives in managing State affairs (judgments of

the Constitutional Court of the Russian Federation of 22 January 2002 No. 2-П and of 29 October 2010 No. 19-П).

Breach of the procedural rules, following from the Constitution of the Russian Federation, by the State Duma allows to ascertain deviation from its requirements. At the same time, within the meaning of the legal positions, expressed in the judgments of the Constitutional Court of the Russian Federation of 20 July 1999 No. 12-П, of 5 July 2001 No. 11-П and of 23 April 2004 No. 8-П, for assessment of a federal law with regard to its conformity to the Constitution of the Russian Federation as to the procedure of adoption principally significant is breach of those procedural rules, which exert decisive influence on the adoption of the decision, i.e. are based directly on the provisions of its Articles 104 – 108 or fix such essential conditions of the order of adoption of federal laws, without observance of which it is impossible to establish with authenticity whether the adopted decision reflects real will of the legislator and, consequently, multinational people of Russia represented by it.

The European Court of Human Rights adheres to analogous position in its practice, tying the requirement of observance of parliamentary procedure when adopting decisions, broaching rights and freedoms, up with inadmissibility of breach of the principle of legal certainty by a decision of a chamber of a parliament (judgment of 9 January 2013 on the case “Olexander Volkov vs. Ukraine”).

The question of the sort of breaches that took place during adoption of a federal law and, as a consequence, of whether its content is adequate to the will of deputies and then does it conform to the Constitution of the Russian Federation – in the presence of a petition, answering the criterion of admissibility, in each particular case – is subject to resolution by the Constitutional Court of the Russian Federation. In this case the Constitutional Court of the Russian Federation, by virtue of its competence established by Article 125 of the Constitution of the Russian Federation and the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, is not bound by the obligation to interpret any breach of the established procedure of adoption of a federal law as evidence of its

unconstitutionality, – other would mean carrying out actual review of conformity of a federal law as to the procedure of adoption not to the Constitution of the Russian Federation, but to other normative legal acts.

4.1. In accordance with legal position, expressed in the Judgment of the Constitutional Court of the Russian Federation of 23 April 2004 No. 8-П, binding character of sending draft laws on matters of joint jurisdiction to subjects of the Russian Federation and special consideration of their suggestions by the Federal Assembly does not follow from the Constitution of the Russian Federation, in particular, its Articles 71 (Item "a") and 76, but, so far as draft federal laws are brought in exactly to the State Duma and federal laws are adopted by the State Duma (Article 104, Section 2; Article 105, Section 1, of the Constitution of the Russian Federation), the State Duma itself is entitled to envisage in its Rules the provisions on sending draft laws on matters of joint jurisdiction to subjects of the Russian Federation for submitting of suggestions and remarks. Respective rules, side by side with the Rules of the State Duma (Article 109, Sections 2 and 5 of Article 118, Sections 1, 5, 7 and 8 of Article 119), are contained in the Federal Law of 6 October 1999 No. 184-ФЗ "n General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of Subjects of the Russian Federation" (Items 1 and 4 of Article 26^4).

Establishment of procedural rules, stipulating for sending draft laws to subjects of the Russian Federation, consideration of suggestions and remarks, submitted by them, in the committees of the State Duma and creation of coordinating commissions, composed of deputies of the State Duma and representatives of interested subjects of the Russian Federation, is called upon to ensure adoption of a federal law, reflecting the interests both of the Russian Federation and its subjects (particularly in cases when considerable number of them speak against the draft law as a whole or against its essential provisions), but at the same time must not hinder realization of the power of the Federal Assembly to adopt federal laws independently, including on matters of joint jurisdiction,

following from Articles 71 (Item “a”), 94 and 105 of the Constitution of the Russian Federation.

The requirement of sending draft federal laws on matters of joint jurisdiction to subjects of the Russian Federation is aimed at attainment of coordination of actions of all bodies of State power, possessing respective legislative powers by virtue of the Constitution of the Russian Federation (Article 76, Section 2), especially as, as the Constitutional Court of the Russian Federation repeatedly pointed out, federative relations by virtue of their nature do not admit realization by federal bodies of power of authorities belonging to them on matters of joint jurisdiction without correlation with the interests of subjects of the Russian Federation and place of their bodies in the system of public authority (judgments of 9 January 1998 No. 1-П, of 11 April 2000 No. 6-П, of 3 February 2009 No. 2-П and of 15 November 2012 No. 26-П).

However, unconditional obligation of the State Duma to satisfy wishes, expressed by subjects of the Russian Federation, does not follow from this; holding of respective procedures contemplates elucidation and discussion of their opinion in order to work out the most possible coordinated draft federal law, and not receipt of approval of the draft law or its individual provisions. None the less, breach of the indicated requirement by the State Duma may testify to deviation from the rules of adoption of federal laws on matters of joint jurisdiction, having constitutional significance.

As far as the Federal Law of 8 June 2012 No. 65-ФЗ is concerned, the draft of which, as follows from the submitted materials (and is not contested by representatives of the State Duma, the Council of Federation and the President of the Russian Federation), was sent to subjects of the Russian Federation on neither of the stages of the legislative process, when assessing its conformity to the Constitution of the Russian Federation as to the procedure of adoption by the State Duma one must bear in mind intricate complex nature of the subject of regulation of this Federal Law, embracing not only the field of joint jurisdiction of the

Russian Federation and her subjects, but also the field of jurisdiction exceptionally of the Russian Federation.

The main destination of the Federal Law of 8 June 2012 No. 65-ФЗ consists in regulating of the constitutional right to assemble peacefully, without weapons, hold assemblies, meetings and demonstrations, processions and picketing by way of determining the order and conditions of realization of this right, as well as in the protection of rights and lawful interests of citizens during holding of public events, i. e. it broaches simultaneously both the field of jurisdiction of the Russian Federation, namely, regulation and protection of human and civil rights and freedoms (Article 71, Item "в", of the Constitution of the Russian Federation) and the field of joint jurisdiction, namely, the protection of human and civil rights and freedoms (Article 72, Item "б" of Section 1, of the Constitution of the Russian Federation).

In the part of regulation of administrative responsibility for breach of the established order of organization or holding of an assembly, meeting, demonstration, procession or picketing as an institution of administrative and administrative-procedural legislation, constituting a matter of joint jurisdiction (Article 72, Item "к" of Section 1, of the Constitution of the Russian Federation) and at the same time indissolubly connected with restriction of human and civil rights and freedoms, this Federal Law, by virtue of Articles 17 (Section 3) and 55 (Section 3) of the Constitution of the Russian Federation, can not be fully lead out from the field of jurisdiction of the Russian Federation either (Article 71, Item "в", of the Constitution of the Russian Federation).

Besides, the Federal Law of 8 June 2012 No. 65-ФЗ envisages neither the independent regulation of respective public relations by bodies of State power of subjects of the Russian Federation nor their encumbrance with executive-managing powers, entailing expenses from the budget, supplementary to those established earlier. And placing on subjects of the Russian Federation of such powers as determination of unified specially allotted places for holding of public events by bodies of executive power of a subject of the Russian Federation and establishment

of the order of use of such places, norms of their maximum filling and maximum numbers of persons participating in public events, notification on holding of which is not required, as well as supplementary determination of places, where holding of assemblies, meetings, processions and demonstrations, by a law of a subject of the Russian Federation, within the meaning of the legal position of the Constitutional Court of the Russian Federation, expressed in the Judgment of 37 April 1998 No. 12-П, must be regarded as concretization, by way of establishment of powers of bodies of State power of subjects of the Russian Federation by a federal law (which is not excluded by the Constitution of the Russian Federation), of participation of subjects of the Russian Federation in determination of the conditions of realization of the constitutional right to freedom of peaceful assembly, regulation of which pertains to the field of jurisdiction of the Russian Federation.

Such combination of different aspects of the legal regulation, united by unity of goals and at the same time pertaining to the jurisdiction of the Russian Federation and simultaneously to the joint jurisdiction of the Russian Federation and her subjects in the Federal Law of 8 June 2012 No. 65-ФЗ, allows to make a conclusion that non-sending of the draft law to subjects of the Russian Federation before consideration by the State Duma in the first and second readings may not serve as sufficient ground for its recognition as not conforming to the Constitution of the Russian Federation as to the procedure of adoption, especially taking into account that claims of the applicants in this case to the content of particular provisions of this Federal Law mainly reduce to establishment of unfounded and excessive, in their view, restrictions of the right to freedom of peaceful assembly, and thereby confirm, though indirectly, the main destination of this Federal Law exactly as carrying out regulation of the said constitutional right, constituting a matter of jurisdiction of the Russian Federation.

Besides, bearing in mind that the Federal Law of 8 June 2012 No. 65-ФЗ was not contested by bodies of legislative and executive power of subjects of the Russian Federation, one should presuppose that its content in its entirety does not

disagree with the conception of subjects of the Russian Federation in relation to such legal regulation; in addition, within the meaning of the legal position, formulated by the Constitutional Court of the Russian Federation in the Judgment of 9 July 2012 No. 17-П, there are no grounds to regard their interests as not considered by their representatives in the Council of Federation (Article 95, Section 2, of the Constitution of the Russian Federation), having approved this Federal Law on 6 June 2012.

Proceeding from this, the Constitutional Court of the Russian Federation in the present case perceives no grounds for recognition of the Federal Law of 8 June 2012 No. 65-ФЗ as not conforming to the Constitution of the Russian Federation as to the procedure of adoption in connection with non-observance by the State Duma of the requirement of sending of a draft law on a matter of joint jurisdiction before its consideration in the first and second readings to legislative (representative) and higher executive bodies of State power of subjects of the Russian Federation, which does not exclude the possibility of improvement of the legislative procedures, including by means of amending the Rules of the State Duma, as applied to adoption of federal laws, the provisions of which relate both to matters of federal and joint jurisdiction.

4.2. According to Section 1 of Article 118 of the Rules of the State Duma, when a draft law is considered in the first reading, its concept is discussed and assessment is given of the conformity of the basic provisions of the draft law to the Constitution of the Russian Federation, its actuality and practical significance.

Division of the procedure of consideration of draft laws into readings and each of the readings proper, as the Constitutional Court of the Russian Federation has pointed out in the Judgment of 5 July 2001 No. 11-П, are of importance both for ensuring search for the most adequate normative decisions and for verification of conformity of their textually shaped content to the true will of the legislator; adoption of an act consequently in each of the three readings – at their different destination in the unified norm-creating process – is also a guarantee of consideration of the initial position of the subjects of legislative initiative, so far as

alteration of an act's concept can not take place at the stage of amending it, so that changes having principal significance do not appear as a result of accidental decisions, not connected with discussion of the concept; and breach of the requirements to the readings in the legislative procedure, leading to distortion of the primordial will and thereby influencing the fate of the act as a whole, testifies to unconstitutionality of such act not only as to the procedure of adoption, but also, in the end, as to the content of the norms.

Materials present in this case confirm that draft Federal Law "On Amendments to Administrative Offences Code of the Russian Federation" was brought in to the State Duma and adopted in the first reading. At the same time, in the Resolution of the State Duma of 22 May 2012 No. 397-6 ГД "On Draft Law "On Amendments to Administrative Offences Code of the Russian Federation" it was directly indicated that during preparation of this draft law for consideration by the State Duma in the second reading amendments, envisaging supplement of the draft law by a new article, devoted to making amendments to the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", were taken into account. Thus, the concept of the Federal Law of 8 June 2012 No. 65-ФЗ already on the outcome of the first reading was intended for legal regulation both of the questions of responsibility for administrative offences and of the rules of organization and holding of public events.

By virtue of the indicated circumstances, especially as Section 2 of Article 121 of the Rules of the State Duma directly admits alteration of the name of a draft law in the course of the second reading, the Constitutional Court of the Russian Federation finds no confirmation of the fact that in this case there were such breaches of the procedure of legislative activity, established by the Rules of the State Duma, which entailed conceptual changes of the draft law after its adoption in the first reading.

4.3. In accordance with the Rules of the State Duma, a draft law is sent to the Council of the State Duma, as a rule, not later than 14 days before its bringing in for consideration of the State Duma (Section 3 of Article 114); deputies – authors

of amendments to the draft law have the right to a speech of no more than 3 minutes on each amendment with the aim to substantiate it (Section 2 of Article 56, Section 7 of Article 123); voting on the adoption of a law as a whole on the day of adoption of a draft law in the second reading may be held only in the presence of its final text (Section 13 of Article 123).

As follows from the materials submitted to the Constitutional Court of the Russian Federation, deviations from some of the indicated requirements of the Rules of the State Duma took place during adoption of the Federal Law under consideration. However, assessing them, it is necessary take into account that in the modern parliamentary activity situations are not uncommon when deputies, staying in the opposition, try to protract adoption of a law which they object to, and the parliamentary majority, accordingly, strives to speed up passage of the draft law. This actualizes the need of norms of the Rules ensuring the possibility of adequate counteraction against the attempts of artificial blocking of the legislative process and simultaneously guaranteeing reasonable terms of consideration and adoption of laws, in order that the will of parliamentary majority, presumed as the will of the people, could be realized with the help of legal means present in its arsenal.

The Rules of the State Duma provide for a number of procedures, aimed at optimization of the terms of legislative process: for instance, the chairperson on the expiry of an established time warns the speaker about it, and then is entitled to interrupt his/her speech (Section 3 of Article 56), with the consent of the majority of deputies of the State Duma present at the session he/she may establish general duration of a discussion of a question, included in the order of work of a session of the State Duma (Section 5 of Article 56). And deviations from standard parliamentary procedures during passage of the Federal Law under consideration in the State Duma, to which authors of the request point, are deprived of such legal basis, so far as special norms on the possibility of speeding-up consideration of a draft federal law are absent in the system of operating regulation.

Any breach of parliamentary procedures, irrespective of what it is motivated and explained by, can not be perceived as compatible with the rules of carrying out legislative activity, directly established by the Rules of the State Duma, and as such can not be recognized as admissible, even if the will of parliamentary majority expressed in a respective federal law (in this case – in the Federal Law of 8 June 2012 No. 65-ФЗ) most likely would receive confirmation in case of rigorous following the requirements of the Rules of the State Duma as well, both in the part of operating procedure of passage of draft laws and, if the order of adoption of federal laws was corrected in the direction of its shortening, in the part, vesting deputies of the State Duma with vast powers of altering norms of the Rules (Sections 1 and 2 of Article 217) and independent determination of the order of consideration of questions, not stipulated for by the Rules of the State Duma (Section 3 of Article 217).

At the same time it should be borne in mind that procedural rules, broken in the process of adoption of the Federal Law under consideration, do not pertain to the number of directly concretizing the prescriptions of Articles 104 – 108 of the Constitution of the Russian Federation and are not aimed at regulation of essential elements of the order of adoption of federal laws, without rigorous observance of which it is impossible to determine with authenticity whether the adopted legislative decision reflects the true will of deputies of the State Duma. Deviation from them could not lead to consequences, able to distort destination and result of the legislative process and thereby call in question constitutionality of this Federal Law as to the procedure of adoption. Here the rights of parliamentary opposition can hardly be regarded as violated: in the process of preparation of the draft law to the second reading deputies of the State Duma and members of the Council of Federation brought in 430 amendments, and in the course of consideration in the second reading no one of deputies – authors of amendments was deprived of the right to speak (in the presence of tables of amendments, recommended by a responsible committee for adoption or rejection, with all deputies, as it is required by the Rules of the State Duma). Besides, according to the information of the

Committee on the Rules and Organization of Work of the State Duma, final text of the draft law before its adoption in the third reading was prepared and available to all deputies of the State Duma, although in the second reading text of the draft law underwent no changes and was adopted in the wording proposed by the responsible committee. What is more, the sharpness itself of the parliamentary discussion which took place, intensity of counteraction to adoption of this Federal Law on the part of parliamentary minority expressively testifies to the fact that content of the draft law could not stay without attention and realization of deputies, having voted both "for" and "against".

Proceeding from this, the Constitutional Court of the Russian Federation comes to the conclusion that deviations from prescriptions of the Rules of the State Duma, committed in the course of adoption of the Federal Law of 8 June 2012 No. 65-ФЗ, by their character can not be regarded as having entailed such non-observance of the established order of realization of legislative powers by the State Duma, which calls in question constitutionality of this Federal Law as to the procedure of adoption. This conclusion, nevertheless, does not release the State Duma from the obligation to establish norms in its Rules, which will determine conditions and order of adoption of the decision on the possibility of shortening (speeding-up) the procedures of consideration of a draft federal law, as well as the bounds of such shortening (speeding-up).

4.4. Thus, the Constitutional Court of the Russian Federation sees no grounds for the recognition of the Federal Law of 8 June 2012 No. 65-ФЗ "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" as not conforming to the Constitution of the Russian Federation with regard to the procedure of its adoption by the State Duma.

Concluding from the above and pursuant to Article 6, Section 2 of Article 71, 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

h e l d:

1. To recognize the provision of Sub-Item “a” of Item 1 of Article 2 of the Federal Law “On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law “On Assemblies, Meetings, Demonstrations, Processions and Picketings”, introducing ban to be organizer of a public event for a person, having two or more times been made administratively answerable for administrative offences, envisaged by Articles 5.38, 19.3, 20.1 – 20.3, 20.18 and 20.29 of the Administrative Offences Code of the Russian Federation, during the term when the person is considered as exposed to administrative penalty, as not contradicting the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of operating legal regulation means that this ban may take place only in case, when repeated making him/her administratively answerable for respective administrative offence took place within the bounds of the term of administrative penalty for administrative offence committed by him/her earlier and entailed prescription of administrative penalty, and only for the period when the person is considered as exposed to administrative penalty, which does not hinder him/her to turn with requests to organize a public event to other citizens, political parties, other public associations and religious associations (their regional branches and other structural subdivisions) and does not deprive him/her of the possibility to take part in public events, including as a person authorized by organizer of a public event to carry out managing functions of its organization and holding.

2. To recognize Item 6 of Article 2 of the Federal Law “On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law “On Assemblies, Meetings, Demonstrations, Processions and Picketings”, admitting unimpeded conduct of preliminary agitation about a public event from the moment of coordination of the place and (or) time of its holding with a body of executive power of a subject of the Russian Federation or a body of local self-government, as not contradicting the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of operating legal regulation

it contemplates no introduction of a licensing order of organization of public events and does not hinder the organizer of a public event to carry out notification of possible participants of a public event about its presupposed goals, form, place, time and other conditions of holding before the moment of coordination of the place and (or) time of its holding.

3. To recognize the provisions of Item 7 of Article 1 and Paragraphs 4 and 5 of Sub-Item "в" of Item 1 of Article 2 of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" in the part, placing on the organizer of a public event the obligation to take measures to prevent excess of the number of its participants, indicated in the notification on holding of the public event, if such excess creates threat to public order and (or) public security, the security of participants of this public event or other persons or a threat of causing damage to property, and envisaging administrative responsibility of the organizer of a public event for non-execution of this obligation, as not contradicting the Constitution of the Russian Federation, so far as within their constitutional-law meaning in the system of operating legal regulation these provisions:

contemplate use by the organizer of a public event of all possibilities available to him/her so that the number of participants of a public event does not exceed the one declared in the notification on its holding or, at least, in spite of the excess present, including with regard to the norm of maximum filling of a territory (premises) in the place of holding of a public event, do not create threat to public order and (or) public security, life and health of citizens, as well as causing damage to property of natural and juridical persons;

contemplate coming of administrative responsibility of the organizer of a public event for non-execution of this obligation only in case if excess of the number of participants of a public event declared in the notification and creation by this of a threat to public security and legal order were conditioned by actions (inaction) of the organizer of a public event or if he/she, having admitted excess of

the number of its participants, took no measures, including upon demand of an authorized representative of a body of executive power of a subject of the Russian Federation or a body of local self-government or an authorized representative of a body of internal affairs, aimed at limitation of citizens' access to participation in a public event, that he/she was obliged to take in accordance with the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", which entailed rise of a threat to public order and (or) public security, the security of the participants of the public event and other persons or the threat of causing damage to property;

do not exclude making answerable authorized representatives of a body of executive power of a subject of the Russian Federation or a body of local self-government or a body of internal affairs for inappropriate fulfillment of powers for rendering assistance to the organizer of a public event and ensuring of public order and security of citizens during its holding.

4. To recognize Sub-Item "r" of Item 1 of Article 2 of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" as not conforming to the Constitution of the Russian Federation, its Articles 31, 35 (Section 1) and 55 (Section 3) to the extent to which it contemplates coming of civil-law responsibility of the organizer of a public event in case of non-execution by him/her of obligations, envisaged by Section 4 of Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", for damage caused by participants of a public event irrespective of his/her manifesting appropriate care about maintenance of public order and absence of his/her guilt in causing of such damage.

5. To recognize the provisions of Item 3 of Article 2 of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", establishing the requirement of observance by persons, carrying out one-man picketing, of minimum admissible distance between them and envisaging

the possibility of recognition of a totality of acts of picketing, united by a uniform idea and common organization as one public event by a court decision in a particular civil, administrative or criminal case, as not contradicting the Constitution of the Russian Federation, so far as within their constitutional-law meaning in the system of operating legal regulation they are aimed at hindering abuse of the right not to notify bodies of public authority on holding of a one-man picketing, do not refute the presumption of lawfulness of actions of a citizen, observing the established order of holding of a one-man picketing, and contemplate recognition of a totality of one-man pickets as one public event solely on the basis of a court decision and only in case if the court establishes that these pickets were primordially united by a uniform idea and common organization and do not represent accidental coincidence of actions of individual picketers.

6. To recognize Sub-Item "a" of Item 4 of Article 2 of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" in the part, vesting bodies of executive power of a subject of the Russian Federation with authority to determine unified places, specially allotted or adapted for holding of public events, as not conforming to the Constitution of the Russian Federation, its Articles 19 (Sections 1 and 2), 31 and 55 (Section 3) to the extent to which it, contrary to the requirements of certainty, clarity and unambiguousness of legal regulation, following from the Constitution of the Russian Federation, does not normatively fix the criteria, ensuring observance of equality of legal conditions of realization of the right to freedom of peaceful assembly in the course of determination by bodies of executive power of subjects of the Russian Federation of places, specially allotted or adapted for holding of public events, which engenders the possibility of its poly-semantic interpretation and, consequently, arbitrary application.

The federal legislator must, proceeding from the requirements of the Constitution of the Russian Federation and considering the present Judgment,

make necessary amendments to the legal regulation of determination of specially allotted places.

Until respective amendments to the legal regulation are made, bodies of executive power of a subject of the Russian Federation, when determining places, specially allotted for holding of public events, must proceed from the need to have such places as a minimum in every city circuit and municipal district.

7. To recognize the interconnected provisions of Items 3, 6, 7, 8, 9 and 10 of Article 1 of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings":

in the part, establishing for commission of administrative offences, envisaged by Articles 5.38, 20.2, 20.2^2 and 20.18 of the Administrative Offences Code of the Russian Federation, administrative fines for citizens at the rate up to 300 000 roubles and for officials at the rate up to 600 000 roubles, as conforming to the Constitution of the Russian Federation;

in the part, establishing for commission of the indicated administrative offences minimum dimensions of fines for citizens from 10 000 roubles and for officials – from 50 000 roubles as not conforming to the Constitution of the Russian Federation, its Articles 19 (Sections 1 and 2), 35 (Section 1) and 55 (Section 3) to the extent to which they, in the system of legal regulation not admitting prescription of a penalty lower than the lowest bound of respective administrative sanction, do not allow to most fully consider the character of the committed offence, property status of the offender, as well as other circumstances, having substantial significance for individualization of responsibility and thereby to ensure prescription of fair and proportional penalty.

The federal legislator must, proceeding from the requirements of the Constitution of the Russian Federation and considering this Judgment, make necessary amendments to the legal regulation of the minimum dimensions of fines for administrative offences, envisaged by articles 5.38, 20.2, 20.2^2 and 20.18 of the Administrative Offences Code of the Russian Federation.

Until appropriate amendments to the Administrative Offences Code of the Russian Federation are made, the dimensions of an administrative fine, prescribed for the indicated administrative offences to citizens and officials, may be reduced by a court lower than the lowest bound, established for commission of a respective administrative offence.

8. To recognize the interconnected provisions of Items 4, 7, 8, 9 and 10 of Article 1 of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", stipulating for compulsory works as a kind of administrative penalty for breaches, connected with organization or holding of assemblies, meetings, demonstrations, processions and picketing or organization of mass simultaneous stay and (or) movement of citizens in public places, having entailed breach of public order:

to the extent to which they are not connected with intrusion into property rights of citizens, do not contemplate deprivation of the offender of liberty and are not inadmissible means of compulsion to labour, as conforming to the Constitution of the Russian Federation;

to the extent to which in the system of operating legal regulation prescription of this kind of administrative penalty is admitted not only in case of causing damage to human health, property of natural or juridical persons or coming of other similar consequences, but also at only one formal breach of the established order of organization or holding of public events, as not conforming to the Constitution of the Russian Federation, its Articles 1 (Section 1), 19 (Section 1), 31, 37 (Section 2) and 55 (Section 3).

The federal legislator must, proceeding from the requirements of the Constitution of the Russian Federation and with regard to legal positions of the Constitutional Court of the Russian Federation, including expressed in the present Judgment, make necessary amendments to the legal regulation of administrative penalty in the form of compulsory works.

Until appropriate amendments to the operating legal regulation are made, compulsory works may be applied as an administrative penalty for administrative offences, envisaged by Articles 20.2, 20.2^2 and 20.18 of the Administrative Offences Code of the Russian Federation, only if they entailed causing damage to human health, property of natural and juridical persons or coming of other similar consequences.

9. To recognize Item 5 of Article 1 of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" as not contradicting the Constitution of the Russian Federation, so far as the provision, increasing the term of limitation of making administratively answerable for breach of the legislation on assemblies, meetings, demonstrations, processions and picketing up to 1 year since the day of commission of an administrative offence, contained in it, within its constitutional-law meaning is aimed at ensuring inevitability of administrative responsibility (with regard to specific character of circumstances in which respective administrative offences are committed) and contemplates no deterioration of the state of persons made administratively answerable and having committed administrative offences before entering of this Federal Law into force.

10. To recognize Items 7 and 8 of Article 1 of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" in the part, stipulating for administrative responsibility for breach of the established order of organization or holding of a public event, having entailed causing damage to human health or property, or a mass simultaneous stay and (or) movement of citizens in public places, not being a public event, having entailed breach of public order, if respective actions (inaction) of the organizer of such event do not contain form criminally-punishable action, as not contradicting the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of operating legal regulation they contemplate coming of

administrative responsibility for administrative offences stipulated for by them only in the presence of causal connection between the guilty unlawful actions (inaction) of the organizer of a public event or other mass event, having entailed breach of public order, and ensued consequences in the form of causing damage to human health or property.

11. To recognize the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" as not contradicting the Constitution of the Russian Federation as to the procedure of its adoption by the State Duma.

12. The constitutional-law meaning of the provisions of Items 5, 7 and 8 of Article 1, Sub-Item "a" and Paragraphs 4 and 5 of Sub-Item "в" of Item1, Items 3 and 6 of Article 2 of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings", revealed in this Judgment, is binding on the entire territory of the Russian Federation for all representative, executive and judicial bodies of State power, bodies of local self-government, enterprises, agencies, organizations, officials, citizens and their associations.

Any other interpretation of the indicated legislative provisions will not conform to their real meaning and is inadmissible in the law-applying practices as contradicting the Constitution of the Russian Federation, its Articles 17 (Section 3), 19 (Sections 1 and 2), 31 and 55 (Section 3).

Acts based on the interpretation of the indicated legislative provisions, diverging from their restrictive constitutional-law meaning, revealed by the Constitutional Court of the Russian Federation in the present Judgment, may not be applied and are subject to abrogation as not conforming to Article 125 (Section 6) of the Constitution of the Russian Federation, Articles 6, 79 and 80 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation".

13. Law-applying decisions, passed in respect of Savenko Eduard Veniaminivitch, are subject to reconsideration, if they are based on Item 1^1 of Section 2 of Article 5 of the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings" (in the wording of Sub-Item "a" of Item 1 of Article 2 of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation and the Federal Law "On Assemblies, Meetings, Demonstrations, Processions and Picketings") in the interpretation, diverging from its constitutional-law meaning, revealed in the present Judgment, and provided there are no other obstacles to it.

14. The present Judgment shall be final and shall not be subject to any appeal, it shall come into force immediately upon pronouncement, shall be directly applicable and shall not require confirmation by other authorities and officials.

15. The present Judgment is subject to immediate publication in Rossiyskaya Gazeta and the Collection of Laws of the Russian Federation. The Judgment shall also be published in the Bulletin of the Constitutional Court of the Russian Federation.

The Constitutional Court
of the Russian Federation

No. 4-П