

**Judgment of the Constitutional Court of the Russian Federation of 14
February 2013 No. 4-II. Resume.**

By the Judgment of 14 February 2013 No. 4-II the Constitutional Court gave appraisal of constitutionality of the provisions of the Federal Law “On Amendments to the Administrative Offences Code” and the Federal Law “On Assemblies, Meetings, Demonstrations, Processions and Picketings”

The petitioners contested constitutionality of the said Federal Law as to the procedure of its adoption by the State Duma.

Individual provisions were contested as well:

forbidding a person having two or more times been made 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 the person is considered as exposed to administrative penalty;

allowing conduct of preliminary agitation from the moment of co-ordination of the time and (or) the place of holding a public event with a body of executive power of a subject of the Russian Federation or a body of local self-government;

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 the 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;

establishing civil-law responsibility of the organizer of a public event for damage caused to the participants of a public event in case of his/her non-execution of duties envisaged by law;

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;

vesting the bodies of executive power of the subjects of the Russian Federation with the power to determine specially allotted places for holding public events;

envisaging administrative fine for citizens in the amount of up to 300 000 Rubles, and for officials – up to 600 000 Rubles 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;

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;

establishing term of limitation of making administratively answerable for breach of the legislation on assemblies, meetings, demonstrations, processions and picketings;

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.

According to the decision passed, the provision introducing ban to be organizer of a public event for a person having two or more times been made 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, in the course of the term during which the person is considered as exposed to administrative penalty, has been recognized as not contradicting the Constitution of the Russian Federation, because such a ban may take place only in a case when repeated making of a person administratively answerable took place within the limits of a term of administrative penalty for an administrative offence committed earlier and entailed prescription of administrative penalty, and only for the time in the course of which the person is considered as exposed to administrative penalty.

This does not hinder a person to address other citizens, political parties, other social associations and religious associations (their regional branches and other structural subdivisions) with requests to organize a public event and does not deprive him/her of the possibility to participate in public events, including as a person authorized by the organizer to carry out managing functions as to its organization and holding.

The provision admitting unimpeded conduct of preliminary agitation on a public event from the moment of co-ordination of the time and (or) the place of holding a public event with the body of executive power of a subject of the Russian Federation or the body of local self-government has also been recognized as not contradicting the Constitution of the Russian Federation.

This provision does not hinder the organizer of a public event to inform possible participants of a public event about its presupposed purposes, form, place, time and other conditions of holding before the moment of co-ordination of the place and (or) time of its holding.

The provisions placing on the organizer of a public event the obligation to take measures to prevent excess of the number of participants, indicated in the notification on its holding, if the 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, and envisaging administrative responsibility of the organizer of a public event for non-execution of this obligation have been recognized as not contradicting the Constitution of the Russian Federation.

Administrative responsibility of the organizer of a public event for non-execution of this obligation is possible only in a case if excess of the number of participants of a public event, declared in the notification, and thus creation of threat to public security and legal order were determined directly by actions (inaction) of the organizer of a public event.

Administrative responsibility of the indicated person comes also in a case if this person, having admitted excess of the number of participants of a public event, did

not take measures provided for by the law, including on the requirement of authorized bodies, aimed at restriction of citizens' access to participation in a public event, 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.

These normative provisions do not exclude herewith 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 execution of their powers with regard to giving assistance to the organizer of a public event and ensuring public order and security of citizens in the course of its holding.

The provision contemplating civil-law responsibility of the organizer of a public event in the case of his/her non-execution of duties, provided for by Section 4 of Article 5 of the contested Federal Law, for damage caused to the participants of a public event regardless of his/her manifestation of appropriate care for maintenance of public order and absence of his/her guilt in causing such damage has been recognized as not conforming to the Constitution of the Russian Federation.

The provisions establishing the requirement of observance by persons, carrying out one-man picketing, of the minimum admissible distance between them and envisaging 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 on a concrete civil, administrative or criminal case, have been recognized as not contradicting the Constitution of the Russian Federation by the decision of the Constitutional Court. Herewith, recognition of a number of one-man pickets as one public event is possible solely on the basis of a court decision and only if the court establishes that these pickets were from the very beginning united by a uniform idea and common organization and were not an incidental coincidence of actions of individual picketers.

The Constitutional Court has recognized as not conforming to the Constitution of the Russian Federation the provision vesting the bodies of executive power of the subjects of the Russian Federation with the power to determine uniform places, specially allotted or adapted for holding public events.

Until determination in the legislative procedure of criteria ensuring observance of equality of legal conditions of citizens' realization of the right to freedom of peaceful assemblies, the regional bodies of executive power, when determining places specially allotted for holding public events, must proceed from the need to have such places as a minimum in every city circuit and municipal district.

The provisions, 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 in the amount of up to 300 000 Rubles, and for officials – up to 600 000 Rubles have been recognized as conforming to the Constitution of the Russian Federation. At the same time, the Constitutional Court has recognized the indicated provisions as not conforming to the Constitution of the Russian Federation in the part establishing minimum

amounts of fines (for citizens from 10 000 Rubles and for officials from 50 000 Rubles).

Until the necessary legislative amendments are made, the amount of administrative fine prescribed for the indicated administrative offences for citizens and officials may be reduced by a court decision below the lowest limit, established for commission of respective administrative offence.

The interconnected normative provisions, envisaging compulsory works as a kind of administrative penalty for violations related to the organization or holding of assemblies, meetings, demonstrations, processions and picketing or to the organization of mass simultaneous stay and (or) movement of citizens in public places, having entailed violation of public order, have been recognized as conforming to the Constitution of the Russian Federation to the extent to which they are not linked to intrusion into property rights of citizens, do not contemplate deprivation of liberty of the offender and are not inadmissible means of compulsion to labour. At the same time these provisions have been recognized as not conforming to the Constitution of the Russian Federation to the extent to which prescription of compulsory works is admitted not only in cases of damage to citizens' health, to property of natural or juridical persons or in case of other similar consequences, but in the case of a single formal breach of the established order of organization or holding of public events.

Until the appropriate legislative amendments are made, compulsory works may be applied as an administrative penalty for 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 citizens' health, property of natural or juridical persons or coming of other similar consequences.

The provision, increasing the term of limitation of making administratively answerable for breach of legislation on assemblies, meetings, demonstrations, processions and picketing up to one year from the moment of commission of the administrative offence, has been recognized as not contradicting the Constitution of the Russian Federation, because it does not contemplate deterioration of the state of persons made administratively answerable and having committed administrative offences before entrance of the contested Federal Law into legal force.

The provisions, providing for administrative responsibility for breach of established order of organization or holding of a public event having caused damage to human health or property, or for organization mass simultaneous stay and (or) movement of citizens in public places, not being a public event, having caused violation of public order if respective actions (inaction) of the organizer of such an event do not contain criminally punishable act have been recognized as not contradicting the Constitution of the Russian Federation. Coming of administrative responsibility in this case is only possible if there is casual connection between the guilty unlawful actions (inaction) of the organizer of a public event or other mass event having caused violation of public order, and the consequences in the form of causing damage to human health or property.

The Constitutional Court has recognized the contested Federal Law as conforming to the Constitution of the Russian Federation with regard to the procedure of its adoption by the State Duma.

14 February 2013