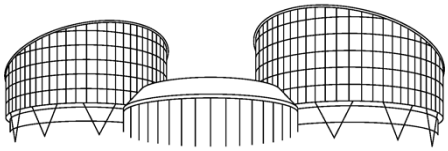

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF DAVYDOV AND OTHERS v. RUSSIA

(Application no. 75947/11)

JUDGMENT

STRASBOURG

30 May 2017

FINAL

13/11/2017

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

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In the case of Davydov and Others v. Russia,

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

Helena Jäderblom, *President,*
Branko Lubarda,
Luis López Guerra,
Helen Keller,
Dmitry Dedov,
Pere Pastor Vilanova,
Alena Poláčková, *judges,*
and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 9 May 2017,

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

PROCEDURE

1. The case originated in an application (no. 75947/11) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by eleven Russian nationals (for personal details see Appendix).

2. The applicants were represented by Ms K. Moskalenko and Ms Ye. Napara, lawyers practising in Russia. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights.

3. The applicants alleged that the organisation and conduct of the election process in several polling stations in St Petersburg in December 2011 did not comply with the requirements of Article 3 of Protocol No. 1 to the Convention and that they had had no effective domestic remedies against the violations alleged.

4. On 18 March 2014 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. General overview of the case

5. The facts of the case, as submitted by the applicants, may be summarised as follows.

6. All the applicants are Russian nationals living in St Petersburg. On 4 December 2011 they took part in elections which, on that date, took place simultaneously at city level and federal level: the election of deputies to the Legislative Assembly of St Petersburg (the legislative body of the City of St Petersburg, a constituent entity of the Russian Federation, hereinafter referred to as "the LA") and the election of deputies to the State Duma of the Russian Federation (the lower chamber of the Russian parliament, hereinafter referred to as "the Duma").

7. The applicants participated in the elections in different capacities: all of them were registered voters; in addition, some of them stood as candidates for the LA, while others were members of electoral commissions or observers.

8. The applicants alleged that the electoral commissions had falsified the results of the elections by systematically assigning more votes to the ruling Yedinaya Rossiya (ER) party and its candidates, and stripping the opposition parties and candidates of their votes. The allegations raised by the first to seventh applicants concern the results of voting in the Kolpino district of St Petersburg (electoral divisions (*избирательный округ*) nos. 18 and 19 of St Petersburg). Other applicants complained about the results in other electoral divisions in St Petersburg (see Appendix).

9. After the announcement of the preliminary election results, some applicants complained to the St Petersburg City Electoral Commission alleging falsification of the results. Some of the applicants lodged criminal complaints and sued the respective electoral commissions in courts. For more details about their contesting the results of the elections, see sections D to H below.

B. Organisation of the elections of 4 December 2011

10. Elections at both levels (federal and city) were based on proportional representation by party list. That is, the electorate voted not for individual candidates but for lists of candidates proposed by political parties. The following parties took part in the elections:

1. Yedinaya Rossiya ("ER");
2. Spraverdlivaya Rossiya ("SR");
3. Patrioty Rossii ("PR");

4. Pravoye Delo ("PD");
5. Kommunisticheskaya Partiya Rossiyskoy Federatsii ("the KPRF");
6. Liberalno-Demokraticheskaya Partiya Rossii ("the LDPR");
7. Yabloko.

11. ER was the ruling party which already had an absolute majority in both legislatures. The other parties could be characterised as "opposition", albeit to varying extents.

12. The number of seats each party could obtain in the LA and in the Duma depended on the number of votes received. The chances for each individual candidate of being elected depended on what position he or she occupied on the list of his or her respective party. Those at the top had a higher chance of being elected. Even if a party obtained the number of votes required to pass the "minimum threshold" established by law to enter the LA or the Duma, a poor overall result for that party would deprive those in lower positions on the list of a mandate. Thus, the chances for each individual candidate of being elected depended not on the results of the voting at a particular polling station, but on the average result of his or her political party in general, throughout the whole territory concerned.

13. Vote counting at the 2011 elections was organised at three levels. Voters cast their votes at the polling stations managed by the Precinct Electoral Commissions (*участковая избирательная комиссия* (*УИК*) – hereinafter "the PECs"). The PECs also collected the votes of those casting their votes at home. Each precinct usually had between 2,000 and 3,000 registered voters. Generally, the lists of voters registered for federal and city elections were identical, and each voter coming to the polling station received two separate ballot papers – one for the LA elections and another for the Duma elections.

14. On election night the PECs, after opening the ballot boxes (stationary and mobile), counted the votes and drew up results sheets (referred to as "protocols"). Separate protocols were drawn up for the LA and Duma elections. All members of the electoral commissions had to sign the protocols and were entitled to receive a copy of them (see paragraphs 178-179 below for the formal requirements to copies of protocols).

15. After that, one copy of the protocol was brought to the relevant Territorial Electoral Commission (*территориальная избирательная комиссия* (*ТИК*) – hereinafter "the TECs"), which was responsible for preparing a consolidated table of results of the voting in the divisions under its jurisdiction. Each TEC covered several electoral divisions (*избирательные округа*, sometimes also called *территории* ("territories")); and each division covered several dozen precincts. To give examples relevant to the applicants' complaints, TEC no. 3 covered electoral division no. 17 (comprised of thirty-two precincts), TEC no. 7 covered electoral division no. 15 (comprised of thirty-three precincts), TEC no. 21 covered electoral

divisions nos. 18 (thirty-two precincts) and 19 (thirty-four precincts) and TEC no. 27 covered electoral division no. 33 (forty precincts).

16. Each TEC then sent their own protocols to the St Petersburg City Electoral Commission (*Санкт-Петербургская избирательная комиссия*) (hereinafter "the City Electoral Commission"), which made a final calculation at the City level. The results were published on the website of the City Electoral Commission. The overall system of elections in Russia was supervised by the Central Electoral Commission (*Центральная избирательная комиссия* (*ЦИК*)) (hereinafter "the CEC").

17. The applicants complain of various kinds of manipulation during the elections. They all allege that the protocols containing the results in the precincts were replaced with new ones at the territorial commissions. These new protocols contained different figures, inflating the results for ER and diminishing the results for other parties, notably SR and Yabloko.

C. Nature of each applicant's complaint

1. The first applicant

18. Mr Davydov (the first applicant) was born in 1987 in Leningrad. He stood as a candidate for the LA for the SR party. His complaint concerns the results of elections to the LA in the Kolpino district of St Petersburg (electoral division no. 19).

(a) The difference in results

19. In Mr Davydov's submission, the results of the elections as published on 5 December 2011 by the City Electoral Commission on its website did not correspond to the real figures obtained by the PECs as a result of the vote counting which had taken place on the evening of 4 December 2011. The official election results at city level (including Kolpino district) were approved by a decision of the City Electoral Commission on 12 December 2011.

20. In support of his allegation the applicant produced copies of the allegedly original protocols drawn up by PECs. The applicant, as a candidate and a member of SR, had collected those protocols from the members of the electoral commissions who represented SR or other opposition parties, as well as from the observers who had been dispatched to the polling stations by SR, the KPRF and Yabloko. Under the law, after the votes had been counted, members of the electoral commissions and observers were entitled to receive a "certified copy" of the protocol. The applicant also produced a list of the names of observers and members of the electoral commissions who had given him copies of the protocols.

21. Mr Davydov produced information concerning thirty-five precincts, all belonging to electoral division no. 19. He produced copies of the "original

protocols" and of the "final results" published on the website of the City Electoral Commission. Some of the final results are identical to those in the "original" protocols. For example, the "original" protocol issued by PEC no. 640 contained results which were identical to the official final results.

22. However, in the majority of the polling stations the number of votes cast in favour of ER was much lower than the figure which appeared in the official results. Polling station no. 639 could be taken as an example. According to the applicant's copy of the protocol issued by PEC no. 639, 903 valid ballot papers were cast. The votes were distributed as follows:

- ER 218;
- LDPR 132;
- KPRF 137;
- SR 302;
- PR 12;
- Yabloko 89;
- PD 13.

23. According to the final results published by the City Electoral Commission, the same 903 valid ballot papers were distributed as follows:

- ER 460;
- LDPR 210;
- KPRF 137;
- SR 28;
- PR 6;
- Yabloko 55;
- PD 7.

24. In the applicant's opinion, the difference between the published results and the "original" protocols showed that the votes had been redistributed in favour of ER and, to a certain extent, the LDPR.

25. The applicant submitted "original" protocols in respect of the following twenty-one precincts where the results of ER, recorded in the original tables, were lower than the results officially published by the City Electoral Commission: nos. 638, 639, 641, 642, 643, 644, 646, 648, 649, 651, 652, 653, 654, 657, 661, 662, 664, 665, 666, 667 and 668. From the documents submitted by the applicant it appears that the form of the "original" reports differs from one PEC to another. All the "original" reports contained certain pre-printed parts to be filled in; however, not all of the information fields were filled in and not all signatures were always in place. Thus, some of the reports submitted by the applicant did not have a third page, which should contain the signatures of the members of the electoral commissions (for example, precinct no. 638). Some of the reports contained a third page with the signatures of the head of the relevant PEC and/or his or her deputy, but not the signatures of the other members, and did not contain the official stamp or indicate the time when they had been drawn up (for example, no. 639). Some reports had no third page, but the first page bore the

words “authentic copy”, the signature of the head of the electoral commission and an official stamp (for example, no. 642).

26. A number of the “original” protocols had all the necessary entries and signatures, indicated the date and time they had been drawn up, and bore an official stamp on the third page (for example, station no. 654, which reported that ER had received 261 votes whereas the official final results reported 748; the protocols from precincts nos. 657, 661, 665 and others show a similar pattern) or even on every page (for example, station no. 643, which listed ER as having obtained 253 votes, in contrast to the 498 votes it received according to the final results).

27. Generally speaking, most of the “original” protocols are photocopies containing the handwritten inscription “authentic copy”, the PEC stamp and the handwritten signature of the head of the commission, his or deputy and, occasionally, the secretary.

(b) Overall effect of the changes

28. According to the “original” protocols presented by the first applicant, in division no. 19 ER received 8,695 votes, whereas the City Electoral Commission reported a figure which was almost twice as high: 17,265 votes. The same “original” copies indicated that SR had obtained 10,031 votes, while the official result was only 4,538 votes. Votes for other parties (except for the LDPR) had also been redistributed in favour of ER.

2. The second applicant

29. The second applicant (Ms Andronova) was born in 1953 in Leningrad. Her complaint concerned the right to vote in both the LA and the State Duma elections. She was a voter registered in electoral precinct no. 652 in Kolpino (electoral division no. 19). She was also a voting member of PEC no. 652. She was affiliated to SR. She voted for SR at both levels and monitored both elections – to the City LA and to the State Duma – at that polling station.

30. The initial result achieved by SR in the LA elections in precinct no. 652, as reflected in the copy of the protocol which the second applicant received as a PEC member, was 299 votes; the official result was 19 votes. As to the Duma elections, SR received 315 votes according to the initial count and 115 votes according to the official results.

31. Other parties also saw their votes redistributed in favour of ER. Thus, according to the protocols, the KPRF obtained 174 votes in the Duma elections and 164 in the LA elections; however, the City Electoral Commission reported 74 and 14 votes respectively. The official results of ER at that polling station were 574 in the Duma elections, while the initial figure stood at 274; and 599 votes in the LA elections, compared to 259 according to the initial protocols.

3. The third applicant

32. The third applicant (Mr Andronov) was born in 1986 in Leningrad. His complaint concerned the right to vote in both the LA and the State Duma elections. He was a voter registered in electoral precinct no. 651 in Kolpino (electoral division no. 19), and was a voting member of the same PEC. He was affiliated to SR. The official results of SR at that station were 125 votes (Duma elections) and nine votes (LA elections), whereas according to the "original" protocols, SR received 345 and 328 votes respectively. The official results achieved by ER were 640 (Duma) and 807 (LA), compared to the initially recorded 310 (Duma) and 299 (LA).

4. The fourth applicant

33. The fourth applicant (Ms Nikolayeva) was born in 1988 in Leningrad. Her complaint concerned the right to vote in both the LA and the State Duma elections. She was a voter registered in electoral precinct no. 654 in Kolpino (electoral division no. 19), and was a voting member of the same PEC. She was affiliated to SR. In that precinct in the Duma elections SR received 307 votes according to the "original" protocol and 157 according to the official published results; and 287 and 14 respectively in the LA elections. The official results of ER were 748 (LA) and 424 (Duma), compared to initial results of 261 (LA) and 274 (Duma).

5. The fifth applicant

34. The fifth applicant (Mr Sizenov) was born in 1972 in Leningrad. His complaint concerned the right to vote in both the LA and the State Duma elections. He was a voter registered in electoral precinct no. 661 in Kolpino (electoral division no. 19) and was a voting member of the same PEC. He was affiliated to Yabloko. In that precinct in the Duma elections Yabloko received 90 votes originally and 40 votes officially, and in the LA elections 103 and 8 votes respectively. In the same vein, SR received 358 votes according to the "original" protocols and 138 according to the official results in the Duma elections, and 360 and 13 respectively in the LA elections. The official results of ER were 667 (Duma) and 861 (LA), with 296 (Duma) and 281 (LA) being recorded initially.

6. The sixth applicant

35. The sixth applicant (Mr Belyakov) was born in 1948 in Leningrad. He was a voter registered in electoral precinct no. 637 in Kolpino (electoral division no. 18); his complaint only concerned the elections to the LA. According to him, as a result of the redistribution of votes, the result achieved by ER had increased from 380 to 804 votes, to the detriment of other parties. The sixth applicant had received the relevant protocols from Mr M., who was

the head of the local branch of the KPRF and had received the protocols from the KPRF observer at that polling station.

7. The seventh and eighth applicants

36. The seventh applicant (Mr Yakushenko) was born in 1954 in the Leningrad Region. He was a voter registered in electoral precinct no. 623 in Kolpino (electoral division no. 18); his complaint concerned the elections to the LA. According to him, as a result of the redistribution of votes, ER's result had increased from 731 to 798 votes, to the detriment of other parties. The seventh applicant also received the protocols from Mr M.

37. The eighth applicant (Mr Payalin) was born in 1968 in Leningrad. He stood as a candidate in the elections to the LA for SR. His complaint concerned the results in electoral division no. 22 of St Petersburg in the elections to the LA. In particular, he challenged the official figures for twenty-two electoral precincts (nos. 721, 722, 723, 724, 725, 726, 727, 728, 729, 731, 733, 734, 735, 736, 739, 740, 741, 742, 743, 744, 745 and 794). According to the initial calculation, in electoral division no. 22 SR had obtained 9,616 votes, whereas the official result stood at 6,415. He claimed that as a result of the falsification of the results SR had been deprived of a number of seats in the LA and he had not been elected.

38. The seventh and eighth applicants later withdrew their complaints to the Court (see paragraphs 202 and 203 below).

8. The ninth applicant

39. The ninth applicant (Mr Truskanov) was born in 1946 in Leningrad. He stood as a candidate in the elections to the LA for SR. His complaint concerned the results of the elections to the LA in electoral division no. 17 of St Petersburg. In particular, he challenged the official figures concerning the results in ten electoral precincts (nos. 486, 489, 495, 496, 497, 498, 500, 501, 508 and 509). According to the applicant's calculations based on the initial protocols collected by him and by several other political parties concerned, in this electoral division SR had obtained 7,530 votes, while the official result indicated 5,765 votes. At the same time, ER's results had changed from 5,677 to 12,598 votes.

40. The ninth applicant's complaint has another limb. He claimed that in division no. 17 two "closed" electoral precincts, nos. 1852 and 1853, had been set up at a site with special security status – a heavy machinery plant. Observers, candidates and media were not allowed to access those "closed" precincts; ER's results in those precincts were particularly high, if compared with other precincts where observers and candidates had been able to monitor the process of voting and counting.

9. The tenth applicant

41. The tenth applicant (Ms Pushkareva) was born in 1957 in the Donetsk Region. She stood as a candidate in the elections to the LA for SR. Her complaint concerned the results of the elections to the LA in electoral division no. 33 of St Petersburg. In particular, she challenged the official figures concerning the results in 18 electoral precincts (nos. 1070, 1084, 1089, 1090, 1093, 1097, 1098, 1103, 1104, 1107, 1108, 1109, 1111, 1114, 1115, 1118, 1126 and 1127). Thus, according to the initial protocols obtained by the applicant as a candidate in this circuit, SR had obtained 9,794 votes, whereas the official result was announced as 7,131.

42. Furthermore, the tenth applicant indicated that the official results in electoral precincts nos. 1071, 1091, 1099 and 1113 had been declared void by the higher electoral commission. On 5 December 2011 TEC no. 27 decided, first, to conduct an independent recount in the four precincts owing to "complaints of breaches of the law and doubts about the correctness of the protocols". The TEC then decided as follows:

> "Having conducted an independent recount in electoral precincts nos. 1071, 1091, 1099 and 1113 ... and having concluded that the violations of the law ... were such that the results could not be determined (the number of ballot papers found in the ballot boxes significantly exceeds the number of papers issued at the voting stations), TEC no. 27 decided ... to declare the results of the election void."

No new election had been organised, and as a result voters living in those four precincts had been deprived of their right to vote, and the applicant's party (SR) had been deprived of a number of votes.

10. The eleventh applicant

43. The eleventh applicant (Mr Shestakov) was born in 1982 in Leningrad. He stood as a candidate in the elections to the LA for SR. His complaint concerned the results in electoral division no. 15 of St Petersburg, only in respect of the elections to the LA. In particular, he challenged the official figures concerning the results in thirteen electoral precincts (nos. 554, 555, 557, 592, 593, 597, 598, 600, 601, 605, 606, 610 and 611). According to the initial copies of the protocols collected by the applicant from the observers and PEC members, SR had obtained 6,629 votes in this electoral division; the official result stood at 3,894 votes.

44. In addition, the eleventh applicant also contested data appearing in some of the "original" protocols. In particular, he claimed that the protocols from sixteen PECs (nos. 549, 552, 553, 554, 444, 446, 558, 592, 594, 598, 601, 605, 606, 607, 608 and 611) did not reflect the actual results.

45. He referred to the following breaches of procedure which had been reported by observers and some members of electoral commissions and which were, in his opinion, indicative of manipulation:

- observers had been removed from polling stations under different pretexts, such as that they had been "filming the lists of registered voters and the process of voting" or "using dictaphones" (nos. 549 and 554); "displaying written materials bearing the symbol of one of the parties" (no. 549); or "making offensive comments in respect of the head of the electoral commission" (no. 552);

- observers had been positioned so that they were unable to see the voting booths and the head of the PEC had refused to relocate the ballot boxes, the voting booths or the observers' seating area, or to let the observers move to better positions (nos. 549, 552, 554, 592, 605, 608 and 611);

- during the voting unidentified individuals had blocked the view of the booths or ballot boxes so as to prevent observers from seeing what was happening there (no. 549);

- some people had voted without having received ballot papers from the electoral commission (no. 549), or had stuffed several ballot papers into the boxes at once (no. 553); observers reported that the number of people who had turned up to vote was, according to their calculations, much lower than the number of ballot papers deposited in the boxes (nos. 549 and 594); and compact wads of dozens of identical ballot papers filled in for ER had been found in certain boxes (nos. 598 and 608);

- the observers had been ordered to stay a certain distance away from the tables where the ballot papers were counted, and could not therefore see what was happening and what was written on the papers (nos. 552 and 558);

- some people who should normally have been among the registered voters had not found their names on the lists (nos. 558 and 607);

- the "mobile ballot boxes" used for voting at home had not been shown to the observers (no. 558);

- the members of the electoral commission who had taken the "mobile ballot boxes" to home voters had discovered that the people concerned had already voted in person at the voting station and had stated that they had never applied to vote at home (nos. 601 and 607).

46. The observers had referred to other problems and anomalies in the voting and counting process (insufficient number of blank ballot papers, lists of registered voters not stapled together and sealed, inexplicable interruptions to the process of counting the votes, third parties entering the premises of the City Electoral Commission and talking to the head of the commission, agitation for ER, and so on).

47. To confirm his allegations the eleventh applicant submitted copies of complaints lodged by individual observers and members of the electoral commissions at the electoral precincts concerned.

D. Complaints to the City Electoral Commission and the judicial review thereof (second, third and fourth applicants)

48. On 6 December 2011 the third and fourth applicants (Mr Andronov and Ms Nikolayeva) lodged an administrative complaint with the City Electoral Commission indicating that the official results of the voting (in LA and Duma elections) in precincts nos. 651 and 654 of Kolpino district were wrong and did not correspond to those recorded in the protocols.

49. As regards polling station no. 651, the third applicant (Mr Andronov) described the process of transporting the protocols to TEC no. 21. He indicated that the protocols had been taken by the PEC chairman to the TEC on 5 December 2011. However, when Mr Andronov had spoken to the chairman on the telephone at about 7.15 p.m., the latter had informed him that the document had not yet been handed to the TEC and that he was waiting in the corridor to be called. Nevertheless, by that time information about precinct no. 651 had already appeared on the website of the City Electoral Commission. In other words, the City Electoral Commission had published the precinct results before TEC no. 21 had received the protocols from the chairman of the precinct commission. The figures published by the City Electoral Commission were different from the result recorded in the "original" protocol, with a higher number of votes for ER. The PEC chairman had later informed Mr Andronov that he had handed in the protocols and had been given a receipt by the TEC; according to the third applicant, the receipt contained the original results, and not those which had been published later. A copy of that receipt had later been added to the file before the TEC. The third applicant had recorded all his conversations with the PEC chairman and submitted a CD with those recordings. He also indicated that he would be prepared to request a printout of his telephone call history during the period concerned from the mobile operator.

50. As regards polling station no. 654, the fourth applicant (Ms Nikolayeva) gave fewer details about the process of transporting the protocols and the tabulation of results at the TEC; she simply indicated that as a voting member of the precinct commission she had received a copy of the protocols, and that this copy did not correspond to the official results published by the City Electoral Commission.

51. On 8 December 2011 the City Electoral Commission forwarded the third applicant's complaint to the Kolpino District Prosecutor for further action. It appears that the fourth applicant's complaint was also sent there.

52. On 12 December 2011 the City Electoral Commission officially approved the results of the elections in St Petersburg, including precincts nos. 651 and 654.

53. On 19 December 2011 the Kolpino District Prosecutor informed the third applicant that as the election results had been officially approved the complaint had to be lodged with the courts.

54. On 28 December 2011 the City Electoral Commission informed the third applicant, by letter, that after the official approval of the election results, the results could only be contested in court. The fourth applicant did not receive any reply to her complaint.

55. On 2 and 8 February 2012 the third and fourth applicants lodged complaints with the Oktyabrskiy District Court, challenging the refusal of the City Electoral Commission to examine their complaints.

56. On 9 and 15 February 2012 the Oktyabrskiy District Court rejected the applicants' complaints. The relevant part of the court's reasoning in both decisions reads as follows:

> "In the complaint [the applicant] pointed to a possible falsification of the results of the voting, which is a crime under Article 141-1 of the Criminal Code of the Russian Federation [; however,] the City Electoral Commission of St Petersburg has no power to establish, investigate or ascertain circumstances, events or actions which may trigger criminal liability, [and therefore] the court considers that it was justified in forwarding the complaint to the Kolpino District Prosecutor's office."

57. The two applicants appealed; on 16 April and 10 May 2012 the St Petersburg City Court upheld the lower court's decisions.

58. The second applicant (Ms Andronova) also complained to the City Electoral Commission about a discrepancy between the numbers of votes recorded by her at PEC no. 652 and those announced by the City Electoral Commission. On 9 December 2011 the City Electoral Commission informed her that her complaint had been forwarded to the St Petersburg City Prosecutor.

59. The second applicant also applied to the Oktyabrskiy District Court, contesting the City Electoral Commission's refusal to examine her complaint. On 5 March 2012 her complaint was dismissed, on similar grounds (see paragraph 56 above). The St Petersburg City Court upheld the decision on appeal on 2 May 2012.

E. Attempts to start a criminal investigation into the alleged falsification

1. The first applicant (LA elections in precinct no. 646)

60. On 20 December 2011 the Kolpino District Prosecutor received a complaint alleging falsification of the results in precinct no. 646 (as challenged by the first applicant – see paragraphs 18 et seq. above).

61. On 18 January 2012 the Kolpino District Prosecutor decided not to open an investigation into this allegation. The investigator noted that, indeed, according to the "original" protocols produced by the unnamed claimant, the number of votes received by ER had been only one-third of the total officially reported. However, the investigator had received another protocol from the City Electoral Commission, in which the number of votes recorded was

identical to that reported on the website. Having examined it, the investigator continued as follows:

> "... In this connection it is necessary to conduct a graphological examination of the signatures of the members of PEC no. 646 [on the protocols] submitted by the applicant and by the CEC. On the basis of the above [the investigator] has decided not to open a criminal case under Article 142.1 of the Criminal Code, as there is no evidence of a crime."

62. It appears that at some point the decision of 18 January 2012 was quashed by a supervising prosecutor. On 21 February 2012 the same investigator again decided not to open a case. The new decision by the investigator read as follows:

> "... In this connection it is necessary to conduct a graphological examination of the signatures of the members of PEC no. 646 [on the protocols] submitted by the applicant and by the City Electoral Commission; without [such an examination] it is impossible to establish whether there is evidence of a crime as provided for by Article 142.1 of the Criminal Code. Such an examination was ordered on 15 February 2012, but so far it has not been completed. On the basis of the above ... [the investigator] decided not to open a criminal case under Article 142.1 of the Criminal Code, as there is no evidence of a crime."

63. According to the applicants, in the following months that decision by the investigator was set aside and the case was reopened and then closed again at least once. The applicants did not have any more detailed information about all the reopenings and closures of the case.

2. Complaint by the second applicant (LA elections and Duma elections in precinct no. 652)

64. On 5 December 2011 the second applicant (Ms Andronova) lodged a complaint with the St Petersburg Department of the Investigative Committee. She wrote that, as a voting member of PEC no. 652, she had seen the results of the election and had participated in the transfer of the signed protocol to TEC no. 21. In a telephone conversation the head of the TEC had confirmed that he had received the protocol. According to that document, SR had received 315 votes; however, the official results reported 115 votes. The second applicant attached a copy of the "original" protocol and the final results as published on the website of the City Electoral Commission, and asked the Investigative Committee to open a criminal investigation into the matter. In her opinion, the circumstances of the case were indicative of falsification of the results of the elections – a crime under the Criminal Code of the Russian Federation (see paragraphs 29 et seq. above).

65. It appears that the second applicant's complaint was forwarded to the Kolpino District Prosecutor's Office for consideration.

66. On 14 February 2012 the Kolpino District Prosecutor informed the second applicant that he had decided not to take any action in connection with her complaint. The prosecutor informed the second applicant, without giving

any specific details or answering the allegations raised in the complaint, that having considered the situation, he had not detected any breaches of electoral law. She was entitled to challenge the official results of the elections before a court that had jurisdiction over the relevant electoral commissions.

3. The third and fourth applicants (LA and Duma elections in precincts nos. 651 and 654)

67. On 6 December 2011 the third and fourth applicants lodged a complaint with the St Petersburg Department of the Investigative Committee, seeking the opening of a criminal investigation into the alleged falsification of the results of the elections in precincts nos. 651 and 654 (see paragraphs 32 and 33 above). The third applicant referred, in particular, to the conversation he had had with the chairman of PEC no. 651, and insisted that the results of the elections in that precinct had been published before the relevant protocols had been transported to TEC no. 21 (see paragraph 49 above). He also attached a transcript of that conversation. This complaint was forwarded to the Kolpino District Prosecutor.

68. On 18 January 2012 a decision was taken not to open a criminal investigation. Documents submitted after the present case was communicated indicate that on 23 January 2012 the decision of 18 January 2012 was set aside by the Kolpino District Prosecutor.

69. On 14 February 2012 the Kolpino District Prosecutor informed the third applicant that he had decided to take no action in respect of the complaint for want of any breach of legislation (in a letter identical to the letter of the same date sent to the second applicant – see paragraph 66 above). On the same day the Kolpino District Prosecutor informed the fourth applicant that her complaint was being examined.

70. On 12 June 2012 an investigator of the Kolpino District Investigative Committee ruled that a criminal investigation was not to be opened into allegations of fraud in precinct no. 654 in view of the absence of evidence of a crime (he referred to another claimant, not the fourth applicant). The decision was based principally on the Kolpino District Court judgment of 22 March 2012, which confirmed the results of elections in Kolpino, including in precinct no. 654 (see paragraph 143 below). The investigator, in line with the judgment of 22 March 2012, found that what the claimant had presented as a "copy of the PEC original protocol" did not constitute valid evidence, as it was incompatible with the requirements of the St Petersburg Elections Act. Thus, the recount ordered and conducted by TEC no. 21 had been lawful and the results of this recount were correctly reflected on the City Electoral Commission's website.

4. The sixth applicant (LA elections in precinct no. 637)

71. The sixth applicant (Mr Belyakov) lodged a complaint with the Investigative Committee concerning falsification of the results in precinct no. 637 (see paragraph 35 above). The Investigative Committee forwarded it to the City Electoral Commission. On 30 December 2011 the City Electoral Commission informed the sixth applicant that after official approval of the results, any complaint should be lodged with a court.

72. On 10 January 2012 the Kolpino District Court found that forwarding the applicant's criminal-law complaint to the City Electoral Commission had been unlawful. However, the court did not indicate what sort of action should have been taken by the Investigative Committee in response to the applicant's complaint.

73. The documents submitted by the parties indicate that two other individuals who had acted as observers in PECs nos. 644 and 648 lodged similar complaints in December 2011. At some point these complaints were joined to the sixth applicant's complaint concerning falsification of the voting results in precinct no. 637.

74. On 21 May 2013 an investigator of the Kolpino District Department of the Investigative Committee ruled that a criminal investigation was not to be opened, in view of the absence of evidence of a crime. This decision covered complaints lodged by various individuals about precincts nos. 637, 644, 648 and 651. He referred, principally, to the Kolpino District Court judgments of 22 March and 24 May 2012 (see paragraphs 143 and 117-121 below). Along the same lines, he found that what the applicants had presented as a "copy of the original protocol" of PEC no. 637 did not constitute valid evidence, as it failed to meet the requirements of the St Petersburg Elections Act. In respect of PECs nos. 637 and 651, the investigator noted that the decision of TEC no. 21 to conduct recounts had been lawful. The results of the recounts had not been declared void, and were correctly reflected on the City Electoral Commission's website.

F. Judicial review proceedings before the Supreme Court and the Constitutional Court

1. Applications to the Supreme Court for judicial review

75. On 12 December 2011 the first five applicants lodged a complaint with the Supreme Court of Russia seeking the quashing of the decision of the CEC whereby the results of the elections had been officially approved. Their complaint concerned the results of the elections to the LA and to the Duma in the Kolpino district of St Petersburg (that is, electoral divisions nos. 18 and 19). According to the first five applicants, the official results published by the CEC did not correspond to the real results (see paragraphs 18-34 above).

76. In their complaint the applicants explained in what capacity they had participated in the elections. The first applicant indicated that he had stood as an SR candidate in the elections, and the other applicants indicated that they had been either members of the electoral commission, observers, or voters.

77. The applicants explained that the results of the elections published by the City Electoral Commission on its website and then reproduced by the CEC did not correspond to the protocols they had obtained from the relevant PECs, and that the overall difference between the figures in those protocols and the final results for Kolpino was close to 8,000 votes. The applicants produced copies of the "original" protocols and printouts of the final results from the website of the City Electoral Commission and asked for the latter results to be declared void, along with the decision of the City Electoral Commission and the decision of the CEC approving them.

78. On 23 December 2011 a Supreme Court judge refused to consider that complaint. The judge decided that the court had no jurisdiction to examine such a complaint, since the alleged violations did not affect the rights of voters, but might have affected the rights of the parties which had participated in the elections.

79. The applicants appealed, but on 9 February 2012 their appeal was dismissed. The Supreme Court of Russia, sitting as a court of appeal, noted that under the Duma Elections Act, section 92(4) and (5), the quashing of a decision of the CEC whereby the results of elections were approved was possible only where the violations complained of affected the interests of the political parties participating in the elections. Section 77 of the Basic Guarantees Act contained a similar provision. The court held that the violations complained of could have affected the interests of the parties whose candidates had stood in those elections, but not the rights of the voters.

2. Proceedings before the Constitutional Court

80. Having obtained the Supreme Court's decision of 9 February 2012, the same applicants brought a complaint before the Russian Constitutional Court. They complained about the Supreme Court's interpretation of the Code of Civil Procedure (the CCP), the Basic Guarantees Act and the Duma Elections Act. According to the Supreme Court, the provisions of those instruments did not authorise voters to complain of incorrect vote counting: only political parties had standing to do so. In the applicants' opinion, such an interpretation contradicted the Constitution.

81. On 22 April 2013 the Constitutional Court delivered a judgment on the applicants' complaint (judgment no. 8-P/2013). It held that an individual voter had a legitimate interest in having his or her vote in support of a political party or candidate counted correctly. Thus, the "active electoral right" was not limited to the right to cast a vote freely at the polling station; it also included the process of counting votes and obtaining a correct final result which reflected the real will of the electorate. Voters should have the right to

check the validity of the counting process. In addition, the interests of the parties participating in the elections and the voters might be different. The fact that the process of casting votes was secret did not preclude voters from complaining about incorrect recording of the results, since this affected the election process as a whole and could potentially undermine the legitimacy of the elected body. Therefore, it did not matter which party the particular voter had voted for at the elections. The Constitutional Court concluded that voters should have the right to lodge complaints about the process of counting votes (point 2.1 of the judgment).

82. As to the judicial avenue for such complaints, the Constitutional Court noted that although this was not the only possible legal mechanism, it existed in many European countries. Referring to Resolution 1897 (2012) of the Parliamentary Assembly of the Council of Europe, to the principles developed by the Venice Commission, and to the case of *X v. Germany* (no. 8227/78, Commission decision of 7 May 1979), the Constitutional Court noted that the law might create certain procedural barriers to such complaints: for example, it might establish short time-limits for complaints or set a minimum number of voters needed for such complaints to be brought.

83. The Constitutional Court concluded that judicial protection of electoral rights should be available to voters not only in connection with complaints about electoral campaigns and the process of voting, but also in respect of irregularities in the process of counting votes. At the same time, the exercise of the right to judicial protection must not disturb the stability of the functioning of elected bodies. Therefore, in order to prevent abuse of rights, only substantial violations in the process of the counting of votes could lead to a reconsideration of the results of the elections.

84. In point 2.4 of the judgment the Constitutional Court invited the federal legislature to secure the right to judicial review of the process of counting votes and determination of the final results of elections. The Constitutional Court added that courts conducting such reviews must be capable of declaring the results of elections in a particular constituency void. The exercise of the right to obtain judicial review of vote counting could be subject to rules and procedures established by a federal law.

85. The Constitutional Court then examined provisions of the legislative instruments referred to by the applicants (point 3.1 of the judgment). In the opinion of the Constitutional Court those instruments, if interpreted in compliance with the spirit of constitutional provisions, did not prevent voters from complaining about the process and results of the counting of votes by the electoral commissions, and allowed the courts, where the violations complained of prevented the correct determination of the will of the electorate, to declare the results of the elections void. In point 3.3 of the judgment the Constitutional Court held that a regional branch of a political party participating in the elections had standing to bring a complaint about violations of electoral law at regional level.

86. The Constitutional Court further held that voters should not be put in a situation of uncertainty as to the scope of their right of access to court and the procedure of exercising that right. It held that the federal legislature, having proclaimed that the courts were competent to examine complaints about breaches of the electoral law, had to adopt special rules to ensure that voters could exercise their right of access to court. The law must introduce rules to prevent competing political forces from abusing the right to bring judicial proceedings and from employing such practices as a tool for political manipulation. The rules of the CCP and the other instruments under examination by the Constitutional Court, as they were formulated at the time, implied that all participants in elections, irrespective of their status and the type and scale of the violation concerned, had equal rights to bring complaints before a court about any violation of their electoral rights. However, such a lack of differentiation was prejudicial to the stability of the democratic system and created an opportunity for abuse. The procedure for judicial review of irregularities in election procedures was unified at all levels of the electoral system; however, the interest of voters in having their vote counted accurately was stronger at the level of the precinct where they voted (as opposed to higher levels of the electoral system).

87. In the concluding paragraphs of the judgment, the Constitutional Court noted that the courts of general jurisdiction often interpreted the CCP and other applicable acts differently, as if those acts gave the right to bring a complaint about inaccuracies in the counting of votes only to political parties, but not to voters themselves. In part, this was due to the wording of point 20 of Supreme Court Decree no. 5 of 31 March 2011, where the Supreme Court had held that the courts could not examine complaints of breaches of the electoral law where those breaches did not affect the rights of the complainant.

88. The Constitutional Court concluded that such practices were related to the uncertainty of the underlying legislative provisions. Such practices were declared to be incompatible with the Constitution (point 4.3). The Constitutional Court ordered the federal legislature to enact a law which would define the procedure and conditions of voters' exercise of their right to judicial review of the electoral process at the stages of vote counting and summing up the results. In the meantime the courts of general jurisdiction were ordered to accept for examination on the merits complaints by voters concerning the counting process at the level of the electoral precincts where they had voted.

G. Judicial review proceedings before the St Petersburg City Court

1. The first five applicants (LA and Duma elections in the Kolpino district as a whole)

89. On 12 December 2011 the first five applicants lodged a complaint with the St Petersburg City Court seeking to have overturned the decision of the City Electoral Commission of 12 December 2011 whereby the results of the elections to the LA and Duma were officially approved. This complaint was very similar to the one lodged with the Supreme Court (see section F above).

90. On 23 December 2011 a judge of the City Court refused to consider the complaint on the merits for procedural reasons. First, the judge observed that the City Court had jurisdiction over complaints lodged against the electoral commission at city level. However, in the opinion of the judge, the applicants' complaint was directed against the actions of the lower commissions – precinct and territorial. Consequently, the City Court had no jurisdiction to examine those claims. Second, the judge found that the applicants had alleged that the officials of the electoral commissions were guilty of electoral fraud, which was a criminal act and could not be examined in civil proceedings. Third, in their complaint the applicants had not fulfilled certain formal requirements. The judge invited the applicants to amend their complaint accordingly, attach the missing documents, and resubmit it before 11 January 2012.

91. The applicants appealed. They indicated that they had not asked the court to find anybody criminally liable; the only purpose of their complaint was to have overturned the decision of the City Electoral Commission whereby it had approved the official results of the elections published on its website on 5 December 2011. Under Article 26 of the CCP and section 75(2) of the Basic Guarantees Act, the City Court was competent to examine complaints against the City Electoral Commission.

92. On 22 February 2012 the decision of 23 December 2011 was upheld on appeal by the Supreme Court. The Supreme Court confirmed that the City Court had no jurisdiction over the claim. The applicants claimed that they had not been informed about the decision of the Supreme Court but had learned about it from the Supreme Court's website some time later.

93. In parallel to this appeal, on 10 and 11 January 2012 the applicants resubmitted their complaint, having made the amendments suggested by the City Court.

94. On 12 and 13 January 2012 the City Court refused to consider the complaint on the merits. The judge of the City Court found that the applicants were trying to contest the results of the elections in the Kolpino district, electoral divisions nos. 18 and 19 (TEC no. 21). However, under section 74(2) of the Basic Guarantees Act, such complaints fell within the jurisdiction of the corresponding district courts. As to the role of the City Electoral

Commission, the judge observed that its duty was to summarise data received from the lower commissions. The court reiterated that the main subject of the applicants' complaint was the data which had emanated from the precinct and territorial commissions; therefore, the applicants had to contest the actions of those commissions before the relevant district courts, and not before the City Court.

95. The applicants appealed. They insisted that they had not challenged the PECs' decisions. Quite to the contrary, their case fully relied on the protocols issued by the PECs, which they had appended to their complaint. As to TEC no. 21, the applicants only knew that the TEC had received the protocols from the PECs, but not what had happened to them later and how the TEC had processed the data. The applicants had not participated in the process of calculating results at territorial level and did not know what figures TEC no. 21 had sent to the City Electoral Commission. They had learned about the incorrect figures from the official publication of the City Electoral Commission of 5 December 2011, as approved by its decision of 12 December 2011. Consequently, it was the decision of the City Electoral Commission which they were contesting.

96. In their appeal the applicants reiterated that they were simply comparing the data contained in the PEC result sheets and deemed to be correct and the "incorrect" data published by the City Electoral Commission. They did not know and could not know at what level the "correct" figures had turned into "incorrect" ones. However, the City Court was equally unable, without examining the case on the merits, to infer that the applicants' complaint concerned allegedly unlawful actions on the part of the TEC.

97. The applicants contended, with reference to section 26 of the Duma Elections Act, that the City Electoral Commission's role was not limited to a mechanical summing up of the data received from the lower commissions. The City Electoral Commission had a general duty to "coordinate the operations" of the lower commissions, ensure respect for electoral rights, guarantee that a uniform procedure was applied in the calculation of votes, and so on. It was also responsible for announcing and approving the final results of the elections. Therefore, the applicants contested the decision of the City Electoral Commission, and not the individual decisions of each PEC or TEC. On the strength of the above, the applicants concluded that their complaint, as directed against the actions of the City Electoral Commission, was within the jurisdiction of the St Petersburg City Court.

98. On 7 February 2012 the St Petersburg City Court, sitting in a three-judge formation, dismissed the appeal against the decision of 13 January 2012, repeating the findings of the lower court as to the question of jurisdiction. It confirmed that the City Electoral Commission merely summarised data received from the lower commissions. The City Court also indicated that point 39 of the Supreme Court Plenary Ruling no. 5 of 31 March 2011 stated that if a complaint about a decision approving election

results referred to alleged violations on the part of the PECs, the subject of the complaint was in fact the decision of the PEC, and such cases were to be examined by the relevant district courts. A similar decision was reached by the City Court on 19 March 2012 on the appeal against the decision of 12 January 2012 (see paragraph 94 above).

2. The sixth applicant (LA elections in precinct no. 637)

99. The sixth applicant (Mr Belyakov) lodged a complaint with the St Petersburg City Court against the decision of the City Electoral Commission approving the final results of the voting. His complaint was similar to those of the first five applicants, but concerned only electoral precinct no. 637 and only the elections to the LA. He brought his complaint in his capacity as an individual voter in that precinct. The applicant claimed that according to the copy of the protocol he had received from a voting member of the electoral commission, the KPRF and Yabloko had received 200 and 128 votes respectively; however, according to the official results those parties had received only 14 and four votes. By contrast, the results of ER had grown from 380 to 804 (see paragraph 35 above). The applicant had not voted for either ER or SR. He believed that as a result of the falsification his vote had been effectively "stolen", and given to a party which had benefited from the falsification. He asked the City Court to overturn the decision of the City Electoral Commission in the part concerning the precinct in question.

100. The applicant produced a copy of the protocol issued by PEC no. 637. This copy bore the official stamp of the PEC; it was signed by the head and eight members of the commission. The document specified that there had been no incidents during the voting and that no complaints about the voting process had been received.

101. In addition, the applicant submitted a copy of the protocol issued by TEC no. 21, and a printout of a screenshot of the webpage of the City Electoral Commission. The City Electoral Commission was indicated in the text of the complaint as "the interested party".

102. On 25 January 2012 a judge of the St Petersburg City Court ruled that it was impossible to consider the applicant's complaint without additional clarifications and documents. He noted that the applicant was challenging actions of the City Electoral Commission which were not decisions, records of results or anything similar. Therefore, the judge invited the applicant to specify to which action of the City Electoral Commission his challenge applied. The applicant was also invited to identify the decision of the City Electoral Commission approving the results in precinct no. 637, and to submit a copy of that decision "with another copy for the interested party". The applicant was invited to explain what specific breach of the electoral legislation he was contesting and who was responsible for that breach, and to specify in what respect the City Electoral Commission had not acted in accordance with the law.

103. On 3 February 2012 the sixth applicant, having provided additional material to supplement his complaint, resubmitted it to the City Court.

104. On 9 February 2012 a judge of the City Court refused to consider the complaint on the merits, finding that the applicant had failed to submit the clarifications and additional documents requested on 25 January 2012. He ruled as follows:

> "[In accordance with the law,] the protocol issued by the PEC in respect of [a particular] polling station has to be drawn up in two original copies; ... the PEC sends copy no. 1 ... to the Territorial Commission, which then forwards it to the St Petersburg City Commission.
>
> The photocopy of the protocol from precinct no. 637 submitted by the claimant did not indicate which original copy [had served to make the photocopy]; thus, there are no grounds to believe that the interested party [the City Electoral Commission] has a copy of that document.
>
> While the claimant's complaint is based on the argument that the [official] results of the voting in precinct no. 637 are different from those which are reflected in the protocols of PEC no. 637, and while the claimant relied on that item of evidence and produced it to the court, he was required [by law] ... to submit, for the [use of the] interested party, a second copy of the document he had at his disposal".

105. The applicant appealed. He argued that he had submitted a copy of the protocol to the court. He had received that copy from a member of the PEC, who had obtained it after the counting of votes was over. The City Electoral Commission (the interested party) had the original PEC protocol, so it was absurd to require him to submit anything more than he had already submitted to the court.

106. On 5 March 2012 the St Petersburg City Court, on appeal, upheld the decision of 9 February 2012. It noted that the copy which the applicant had submitted did not indicate whether it was a copy of the original document, no. 1 or 2. As can be understood from the appeal decision, the applicant should have submitted to the District Court a copy made from the original document, either no. 1 or no. 2, so that that copy could be transmitted to the "interested party" (that is, the City Electoral Commission); without such a document the applicant's complaint could not be examined.

107. The Government specified in their memorandum of 14 October 2014 that copy no. 1 of the original document drawn up by the PEC contained a number of annexes, such as separate opinions of the commission's members and complaints received during the voting. This copy had been transferred to the relevant TEC. Copy no. 2 had been kept at the precinct office and made available to the public; following this it too had been transferred to the territorial commission. No copies of this document were forwarded to the City Electoral Commission, since the TECs had provided it with a summary of the information received from the relevant precinct commissions; therefore the City Electoral Commission had no copies of the original protocols from the precincts.

3. Complaint lodged by the St Petersburg branch of SR (LA elections in St Petersburg City as a whole)

108. On 19 December 2011 the St Petersburg branch of SR lodged a complaint with the St Petersburg City Court. The complaint concerned several electoral divisions, in particular nos. 15, 17, 22 and 33. The party complained, in particular, about the difference between the official results and the results set out in the copies of the documents received by the observers and members of the PECs in those divisions. They also indicated that the City Electoral Commission had failed to examine properly eighteen complaints lodged by SR and eighty-seven complaints lodged by others.

109. On 27 February 2012 the St Petersburg City Court dismissed the complaint. It found that all the administrative complaints to the City Electoral Commission had been properly discussed and addressed. The City Court further found that the City Electoral Commission's decision approving the results of the elections had been adopted unanimously and in accordance with the procedure set out by the law. An employee of the City Electoral Commission had informed the complainants of the time and the date of the meeting of the Commission, so they had been given the chance to attend. Some of those attending the meeting had been affiliated to SR. Section 30(1) of the Basic Guarantees Act did not require that every person on the list established in that provision be notified. The Commission had an obligation to notify them "within the bounds of feasibility" ("*в пределах возможностей*"). Some representatives of SR had been informed about the meeting and could have passed that information on to others. In fact, information about the meeting of 12 December 2012 had not been published in the media or on the "*Vybory*" ("Elections") database, but this was immaterial. The City Court concluded that the City Electoral Commission had not committed any breach of the law which would affect the results of the election.

110. SR appealed. On 23 May 2012 the Supreme Court upheld the City Court's judgment. In addition to the City Court's arguments, it noted that although the City Electoral Commission had not taken individual decisions on each and every complaint it had received between 4 and 12 December 2012, that could not affect the lawfulness of its final decision to approve the results of the elections. The members of the Commission had been informed about the complaints received by the Commission, and that had been enough to satisfy the requirements of the law. In particular, it was perfectly acceptable that all those complaints had been examined by a special working group created within the Commission, and not the Commission itself. The Supreme Court also noted that, in breach of the law, the individuals who had lodged the complaints with the City Electoral Commission had not been invited to be present for the examination of their complaints; however, that was not a sufficient ground for declaring the final decision of the City Electoral Commission unlawful. The Supreme Court also held that the "consolidated

protocols" containing the election results at city level had been approved in accordance with the correct procedure and were therefore lawful. The failure of the City Electoral Commission to notify all interested parties in accordance with section 30(1) of the Basic Guarantees Act did not constitute a ground for invalidating the results of the elections, since "it had not prevented the actual will of the voters from being determined".

111. The Supreme Court also held that the claimants had failed to prove that the complaints which the City Electoral Commission had received could have affected the results of the voting. In essence, those complaints were challenging the results of the voting in certain electoral precincts. However, the decisions of the PECs had to be challenged before the district courts. The Supreme Court concluded that "since it has not been established that there have been any breaches of electoral law which would affect [the determination of] the will of the voters", the lower court had been correct to dismiss the complaint.

H. Judicial review proceedings before the district courts

1. The sixth applicant (LA elections in precinct no. 637)

112. On 25 January 2012 the sixth applicant (Mr Belyakov, precinct no. 637) lodged a complaint with the Kolpino District Court concerning the actions of TEC no. 21 (see paragraph 35 above).

113. On 27 January 2012 the District Court returned the complaint to the applicant. It noted that he had failed to submit a sufficient number of copies of his complaint and annexes: in particular, he had not submitted a copy for the prosecutor's office. Furthermore, the copy of the document on which he had relied was signed by the secretary of the TEC but not by its chairman, and the TEC protocols had not been signed by all of its members. The District Court invited the applicant to add the missing documents and resubmit his complaint.

114. On 7 February 2012 the applicant resubmitted the complaint.

115. On 1 March 2012 the Kolpino District Court decided that it had no jurisdiction to examine the complaint. It noted that the applicant had complained, as a voter, of a breach of his "active electoral right" (the right to vote). However, in the opinion of the District Court the actions of the TEC which the applicant contested and which concerned the allegedly incorrect distribution of votes among the political parties might have affected the interests of those parties but not the interests of the individual voters. The applicant had participated in the elections as a candidate, but for a different precinct. The court concluded that the applicant's rights had not been affected by the impugned acts of the TEC, and discontinued the examination of the case.

116. The applicant appealed. On 12 April 2012 the St Petersburg City Court ordered the lower court to examine the case on the merits, disagreeing with its conclusion that the actions of TEC no. 21 had not affected the applicant's rights as a voter.

117. On 24 May 2012 the Kolpino District Court examined the complaint. According to the applicant, he requested the examination of a number of witnesses, in particular members, chairmen and observers of the electoral commissions concerned. The District Court refused to call any witnesses; it only heard the applicant, representatives of TEC no. 21, the City Electoral Commission, and a prosecutor. The latter recommended dismissing the applicant's complaint as unfounded.

118. The District Court dismissed the applicant's complaint. The relevant part of its decision reads as follows:

> "... In support of his arguments ... the claimant submitted a copy of the protocols from PEC no. 637, the protocols from TEC no. 21 ... and the consolidated protocols ... for the election as a whole.
>
> However, those documents were drawn up in breach of the mandatory formal requirements established by the Basic Guarantees Act. [Namely], in breach of [the relevant provision of the Act] the copy of the protocols does not indicate the running number of the original copy it was made from. In breach of [the relevant provision of the Act] numerical data in the protocol are not written out in words. [In breach of the provisions of the law] the copy of the protocol did not contain the entries 'true copy' or 'exact [copy]', and did not indicate the date and the time the copy was issued."

119. Furthermore, the District Court observed that the PEC protocol contained inconsistent data. For example, the number of valid ballot papers noted in the table amounted to 1,276, and the aggregate number of votes for all candidate parties was indicated as 1,246, whereas that number should correspond to the number of valid ballot papers. The aggregate number of ballot papers deposited in the stationary boxes, those deposited in the mobile boxes, and "cancelled ballot papers", which should correspond to the number of ballot papers received by the precinct commission, was higher (1,630 instead of 1,600). The District Court concluded that the copy of the PEC protocol relied upon by the claimant was inadmissible in evidence.

120. The District Court further established that on 5 December 2011 the TEC had overturned the decision of PEC no. 637 approving the election results and had ordered a full recount. The applicant had not contested that decision. The City Electoral Commission submitted to the District Court "copy no. 2" of the PEC protocols marked "recount". The data contained in that copy, drawn up following the recount, corresponded to the officially approved results of the elections. That copy had all the necessary entries and fully met the formal requirements. Under the law, if the original protocols contained inconsistent data the PEC was entitled to conduct a recount and issue a new return. The court refused to grant the applicant's requests for a number of witnesses to be called, including the chairman of the PEC and

observers, having concluded that the documents submitted had provided sufficient evidence about the outcome of the results.

121. The District Court referred again to the applicable legislation, which provided for a revision of the results of an election only where breaches of the law were such as to prevent the real opinion of the voters from being established. The court concluded that the applicant's complaint did not reveal any such breach. It dismissed the applicant's complaint and refused to declare void the official results of the elections in precinct no. 637.

122. The applicant appealed. He submitted that, according to his information, no recount had been conducted. The law required the mandatory presence of all the PEC members and observers at any recount; however, they had not been invited for that purpose. Even if a recount had taken place, it would have been unlawful. The fact that the copy of the protocols submitted by the applicant to the court did not correspond to the copy of the protocols at the disposal of the City Electoral Commission had not been contested by the first-instance court. The very reference to a version for the "recount" confirmed the existence of two different results. In the course of the hearing the applicant had repeatedly asked the District Court to ascertain whether the recount had had any lawful basis, but the court had failed to address that argument. The applicant claimed that the witnesses whose appearance he had sought would have been able to confirm that no recount had taken place. The alleged inconsistencies in the original table were immaterial; what mattered was that the original results calculation had been replaced with a new one, and that this second document was a concoction.

123. According to the applicant's statement of appeal, the alleged recount had been carried out in response to a complaint by a voter, a Mr L. However, the "original" document indicated that the PEC had received no complaints from voters or observers. Furthermore, according to the letter of 26 December 2011 from the TEC chairman in reply to the applicant's complaint, before finally signing the protocols the commission had received "no complaints from the representatives of the political parties". The applicant concluded that the "complaint by Mr L.", which had served as a pretext for the secret recount, was a fake.

124. The applicant argued that he had been unable to challenge the decision of the TEC to conduct a recount, because that decision had been concealed from the public and representatives of the parties and had become apparent only from the documents submitted by the City Electoral Commission to the court.

125. On 16 August 2012 the St Petersburg City Court, sitting as a court of appeal, dismissed the sixth applicant's appeal, endorsing the reasons adduced by the District Court. The appeal court did not comment on the Kolpino District Court's refusal to call witnesses. It noted that the evidence produced by the applicant was unreliable, whereas the evidence produced by the TEC and the City Electoral Commission was in conformity with the formal

requirements, and the District Court had found it convincing. The City Court concluded that the applicant had failed to prove his allegations.

2. The seventh applicant's complaint (LA elections in Kolpino district as a whole)

126. On 14 December 2011 the seventh applicant (Mr Yakushenko) lodged a complaint with the Kolpino District Court alleging falsification of the results of voting in Kolpino as a whole (electoral divisions nos. 18 and 19). His complaint concerned the following fifty-four precincts: nos. 623, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 657, 658, 661, 662, 663, 664, 666, 667, 668, 669, 670, 671, 672, 673, 675, 678, 680, 681, 682, 683, 684, 685 and 687. These proceedings therefore concerned the precincts challenged by the first six applicants in the domestic proceedings and before this Court (see paragraphs 18-36 above).

127. On 19 December 2011 the Kolpino District Court returned the complaint to the seventh applicant unexamined and informed him that it should have been submitted to the City Court.

128. On 28 December 2011 the applicant resubmitted the complaint to the City Court, but on 29 December 2011 it was returned unexamined. The City Court was of the opinion that the complaint fell within the jurisdiction of the Kolpino District Court. The applicant appealed, but on 26 January 2012 the City Court, sitting as a court of appeal, confirmed that it had no jurisdiction to examine such a case.

129. On 19 January 2012 the applicant resubmitted his complaint to the Kolpino District Court.

(a) Judgment of 16 July 2012 by the Kolpino District Court

130. On 16 July 2012 the Kolpino District Court examined the complaint. A copy of the transcript of these proceedings has been submitted by the Government.

131. According to the decision and the transcript, the District Court heard submissions from the prosecutor, who recommended dismissing the complaint. The applicant made several requests for certain witnesses to be examined and documents disclosed; some of those requests were refused and others were granted. Thus, the court heard twenty-three witnesses whose appearance had been requested by the applicant, namely observers and members of electoral commissions (including some of the applicants in the present case). They described their role in the elections, and explained how they had received copies of the protocols with the results. Most of the witnesses testified that the data in the protocols which they had received at the polling stations differed significantly from the official results published by the CEC, that they had not been notified of any recounts and that they had

not witnessed a recount at the TEC, although some of them had been there to deliver the PEC protocols.

132. The judgment of the District Court started with a summary of the applicable electoral legislation and witness statements. The court further observed that "[the applicant] did not indicate in his statement and additional submissions how his rights [to vote and to be elected] had been violated". Furthermore, the court observed that the copies of the protocols submitted by the applicant did not meet certain formal requirements.

133. On the basis of the witness statements the court concluded that none of the witnesses had given their copies of the protocols personally to the seventh applicant (Mr Yakushenko). Furthermore, at three polling stations (nos. 640, 644 and 653) the copies of the protocols obtained from the PECs contained data which did not correspond to the data in the "original" protocols submitted by the claimant.

134. The District Court stressed that it was its duty to ascertain whether an official document had been issued by a body which had been entitled to do so, whether it had been signed by a duly authorised person and had other requisite entries, how it had been copied and stored, whether the copy submitted to the court was identical to the original, and so on. The court observed that it could not rely on copies where the originals had been lost, the copies produced by the parties were not identical, or it was impossible to establish the actual content of the document on the basis of other evidence.

135. On the strength of the above, the court concluded that the copies of protocols submitted by the claimant could not be admitted in evidence. It also found that the claimant had not submitted other evidence to show that the will of the voters had not been properly reflected.

136. The District Court refused to declare unlawful the "recount" of votes ordered by TEC no. 21 on 5 December 2011 in polling stations nos. 627, 630, 633, 635, 637, 638, 641, 646, 651, 652, 654, 657, 661, 662, 664, 665, 666, 667, 668, 675, 678, 680, 681 and 682. According to the court, the supervising electoral commission had the power to order a recount if the protocols received from the lower commissions contained "errors [or] discrepancies" or if there were "doubts as to whether the protocols had been drawn up correctly". The law also entitled the supervising commission to conduct the recount itself and issue a new protocol. The District Court referred to the following reasons for the recount: "doubts as to whether the protocols of the precinct commissions were drawn up correctly, complaints of breaches of the law committed by the PECs during the counting of the votes, as well as a complaint by Mr L., a candidate on the SR list".

137. The court referred to a witness statement by Ms S., a member of TEC no. 21. According to Ms S., the TEC had decided to conduct recounts; she had personally recounted votes with the commission's deputy chairman, Mr R. Observers and members of the lower commissions had been entitled to observe the recount. The TEC included members from different parties. An

SR member of the TEC, Ms Sh., "was very often present" during the recount. In addition, observers had been present at the TEC and supervised the process of counting and decision-making. All the complaints had been read out by the TEC chairman and discussed. Most of the complaints related to the difference between the results reported in the copies of the protocols received by the observers and "the data in the possession of the TEC". The protocols which were submitted to the TEC differed from the protocols which had been given to the observers; this was why the TEC had decided to recount the votes. As a result, the information which was in the possession of the TEC had been confirmed. When the recount was being conducted the chairmen of the PECs concerned had not been present, but the candidates had been. The observers had not been informed of the recount, but they had in any event been present at the TEC; all the actions of the TEC had been visible to them. As a result of the recount the TEC had drawn up new protocols.

138. Ms S.'s witness statement, made on 28 May 2012 and reflected in the transcript of the hearing, gave additional details compared to what was cited in the District Court's judgment. In particular, the actual recount had taken place in the basement room of the district administration building where the TEC was located, and that room had remained closed since it contained sealed bags with the ballot papers delivered from the PECs. Mr R. had opened the bags in her presence, breaking the seals which had been placed by the PECs. The room had contained no furniture, and they had brought only two chairs into it. The recount had been carried out by her and Mr R., and each precinct had taken about two hours to count. This work had lasted almost the entire day of 5 December 2011. While no one else had been specifically invited to the room, the observers, other members of the TEC and others had been able to enter it and observe the recount. The new protocols had then been drawn up in the main room used by the TEC, upstairs. Ms S. was unable to say what had happened to the "original" protocols.

139. The District Court concluded that by holding a recount TEC no. 21 had acted within its powers, and there was no reason to declare those actions unlawful. PEC members had the right to be present during a recount, but their absence during the recount "did not constitute a ground for declaring the recount unlawful". On the basis of the above, the District Court dismissed the applicant's complaint.

140. The applicant appealed.

(b) Decision by the court of appeal of 18 October 2012

141. On 18 October 2012 the St Petersburg City Court dismissed the applicant's appeal. Its reasoning, which was almost identical to the judgment of the District Court, can be summarised as follows. First, the first-instance court had been correct not to take into account the copies of protocols submitted by the applicant, since the witnesses questioned in the court did not confirm that they had given their copies directly to him. The copies submitted

by the applicant did not meet the formal requirements. In addition, the copies of the protocols concerning precincts nos. 640, 644 and 653 did not correspond to the copies which were in the archives of the three respective PECs. The applicant had failed to prove that the elections had been tainted by violations of the electoral law which had prevented the will of the voters from being established. According to the decisions issued by TEC no. 21 on 5 December 2011, the results had been declared void in the following precincts: nos. 667, 666, 646, 641, 668, 665, 664, 662, 657, 654, 652, 651, 641, 638, 635, 637, 681, 680, 678, 675, 630, 682, 627 and 629. In all those precincts the TEC had conducted recounts, on the basis of "doubts as to whether the protocols were drawn up correctly", "complaints of violations of the law", and "a complaint by Mr L.". The TEC's actions had been lawful. The TEC members had had the right to be present during the recount, but they had not been obliged to be there; consequently, their absence had not affected the lawfulness of the recount.

3. SR's complaint concerning the lawfulness of elections in electoral division no. 19

142. In parallel to the above, the St Petersburg branch of SR challenged the results of the elections to the LA in electoral division no. 19 in Kolpino (TEC no. 21). These results are challenged by the first to fifth applicants (see paragraphs 18-34 above). The claimant stressed that information about eighteen electoral precincts (including the precincts challenged by the five applicants) had been recorded incorrectly, that is to say differently from the "original" protocols issued as a result of the calculation of votes at the precinct commissions, in the presence of all the members of those commissions and observers. The complaints which had subsequently been lodged with the territorial commission could not serve as valid grounds for invalidating these results and ordering recounts, as no complaints had been lodged or recorded at the time of the calculation of the total number of votes in each of the precincts.

143. On 22 March 2012 the Kolpino District Court dismissed the complaint (the arguments were similar to those employed later in its decision of 16 July 2012, described in paragraphs 130-139 above). In particular, the court was of the opinion that the copies of documents relied upon by the claimant party did not comply with the requirements of the relevant legislative provisions, and could not serve as valid grounds for a challenge to the official results. By contrast, the results of the recounts in the electoral precincts concerned, including those challenged by the applicants, had been drawn up in line with the statutory requirements and did not raise any doubts as to their authenticity and lawfulness. No additional witnesses had been called by the District Court. The parties' observations also indicate that on 30 May 2012 the St Petersburg City Court dismissed an appeal by the party and upheld the judgment.

4. SR's complaint concerning the lawfulness of elections in two "closed" electoral precincts

144. The St Petersburg branch of SR lodged a complaint about the lawfulness and results of elections to the LA in two "closed" electoral precincts – nos. 1852 and 1853 of electoral division no. 17 (see paragraph 40 above, complaint lodged by the ninth applicant). The claimant argued that the elections in the two precincts, which had been created on 30 November 2011 by a decision of TEC no. 3 in the territory of a large heavy machinery plant (OAO Kirovsky Zavod), had been unlawful. They pointed out, *inter alia*, that the PECs had been formed in breach of the relevant legal requirements and comprised fewer members than prescribed by the law (three members each, instead of no fewer than seven, in view of the fact that there were over 1,000 voters in each precinct); that no members from the applicant party had been appointed; and that on election day no observers and no candidates had been allowed access to the polling stations by the security guards of the enterprise where the voting was taking place.

145. On 16 August 2012 the Kirovsky District Court of St Petersburg dismissed the complaint. The court found that the exact number of voters was unknown in advance but estimated at about 2,000, and therefore that establishing two three-member commissions was justified; that the claimant had failed to challenge the decisions of TEC no. 3 of 30 November 2011 setting up the two precincts; and that it was the party's responsibility to arrange for invitations for its observers to the plant in advance, and not during the election weekend itself. The court refused to call any witnesses or to seek any additional information, such as the electoral roll or information about exclusion of voters from the roll at their regular places of residence. It rejected the need to check whether there were any observers at the PECs, since "the absence or presence of observers did not affect the results of the elections, and there are no grounds to believe that the voters were not able to express their true will". The party appealed, but on 17 October 2012 the St Petersburg City Court dismissed the appeal and upheld the judgment of the District Court.

5. SR's complaint about the results in electoral division no. 17

146. The St Petersburg branch of SR lodged a complaint about the lawfulness and results of elections to the LA in several of the electoral precincts comprising electoral division no. 17 (see complaint by the ninth applicant, paragraph 39 above). They stressed that the results in ten precincts had been invalidated by TEC no. 3 without valid reasons being given, that the changes had led to a loss of votes for the claimant, and that the conduct of recount had entailed breaches of the relevant legislation.

147. On 22 June 2012 the Kirovskiy District Court of St Petersburg dismissed the complaint. First, the District Court challenged the authenticity

of the copies of the protocols relied upon by the claimant, on the following grounds: the absence of a reference to the running number of the original copy of the return from which the copy had been made; the date, time and place it had been drawn up; a full record of the names of the PEC chairmen and members who had signed it; and inscriptions certifying the correctness of the copy. Second, in eight of the precincts the recount had been ordered by the TEC. The TEC submitted a copy of its report, which noted breaches in formalising these eight PEC reports, and the court agreed that the breaches were serious (unrecorded corrections; inconsistency between the sum of the number of votes cast for each party and the total number of votes cast; difference between the figures noted numerically and spelled out, and so on). In such circumstances, the decisions to conduct a recount had been a lawful one; the final returns issued following the recounts had been correct and the results matched the figures announced by the City Electoral Commission. The court did not find it necessary to call any additional witnesses from the PECs or the TEC concerned, as suggested by the claimant.

148. The St Petersburg City Court, upon appeal, upheld the District Court's decision on 27 August 2012.

6. SR's complaint about the results of the elections in electoral division no. 15

149. The St Petersburg branch of SR lodged a complaint about the lawfulness and results of elections to LA in several precincts in electoral division no. 15 (see complaint by the eleventh applicant, paragraphs 43 et seq. above). The Kirovskiy District Court dismissed the complaint on 15 May 2012. That decision was upheld by the St Petersburg City Court on appeal on 23 July 2012.

7. SR's complaint about the results in electoral division no. 33

150. The St Petersburg branch of SR lodged a complaint about the lawfulness and results of elections to the LA in several precincts in electoral division no. 33 (see complaint by the tenth applicant, paragraphs 41 et seq. above). The Moskovskiy District Court dismissed the complaint on 22 May 2012. No appeal against that ruling was lodged.

I. Information on recounts at electoral commissions

1. Factual and statistical information submitted by the applicants

151. The applicants presented copies of some of the "original" documents received by them which had served as the basis for their complaints.

152. They also submitted a graphic table containing information about the differences between the "original" and official results in electoral divisions nos. 15, 18, 17, 19, 22 and 33 of St Petersburg, precinct by precinct. Their

document stated that the votes had been recounted in 100 electoral precincts in St Petersburg in the Duma elections and in eighty-six precincts in the LA elections. Following recounts, in the Duma elections ER's results were higher in eighty-six precincts and lower in none; SR's results were higher in three precincts and lower in seventy-eight; the KPRF's results were higher in six and lower in forty-eight; and Yabloko's results were higher in four and lower in forty-five. In the LA elections, ER's results were higher in ninety-three precincts and lower in seven; SR's results were higher in three precincts and lower in eighty-seven; the KPRF's results were higher in three precincts and lower in fifty-two; and Yabloko's results were higher in one precinct and lower in seventy-nine.

2. Factual and statistical information submitted by the Government

153. The Government submitted a number of copies of official documents and composite tables containing information about the procedure and results of the recounts in some of the precincts where the results were contested by the applicants, as well as others. The relevant data can be summarised as follows.

(a) Copies of commissions' decisions and information about their composition and the presence of members

154. The Government submitted copies of the documents ordering recounts in a number of precincts, following decisions taken by the relevant TECs. Some of them concern the precincts where the results were challenged by the applicants. For example, recounts in eleven of the precincts where the results were challenged by the tenth applicant (see paragraph 41 above) had occurred as a result of a decision by TEC no. 27 (electoral division no. 33). Similarly worded decisions, signed by the TEC chairman and secretary at an unspecified time on 5 December 2011, stated that there were "complaints lodged with the territorial electoral commission about breaches of legislation occurring in precinct electoral commission no. ... during the counting of votes, and other evidence providing objective reasons to doubt the correctness of the protocols". The identical decisions then stated that, in the circumstances, the alleged breaches could be overcome by conducting recounts. The precinct commissions concerned were directed to carry out the recounts "immediately" and to draw up new protocols marked "recount". Identical decisions were also rendered by the relevant TECs in respect of electoral precincts nos. 637 (see paragraph 35 above), 557 and 597 (see paragraph 43 above). The decisions in respect of electoral precincts nos. 486 (see paragraph 39 above), 651 (see paragraph 32 above), 652 (see paragraph 29 above), 654 (see paragraph 33 above) were identical to the above, with the difference that the order was for the recounts to be conducted by the TEC itself.

155. One of the protocols indicated the names and presence of members of TECs no. 3 (recounts for electoral precincts nos. 486 and 509), no. 4 (recounts for precincts nos. 725, 728, 731, 733, 742, and 743), no. 7 (recounts for precincts nos. 605 and 610), no. 21 (recounts for precincts nos. 638, 646, 651, 652, 654, 657, 662, 664, 665, 667, 668) and no. 27 (recounts for precincts nos. 1071, 1091, 1099, 1113 and, separately, for no. 1109). It appears from these documents that each TEC had eight members from various political parties and NGOs, including, in each commission, a member from SR and a member from the KPRF. In the six protocols submitted, the members from SR and the KPRF were present in only one commission each during the recounts, namely no. 21 for SR and no. 4 for the KPRF; all the other members were present during the recounts, with one exception.

156. The Government also submitted lists indicating the composition of dozens of PECs, as well as copies of the protocols drawn up by the PECs as a result of the original counts, or the recounts wherever they had taken place. Wherever there had been a recount it was noted by hand on the first page of the protocol. No copies of the initial protocols, that is, those drawn up prior to the recounts, were submitted. It appears from these documents that wherever recounts were conducted by PECs their members appointed by SR and/or the KPRF were systematically absent. To give two examples, in electoral division no. 33, where the results were challenged by the tenth applicant, the Government submitted copies of sixteen protocols for the LA elections; of those, eleven were marked "recount". In those marked "recount", the list of signatures of the PEC members show that the members appointed by SR and the KPRF were not present in any of them, wherever these political parties had appointed representatives to these commissions. Similarly, in electoral division no. 19, where the results were challenged by the first to fifth applicants, the Government submitted copies of nineteen precinct protocols, or, where the recount had taken place at the TEC, protocols from territorial commissions. These protocols indicated that recounts had been conducted by precinct commissions in four cases; in none of them had the members appointed by SR and the KPRF been present during the recount.

157. The Government also summarised all breaches of formal requirements in the "original" copies of protocols submitted by the applicants in respect of the precinct commissions challenged by them. Thus, the most common problems raised by the protocols relied upon by the applicants were identified as follows: the running number of the original from which the copy had been taken was not indicated, the address of the precinct commission was missing, the exact time at which the copy was drawn up was not indicated, the figures were not spelled out in writing, not all names and signatures of the members of the PECs were listed, the commission's stamp was missing, the third page of the protocol was missing, or the copies were not certified with an inscription confirming their authenticity.

(b) Tables with information about procedure and results of recounts

158. In their additional submissions of 22 May 2015, the Government presented a report on ninety-nine precincts initially concerned by this complaint. The report contained the following data: the serial numbers of the PECs and TECs, whether a recount had taken place, the grounds for any recount (recorded as "doubts about correctness and complaints" in all cases) and the body which had conducted the recount, the presence of members of the commission concerned during the recount, the exact timing of the recount, the total number of votes cast, and the number of votes gained and lost by a particular party (the last two fields were not filled in for all precincts). This table can be summarised as follows:

159. TEC no. 3, division no. 17, covered thirty-two precincts (elections to the LA). The results in twelve precincts were challenged by Mr Truskanov, the ninth applicant. Of twelve precincts challenged, eight were subject to recounts, all of them ordered by TEC no. 3 on 5 December 2011. Recounts in two precincts were conducted by the TEC itself (nos. 486 and 509), and in six by the PECs concerned (nos. 489, 496, 497, 500, 501 and 508). As a result of the recounts, in eight of the precincts concerned where these figures were indicated, the table showed, among other things, a higher vote for ER in four precincts (in no. 496 an increase by 343 votes out of 1,149 votes cast; in no. 500 by 200 votes out of 895 votes cast; in no. 501 by 300 votes out of 1,054 votes cast; and in no. 508 by 280 out of 1,025 votes cast). At the same time, ER's vote went down in two precincts (in no. 489 by 40 votes out of 686 votes cast, and in no. 496 by 104 votes out of 675 cast). SR lost votes in two precincts (in no. 489 by 120 votes out of 686 votes cast, and in no. 496 by 130 votes out of 677 cast) and gained in one (no. 497, by 10 votes out of 1,149 cast).

160. TEC no. 7, division no. 15, covered thirty-three precincts (elections to the LA). The results in twenty precincts were challenged by Mr Shestakov, the eleventh applicant. Of the twenty precincts, five were subject to recounts, all of them ordered by the TEC on 5 December 2011. Recounts were conducted in three precincts by the TEC and in two by PECs; no increase or decrease for particular parties was indicated in these recounts. The recount conducted by the TEC was carried out by its six members between 7.45 a.m. and 8.43 a.m.: they thus recounted 4,668 votes in three precincts in 58 minutes.

161. TEC no. 21, division no. 18, covered thirty-two precincts (elections to the LA). The results in two of them (PECs nos. 623 and 637) were challenged by Mr Yakushenko and Mr Belyakov, the seventh and sixth applicants. A recount in PEC no. 637 was ordered by the TEC on 5 December 2011 and carried out by the PEC concerned at 7.10 p.m. that day; no increase or decrease for particular parties was indicated in that recount.

162. TEC no. 21, division no. 19, covered thirty-four precincts (elections to the LA). The results in twenty-one of them were challenged by the first to

fifth applicants. Of the twenty-one challenged, fourteen were recounted: this was ordered by the TEC on 5 December 2011. The recount was conducted by the TEC in eleven of the fourteen cases; no increase or decrease for particular parties was indicated by the Government. The times at which the recounts had been concluded by the TEC were indicated on 5 December 2011 as between 4.05 p.m. and 7.50 p.m. In particular, the recount in PEC no. 668 was concluded at 4.05 p.m. (907 votes); PEC no. 646 was concluded at 5.10 p.m. (1,002 votes); PEC no. 667 was concluded at 5.20 p.m. (874 votes); PECs no. 638 (1,351 votes) and 657 (1,122 votes) were concluded at 5.40 p.m.; and PECs nos. 652 (983 votes) and 654 (1,066 votes) were concluded at 7.50 p.m. Thus, the table indicates that on 5 December 2011 TEC no. 21 recounted 11,321 votes cast in eleven precincts in three hours and forty-five minutes.

163. TEC no. 4, division no. 22, covered thirty-four precincts (elections to the LA). The results in twenty-two precincts were challenged by Mr Payalin, the eighth applicant (complaint withdrawn). Of the twenty-two precincts, recounts were carried out at six; all the recounts were ordered by the TEC on 5 December 2011. In addition, in PEC no. 722 there was no formal recount, but a new result was drawn up "owing to a technical error", at 8 p.m. on 6 December 2011 by eight of the twelve PEC members; it resulted in the reassignment of 482 votes from ER to the KPRF (out of 1,600 votes cast). Recounts were ordered and carried out by the TEC in six precincts (a total of 6,565 votes); these ballots were recounted by six members of the TEC in forty-five minutes, between 9.05 p.m. and 9.50 p.m. on 5 December 2011. In all six precincts ER gained between 202 (PEC no. 743, total number of votes cast 1,083) and 612 votes (PEC no. 725, total number of votes cast 1,269) in each precinct, the exact number of votes lost by the LDPR. The total number of votes gained by ER in these six precincts following recounts amounted to 2,422 votes (out of 6,565 votes cast).

164. TEC no. 27, division no. 33, covered forty precincts (elections to the LA). The results in eighteen of them were challenged by Ms Pushkareva, the tenth applicant. Of those eighteen, eleven were recounted: all the recounts were ordered by the TEC on 5 December 2011. Only one precinct was recounted at the TEC, at 9.15 a.m. on 5 December 2011: no. 1109, where as a result ER gained 322 votes (the losses were incurred by SR (down by 122 votes), the KPRF (down 100) and Yabloko (down 100)). Other precincts were recounted by a majority of the members of the PECs concerned in the early hours of 5 December 2011; as a result, ER's vote increased in five of the eight precincts where this was indicated in the table submitted by the Government. The largest gain was in PEC no. 1090, where the number of votes cast for ER increased by 900 out of 1,764 votes cast (no indication was given of corresponding losses by other parties). Of the other three precincts, ER lost votes in two (in PEC no. 1098, down by 337 out of 616 votes cast; and in PEC no. 1127, down by 140 out of 898 votes cast). However, it was not indicated that any of these losses had led to corresponding increases for

any other party, in contrast to the losses sustained, for example, in PEC no. 1109 by three parties.

165. TEC no. 21, "Yuzhnaya" division, covered 337 precincts (elections to the State Duma). The results of four of them were challenged by Ms Andronova, Mr Andronov, Ms Nikolayeva and Mr Sizenov, the second to fifth applicants. The table contains information about recounts in three precincts (nos. 651, 652 and 654) and does not indicate whether any parties lost or gained any votes as a result. The recount was ordered and carried out by the TEC on 5 December 2011; it lasted for two hours, from 11 a.m. to 1 p.m., and covered 3,175 votes.

166. Where the table indicated that there had been a recount, the number of members of the PECs and TECs present was always a majority (six out of eight for the TECs concerned; six, seven, eight or nine out of eleven or up to ten and eleven out of thirteen members in the PECs concerned), except for one PEC, no. 1127 (TEC no. 27, territory 33), where all eleven members were present at the recount concluded at 7 a.m. on 5 December 2011, and where, as the only different result, ER had lost 140 votes out of 898 votes cast.

167. In total, the table submitted by the Government contains information about recounts in forty-eight precincts (forty-five in the elections to the LA and three in the Duma elections), covering cumulatively over 51,000 votes cast (not all precincts mentioned in the Government table contained these data). In the twenty-two precincts where those data were at least partially indicated for the LA elections (covering over 24,000 votes), as a result of recounts, ER gained a total of 5,155 votes and lost a total of 621 votes; SR gained a total of 10 votes and lost a total of 422 votes; the KPRF gained no votes and lost 215 votes; Yabloko gained 38 votes and lost 311. In addition, in one precinct (no. 722, see paragraph 163 above) 482 votes were reassigned from ER to the KPRF in a new protocol compiled by the relevant PEC.

168. The second table, submitted by the Government on 22 May 2015, contains certain information about the results of recounts in over 100 precincts; however, this information is not organised into divisions and TECs, and contains no reference to the present case. It does not contain information about the precincts where the results were challenged by the applicants. From this table it appears that for many precincts a "second entry" was made on 11 December 2011 (the grounds for this "second entry" are not explained and it is unclear whether there was a formal recount). As a result of this "second entry" many final figures for the parties participating in the elections had been changed as compared to the "first entry" made on 5 December 2011.

J. Inquiry into the validity of documents submitted by the applicants

169. On 2 July 2014 the chairman of the CEC, Mr Churov, sought to check the authenticity of the "original" protocols relied upon by the

applicants in the present case. On 22 July 2014 the Ministry of the Interior forensic expert centre concluded that the copies of the protocols relied upon by the tenth applicant (PECs nos. 1089 and 1104) had been certified by stamps which differed from the stamps used by those PECs to certify the copies submitted to the City Electoral Commission. For all the other protocols no such conclusion could be drawn. Furthermore, several copies submitted by the applicants differed from the copies submitted by the CEC, meaning that those two sets of documents had not been simply reproduced by means of electronic reproduction. The expert report was unable to conclude that the documents in question had been tampered with or subjected to any changes or alterations.

170. In September 2014 the chairman of the CEC wrote to the St Petersburg Department of the Investigative Committee. He argued that the applicants in the present case had submitted documents to the European Court which they claimed were authentic copies of the "original" election protocols from a number of precincts in St Petersburg. The letter pointed out that these documents raised doubts as to their authenticity, and asked the Investigative Committee to carry out an inquiry into the matter. On 25 September 2014 the Kirovskiy District Department of the Investigative Committee initiated an inquiry (*проверка*) into the matter. Subsequent documents indicate that the Department attempted to contact eleven applicants in this case and to collect information from them. It appears that only Mr Shestakov, the eleventh applicant, was questioned. He reiterated what he had already stated about the way he had obtained copies of the protocols from members of PECs and observers. On 27 October 2014 an investigator of the District Department ruled that a criminal investigation should not be opened, finding no evidence of crimes under Articles 141, 142 and 142.1 of the Criminal Code (see paragraph 191 below). At the same time, in so far as the question concerned copies of the "original" protocols, the investigator forwarded the relevant material to the St Petersburg Department of the Interior to decide whether there had been any falsification of official documents.

171. On 14 November 2014 an investigator at the St Petersburg Department of the Interior decided that there was no need to open a criminal investigation into the alleged crime under Article 327 (falsification of official documents) in view of the expiry of the statutory time-limit (two years). The decision referred to the conclusions of the expert report of 22 July 2014 (see paragraph 169 above), but stated that any individuals who might have committed the act in respect of the two documents had not been identified.

172. According to the Government's additional memorandum of 22 May 2015, on 12 December 2014 the St Petersburg deputy prosecutor overturned the decision of 14 November 2014 and remitted the matter to the investigating authorities. He indicated that the copies of the protocols from precinct electoral commissions had been incorrectly classified as "official documents". On 18 February 2015 the Kirovskiy District Department of the

Investigative Committee ruled that no criminal investigation should be opened in respect of the acts by Mr Davydov and others in the absence of evidence of an offence under Articles 141, 142 and 142.1 of the Criminal Code.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. General legislative framework governing the elections of December 2011 in St Petersburg

173. Elections at federal level were governed at the material time by Federal Law no. 51-FZ "on the Election of Deputies to the State Duma of the Federal Assembly of the Russian Federation" of 18 May 2005 ("the Duma Elections Act").

174. In addition, elections are governed by Federal Law no. 67-FZ on the basic principles of elections and referendums of 12 June 2002 ("the Basic Guarantees Act").

175. Elections at city level were governed at the material time by Law no. 252-35 of St Petersburg on the Election of Deputies to the Legislative Assembly of St Petersburg of 15 June 2005 ("the St Petersburg Elections Act"). All legal instruments referred to below are cited as they stood at the relevant time.

B. Regulation of specific questions

1. Rights of observers and members of electoral commissions during federal elections

176. Section 30(9) of the Basic Guarantees Act provided that observers had the right to familiarise themselves with the protocols of the electoral commissions and to obtain "certified copies of those protocols".

177. Section 29(23)(g) of the Basic Guarantees Act provided that members of electoral commissions (both voting members and observers) had the right to obtain certified copies of the documents drawn up by the electoral commissions. Although election protocols were not mentioned explicitly, that provision appears to have applied to those documents too.

2. Formal requirements as regards protocols and other documents drawn up by electoral commissions, and the making of copies

178. Sections 78-79 and of the Duma Elections Act and sections 52-53 of the St Petersburg Elections Act set out similar formal requirements as regards precinct electoral commission protocols. Such requirements included an indication of the running number of the copy; the type and date of election; an indication that it was an election protocol; the address of the precinct

commission; the numerical results for each relevant field, in figures and words; the date and time, indicating hours and minutes, when the document was drawn up; the names and signatures of the chairman, deputy chairman, secretary and other members of the commission; and the stamp of the commission. If the protocol ran to more than one page, each page had to be validated by names and signatures, and contain the date and time when it had been drawn up and the precinct commission stamp.

179. The protocol was to be drawn up in two copies, with running numbers one and two. Immediately after the first copy had been drawn up, at the request of entitled persons (members of the commissions, observers) certified copies could be issued by the electoral commission. The issue of these copies was to be noted in a special register, which was to be signed both by the person receiving the copy and by the member of the PEC issuing it (section 79(26) of the Duma Elections Act and section 53(23) of the St Petersburg Elections Act).

180. The first copy of the protocol was to be signed by all members of the precinct commission. Once completed, the first copy was immediately transmitted to the corresponding TEC. All annexes, such as complaints received by the PEC, the commission's response to such complaints, and separate opinions of its members, were attached to the first copy. The transfer of the first copy of the protocol to the TEC could be attended by any member of the precinct commission or any observer.

181. The second copy of the protocol remained at the precinct commission until completion of its work (for five days after the official announcement of the election results) and was accessible to authorised persons such as members of electoral commissions, observers, candidates, and representatives of political parties. Certified copies of the annexes mentioned in the preceding paragraph were attached to it. A certified copy of the second copy was displayed for public view at the precinct commission.

3. Proceedings within the Territorial Electoral Commissions

182. Section 80 of the Duma Elections Act and section 54 of the St Petersburg Elections Act set up similar procedures for the verification of election results by TECs. Thus, the members of the TEC received the results from the precinct commissions and, once compliance of the protocols with the formal requirements and the presence of the annexes had been verified, they entered the data in order to compile the results for the given electoral territory. The transfer of protocols from PECs, the tabulation of results and the drawing up of the TEC protocol with the overall results were to take place in the same room, in full view of the TEC members and observers.

183. The same room was to be equipped with a large board on which the results from each precinct and changes to the overall result for the territory were to be entered as soon as the protocols from the precincts arrived,

indicating the time those entries had been made. The data were also to be entered into the State-run electronic database "Vybory".

184. Once all data from the precincts have been compiled, the TEC drew up its own protocol, also in two running copies, containing the names and signatures of all members and the exact date and time of the signing.

4. Recounts

185. Section 69(9) of the Basic Guarantees Act read as follows:

> "Where the tables ... of results contain errors or discrepancies, [or] where there are doubts as to whether the protocols ... received from the lower commission have been drawn up correctly, the higher commission may order a recount [by the lower commission...] or conduct a recount itself ... The recount shall be conducted in the presence of a voting member (or members) of the higher commission by the commission which drew up and approved the protocol [that is, the lower commission] or by the commission which ordered the recount [that is, the higher commission] with mandatory notification of the non-voting members of the commission, observers, candidates and other people ... who have the right to be present at the recount."

186. Sections 79(31) and 80(15-17) of the Duma Elections Act specified the method for recounts in the precinct and territorial electoral commissions. Thus, if the changes to the protocol concerned fields other than the counting of votes for the candidates or parties, the precinct commission was obliged to inform all those who had been present at the initial count, issue a protocol marked "recount" and submit it to the territorial commission, together with the original protocol. The TECs were entitled to carry out recounts of their own results and to issue "recount" protocols under similar conditions. In addition, the territorial commissions could, upon discovering errors or discrepancies, or in case of doubt as to the correctness of the precinct commissions' results, order recounts or conduct recounts themselves, on the same conditions as in the preceding paragraph. Such recounts could be ordered either before or after formal approval of the PEC protocols.

187. Similar provisions were contained in the St Petersburg Act (sections 53(27) and 54(15-16)).

5. Appeals procedure

188. Section 75 of the Basic Guarantees Act provided that decisions of various electoral commissions and of their members which infringed electoral rights were subject to appeal to a court. Complaints against the CEC were to be lodged with the Supreme Court; complaints against decisions and acts of regional electoral commissions concerning elections to the federal legislature were to be lodged with the regional courts; and complaints against actions of all other electoral commissions were to be lodged with the district courts. When examining a complaint against an electoral commission's decision, the relevant court also took into account the decisions of the lower electoral commissions if the violations alleged could have influenced the results of the

elections in question (section 75 (4)). The courts' decisions were binding and could, *inter alia*, invalidate the commissions' decisions about the results and outcome of the elections. In April 2014 this section of the Basic Guarantees Act was amended so as to expressly mention the right of voters to challenge the results in the precincts where they had voted, taking into account the ruling of the Constitutional Court (see paragraphs 80-88 above).

189. Complaints could also be made to the higher electoral commissions, which were obliged to consider them and to take decisions; the applicants were to be informed of the decision. If a complaint was brought simultaneously before the higher commission and a court, consideration by the commission was adjourned until the end of the court proceedings (section 75(9)). The right to lodge complaints was granted to voters, candidates and their representatives, electoral groups, public bodies, observers and the commissions themselves. The commission considering the complaint should invite the complainant and a representative of the commission concerned (section 75(10) and (12)). If the commission identified breaches of law during the voting or during the drawing up of the results, it could declare the results void and, if necessary, call for a recount. The commission could act upon complaints until the results of the elections had been officially approved, following which the results could only be challenged before a competent court (section 77).

190. Similar provisions were contained in the St Petersburg Act (sections 61 and 63).

C. Criminal law provisions

191. Article 141 of the Criminal Code of the Russian Federation (the Criminal Code) proscribed interference with the free expression of the voters' opinion in elections and with the functioning of electoral commissions. Articles 142 and 142.1 of the Criminal Code accordingly established criminal responsibility for falsification of ballot papers and other electoral documents and for falsification of the outcome of the elections. According to authoritative comments on these provisions, while the offence of falsification of electoral documents could be committed by both electoral officials and private parties, the offence of falsifying election results could only be committed by members of electoral commissions and other persons who took part in the work of the commissions.

D. Examples of relevant court practice submitted by the parties

1. Examples submitted by the applicants

192. The applicants submitted copies of five judgments of St Petersburg district courts which followed the same pattern as experienced in the present

case by them and SR. These judgments were rendered upon complaints lodged by the St Petersburg branch of SR and concerned the results of the elections of 4 December 2011 in several precincts in electoral divisions nos. 2, 4, 5, 8, 14 and 22, none of which were covered by the complaints lodged by the applicants in the present case. In all those cases the courts dismissed complaints concerning alleged discrepancies between the "original" copies of the protocols obtained by the members of the precinct commissions and the final results, in view of procedural deficiencies in these "original" copies.

2. Examples submitted by the Government

193. The Government submitted records of over twenty criminal convictions handed down by various district courts in Russia between 2010 and 2014. Most of these convictions concerned actions of members and chairpersons of PECs who had falsified electoral papers and the results of municipal and regional elections held between 2010 and 2014. The convictions under Article 142 (falsification of ballot papers and other electoral documents) sometimes mentioned the participation of victims, namely voters whose electoral rights had been infringed; the convictions under Article 142.1 (falsification of election results) did not refer to victims.

194. The Government also submitted seven judgments finding, in whole or in part, the decisions of PECs and, in one case, the TEC, invalid in municipal, regional and federal elections held between 2011 and 2014. The complaints had been lodged by members of the electoral commissions, candidates and observers. In addition, in one case in 2012 a justice of the peace in St Petersburg had fined the chairman of a PEC for refusing to issue a copy of the final protocol to a member of the same commission.

195. In their additional observations of 22 May 2015 the Government submitted statistics on the total number of complaints on electoral matters submitted to and reviewed by courts between 2009 and 2014. This document indicates that every year 3,000 to 3,819 complaints on electoral matters were lodged with the courts. In each of those years 25% to 43% of complaints were upheld. In 2012 35% of all the electoral complaints lodged with the courts were upheld.

III. RELEVANT INTERNATIONAL DOCUMENTS

A. Code of Good Practice in Electoral Matters

196. The relevant excerpts from the Code of Good Practice in Electoral Matters (Guidelines and Explanatory Report) (CDL-AD (2002) 23 rev), adopted by the European Commission for Democracy Through Law ("the

Venice Commission") at its 51st and 52nd sessions (5-6 July and 18-19 October 2002), read as follows:

"GUIDELINES ON ELECTIONS

I. Principles of Europe's electoral heritage

The five principles underlying Europe's electoral heritage are *universal, equal, free, secret and direct suffrage.* Furthermore, elections must be held at regular intervals.

...

3. Free suffrage

...

3.2. Freedom of voters to express their wishes and action to combat electoral fraud

...

x. polling stations must include representatives of a number of parties, and the presence of observers appointed by the candidates must be permitted during voting and counting;

...

xii. counting should preferably take place in polling stations;

xiii. counting must be transparent. Observers, candidates' representatives and the media must be allowed to be present. These persons must also have access to the records;

xiv. results must be transmitted to the higher level in an open manner;

xv. the state must punish any kind of electoral fraud.

...

II. Conditions for implementing these principles

...

3. Procedural guarantees

3.1. Organisation of elections by an impartial body

a. An impartial body must be in charge of applying electoral law.

b. Where there is no longstanding tradition of administrative authorities' independence from those holding political power, independent, impartial electoral commissions must be set up at all levels, from the national level to polling station level.

c. The central electoral commission must be permanent in nature.

d. It should include:

i. at least one member of the judiciary;

ii. representatives of parties already in parliament or having scored at least a given percentage of the vote; these persons must be qualified in electoral matters.

...

e. Political parties must be equally represented on electoral commissions or must be able to observe the work of the impartial body. Equality may be construed strictly or on a proportional basis (see point I.2.3.b).

f. The bodies appointing members of electoral commissions must not be free to dismiss them at will.

g. Members of electoral commissions must receive standard training.

h. It is desirable that electoral commissions take decisions by a qualified majority or by consensus.

3.2. Observation of elections

a. Both national and international observers should be given the widest possible opportunity to participate in an election observation exercise.

b. Observation must not be confined to the election day itself, but must include the registration period of candidates and, if necessary, of electors, as well as the electoral campaign. It must make it possible to determine whether irregularities occurred before, during or after the elections. It must always be possible during vote counting.

c. The places where observers are not entitled to be present should be clearly specified by law.

d. Observation should cover respect by the authorities of their duty of neutrality.

3.3. An effective system of appeal

a. The appeal body in electoral matters should be either an electoral commission or a court. For elections to Parliament, an appeal to Parliament may be provided for in first instance. In any case, final appeal to a court must be possible.

b. The procedure must be simple and devoid of formalism, in particular concerning the admissibility of appeals.

c. The appeal procedure and, in particular, the powers and responsibilities of the various bodies should be clearly regulated by law, so as to avoid conflicts of jurisdiction (whether positive or negative). Neither the appellants nor the authorities should be able to choose the appeal body.

d. The appeal body must have authority in particular over such matters as the right to vote – including electoral registers – and eligibility, the validity of candidatures, proper observance of election campaign rules and the outcome of the elections.

e. The appeal body must have authority to annul elections where irregularities may have affected the outcome. It must be possible to annul the entire election or merely the results for one constituency or one polling station. In the event of annulment, a new election must be called in the area concerned.

f. All candidates and all voters registered in the constituency concerned must be entitled to appeal. A reasonable quorum may be imposed for appeals by voters on the results of elections.

g. Time-limits for lodging and deciding appeals must be short (three to five days for each at first instance).

h. The applicant's right to a hearing involving both parties must be protected.

i. Where the appeal body is a higher electoral commission, it must be able *ex officio* to rectify or set aside decisions taken by lower electoral commissions.

...

EXPLANATORY REPORT

...

[I.] 3.2.2.4. Counting

45. The votes should preferably be counted at the polling stations themselves, rather than in special centres. The polling station staff are perfectly capable of performing this task, and this arrangement obviates the need to transport the ballot boxes and accompanying documents, thus reducing the risk of substitution.

46. The vote counting should be conducted in a transparent manner. It is admissible that voters registered in the polling station may attend; the presence of national or international observers should be authorised. These persons must be allowed to be present in all circumstances. There must be enough copies of the record of the proceedings to distribute to ensure that all the aforementioned persons receive one; one copy must be immediately posted on the notice-board, another kept at the polling station and a third sent to the commission or competent higher authority.

47. The relevant regulations should stipulate certain practical precautions as regards equipment. For example, the record of the proceedings should be completed in ballpoint pen rather than pencil, as text written in pencil can be erased.

48. In practice, it appears that the time needed to count the votes depends on the efficiency of the presiding officer of the polling station. These times can vary markedly, which is why a simple tried and tested procedure should be set out in the legislation or permanent regulations which appear in the training manual for polling station officials.

49. It is best to avoid treating too many ballot papers as invalid or spoiled. In case of doubt, an attempt should be made to ascertain the voter's intention.

3.2.2.5. Transferring the results

50. There are two kinds of results: provisional results and final results (before all opportunities for appeal have been exhausted). The media, and indeed the entire nation, are always impatient to hear the initial provisional results. The speed with which these results are relayed will depend on the country's communications system. The polling station's results can be conveyed to the electoral district (for instance) by the presiding officer of the polling station, accompanied by two other members of the polling station staff representing opposing parties, in some cases under the supervision of the security forces, who will carry the records of the proceedings, the ballot box, etc.

51. However much care has been taken at the voting and vote-counting stages, transmitting the results is a vital operation whose importance is often overlooked; it must therefore be effected in an open manner. Transmission from the electoral district to the regional authorities and the Central Electoral Commission – or other competent higher authorities – can be done by fax. In that case, the records will be scanned and the results can be displayed as and when they come in. Television can be used to broadcast these results but once again, too much transparency can be a dangerous thing if the public is not ready for this kind of piecemeal reporting. The fact is that the initial results usually come in from the towns and cities, which do not normally or necessarily vote in the same way as rural areas. It is important therefore to make it clear to the public that the final result may be quite different from, or even completely opposite to, the provisional one, without there having been any question of foul play.

...

[II.] 3. Procedural safeguards

3.1. Organisation of elections by an impartial body

68. Only transparency, impartiality and independence from politically motivated manipulation will ensure proper administration of the election process, from the pre-election period to the end of the processing of results.

69. In states where the administrative authorities have a long-standing tradition of independence from the political authorities, the civil service applies electoral law without being subjected to political pressures. It is therefore both normal and acceptable for elections to be organised by administrative authorities, and supervised by the Ministry of the Interior.

70. However, in states with little experience of organising pluralist elections, there is too great a risk of government's pushing the administrative authorities to do what it wants. This applies both to central and local government - even when the latter is controlled by the national opposition.

71. This is why *independent, impartial electoral commissions* must be set up from the national level to polling station level to ensure that elections are properly conducted, or at least remove serious suspicions of irregularity.

72. According to the reports of the Bureau of the Parliamentary Assembly of the Council of Europe on election observations, the following shortcomings concerning the electoral commissions have been noted in a number of member States: lack of transparency in the activity of the central electoral commission; variations in the interpretation of counting procedure; politically polarised election administration; controversies in appointing members of the Central Electoral Commission; commission members nominated by a state institution; the dominant position of the ruling party in the election administration.

73. *Any central electoral commission* must be *permanent*, as an administrative institution responsible for liaising with local authorities and the other lower-level commissions, e.g. as regards compiling and updating the electoral lists.

74. The composition of a central electoral commission can give rise to debate and become the key political issue in the drafting of an electoral law. Compliance with the following guidelines should facilitate maximum impartiality and competence on the part of the commission.

75. As a general rule, the commission should consist of:

- a judge or law officer: where a judicial body is responsible for administering the elections, its independence must be ensured through transparent proceedings. Judicial appointees should not come under the authority of those standing for office;

- representatives of parties already represented in parliament or which have won more than a certain percentage of the vote. Political parties should be represented equally in the central electoral commission; "equally" may be interpreted strictly or proportionally, that is to say, taking or not taking account of the parties' relative electoral strengths. Moreover, party delegates should be qualified in electoral matters and should be prohibited from campaigning.

76. In addition, the electoral commission may include:

- representatives of national minorities; their presence is desirable if the national minority is of a certain importance in the territory concerned;

- a representative of the Ministry of the Interior. However, for reasons connected with the history of the country concerned, it may not always be appropriate to have a representative of the Ministry of the Interior in the commission. During its election observation missions the Parliamentary Assembly has expressed concern on several occasions about transfers of responsibilities from a fully-fledged multi-party electoral commission to an institution subordinate to the executive. Nevertheless, co-operation between the central electoral commission and the Ministry of the Interior is possible if only for practical reasons, e.g. transporting and storing ballot papers and other equipment. For the rest, the executive power should not be able to influence the membership of the electoral commissions.

...

82. Other electoral commissions operating at regional or constituency level should have a similar composition to that of the central electoral commission. Constituency commissions play an important role in uninominal voting systems because they determine the winner in general elections. Regional commissions also play a major role in relaying the results to the central electoral commission.

...

3.2. Observation of elections

86. Observation of elections plays an important role as it provides evidence of whether the electoral process has been regular or not.

87. There are three different types of observer: partisan national observers, non-partisan national observers and international (non-partisan) observers. In practice the distinction between the first two categories is not always obvious. This is why it is best to make the observation procedure as broad as possible at both the national and the international level.

88. Observation is not confined to the actual polling day but includes ascertaining whether any irregularities have occurred in advance of the elections (e.g. by improper maintenance of electoral lists, obstacles to the registration of candidates, restrictions on freedom of expression, and violations of rules on access to the media or on public funding of electoral campaigns), during the elections (e.g. through pressure exerted on electors, multiple voting, violation of voting secrecy, etc.) or after polling (especially during the vote counting and announcement of the results). Observation should focus particularly on the authorities' regard for their duty of neutrality.

...

91. The law must be very clear as to what sites observers are not entitled to visit, so that their activities are not excessively hampered. For example, an act authorising observers to visit only sites where the election (or voting) takes place could be construed by certain polling stations in an unduly narrow manner.

3.3. An effective system of appeal

92. If the electoral law provisions are to be more than just words on a page, failure to comply with the electoral law must be open to challenge before an appeal body. This applies in particular to the election results: individual citizens may challenge them on the grounds of irregularities in the voting procedures. It also applies to decisions taken before the elections, especially in connection with the right to vote, electoral registers and standing for election, the validity of candidatures, compliance with the rules governing the electoral campaign and access to the media or to party funding.

93. There are two possible solutions:

- appeals may be heard by the ordinary courts, a special court or the constitutional court;

- appeals may be heard by an electoral commission.

There is much to be said for this latter system in that the commissions are highly specialised whereas the courts tend to be less experienced with regard to electoral issues. As a precautionary measure, however, it is desirable that there should be some form of judicial supervision in place, making the higher commission the first appeal level and the competent court the second.

95. Appeal proceedings should be as brief as possible, in any case concerning decisions to be taken before the election. On this point, two pitfalls must be avoided: first, that appeal proceedings retard the electoral process, and second, that, due to their lack of suspensive effect, decisions on appeals which could have been taken before, are taken after the elections. In addition, decisions on the results of elections must also not take too long, especially where the political climate is tense. This means both that the time limits for appeals must be very short and that the appeal body must make its ruling as quickly as possible. Time limits must, however, be long enough to make an appeal possible, to guarantee the exercise of rights of defence and a reflected decision. A time limit of three to five days at first instance (both for lodging appeals and making rulings) seems reasonable for decisions to be taken before the elections. It is, however, permissible to grant a little more time to Supreme and Constitutional Courts for their rulings.

96. The procedure must also be simple, and providing voters with special appeal forms helps to make it so. It is necessary to eliminate formalism, and so avoid decisions of inadmissibility, especially in politically sensitive cases.

97. It is also vital that the appeal procedure, and especially the powers and responsibilities of the various bodies involved in it, should be clearly regulated by law, so as to avoid any positive or negative conflicts of jurisdiction. Neither the appellants nor the authorities should be able to choose the appeal body. The risk that successive bodies will refuse to give a decision is seriously increased where it is theoretically possible to appeal to either the courts or an electoral commission, or where the powers of different courts – e.g. the ordinary courts and the constitutional court – are not clearly differentiated.

...

99. Standing in such appeals must be granted as widely as possible. It must be open to every elector in the constituency and to every candidate standing for election there to lodge an appeal. A reasonable quorum may, however, be imposed for appeals by voters on the results of elections.

100. The appeal procedure should be of a judicial nature, in the sense that the right of the appellants to proceedings in which both parties are heard should be safeguarded.

101. The *powers* of appeal bodies are important too. They should have authority to annul elections, if irregularities may have influenced the outcome, i.e. affected the distribution of seats. This is the general principle, but it should be open to adjustment, i.e. annulment should not necessarily affect the whole country or constituency – indeed, it should be possible to annul the results of just one polling station. This makes it possible to avoid the two extremes – annulling an entire election, although irregularities affect a small area only, and refusing to annul, because the area affected is too small. In zones where the results have been annulled, the elections must be repeated.

102. Where higher-level commissions are appeal bodies, they should be able to rectify or annul *ex officio* the decisions of lower electoral commissions."

B. Organisation for Security and Cooperation in Europe, Office for Democratic Institutions and Human Rights (OSCE/ODIHR), Election Observation Mission, Final Report on the elections to the State Duma, 4 December 2011 (Warsaw, 12 January 2012)

197. The OSCE summarised its findings as follows:

"The preparations for the 4 December elections were technically well-administered across the country, but the elections were marked by the convergence of the state and the governing party. Although seven parties ran, the prior denial of registration to certain political parties narrowed political competition. The contest was also slanted in favour of the ruling party. This was evidenced by the lack of independence of the election administration, the partiality of most media, and the undue interference of state authorities at different levels. This did not provide the necessary conditions for fair electoral competition. Despite the lack of a level playing field, voters took advantage of their right to express their choice.

During voting, election officials were observed to be dedicated and experienced and procedures were followed overall. However, the quality of the process deteriorated considerably during the count, which was characterized by frequent procedural violations and instances of apparent manipulation, including several serious indications of ballot box stuffing. Result protocols were not publicly displayed in more than one-third of polling stations observed. Throughout election day, observers also reported a number of instances of obstruction to their activities, in particular during count and tabulation.

The final election results were announced by the CEC on 9 December. A number of mass demonstrations took place across the country, linked to allegations of election day fraud that received broad publicity, including on the Internet.

The legal framework is comprehensive and provides an adequate basis for the conduct of elections. However, structurally, the legal framework is overly complex and open to interpretation, which led to its inconsistent application by various stakeholders, often in favour of one party over the others. Laws guaranteeing the right to peaceful assembly were in some cases applied restrictively, undermining contestants' rights. Numerous amendments to the legal framework had been adopted since the previous elections. A number of recent changes improved certain elements of the electoral process, although the reduction of the parliamentary threshold to five per cent did not apply in these elections.

The CEC adopted detailed instructions to facilitate preparations for the elections. It held regular sessions and took most decisions unanimously, without debate. The process of adjudication of complaints by the CEC lacked transparency and did not afford the contestants effective and timely redress. The CEC has not complied with the legal requirement that all complaints must be acted upon and responded to in writing. Representatives of most political parties expressed a high degree of distrust in the impartiality of election commissions at all levels and questioned their independence from various state administration bodies."

198. More specifically, the OSCE reported on vote counting and appeals:

"**XIV. ELECTION DAY**

The voting process was assessed positively in 93 per cent of polling stations observed and procedures were followed, overall. ...

Party representatives were present in almost all polling stations visited. The majority of them were nominated by ER (85 per cent of visits), KPRF (75 per cent) and SR (59 per cent). ...

The vote count was assessed as bad or very bad in every third polling station observed. This was mainly due to a poor organization, lack of transparency and serious departures from the counting procedures outlined by the CEC. Signatures of voters who voted were not counted in 42 polling stations and in 38 polling stations, the number of ballots issued for 'mobile voting' was not recorded. In almost half of the observed counts, marked ballots were not shown to those present. ...

Twelve cases of extended breaks in the counting process were reported. In some instances, PECs interrupted the count, at times taking voting material out of sight of observers. Observers were restricted in their observation in 20 polling stations. In 7, they were expelled from polling stations during the count. Observers did not receive copies of result protocols in 21 polling stations observed and in almost half of polling stations visited, signed protocols were not posted publicly.

The tabulation was assessed negatively in 17 of the observed TECs. In 41 cases, observers reported that the facilities for the reception and recording of results were inadequate. The organisation of data collection was evaluated as bad or very bad in 11 observer reports. Insufficient transparency of the process was noted in 24 cases. The submitted PEC protocols were not always filled in. They were also not signed with a pen in 21 cases and did not contain all required figures in 32 cases. In addition, some procedural irregularities were noted, such as a failure to enter the data from PEC protocols into TEC summary tables in 10 of the observed TECs.

...

C. ANNOUNCEMENT OF RESULTS

... The CEC announced preliminary results on the day after the elections. The final results were approved on 9 December. The CEC posted tables with summaries of final results from all election commissions on its website, which enhanced the transparency and made independent verification by stakeholders possible. The reported turnout was 60.21 per cent. ER received 49.32 per cent of the votes and won 238 seats, KPRF – 19.19 per cent and 92 seats, Just Russia [SR] – 13.24 per cent and 64 seats, and LDPR – 11.67 per cent and 56 seats. Other lists did not surpass the thresholds; YA [Yabloko], which received 3.43 per cent of the votes however, will now qualify for state funding.

One CEC member objected to the official final results announced and submitted a dissenting opinion. He stated that elections did not allow for the free expression of the will of voters and were characterized by an unequal treatment of contestants by different government bodies in favour of ER. He also highlighted that there were numerous violations of the law during the counting process. Finally, he stated that, despite repeated requests, he was not given copies of all 33 dissenting opinions attached to the summary protocols of SECs.

One other non-voting CEC member from KPRF suggested that, given the number of reported violations during these elections, the CEC adopt a resolution to dismiss the

CEC chairperson. The suggestion was rejected. LDPR and SR representatives at the CEC also severely criticized the conduct of State Duma elections. ”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF PROTOCOL No. 1 TO THE CONVENTION AND ARTICLE 13 OF THE CONVENTION

199. The applicants alleged a violation of Article 3 of Protocol No. 1 to the Convention and a violation of Article 13 of the Convention. The Court has recently explained the difference between cases where the applicants' complain about post-electoral disputes that have not been the subject of judicial review, where a separate issue under Article 13 might arise (see *Grosaru v. Romania*, no. 78039/01, §§ 55-56, ECHR 2010), and, by contrast, cases where the national legislation and practice include judicial supervision of such disputes. In the latter case, the Court has limited its examination to Article 3 of Protocol No. 1 to the Convention (see *Namat Aliyev v. Azerbaijan*, no. 18705/06, §§ 57 and 81, 8 April 2010; *Kerimova v. Azerbaijan*, no. 20799/06, §§ 31-32, 30 September 2010; and *Riza and Others v. Bulgaria*, nos. 48555/10 and 48377/10, §§ 94-95, 13 October 2015).

200. In the present case, regard being had to the domestic judicial procedures, the Court considers that this complaint falls to be examined only under Article 3 of Protocol No. 1 to the Convention, and that no separate examination is necessary under Article 13 of the Convention. Article 3 of Protocol No. 1 to the Convention reads as follows:

> “The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.”

201. The Government contested the allegations.

A. Procedural issues and admissibility

1. Requests to withdraw applications

202. The Court notes that after the complaint was communicated two applicants submitted requests to withdraw their applications. On 4 April 2014 Ms Napara informed the Court that the seventh applicant (Mr Yakushenko) wished to withdraw his complaint. On 12 May 2014 the eighth applicant (Mr Payalin) signed a request to the Court to withdraw his complaint, citing personal reasons.

203. The Court takes note of the applicants' requests. Having regard to Article 37 of the Convention, it finds that the seventh and eighth applicants

do not intend to pursue their applications, within the meaning of Article 37 § 1 (a) of the Convention. The Court also finds no reasons of a general character, affecting respect for human rights as defined in the Convention, which require further examination of their complaints by virtue of Article 37 § 1 of the Convention *in fine*. It therefore strikes out these two complaints.

204. The Court is therefore prevented from examining the complaints brought by these two applicants and the facts on which their complaints were based. The facts cited by the seventh and eighth applicants will appear in the Court's analysis below in so far as they are relevant to the remaining applicants' complaints.

2. The Government's question as to representation

205. In their observations of 24 October 2012 the Government questioned the representatives' authority to represent all the applicants. They were of the opinion that the Court should apply the rules of the Practice Direction on Institution of Proceedings strictly and accept that Ms Moskalenko and Ms Napara were at any given moment the representatives of only those applicants who had presented valid powers of attorney, and only then if this had been done within eight weeks of receipt of the Registry's letter acknowledging their initial application. They argued that this situation should have been treated by the Court as a ground for inadmissibility, and referred to inadmissibility decisions against the Netherlands (*Post v. the Netherlands* (dec.), no. 21727/08, 20 January 2009; *Kemevuako v. the Netherlands* (dec.), no. 65938/09, § 22, 1 June 2010; and *Kaur v. the Netherlands* (dec.), no. 35864/11, §§ 17-18, 1 June 2010).

206. The Court notes that all the applicants who did not withdraw their applications are represented by both Ms Moskalenko and Ms Napara (see Appendix for details). At the time of the submission of the initial application forms, in December 2011 and in January 2012, the applicants had submitted at least one valid power of attorney each. It therefore distinguishes the situation in the present case from the one faced in *Post* (cited above), where no authority form was submitted. For the same reason, the Court does not find that the decisions where the belated submission of duly signed authority forms had a bearing on the calculation of the six-month time-limit (see *Kemevuako* and *Kaur*, both cited above) are relevant to the present case.

207. It therefore finds that no issues arise under the above-mentioned Practice Direction that need to be examined.

3. The Government's preliminary objection as to the Court's competence ratione materiae

(a) The parties' submissions

208. The Government were of the opinion that the applicants had raised before the Court the question of the results of the elections to the State Duma

and the LA. Such questions should not be considered by the Court, as they fell outside the ambit of the right to free elections guaranteed by Article 3 of Protocol No. 1 to the Convention. Referring to the case of *Namat Aliyev* (cited above, § 77), the Government invited the Court to follow the same line of argument and to refrain from evaluating each piece of evidence produced by the applicants which had not been confirmed by thorough domestic investigation in the judicial procedure.

209. Under the same heading, the Government argued that in so far as the Court could be understood to be enquiring whether the domestic courts had carried out an effective review of the applicants' claims, such a complaint was inadmissible *ratione materiae* under Article 6 § 1 of the Convention, in line with the Court's well-established practice (they referred, *inter alia*, to *Cherepkov v. Russia* (dec.), no. 51501/99, 22 January 2000, and *Gorizdra v. Moldova* (dec.), no. 53180/99, 2 July 2002).

210. The applicants retorted that their claim had been brought under Article 3 of Protocol No. 1 to the Convention and thus fell within the Court's jurisdiction.

(b) The Court's assessment

211. The Court has previously established that the rights guaranteed by Article 3 of Protocol No. 1 to the Convention cover not only the process of organisation and management of the voting process, but also the manner of review of the outcome of elections and disputes concerning validation of election results (see *Kovach v. Ukraine*, no. 39424/02, §§ 55 et seq., ECHR 2008; *Namat Aliyev*, cited above, § 72; and *Kerimova*, cited above, § 54). In view of the above, it dismisses the Government's objection as to its competence *ratione materiae*.

4. The Government's preliminary objection as to exhaustion of domestic remedies

(a) The parties' submissions

(i) The Government

212. The Government asked for the application to be declared inadmissible for non-exhaustion of domestic remedies. The Government put forward several arguments in this respect.

(α) General legal framework

213. The Government pointed out that the applicants had been free to employ a number of legal remedies under the domestic legislation which could have provided them with an effective mechanism for the consideration of their claims.

214. First, the Government indicated that the applicants could have sought the opening of criminal proceedings under Article 142.1 of the Criminal Code (see paragraph 191 above). They cited examples of convictions for fraud of members of electoral commissions (see paragraph 193 above), and argued that the same procedure had been available to the applicants in the present case. Similarly, some breaches of electoral law could be classified as administrative offences. The relevant practice demonstrated that electoral officials could receive sanctions in such a procedure (see paragraph 194 above).

215. The Government then noted that the courts were empowered to adjudicate complaints about alleged violations by the electoral commissions. The courts could declare the election results in constituencies void if the violations were sufficiently serious. At the time, the applicants had been entitled to seek judicial review of the election results within one year of the date on which the results of the relevant elections had been made public. The court was obliged to take a decision within a period of two months after the complaint had been lodged. Again, the Government referred to successful examples of such procedures (see paragraph 194 above).

216. Next, the Government observed that the higher-ranking electoral commissions were capable of adjudicating complaints and, where necessary, could invalidate the results or order a recount. As an example, the Government referred to the decisions issued by TEC no. 27 in St Petersburg to declare void the results in electoral precincts nos. 1071, 1091, 1099 and 1113 (challenged by the tenth applicant – see paragraph 42 above). The TEC had reacted to the complaints brought by voters, observers and candidates and conducted a recount. As a result, it had concluded that since the number of ballot papers contained in the ballot boxes exceeded the number of ballot papers issued by the relevant PECs, the outcome of the elections could not be ascertained. The election result was therefore void.

217. As a general comment, the Government remarked that the remedies should have been exhausted by the time the application had been lodged. Since most of the applicants had lodged their complaints on 8 December 2011, the judicial and administrative proceedings had not yet taken place.

(β) Objections in respect of each individual applicant

218. The Government then detailed their arguments in respect of individual applicants, pointing out that not all of them had lodged complaints with the competent domestic courts. Instead, the results in some of the precincts concerned had been challenged by the St Petersburg branch of SR. SR, in its last application to the St Petersburg City Court, had asked for the election results in St Petersburg to be declared void as a whole, and not in the individual constituencies referred to by the applicants before the Court (see paragraphs 108-111 above). Furthermore, wherever the complaints had been lodged, they had not been pursued with the courts at cassation level;

therefore the applicants had failed to exhaust the domestic remedies available to them.

219. Finally, the Government argued that after 22 April 2013, the date of ruling No. 8-P by the Constitutional Court (see paragraphs 80-88 above), the applicants concerned had had the opportunity to resubmit their complaints to the courts as individual voters. Their failure to do so should be regarded as a failure to exhaust domestic remedies.

(ii) The applicants

220. The applicants insisted that the electoral fraud constituting the basis of this complaint had been reported by them to various Russian authorities. Among themselves, they had employed each avenue of domestic remedy suggested by the Government, but had received no effective review of their complaints. In the applicants' view, the violations alleged had been of a systemic and persistent nature, which made each and every remedy ineffective, because no State authority was prepared to expose the systemic falsifications in favour of the ruling party.

(α) Proceedings before the electoral commissions

221. In so far as the Government could be understood to have stated that the applicants should have challenged each decision of a PEC or TEC before the superior electoral commission, the applicants pointed out that the City Electoral Commission had treated their complaints as falling into the domain of the prosecutor's office. As a result of the ensuing delays, the City Electoral Commission had validated the election results and the applicants had been advised to bring their complaints before the courts (see paragraphs 48-59 above). The applicants stressed that the way in which their complaints had been considered displayed a lack of consistency in drawing the boundaries between the jurisdiction of the electoral commissions, courts and law-enforcement authorities, which had forwarded their complaints from one to another. As a result, none of the remedies employed had been effective in practice.

(β) Criminal investigation

222. In so far as the Government argued that the applicants could have relied on the criminal investigation, the applicants reiterated that the alleged breaches of electoral legislation had been raised by the second, third, fourth and eighth applicants with the competent authorities, namely the prosecutor's office and the investigative committee. These complaints had concluded with decisions not to open criminal investigations (see section E above). The law-enforcement authorities had uniformly referred to the validation of the election results by the CEC and by the district courts, and had refused to consider any further evidence produced by the applicants.

223. The applicants stressed, in particular, that their complaints to the Investigative Committee had contained all the necessary elements of a request to open a criminal investigation. Despite that, the Committee had treated the complaints by the second, third and fourth applicants as "information about a breach of legislation" and had forwarded them to the prosecutors (see paragraphs 64-70 above). The sixth applicant's similar complaint had been forwarded to the City Electoral Commission (see paragraph 71 above). The attempts to obtain judicial review of the investigative committee's actions had not led to any results (see paragraph 72 above).

224. As a specific example, the third applicant stressed that his application to the investigative committee had contained specific indications of fraud in respect of PEC no. 651, since the results in that constituency had allegedly been published before the relevant protocol had been transmitted to TEC no. 21. Despite detailed submissions made by the third applicant to this effect, including an audio recording of telephone conversations, he had been informed by the Kolpino District Prosecutor's Office that no breaches of legislation had been detected (see paragraphs 49 and 53 above). The Kolpino District Investigative Committee's decision of 21 May 2013 had simply referred to the validity of the TEC no. 21 decision to conduct a recount and to the correct reflection of the results of that recount on the City Electoral Commission's website (see paragraph 74 above). The investigating authority had thus refrained from any evaluation of the evidence indicating fraud. The applicants invited the Court to regard this example as characteristic of the attitude of the domestic law-enforcement authorities, which had avoided any in-depth analysis of the evidence raised by the applicants.

(γ) Complaints to the courts

225. The applicants disputed the Government's assertion that they had failed to use the proceedings before the relevant domestic courts responsible for considering complaints against the electoral commissions. They explained that they had challenged the electoral commissions' decisions at all levels of the judicial system, but had obtained no real review. The courts, using formal pretexts, had refrained from giving an answer to the substance of their complaints of electoral fraud and redistribution of votes, essentially in favour of ER.

226. More specifically, the first five applicants had lodged a complaint with the Supreme Court, which had refused to consider it on the merits, citing the lack of standing for individuals to challenge the results of voting for party lists (see paragraphs 75-79 above).

227. The first six applicants in their capacity as individual voters and members of the PECs had applied to the St Petersburg City Court on two occasions, seeking to challenge the decisions of the City Electoral Commission concerning both the State Duma and the LA, but that court had refused to consider the issues on the merits (see paragraphs 89-106 above).

228. Other applicants (the ninth, tenth and eleventh applicants) had stood as SR candidates in the LA elections. In view of the extent of the falsifications, the St Petersburg SR branch had lodged a complaint with the St Petersburg City Court challenging the results in the city as a whole (see paragraphs 108-111 above). The City Court had refrained from analysing the substance of the complaints, choosing to focus on the procedure the City Electoral Commission had used to review their complaints. Finding that there had been no serious breaches of that procedure, the courts had endorsed the official results of the elections.

229. As to the district courts, the Kolpino District Court had examined individual voters' complaints about alleged irregularities. Two rounds of proceedings, one of them covering the entire Kolpino district, had resulted in the dismissal of their complaints despite, in the applicants' view, ample evidence of serious breaches of electoral legislation. Rendering its judgment of 24 May 2012, confirmed by the St Petersburg City Court on 16 August 2012, the District Court had declined to call additional witnesses or to clarify the procedure and reasons for recounting of votes in PEC no. 637 (see paragraphs 117-121 above). As to the proceedings which concerned the results of the electoral divisions 18 and 19, the Kolpino District Court had called a number of witnesses, including members of several PECs and one member of TEC no. 21. However, it had ignored the evidence of breaches of the procedure for recounts, and had endorsed the TEC decision as to the "corrected" results of the elections (see paragraphs 126-141 above).

230. In the same vein, when the St Petersburg branch of SR had challenged in the courts the results of elections in the precincts referred to by those applicants who complained in their capacity as candidates, the courts had refused to enter into the substance of their submissions. Instead, they had systematically focused on "insignificant" defects in the copies of the "original" protocols submitted by the claimants and had dismissed dozens of duly certified copies as invalid evidence. By contrast, the final results given by the TECs had been endorsed without any in-depth analysis of their lawfulness and conformity with the procedure. The courts had also systematically refused to seek and obtain additional evidence which could have shed light on the substance of the claim, such as the "original" protocols where recounts had taken place, witness statements by the officials involved, and so on (see paragraphs 142-150 above).

(δ) Application to the Constitutional Court

231. The applicants disagreed with the Government that, following the Constitutional Court ruling of 22 April 2013, in order to exhaust domestic remedies they should have sought reopening of the judicial proceedings in their capacity as individual voters.

232. They stressed that while the said ruling had found unconstitutional the practice which had excluded individual voters from challenging the

election results, it had invited the federal legislature to amend the legislation accordingly. Before this finding, they had had no guaranteed access to the courts with such claims and could not therefore demand the reopening of the proceedings on grounds of newly discovered circumstances.

(b) The Court's assessment

233. The Court reiterates that Article 35 § 1 of the Convention, which sets out the rule on exhaustion of domestic remedies, provides for a distribution of the burden of proof. It is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one available in theory and in practice at the relevant time, that is to say that it was accessible, was capable of providing redress in respect of the applicant's complaints, and offered reasonable prospects of success (see *Akdivar and Others v. Turkey*, 16 September 1996, § 68, *Reports of Judgments and Decisions* 1996-IV, and *Selmouni v. France* [GC], no. 25803/94, § 76, ECHR 1999-V). The Court further emphasises that the domestic remedies must be "effective" in the sense either of preventing the alleged violation or its continuation, or of providing adequate redress for any violation that has already occurred (see *Kudła v. Poland* [GC], no. 30210/96, § 158, ECHR 2000-XI). Where several remedies are available, an applicant who has made use of a remedy that is apparently effective and sufficient cannot be required also to have tried others that were available but probably no more likely to be successful (see *Aquilina v. Malta* [GC], no. 25642/94, § 39, ECHR 1999-III). An applicant cannot be regarded as having failed to exhaust domestic remedies if he or she can show, by providing relevant domestic case-law or any other suitable evidence, that an available remedy which he or she has not used was bound to fail. For example, applicants who have not pursued a remedy that has already proved ineffective for other applicants in the same position can reasonably be exempted from doing so (see, *mutatis mutandis*, *Kleyn and Others v. the Netherlands* [GC], nos. 39343/98 and 3 others, § 156, ECHR 2003-VI).

234. The Court first remarks that although the applicants' complaints were made in a different capacity and to various domestic authorities, there is a clear similarity between them. Their common complaint was that there was a difference between the results recorded initially by the precinct commissions and the official outcome published by the City Electoral Commission. Next, the applicants submitted that the domestic authorities had not effectively reviewed that allegation.

235. Turning to exhaustion, the first six applicants tried several remedies before applying to the Court. The complaints in respect of each of the constituencies where the results had been challenged by them were submitted for examination to at least one of the national authorities suggested by the Government. Between them, they exhausted all of those remedies and maintained that no effective review had been provided. In so far as the

Government suggested that the applicants should have had recourse to the cassation procedure, it is true that the Court ruled in May 2015 that the two-tier cassation procedure introduced in January 2012 in civil proceedings constituted a domestic remedy to be used for exhaustion purposes (see *Abramyan and Others v. Russia* (dec.), nos. 38951/13 and 59611/13, §§ 76-96, 12 May 2015). However, this requirement could not be applied to applications lodged before 12 May 2015, since the effectiveness of that remedy had not previously been recognised in the Court's case-law (see *Kocherov and Sergeyeva v. Russia*, no. 16899/13, §§ 64-69, 29 March 2016, with further references). This part of the Government's objection should, therefore, be dismissed.

236. The situation of the ninth, tenth and eleventh applicants is slightly different. As candidates on the SR list, they did not bring domestic proceedings in their individual capacity, but relied on the proceedings initiated by that party in respect of the electoral divisions concerned (see paragraphs 144-150 above) and the elections to the LA in St Petersburg City as a whole (see paragraphs 108-111 above). The Court notes that the position of the Russian Supreme Court, as expressed in its decision of 9 February 2012 and before the matter was reversed by the Constitutional Court in its ruling of 22 April 2013, was that the violations complained of affected the interests of the political parties whose candidates had stood for election, and not of individual voters or candidates, who had no standing to challenge them in the courts (see paragraph 79 above). In view of this, the three applicants in question could reasonably have concluded that they had no standing before the domestic courts and that they should rely instead on the party to raise such complaints on their behalf. In these circumstances, they could reasonably be exempted from from the obligation to pursue a remedy that had proved inaccessible to other persons in the same position.

237. The Court further notes that the question of whether the applicants had obtained a review of their similar allegations of a breach of their Convention rights is precisely what is in dispute between the parties. In such circumstances, it is impossible to address the question of the compatibility of the applicants' complaints with the admissibility criteria, raised by the Government under Article 35 § 1 of the Convention, without addressing the substance of their complaints under Article 3 of Protocol No. 1 to the Convention. It follows that this objection should be joined to the merits.

5. The Government's preliminary objection as to the well-foundedness of the complaint and abuse of the right of petition

(a) The Government

238. The Government argued that the applicants had submitted invalid documents to the Court in support of their claims. The CEC had denied that the documents on which the applicants had relied as the basis of their claims

had been authentic copies of the PEC protocols. They referred to a table enumerating procedural defects in these documents. The most common defects were the absence of a reference to the running number of the original from which the copy had been taken; the absence of a reference to the date and time and address of the PEC; the failure to record the figures numerically; the absence of one or more signatures of PEC members; the lack of a stamp to attest to the signatures; and the lack of certification of the copy as "correct". According to the Government, some of the copies had been signed by people who were not members of the PECs concerned (see paragraph 157 above).

239. The Government also mentioned that in July 2014 an expert centre of the Ministry of the Interior had concluded that the copies of the protocols relied upon by the tenth applicant (PECs nos. 1089 and 1104) had been certified by stamps which differed from the original stamps used by those PECs (see paragraph 169 above).

240. The Government stressed that where the votes in a given electoral precinct had been recounted, the initial protocol of the results bore no legal value as regards the establishment of the results of the election. Therefore, wherever there had been a recount only the second protocol had been submitted to the City Electoral Commission.

241. As to the document compiled by the applicants, containing data on all the precincts concerned (see paragraph 152 above), the Government pointed out that the applicants had not challenged with the Court the entirety of these results, but only the selected ones as enumerated by them. On the other hand, not all the precincts where the results were challenged by the applicants had had recounts.

242. Finally, the Government pointed out that in some of the polling stations recounts had led to either confirmation of the initial results (PECs nos. 1084 and 1126) or to a reduction in the ER vote (PECs nos. 1098, 1127) (see paragraphs 164 and 167 above).

243. On the strength of the above, the Government pointed to the Court's practice of dismissing applications which were knowingly based on untruths or on the submission to the Court of documents that had knowingly been forged (they referred to *Bagheri and Maliki v. the Netherlands* (dec.), no. 30164/06, 15 May 2007, and *Poznanski and Others v. Germany* (dec.), no. 25101/05, 3 July 2007).

(b) The applicants

244. The applicants disagreed. They stressed that the very fact of the existence of the "original" election results communicated to them by the members and chairpersons of the PECs, observers and other candidates was not in dispute by the Government, at least in respect of those precincts where there had been recounts. However, no "authentic" copies of such original documents had been provided by the Government either. In such circumstances, this objection was unfounded.

(c) The Court's assessment

245. Unlike in the above cases cited by the Government, the question of forgery or knowing misrepresentation of key facts – in the present case, the "original" election results as noted by various observers, candidates and members of the electoral commissions – was never resolved by any domestic authority. The crux of the applicants' complaints is precisely the absence of an effective domestic inquiry into the allegations raised by them. In such circumstances, the Court cannot agree with the Government that the complaint should be treated as an abuse of the right of petition under Article 35 §§ 3 (a) and 4 of the Convention, or that it should be dismissed on this ground as manifestly ill-founded.

6. Conclusion as to admissibility

246. The Court notes that the application raises serious issues of facts and law and that it is not inadmissible on any grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicants

247. The applicants essentially reiterated their initial complaints. In particular, they argued that the "recounts" and the resulting differences in the results, none of which had been contested by the Government, constituted a major breach of the right to free elections. The applicants could not accept that the results recorded in dozens of precincts, by full compositions of PECs and in the presence of observers and journalists, were erroneous while the recounts, carried out under unclear circumstances and for dubious reasons, better reflected the voters' intentions. The applicants stressed that it was not permissible to exclude some of the members of electoral commissions and observers from recounts – which was in effect what had occurred. The results of the recounts had largely benefited the ruling party, to the detriment of the opposition parties. As an example, the applicants referred to electoral division no. 22, where recounts had been conducted in twenty-nine of the thirty-four precincts (85% of votes cast) and where, as a result, ER had gained between 200 and 440 votes in each precinct, while SR had lost votes in all precincts (see paragraphs 37 and 163 above). The applicants were of the opinion that the Government had failed to clarify a number of important points about the recounts, such as the exact timing and place of this exercise, and had failed to submit a number of important documents, including copies of the "original", "pre-recount" results protocols.

248. The applicants stressed that the Government, like the domestic authorities, had not argued that the "original" results protocols were incorrect or that they had been falsified. The challenges to the authenticity of these documents were limited to purely formal requirements. In any event, these formal requirements were applicable to the work of the PECs concerned, and could not be held against the applicants, who had simply obtained the copies, duly signed and stamped, from the officials in charge.

249. The applicants stressed once again that they had not had an effective hearing of their complaints in any domestic forum. The electoral commissions had been directly involved in the falsifications, and had defended their chairmen and members who could have been implicated. The law-enforcement authorities had, on various pretexts, avoided mounting an investigation into their allegations. The courts had also proved complacent, and had refrained from addressing the substance of their numerous and well-documented complaints. The applicants concluded that they had faced "systemic, endemic and concordant" behaviour on the part of all State authorities, demonstrating the lack of independence of any of them. The extent of the falsifications and the striking similarities in the methods pointed, in the applicants' opinion, to the existence of a technique which had been premeditated and then set in motion. In such circumstances, any attempts to obtain redress at the national level had become futile.

(b) The Government

250. The Government's extensive observations are set out in their memorandum of 14 October 2014 and additional observations of 22 May 2015. Their position can be summarised as follows.

(i) General arguments on the existence of limitations, aims and proportionality

251. In their additional observations submitted on 22 May 2015, the Government argued that where some of the applicants had complained in their capacity as voters, the facts had not disclosed any breaches of Article 3 of Protocol No. 1 to the Convention, because they had been able to cast their votes freely and without any interference. They drew an analogy with the Court's findings in the judgment of *Russian Conservative Party of Entrepreneurs and Others v. Russia* (nos. 55066/00 and 55638/00, §§ 75 and 79, 11 January 2007). Equally, they stated, the applicants' complaints of breaches of the passive aspect of the right to free elections had been based on assumptions and unconfirmed conjecture about the voters' intentions.

252. First, the Government argued that there had been no limitation of the applicants' rights guaranteed under Article 3 of Protocol No. 1 to the Convention. They stressed that the applicants had been able to cast their votes freely, or to stand as candidates for election. There had been no State interference with the free expression of the will of the people at any stage of the process; the voters had been able to cast their votes; the results had been

correctly assessed and recorded; and all complaints lodged had been effectively reviewed. In respect of the applicants who had complained of breaches of their passive electoral rights, the Government reiterated that they had been able to stand as candidates on party lists and fully participate in the elections in that capacity. The number of votes cast for each of the applicants, and the good overall results for SR in St Petersburg (the party had come second in the LA elections and third in the State Duma elections) showed that the elections had been free and pluralistic. There existed no guarantee of being elected, so long as the general requirements of free expression of the will of the people were complied with. The St Petersburg regional list of SR, which concerned five of the applicants (Mr Davydov, Mr Payalin, Mr Truskanov, Ms Pushkareva and Mr Shestakov) had included over fifty candidates, and the top twelve had been elected to the LA. These five applicants had retained their positions on the party's list and would be eligible to replace candidates in the LA, should any of the serving SR members lose their seat. The five applicants had continued their political activity; some of them had been elected to municipal councils (Mr Shestakov and Mr Truskanov), and others had stood in the municipal elections in 2014, with varying results. The fact that there had had to be recounts in some precincts, in accordance with the guarantees set down in the applicable legislation, could not be interpreted as interference. Moreover, the results of the recounts demonstrated that the gains and losses had not been uniformly in favour of or to the detriment of any particular party; contrary to the applicants' assertions, in many constituencies ER had lost votes, and SR had gained votes or remained on an equal number.

253. Alternatively, the Government argued that any limitation had been proportionate to the aims that could be considered legitimate in the context of democratic elections, including the protection of State sovereignty and democratic order; protection of the voters' and candidates' rights; adequate counting of votes and reflection of their results; and the prevention of distortion of the voters' will, which could lead to a violation of the principle of democratic government, a fundamental constitutional principle of the Russian Federation. They reiterated that a wide margin of appreciation was accorded to States in the electoral sphere (the Government referred to the Court's judgments in the cases of *Mathieu-Mohin and Clerfayt v. Belgium*, 2 March 1987, §§ 52 and 54, Series A no. 113; *Yumak and Sadak v. Turkey* [GC], no. 10226/03, § 109, ECHR 2008; *Ždanoka v. Latvia* [GC], no. 58278/00, §§ 100, 110, 132 and 135, ECHR 2006-IV; and others) and argued that this margin had not been overstepped in the present case.

(ii) On the effectiveness of the consideration of the applicants' complaints

254. In so far as some of the applicants had sought to institute criminal proceedings, the Government were of the opinion that the conclusions of the law-enforcement authorities had been well founded. Thus, the second, third

and fourth applicants had written to the St Petersburg Investigative Committee on 6 December 2011 alleging electoral fraud. In response, on 14 February 2012 the Kolpino District Prosecutor had found no reason to proceed with the criminal investigation, because the actions of the electoral commissions were susceptible to judicial review. Only the third applicant had appealed against that decision to a court, and on 11 July 2012 the St Petersburg City Court had concluded that the investigative committee was obliged to consider the applicant's request. On 21 August 2012 the Kolpino District Department of the Investigative Committee had decided that no breach of electoral legislation had occurred at PEC no. 651. The difference in results referred to by the applicants was explained by the recounts conducted by the competent TEC. Similar decisions had been taken on complaints lodged by other applicants (see section E above).

255. The Government also reiterated that the inquiry into the possible falsification of the "original" results protocols had led to the conclusion that no crime had been committed, although the expert report retained doubts as to the authenticity of some of the documents relied upon by the applicants (see section J above).

256. In so far as the applicants alleged that the courts had failed to give their complaints effective consideration, the Government argued, first, that the proceedings in question could not be judged by the standards of Article 6 of the Convention, which was not applicable. As an alternative argument, the Government submitted that the courts had effectively considered all the questions raised by the applicants in their complaints, and that they had examined all the relevant sources of information and all documents which could be obtained. In so far as at least some of the applicants could be considered to have exhausted domestic remedies, the courts had carefully examined their allegations and evaluated them in line with the rules on examination of evidence established by the national legislation. The general rules on the admissibility and relevance of evidence, the burden of proof, and jurisdiction had been correctly applied by the courts. Their conclusions could not be considered arbitrary (the Government referred to *I.Z. v. Greece*, no. 18997/91, Commission decision of 28 February 1994, Decisions and Reports (DR) 76-B, p. 65, at p. 68, and *Babenko v. Ukraine* (dec.), no. 43476/98, 15 September 1998).

257. In their additional observations of 22 May 2015 the Government observed that judicial review of an alleged breach of electoral law did not necessarily lead to election results being declared void. In order for a court to cancel the outcome of the voting or the results of elections, the breaches should be so serious as to thwart the free expression of the voters' opinion and thus inadequately reflect the voters' will in the election results.

258. More specifically, as far as the proceedings initiated by SR before the St Petersburg City Court concerning the validity of elections were concerned (see paragraphs 108-111 above), the Government were of the

opinion that the City Court had been correct in focusing on the procedure followed by the City Electoral Commission, as the Commission was best placed to answer this type of complaint.

259. The Government also commented on the proceedings in the Kolpino District Court initiated by the sixth applicant in respect of the results of the elections in precinct no. 637 (see paragraphs 112-125 above). The trial and appeal courts had carried out a detailed and well-reasoned review of the applicant's allegations. They had carefully examined all the relevant evidence and correctly concluded that the "copy" presented by the applicant could not be treated as valid evidence of a different outcome of the election, in view of that document's formal deficiencies. On the contrary, the final results had been based on the decision of TEC no. 21 of 5 December 2011 to order a recount and a copy of the results protocol following that recount had been produced by PEC no. 637 and duly certified. The applicant's pleas to the electoral commissions for additional witnesses to be called had been aimed at proving a "factitious" allegation that the recount had not taken place, or that it had been carried out in breach of existing rules. The courts had correctly based their findings on valid documents and had dismissed unfounded allegations.

260. Similarly, the examination of the claim about the outcome of elections in the entire divisions nos. 18 and 19 had been in line with the applicable national standards and had taken into account all valid and relevant evidence presented by the parties (see paragraphs 126-141 above). The Kolpino District Court had called and questioned a total of twenty-four witnesses; it had also attempted to call additional witnesses, in accordance with the parties' requests. The court had been unable to treat the documents submitted by the applicant as valid evidence of the results of the election. The trial court judgment was based on a large amount of evidence examined during the hearing, and the well-foundedness of its conclusions had been confirmed by the appeal court. The Government raised similar arguments in respect of the proceedings in the Kolpino District Court initiated by SR (see paragraphs 142-143 above).

261. The Government questioned the relevance of the examples of similar decisions taken by other St Petersburg district courts following complaints lodged by SR (see paragraph 192 above). They stressed that in those proceedings the courts had been unable to obtain any evidence of falsification of the election results. The courts had established, on the basis of valid evidence and witness statements and in respect of each precinct concerned, that the "originals" relied upon by the claimant had been prepared by observers prior to the drawing up of the final results, and that those documents had not been properly checked or certified. On the contrary, the recounts themselves, which had been ordered by the territorial commissions whenever there were doubts or complaints about the results, proved that the system had strained to achieve the most correct reflection of the voters' will.

The courts had pondered upon and, where this was justified, rejected requests for additional witnesses to be called in order to establish the exact circumstances in which the recounts had been held.

262. Finally, the Government rejected the applicant's allegation that the courts had applied different standards in accepting evidence submitted by the claimants and the electoral commissions. They stressed that the courts had carried out an individual evaluation of each piece of evidence, and that their conclusions had been based on law and had been explained in the judgments.

(iii) On the composition of and procedure at the electoral commissions

263. The Government denied that there were any reasons to suspect the City Electoral Commission or TECs of partiality. These commissions functioned on a permanent basis and had between five and fourteen members, appointed for five years. Each political party present in the regional legislature was entitled to appoint its members. PECs were created for the duration of the elections, also on the basis of multi-party representation. Each party had no more than one voting member.

264. The Government also reiterated that in addition to the voting members of the electoral commissions, parties and electoral unions could appoint observer members. During the elections of December 2011 in St Petersburg, a total of 6,091 observers had been appointed, of whom 1,507 were nominees of SR and 1,217 of ER. This constituted an additional guarantee of the impartiality of electoral commissions, and the parties concerned could have used this instrument.

265. In respect of the two "temporary" PECs formed in precincts nos. 1852 and 1853, the Government stressed, in their additional observations, that their creation and composition had been based on information about the supposed number of voters (up to 1,000 in each precinct) submitted by the administration of OAO Kirovsky Zavod, and in accordance with the applicable legal provisions (see paragraphs 40 and 144-145 above). The applicants had not challenged the lawfulness of the setting up of these two particular commissions.

266. The Government pointed out that the applicants had failed to seek to hold the chairpersons and members of the PECs administratively liable for supplying them with the allegedly incorrect election results.

267. The Government then reiterated the procedure for recounts conducted by PECs and TECs. They submitted that of the ninety-nine precincts initially concerned, forty-eight had had recounts (see paragraphs 158-167 above). The recounts were aimed at establishing the correct outcome of the voting, and the applicable procedures had been carefully observed. The results of the recounts could not be called into question. In particular, where the applicants had pointed to the testimony in court of a member of TEC no. 21 to prove that the recount had been conducted in breach of the existing rules (see paragraphs 137-138 above), the Government retorted that of the

twenty-four precinct recounts, only eleven had been conducted by Territorial Commission no. 21 (PECs nos. 638, 646, 651, 652, 654, 657, 662, 664, 667 and 668). This recount had been conducted in accordance with the applicable rules, and the new results had been certified by a majority of the TEC members, as required by the law. Recounts in four precincts (PECs nos. 637, 641, 661 and 666) had been conducted by the PECs concerned, and had also been attested to by their members' signatures. The District Court in its judgment of 16 July 2012 had correctly assessed the evidence submitted, including the TEC member's witness statement, and had concluded that the alleged violations had not taken place (paragraphs 126-141 above).

268. In so far as the applicants alleged that the TECs had breached procedure in ordering the recounts in the absence of written complaints of breaches of procedure at precinct levels, the Government countered that the TECs were empowered to act to dispel any doubts as to the correct establishment of the election results. The copies of the relevant reports of the TEC decisions (the Government referred to TECs nos. 3, 4, 7, 21 and 27), showed that the decisions had been taken, in each case, upon weighty grounds, and by a lawful composition, namely a majority of members. All commissions were collegial bodies, based on multi-party representation, and each member had only one vote. Copies of these decisions had been submitted to the Court (see paragraphs 154-157 above). All these decisions had been made public and had not been appealed against by the applicants or by the TEC members who had been absent during the recounts. The law did not stipulate which commission, precinct or territorial, should conduct recounts; this depended on the practical circumstances of the case. As to the method of conducting recounts, the Government explained that "unlike the [initial] procedure of determination of the election results, recounts mean recounting the ballot papers which have already been sorted (packed in stacks), which considerably accelerates the procedure. That is why the number of ballot papers found in ... ballot boxes cannot serve as a criterion for determination of the length of time recounts take" (p. 262 of the Government's additional observations).

269. Overall, as regards the composition and functioning of electoral commissions, the Government were of the opinion that their composition was well balanced (they included representatives from all parties concerned, each with a single vote), and that the applicants had failed to submit "any sufficient proof of particular acts of abuse of power or electoral fraud committed within the electoral commissions to the applicant party's detriment" (citing the case of *Georgian Labour Party v. Georgia*, no. 9103/04, § 110, ECHR 2008).

270. In their additional observations of 22 May 2015, the Government mentioned that the CEC had upheld up to 40% of the complaints lodged with it (without referring to the relevant dates or the source of those data). They disagreed that there was a lack of clarity in the distribution of powers between the electoral commissions and the law-enforcement authorities, as alleged by

the applicants. They stressed that the commissions involved had acted in line with their sphere of competence, and constituted effective and independent bodies tasked with consideration of complaints of breaches of electoral legislation – unless there were reasons to suspect the criminal offence of falsifying documents.

2. The Court's assessment

(a) General principles

271. Article 3 of Protocol No. 1 to the Convention enshrines a principle that is characteristic of an effective political democracy and is accordingly of prime importance in the Convention system (see *Mathieu-Mohin and Clerfayt*, cited above, § 47). This Article would appear at first to differ from the other provisions of the Convention and its Protocols, as it is phrased in terms of the obligation of the High Contracting Parties to hold elections under conditions which ensure the free expression of the opinion of the people, rather than in terms of a particular right or freedom. However, the Court has established that it guarantees individual rights, including the right to vote and to stand for election (ibid., §§ 46-51).

272. The Court has consistently highlighted the importance of the democratic principles underlying the interpretation and application of the Convention, and has emphasised that the rights guaranteed under Article 3 of Protocol No. 1 to the Convention are crucial to establishing and maintaining the foundations of an effective and meaningful democracy governed by the rule of law (see *Hirst v. the United Kingdom (no. 2)* [GC], no. 74025/01, § 58, ECHR 2005-IX). Nonetheless, those rights are not absolute. There is room for "implied limitations", and Contracting States are given a margin of appreciation in this sphere (see *Matthews v. the United Kingdom* [GC], no. 24833/94, § 63, ECHR 1999-I; *Labita v. Italy* [GC], no. 26772/95, § 201, ECHR 2000-IV; and *Podkolzina v. Latvia*, no. 46726/99, § 33, ECHR 2002-II). While the Contracting States enjoy a wide margin of appreciation in imposing conditions on the right to vote and to stand for election, it is for the Court to determine in the last resort whether the requirements of Article 3 of Protocol No. 1 to the Convention have been complied with; it has to satisfy itself that the conditions do not curtail the rights in question to such an extent as to impair their very essence and deprive them of their effectiveness; that they are imposed in pursuit of a legitimate aim; and that the means employed are not disproportionate or arbitrary (see *Mathieu-Mohin and Clerfayt,* cited above, § 52, and *Yumak and Sadak,* cited above, § 109 (iii)).

273. Furthermore, the object and purpose of the Convention, which is an instrument for the protection of human rights, requires its provisions to be interpreted and applied in such a way as to make their stipulations not theoretical or illusory, but practical and effective (see, among many other authorities, *United Communist Party of Turkey and Others v. Turkey*,

30 January 1998, § 33, *Reports* 1998-I, and *Lykourezos v. Greece*, no. 33554/03, § 56, ECHR 2006-VIII). Although originally stated in connection with the conditions on eligibility to stand for election, the principle requiring prevention of arbitrariness is equally relevant in other situations where the effectiveness of individual electoral rights is at stake (see *Namat Aliyev,* cited above, § 72), including the manner of review of the outcome of elections (see *Kovach,* cited above, § 55).

274. The Court has established that the existence of a domestic system for the effective examination of individual complaints and appeals in matters concerning electoral rights is one of the essential guarantees of free and fair elections. Such a system ensures the effective exercise of individual rights to vote and to stand for election, maintains general confidence in the State's administration of the electoral process, and constitutes an important device at the State's disposal in achieving the fulfilment of its positive duty under Article 3 of Protocol No. 1 to the Convention to hold democratic elections. Indeed, the State's solemn undertaking under Article 3 of Protocol No. 1 to the Convention and the individual rights guaranteed by that provision would be illusory if, throughout the electoral process, specific instances indicative of failure to ensure democratic elections were not open to challenge by individuals before a competent domestic body capable of effectively dealing with the matter (see *Namat Aliyev*, cited above, § 81).

275. The Court has also emphasised that it is important for the authorities in charge of electoral administration to function in a transparent manner and to maintain impartiality and independence from political manipulation (see *Georgian Labour Party*, cited above, § 101) and for their decisions to be sufficiently well reasoned (see *Namat Aliyev*, cited above, §§ 81-90).

276. As to the facts in dispute, the Court is not required under Article 3 of Protocol No. 1 to the Convention to verify whether every particular alleged irregularity amounted to a breach of domestic electoral law (see *I.Z. v. Greece*, cited above, § 68). The Court is not in a position to assume a fact-finding role by attempting to determine whether all or some of these alleged irregularities have taken place and, if so, whether they amounted to irregularities capable of thwarting the free expression of the people's opinion. Owing to the subsidiary nature of its role, the Court needs to be wary of assuming the function of a first-instance tribunal of fact, where this is not rendered unavoidable by the circumstances of a particular case. Its task is nevertheless to satisfy itself, from a more general standpoint, that the respondent State has complied with its obligation to hold elections under free and fair conditions and has ensured that individual electoral rights were exercised effectively (see *Namat Aliyev*, cited above, § 77, and *Gahramanli and Others v. Azerbaijan*, no. 36503/11, § 72, 8 October 2015).

277. In this connection, the Court considers that in cases where it is alleged that the breach of the domestic legal rules was such that it seriously undermined the legitimacy of the election as a whole, Article 3 of Protocol

No. 1 to the Convention requires it to assess whether such a breach has taken place and has resulted in a failure to hold free and fair elections. In doing so, the Court may have regard to whether an assessment in this respect has been made by the domestic courts; if it has been made, the Court may review whether or not the domestic courts' finding was arbitrary (see *Kovach*, cited above, § 55, and *Karimov v. Azerbaijan*, no. 12535/06, § 43, 25 September 2014).

(b) Application in the present case

(i) Applicability of Article 3 of Protocol No. 1 to the Convention

278. It is clear that the elections to the State Duma qualify as the elections of a legislature in terms of Article 3 of Protocol No. 1. The parties also do not dispute the applicability of Article 3 of Protocol No. 1 to the Convention to the elections to the St Petersburg LA, the legislative body of a constituent subject of the Russian Federation (see, for a similar situation, *Antonenko v. Russia*, no. 42482/02 (dec.), 23 May 2006, where the parties and the Court did not dispute the applicability of the provision). The Court reiterates here that the word "legislature" in Article 3 of Protocol No. 1 to the Convention does not necessarily mean the national parliament: the word has to be interpreted in the light of the constitutional structure of the State in question (see *Mathieu-Mohin and Clerfayt*, § 53, and *Matthews*, § 40, both cited above). It has therefore found the term to encompass the Flemish Council in Belgium, on the basis that constitutional reform had vested in it sufficient competence and powers to make it, alongside the French Community Council and the Walloon Regional Council, a constituent part of the Belgian "legislature", in addition to the House of Representatives and the Senate (*Mathieu-Mohin and Clerfayt*, cited above, § 53). Similarly, regional and *Länder* councils have been held to form constituent parts of the legislature in Italy, Austria and Germany (see *Vito Sante Santoro v. Italy*, no. 36681/97, §§ 52-53, ECHR 2004‑VI; *X v. Austria*, no. 7008/75, Commission decision of 12 July 1976, DR 6, p. 120; and *Timke v. Germany*, no. 27311/95, Commission decision of 11 September 1995, DR 82-A, p. 158).

279. Under Article 73 of the Constitution of the Russian Federation, subjects of the Federation possess the full authority of the Russian State in all matters other than those that come within the sole jurisdiction of the federal government, or within the shared jurisdiction of federal subjects and the federal government to the extent of the latter's scope of authority. The St Petersburg Legislative Assembly is a democratic government body of one of the subjects of the Russian Federation, vested with a wide range of powers in the constituent territory, based on the constitutional separation of powers between the regions and the Federation. The Court confirms that, as such, it falls under the definition of "legislature" within the meaning of Article 3 of Protocol No. 1 to the Convention.

(ii) Nature of the alleged violation

280. The applicants complained of several breaches of the right to free elections during the election of two legislative bodies - the St Petersburg LA and the State Duma. The most common complaint was that in the election to the LA there was a difference between the results obtained by the political parties, as recorded initially after counting by precinct commissions, and the official results published by the City Electoral Commission. As a corollary, the applicants submitted that the domestic authorities had failed to ensure an effective review of this allegation, in breach of their positive obligation under Article 3 of Protocol No. 1 to the Convention. Four applicants (the second to fifth applicants) questioned, for the same reasons, the outcome of the elections to the State Duma in their respective precincts. The Court will focus its analysis on this complaint.

281. The Government denied that any real difference existed between the results recorded in the protocols drawn up at the PECs and those published by the City Electoral Commission. They pointed to the procedural deficiencies in the copies of the "original" results protocols, and insisted that they could not serve as valid evidence of the existence of results which were different from the official ones. In their view, this issue had been carefully examined by the competent authorities wherever the applicants had sought such a review, and thus there had been no breach of the positive obligation to set up an efficient system for examination of complaints. At the same time, they accepted that the results obtained in some precincts had been subject to a recount; however, the recount procedure had been in accordance with the law and its results had not been so unequivocally to the detriment of the opposition parties as the applicants had alleged. On that account, the Government both denied the existence of the breach alleged, and submitted that the positive obligation of review had been complied with.

282. The Court notes that each of the applicants challenged the official results in at least one electoral precinct of St Petersburg (see Appendix for a summary of complaints). In doing so, they relied on a number of factual allegations to show that the results for various political parties had changed between the time the PECs had completed the counting and the time the results were tabulated and entered into the system at the territorial level. They provided copies of PEC results protocols which contained different figures from those officially published, and submitted that no real explanation for this difference had been provided. As a result of this difference, the applicants argued, the free expression of the will of the people in the choice of legislature had been thwarted; in addition, some applicants' passive electoral rights to become a member of the LA had been infringed.

283. The Court observes that the Venice Commission Code of Good Practice in Electoral Matters devotes significant attention to the process of counting, transfer and tabulation of results, insisting that this process must be transparent and open, and that observers and candidates' representatives must

be allowed to be present and to obtain copies of the records drawn up (see section I.3.2 of the Code, paragraph 196 above). In the same vein, the Explanatory Report to the Code contains some additional recommendations applicable to the process of counting, recording of results and their transfer to the higher authority (see Explanatory Report, sections I.3.2.2.4. (*Counting*) and I.3.2.2.5. (*Transferring the results*), paragraph 196 above). The Report suggests that observers, media and others authorised to be present at the polling station should be allowed to be present during the count, and that there should be "enough copies of the record of the proceedings to ensure that all the aforementioned persons receive one". Furthermore, transmission of the results – "a vital operation whose importance is often overlooked" – should also be carried out in an open and controlled manner, where the person transmitting the results, usually the presiding officer of the polling station, should be accompanied by other members of the polling station representing opposition parties, if necessary under additional security (ibid.).

284. These detailed recommendations reflect the importance of technical details, which can be crucial in ensuring an open and transparent procedure of ascertaining the voters' will through the counting of ballot papers and the accurate recording of election results throughout the system, from the local polling station to the Central Electoral Commission. They confirm that, in the eyes of the Code of Good Practice in Electoral Matters, the post-voting stages covering counting, recording and transfer of the election results form an indispensable part of the election process. As such, they should be accompanied by clear procedural guarantees, be open and transparent, and allow observation by members across the whole political spectrum, including the opposition, in order to ensure the realisation of the principle of the voters' freedom to express their will and the need to combat electoral fraud.

285. It is true that Article 3 of Protocol No. 1 to the Convention was not conceived as a code on electoral matters designed to regulate all aspects of the electoral process (see *Communist Party of Russia and Others v. Russia*, no. 29400/05, § 108, 19 June 2012). However, the Court has already confirmed that the common principles of the European constitutional heritage, which form the basis of any genuinely democratic society, enshrine within themselves the right to vote in terms of the opportunity to cast a vote in universal, equal, free, secret and direct elections held at regular intervals (see the Code of Good Practice in Electoral Matters, paragraph 196 above). Article 3 of Protocol No. 1 to the Convention explicitly provides for the right to free elections at regular intervals by secret ballot, and other principles have also been recognised in the Convention institutions' case-law (see *Russian Conservative Party of Entrepreneurs and Others*, cited above, § 70). In this setting, free elections are to be seen as both an individual right and a positive obligation of the State, comprising a number of guarantees starting from the right of the voters to form an opinion freely, and extending to careful

regulation of the process in which the results of voting are ascertained, processed and recorded.

286. At the same time, the Court reiterates that the level of its own scrutiny will depend on the particular aspect of the right to free elections. Thus, tighter scrutiny should be reserved for any departures from the principle of universal suffrage (see *Hirst (no. 2)*, cited above, § 62). A broader margin of appreciation can be afforded to States where the measures prevent candidates from standing for election, but such interference should not be disproportionate (see *Krasnov and Skuratov v. Russia*, nos. 17864/04 and 21396/04, § 65, 19 July 2007, and *Russian Conservative Party of Entrepreneurs and Others*, cited above, § 65).

287. A still less stringent scrutiny would apply to the more technical stage of vote counting and tabulation. Due regard must be had to the fact that this is a complex process, with many persons involved at several levels. A mere mistake or irregularity at this stage would not, *per se*, signify unfairness of the elections, if the general principles of equality, transparency, impartiality and independence of the electoral administration were complied with. The concept of free elections would be put at risk only if there was evidence of procedural breaches that would be capable of thwarting the free expression of the opinion of the people, for instance through gross distortion of the voters' intent; and where such complaints received no effective examination at the domestic level. Moreover, the Court should be cautious about conferring unrestricted standing to challenge this stage of elections on individual participants in the electoral process. This is especially so where the domestic legislation contains reasonable restrictions on individual voters' ability to challenge the results in their respective constituencies, such as the requirement for a quorum of voters (see section II.3.3 (f) of the Code of Good Practice in Electoral Matters, paragraph 196 above). Nevertheless, States should ensure such access to the appeal system as would be sufficient to make the guarantees under Article 3 of Protocol No. 1 effective throughout the electoral cycle. In the Russian context, the Constitutional Court ruling of 22 April 2013 confirmed the standing of individual voters to challenge the results in the constituencies where they had voted; subsequent legislative changes ensured such standing (see paragraph 188 above).

288. The Court therefore confirms that only serious irregularities in the process of counting and tabulation of votes that remained without an effective examination at the domestic level can constitute a breach of the individual right to free elections guaranteed under Article 3 of Protocol No. 1 to the Convention, in both its active and its passive aspects. In line with its subsidiary role, the Court's task is limited to ensuring that the examination at domestic level afforded minimum procedural guarantees and that the findings of the domestic authorities were not arbitrary or manifestly unreasonable (see *Communist Party of Russia and Others*, cited above, §§ 116-17). It will proceed to analyse the applicants' complaints accordingly.

(iii) Whether the applicants have made out a claim of serious irregularities

289. The first question to ask is whether the applicants have put forward a serious and arguable claim disclosing an apparent failure to hold free and fair elections in their constituencies (see *Gahramanli and Others*, cited above, § 73). In order to answer that question, the Court will examine the parties' submissions and statistical and other data.

(α) Recapitulation of the parties' relevant submissions

290. First, the Court notes that each applicant submitted sufficiently detailed and concordant information about the violations alleged. Thus, the first five applicants, in various capacities, challenged the outcome of the LA elections in thirty-five precincts in the Kolpino district of St Petersburg, electoral division no. 19. Four applicants challenging the results of elections to the State Duma (the second, third, fourth and fifth applicants) also submitted relevant information in this respect. They provided copies of the results protocols for twenty-one precincts, compiled and certified by the relevant PECs, which they had obtained either in their capacity as a candidate for SR (the first applicant, see paragraph 20 above), or as voting members of the PECs concerned (the second to fifth applicants – see paragraphs 29-34 above).

291. The sixth applicant's complaint concerns the precinct in which he was a simple voter, but he obtained a copy of the "original" document from an observer at that polling station (see paragraph 35 above).

292. The ninth applicant challenged the official results in ten precincts of electoral division no. 17, and, as a candidate of SR, had obtained copies of the "original" protocols compiled by the PECs from observers and voting members from that party (see paragraph 39 above).

293. The tenth applicant challenged the official results in eighteen precincts of electoral division no. 33, and, as a candidate of SR, had obtained copies of the "original" protocols compiled by the PECs from observers and voting members from that party (see paragraph 41 above). The eleventh applicant, who challenged the results in thirteen precincts of electoral division no. 15, was in a similar position (see paragraph 43 above).

294. The Court notes that while many of the applicants' allegations are contested by the Government, a number of significant assertions are confirmed by the information contained in the Government's submissions and official documents. Aware of the limits of its own fact-finding in this type of case (see paragraph 276 above), the Court will first focus on the elements that are not disputed by the parties.

(β) Recounts

295. It is not disputed by the parties that the votes were recounted in many precincts after the initial count had been conducted by the PECs and once the

results protocols, duly signed and attested by the relevant precinct officials, had been transferred to the electoral commission at the territorial level (see paragraphs 158-167 above).

296. To be more specific, it appears from the above-mentioned table compiled by the Government that there were recounts in at least some of the precincts where the results were challenged by each applicant in the elections to the LA. In the case of the first five applicants, who complained about overall and individual precinct results in electoral division no. 19, out of twenty-one precincts where they had submitted the "original" protocols there were recounts in fourteen, including the precincts where there were challenges by the second to fifth applicants (nos. 651, 652, 654 and 661). The same applies to the sixth applicant (precinct no. 637 in electoral division no. 18), the ninth applicant (eight precincts recounted of the twelve challenged in electoral division no. 17), the tenth applicant (eleven precincts recounted of the eighteen where the results were challenged, electoral division no. 33) and the eleventh applicant (five precincts recounted out of twenty, electoral division no. 15). In the Duma elections, challenged by the second to fifth applicants, there were recounts in three precincts (nos. 651, 652 and 654).

297. From the summary document presented by the Government, it appears that of the ninety-nine precincts that initially gave rise to challenges by the applicants in the present case, there were recounts in almost half, namely forty-eight precincts (forty-five in the LA elections and three in the Duma elections). These recounts concerned over 50,000 votes cast. The reasons for such a high percentage of recounts were indicated in a standard and summary manner, mostly as "doubts about correctness and complaints" (see paragraph 158 above).

298. The Court notes the Government's argument that the possibility of recounts as such could be essential to ensure an adequate reflection of the voters' intention and to prevent the distortion of results, for example by errors and irregularities. Indeed, an exceptional application of this procedure does not necessarily lead to a suspicion of electoral fraud, provided that the reasons for it are clearly indicated, they appear sufficiently serious to call into question the outcome of the electoral commission's work, and transparency and careful adherence to the procedure accompany both the decision-making process and the recount itself.

299. In the present case, the Court finds it difficult to accept, without any additional explanation, that the scope of errors and irregularities in almost half the electoral precincts concerned was such that their results should have been declared void by the higher commissions and assessed anew, with widespread discrepancies between these two counts (see paragraph 167 above). The recounting of votes on such a massive scale in itself points to a serious dysfunction in the electoral system and is capable of throwing serious doubts on the fairness of the entire process. The Court observes in this respect

that the Venice Commission Code of Good Practice in Electoral Matters recommends in section I.3.2 of its Guidelines that "counting should preferably take place at polling stations"; the Explanatory Report on the Code adds in paragraph 45 that "this arrangement obviates the need to transport the ballot boxes and accompanying documents, thus reducing the risk of substitution" (see paragraph 196 above). Where the result of every second voting station is subsequently declared void and replaced with a new one, the whole procedure risks appearing compromised.

(γ) Reasons for recounts

300. The reasons leading to the invalidation of the initial results protocols and the procedures to follow in the case of a recount are enshrined within the national legislation (see paragraphs 185-187 above). It is difficult to assess in the abstract whether these provisions provide sufficient guarantees against possible abuses. Thus, it might appear that the reasons for conducting recounts were formulated rather broadly, and referred simply to "errors or discrepancies", or even merely to doubts about the correctness of the results protocols (see the Basic Guarantees Act, the Duma Elections Act and similar provisions of the St Petersburg Elections Act). On the other hand, the decision-making process and recounts should be characterised by the same guarantees of transparency and openness as in the initial counting of votes, and should require notification of the voting members of both the precinct and territorial commissions concerned, assurances of their presence, as well as that of observers and other interested parties, and immediate notification of the final results to all concerned.

301. In the present case, part of the applicants' allegation concerns precisely the absence of transparency and notification at the level of territorial commissions. The Court finds that these allegations are supported by a number of weighty arguments which are not disputed by the parties. Thus, the decisions of the territorial commissions to invalidate the precinct protocols were similarly worded and referred to general and unspecified reasons (see paragraph 154 above). Such deficient reasoning renders it difficult to evaluate whether there was a real need to set at naught the outcome of the process reached by so many polling stations and, in turn, reinforces the suspicion of unfair play.

(δ) Procedure and guarantees for the conduct of recounts

302. As to the transparency and safeguards of the process, it is apparent from the documents submitted by the Government that when the decisions to conduct recounts were taken at the territorial level, out of the five TECs concerned (nos. 3, 4, 7, 21 and 27), a representative of SR was present in only one (no. 21), and a representative of the KPRF also in only one (no. 4), while all other members were present on all the other occasions, with one exception (see paragraph 155 above). This signifies that at the time when the decisions

were taken to scrap the initial results and conduct a new count, three territorial commissions out of five had no representation at all from the parties considered as opposition (SR and the KPRF), and only reduced representation in two others.

303. Wherever the recounts were conducted by the PECs, the members appointed by SR and the KPRF were also systematically absent (see paragraph 156 above). This mirrored the problem noted above in respect of the TECs which had ordered and conducted recounts. Such frequent and widespread absence of observers and voting members from the opposition parties at the crucial stage of ascertaining the election results contributes to the well-foundedness of the applicants' allegations of unfairness.

304. It is further not disputed by the parties that the decisions of the territorial commissions to cancel the results of the precinct commissions and to order new counts were not communicated to those applicants who had been members of the PECs concerned, and that they learned of those decisions only subsequently, during the appeals.

305. Wherever the territorial commissions declared the precinct commission results void they either conducted the recounts themselves or required the PECs to do so. It appears from the copies of the protocols and the documents submitted by the Government that out of the forty-eight precincts where recounts had been ordered the territorial commissions conducted recounts in twenty-six, while the rest were dealt with by the PECs (see paragraphs 158-167 above). As to the recounts conducted by the territorial commissions, in addition to the absence of the members of SR and the KPRF from some of the commissions (see the preceding paragraph), the Court notes that a number of other elements that are not disputed by the parties raise further doubts as to the adherence to the rather strict requirements of the domestic legislation (see paragraphs 185-187 above).

306. For example, it is difficult to reconcile the speed of the recounts in some of the TECs with the amount of work they had to carry out and the feasibility of complying with the applicable procedural requirements. Thus, as the results protocols indicate, in TEC no. 7 the recounts in three precincts (about 4,700 ballot papers) were carried out in less than one hour; in TEC no. 21 recounts in eleven precincts (over 11,300 ballot papers) were carried out in three hours and forty-five minutes; and in TEC no. 4 recounts in six precincts (about 6,600 ballot papers) were concluded in a record forty-five minutes (see paragraphs 160, 161 and 163 above). Even if the Government's argument that the recount should have been easier than the initial count because the ballots were already bundled together (presumably, according to the results marked – see paragraph 268 *in fine* above), it should still have involved manual verification of each single ballot, in order to obtain results that would be different from the initial ones.

(ε) Results of the recounts

307. Wherever the Government presented such figures, it generally appears that as a result of recounts ER gained votes. In the twenty-three precincts where the Government submitted these data, the recounts concerned over 24,000 votes; in this group ER gained 5,155 votes. In other words, the parties do not dispute that as a result of recounts more than one fifth of votes cast were reassigned in favour of the ruling party. The same documents show that, as a result of this exercise, the opposition parties (SR, the KPRF and Yabloko) lost large numbers of votes (see paragraph 167 above).

308. The Court remarks here that the Government have challenged the value of the evidence presented by the applicants in the form of the "initial results protocols" obtained from the precinct commissions at the conclusion of the vote count. It finds that this question will be best addressed in the following subsection on the effective examination of the applicants' complaints, since the domestic authorities have devoted a significant amount of attention to it. However, it notes that the overall evaluation of the applicants' claim as serious is reinforced by the absence of proper copies of the "initial results protocols" wherever a recount has taken place, the lack of information as to what happened to them, and the incomplete picture of the results of the recounts provided by the Government.

(ζ) OSCE report

309. Finally, the Court notes that the OSCE observation mission reported irregularities and frequent procedural violations at the stage of the counting of votes and tabulation of results. They assessed vote counting as "bad or very bad" at every third station observed; they noted frequent breaches of procedure, a lack of transparency and poor organisation, among other problems (see paragraphs 197-198 above).

(η) Conclusion as to the seriousness of the irregularities alleged

310. To recapitulate, the Court finds that the following elements of the applicants' complaints of unfairness of the elections are not disputed by the parties: the results in almost half the initially challenged precincts in the elections to the LA (and three of the four challenged in the Duma elections) were declared void by the territorial commissions and recounts were ordered; these decisions were summarily and similarly worded, making it difficult to assess whether they were justified; the composition of the TECs which had taken the decisions to conduct recounts excluded the members from both opposition parties in the majority of cases; not all the members of the PECs concerned had been notified of the decisions taken and thus did not take part in the recounting; the recounts at the territorial commissions were carried out in such a short time that it called into question their ability to comply with the procedural requirements of the national legislation; the members of the

opposition parties were systematically absent from the recount process both at the territorial and precinct levels; and as a result of the recounts the governing party overwhelmingly gained and the opposition parties lost. Moreover, the applicants' allegations are indirectly supported by an independent and credible international observer mission, which identified the counting and tabulation of the results as the most problematic stages of the elections in question.

311. In view of the evidence summarised above, the Court finds that the applicants have presented, both to the domestic authorities and to the Court, an arguable claim that the fairness of the elections was seriously compromised by the procedure in which the votes had been recounted. An irregularity of this sort would be capable of leading to a gross distortion of the voters' intentions, in respect of each of the precincts where the results were challenged by the applicants. The Court will now examine whether there was an effective examination of the applicants' complaints at the domestic level.

(iv) Effective examination of the applicants' complaints

312. As noted above, the applicants put forward an arguable claim that the fairness of the elections to the LA of St Petersburg (and the State Duma, where applicable) in the precincts concerned was seriously compromised to the extent of grossly distorting the voters' intentions. In particular, the recounting of votes raised serious doubts as to the adherence of this procedure to the applicable national legislation, including the guarantees of transparency, openness and equal participation of all political players. This complaint was raised before the national authorities. Between them, the applicants tested all the remedies available under the domestic legislation and seen by the Government as effective and accessible. The Court has already decided that in view of the parties' arguments the question of exhaustion of domestic remedies should be joined to the merits (see paragraph 237 above). It will now proceed to examine whether in any of the procedures the applicants obtained an adequate and effective review of their complaints of serious irregularities by an independent authority.

(α) Electoral commissions

313. The Court will start this examination by considering the procedure before the electoral commissions. Under the law, higher electoral commissions have the authority to consider complaints against decisions of the lower commissions. This procedure is equipped with some important procedural guarantees, such as the right of the complainant to be notified of the consideration of his or hercomplaint and to be present. The commissions can overturn decisions of the lower electoral commissions and order new counts, but only in the short time preceding the official approval of the election results (see paragraphs 189-190 above).

314. In the present case, the second, third and fourth applicants lodged administrative complaints with the City Electoral Commission on 6 December 2011, as soon as the results of the elections were announced (see paragraphs 48-58 above). Each of the three applicants, in their capacity as voting members of the PECs, complained about the results announced for the precincts concerned, namely nos. 651, 652 and 654. The complaints indicated that the results announced by the City Electoral Commission differed from the results given in the copies of the results protocols obtained by them at the close of the count. The third applicant, in addition, alleged that the results for precinct no. 651 had been announced before the chairman of the precinct commission had transferred the results protocol to the territorial commission and provided a record of the telephone conversation to prove it.

315. The documents submitted by the parties indicate that the City Electoral Commission did not consider the applicants' complaints in substance; upon receipt they were forwarded to the prosecutor's offices. On 12 December 2011 the election results for St Petersburg were officially approved by the Commission, making further complaints to the electoral commissions impossible. The applicants appealed against the conduct of the City Electoral Commission to the Oktyabrskiy District Court, which in separate but similar decisions confirmed that the complaint fell within the competence of the prosecutor's office (see paragraphs 56 and 59 above). In such circumstances, the Court finds that the complaints to the higher electoral commission proved ineffective, since that body refused to consider the complaints in substance, and its decision was endorsed by the courts.

(β) Criminal investigation

316. As stated in the preceding paragraphs, the complaints lodged by the second, third and fourth applicants with the City Electoral Commission were viewed by the latter body as indicating a criminal offence and, as such, were forwarded to the prosecutor. These three applicants also lodged separate complaints with the investigative committee – the second applicant on 5 December 2011, and the third and fourth applicants on 6 December 2011 (see paragraphs 64, 67 above). A complaint about alleged falsification in precinct no. 646, submitted by the first applicant, was lodged with the Kolpino Prosecutor's Office on 20 December 2011 (see paragraph 60 above). Also in December 2011, the sixth applicant lodged a complaint with the Kolpino District Investigative Committee (see paragraph 71 above). In this way, the law-enforcement authorities were made aware of the substance of the applicants' complaints in the days immediately following the elections. The third applicant's complaint was particularly detailed: he insisted that the results in precinct no. 651, which differed from those contained in the "original" results protocol, had been announced prior to their transmission to the territorial commission. Other applicants gave fewer details, but also suggested that the difference between the figures obtained at the conclusion

of vote counting in the five PECs concerned (nos. 637, 646, 651, 652 and 654) and the results announced by TEC no. 21 on 5 December 2011 was indicative of fraud.

317. As confirmed by the court decisions and other documents, the counts conducted by the six PECs were declared void by the territorial commission late on 5 December 2011 and a recount was ordered. The law-enforcement authorities were of the opinion that the applicants' complaints pointing to the difference in results related to the outcome of the elections, and invited them to challenge those results before the competent courts. Wherever this procedure had previously been employed, the authorities had relied on court decisions to dismiss the allegations as unsubstantiated (see paragraphs 70 and 74 above). The inquiries carried out by the prosecutors and the investigative committee concluded that as the results of the elections had been approved by the electoral commissions and confirmed by the competent courts there were no indications of criminal offences (see paragraphs 66, 70, 61-63 and 74 above). It does not appear that any independent action was taken to verify the applicants' allegations: no one was questioned, and no additional documents or information were reviewed. It appears from one investigator's decision not to conduct an investigation that the possibility of seeking an expert graphological assessment was considered at some point; however, it does not seem that such an assessment was commissioned or carried out (see paragraph 62 above).

318. To sum up, the prosecutor's office and the investigating committee saw no reasons to take any procedural steps aimed at verifying the allegations of fraud in the six precincts concerned, and opened no criminal investigation. None of the applicants was granted the status of victim in the proceedings, and thus they had very little opportunity to influence their course. The law-enforcement authorities were at one in the view that the matter fell into the domain of the courts competent to deal with complaints about th procedural decisions by the relevant electoral commissions, which, in their turn, had served to validate the results of the recount without any objections. It is difficult to see how the applicants could have overturned this presumption in the absence of any pertinent action by the investigators.

319. The Government supplemented their argument about the effectiveness of criminal proceedings in cases concerning alleged electoral fraud by reference to a number of criminal convictions imposed by courts in various regions and in several types of elections (see paragraph 193 above). It is certainly not in dispute that the State can, in principle, investigate, prosecute and bring to justice those guilty of breaking the rules of elections. However, the Court is not convinced that these examples are of direct relevance to the conclusion that the investigation was ineffective in the present case. First, it notes that the participation of individuals lodging complaints in this type of case is not necessary, and the nature of the offence is such that the complaints can be examined with very little, if any,

participation of the victims. Second, and closely linked to this, is the particular role of the investigating authorities, which are supposed to take action to address breaches in the organisation of the democratic process as such, not necessarily in connection with an identified individual's right. Third, none of the examples point to a situation in which the applicants were challenging the results of a recount deemed valid by the electoral commissions, as in the case at hand.

320. In so far as the Government claimed that the applicants had failed to further challenge the decisions not to open criminal investigations, they seem to be implying that a criminal investigation was the remedy that should have been attempted. However, both the prosecutor's office and the investigative committee consistently indicated to the applicants that this type of complaint should have been lodged with the courts; it would therefore appear reasonable for the applicants to assume the same.

321. On the strength of the above assessment, the Court dismisses the Government's objection of non-exhaustion of domestic remedies on account of the applicants' failure to appeal against the decisions not to open a criminal investigation. It also concludes that this procedure did not provide a forum for effective evaluation of the circumstances in which the recount had been carried out.

(γ) Judicial review

322. The national courts at several levels examined the alleged violations associated with the recounts. The parties disagreed as to whether the applicants had received an adequate and effective examination of their allegations in those proceedings. In the context of establishing the factual circumstances constituting an alleged breach of Article 3 of Protocol No. 1 to the Convention, the Court considers that it should first ensure that the review was not arbitrary or manifestly unreasonable (see paragraph 288 above, and *Communist Party of Russia and Others*, cited above, §§ 116-17).

323. Turning to the applicants' situation, their encounters with the courts could be summarised as follows. First, the interpretation of the national law at the relevant time did not empower voters to challenge the outcome of elections (see paragraphs 75-79 above). As a result, for those applicants who complained solely in their capacity as voters, a judicial review of the election results was not guaranteed, although the national courts' practice does not appear to be uniform (see paragraph 116 above). The Russian Constitutional Court found the interpretation which excluded individual voters from the range of subjects authorised to appeal to be contrary to the Constitution and recommended legislative changes (see paragraphs 80-88 above). This extensively reasoned judgment opened the way for a judicial review for future voters, but the results of the elections held in December 2011, of which the applicants were complaining, remained unaffected.

324. The St Petersburg City Court refused to consider the complaints lodged by individual applicants against the decision of the St Petersburg Electoral Commission in both the Duma and the LA elections (the first to sixth applicants) on the merits. In a number of procedural decisions, all of them upheld on appeal, the City Court concluded essentially that it had no jurisdiction over the matter, since the precinct commission results had been reviewed and ascertained by the territorial commission; the City Electoral Commission did not even have copies of the protocols in question (see paragraphs 98 and 106 above).

325. The St Petersburg City Court examined the complaint lodged by one of the political parties concerned – SR – against the results in several electoral divisions during the elections to the LA, including those contested by the applicants (see paragraphs 108-111 above). The Government pointed out that where the complaints had been lodged by SR and not by individual applicants those proceedings could not count for exhaustion purposes (see paragraph 218 above). However, given the uncertainty about the access of individual voters to a judicial review in these matters, the applicants cannot be reproached for relying on the results of the procedure initiated by SR.

326. The Court finds that the proceedings initiated by SR in the St Petersburg City Court could have been central in the examination of the allegations of large-scale violations of electoral legislation, as raised by all the applicants. If the applicants' complaint can be viewed as a sample, nearly half of the ninety-nine precincts where they originally challenged the results were subject to a recount. The Court has concluded above that a recount conducted on such a massive scale in itself raises strong doubts as to the integrity of the process (see paragraph 299 above). This was accompanied by a number of serious, repeated and unexplained procedural shortcomings, such as the unclear reasons for recounts, the systematic failure to inform and ensure the presence of representatives of "opposition" parties in the commissions ordering and carrying out the recounts, and the questionable conditions under which they were carried out. The City Court appears to have been best placed to carry out a review of these recurrent and similar allegations that extended over several electoral territories, and to ensure an independent and impartial evaluation of well-founded complaints.

327. However, the City Court limited its examination to reviewing procedural aspects of the City Electoral Commission's adjudication of complaints that had been submitted to it earlier. As is apparent from the judgment, the only question that the City Court examined at some length was whether the City Electoral Commission had properly notified the party representatives about the hearing and whether they had had an opportunity to attend. Having satisfied itself that this procedure had not been seriously breached, it concluded that the Commission had been correct in rejecting the complaints. This conclusion served as an opportunity for the City Court, and then the Supreme Court, to refrain from examining the substance of the

complaints about the procedural justifications and reasons that could explain the discrepancies between the results for dozens of precinct commissions and the final figures (see paragraphs 108-111 above).

328. Procedurally, this approach does not tally well with the provisions of the national legislation which confer on judges independent and wide-reaching powers to oversee the results of elections upon complaints by authorised subjects (see paragraphs 188 and 190 above). The electoral commissions review complaints over a very tight timeframe, only up until the official endorsement of the election results (see paragraph 189 above). This presupposes limitations on the procedure, given that the decisions need to be taken quickly, and the scope of review will necessarily be restricted. The courts, on the other hand, are not bound by the decisions of the electoral commissions, and can overturn their decisions about the results and outcome of elections if the violations alleged are so serious that they call into question the proper reflection of the electorate's will. It therefore appears surprising that in a case raising such serious, widespread and well-documented allegations going to the heart of the electoral system's credibility, the courts limited themselves to reviewing procedural aspects of the City Electoral Commission's adjudication of complaints concerning the same matter. In effect, the claimants – including the applicants whose complaints about the results in their respective precincts in the LA elections were covered by this procedure – were denied an examination of the substance of their complaint by a competent and independent authority. This outcome appears to be arbitrary and manifestly unreasonable.

329. In view of this approach chosen by the St Petersburg Court in its judgment of 27 February 2012, and later endorsed by the Supreme Court, it is not surprising that the procedures initiated by individual applicants and SR in the district courts were unsuccessful. The courts' examinations were mostly limited to purely formal issues, principally whether the copies of the results protocols obtained from the precinct commissions following the conclusion of the count had complied with numerous requirements applicable to such documents. The courts routinely dismissed documents certified by signatures of competent PEC officials and stamps as invalid evidence for trivial reasons, such as the failure to indicate the running number of the original copy from which the copy in question had been made, the absence of an indication of the address of the precinct commission, or the absence of a note indicating that it was an authentic copy (see, for example, paragraphs 118, 134, 143 and 147 above). The Court does not wish to deny the importance of adherence to rules of procedure in matters of election administration and the recording of results. At the same time, the national courts have at their disposal other means of establishing the authenticity of documents and of ensuring the examination of complaints in substance, even where certain documents may raise questions as to their authenticity. The central issue raised in the complaints concerned the reasons for and procedural safeguards for recounts, as well as the results

to the detriment of SR and to the benefit of ER. These aspects were not addressed by the district courts, which regularly referred to the official endorsement of the final results by the electoral commissions as the principal reason to dismiss the allegations as unfounded (see, for example, paragraphs 120 and 136 above).

330. It seems that the courts only rarely found it necessary to call additional witnesses, in order to ascertain the reasons for and conditions of recounting the results in the elections. Thus, in the proceedings concerning fifty-four precincts in electoral divisions nos. 18 and 19 (the same precincts that gave rise to challenges by the first to sixth applicants), the Kolpino District Court called a number of officials and observers from the PECs concerned. The witnesses supported the claimant's assertions about the discrepancies between the figures obtained in precinct commissions and the official results, the systematic failure to notify precinct officials about the decisions to recount, and the fact that those officials had not been able to attend the process (see paragraph 118 above).

331. The testimony by one member of TEC no. 21, which had ordered and conducted a recount, strongly indicated that at least some of the provisions of the national legislation applicable to the procedure had not been complied with: the reasons for ordering it were not clearly spelled out, the persons authorised to be present were not informed, and the counting took place in a different room, which was not freely accessible to the observers and other officials (see paragraphs 137 and 138 above). The same witness stated that the recount had been conducted by two people – herself and the TEC deputy chairman – in a basement room containing virtually no furniture except two chairs, and where all the ballot papers deposited with the TEC were stored, while the results protocols drawn up by TEC no. 21 indicated that the recount of over 11,300 votes in division no. 19 had been conducted in just three hours and forty-five minutes (see paragraph 162 above). Apart from anything else, it is very difficult to reconcile such rudimentary physical conditions for a recount with the speed with which it was carried out. However, even this weighty evidence in favour of the allegation of serious breaches of procedure did not lead the District Court, or the St Petersburg City Court on appeal, to question the validity of the results.

332. In the remaining sets of proceedings initiated by various individuals and entities before the district courts (see section H of "The circumstances of the case" above), as in the procedures described above, the courts systematically failed to seek and admit additional evidence in order to dispel doubts about the authenticity of the "original" results protocols, refused to call witnesses asked for by the applicants, and satisfied themselves with an endorsement of the election results as announced by the election commissions. The examples of judgments rendered by other district courts in St Petersburg following similar complaints (see paragraph 192 above) strongly point to the existence of a practice, in respect of this set of elections,

whereby such complaints, however common and well-documented, were dismissed on purely formal grounds.

333. To sum up, the complaints about alleged violations in LA and Duma elections on account of the recount procedure and the ensuing results in the precincts concerned were duly brought before the courts, by the applicants in their personal capacity as voters, members of the electoral commissions and candidates, and by branches of political parties. The courts were competent, under both federal and regional legislation, to perform independent and effective evaluations of allegations of breaches of the right to free and fair elections. However, they generally refrained from going into the substance of the allegations, limiting their analysis to trivial questions of formalities and ignoring evidence pointing to serious and widespread breaches of procedure and transparency requirements. In essence, they endorsed the electoral commissions' decisions, without engaging in any real examination of the reasons for the challenges.

334. In view of this, the Court finds that the Government's objection of non-exhaustion of domestic remedies as a result of the failure by some applicants to seek a further judicial review should be dismissed. It also finds that the domestic courts did not ensure a procedure which could comply with the requirement to provide sufficient guarantees against arbitrariness in the review of an arguable claim of serious violations of electoral rights.

(v) Conclusion

335. The Court confirms that the right of individual voters to appeal against the results of voting may be subject to reasonable limitations in the domestic legal order. Nevertheless, where serious irregularities in the process of counting and tabulation of votes can lead to a gross distortion of the voters' intentions, such complaints should receive an effective examination by by the domestic authorities. A failure to ensure the effective examination of such complaints would constitute a violation of individuals' right to free elections guaranteed under Article 3 of Protocol No. 1 to the Convention, in its active and passive aspects.

336. The applicants in the present case made an arguable claim that the fairness of the elections both to the St Petersburg LA and the State Duma in the precincts concerned had been seriously compromised by the procedure in which the votes had been recounted. In particular, the extent of the recounting, the unclear reasons for ordering it, the lack of transparency and the breaches of procedural guarantees in carrying it out, as well as the results whereby the ruling party gained large numbers of votes, strongly support the suspicion of unfairness. This complaint was raised before different State authorities that could, at least potentially, be regarded as effective and accessible remedies. In particular, the courts were empowered to consider complaints from participants in the electoral process, to obtain and examine relevant evidence and, if the irregularities were sufficiently serious, to

overturn the decisions of the relevant electoral commissions. However, none of the avenues employed by the applicants afforded them a review which would provide sufficient guarantees against arbitrariness.

337. There has accordingly been a violation of Article 3 of Protocol No. 1 to the Convention in respect of each applicant, in so far as they have been denied an effective examination of their complaints of serious irregularities in the procedure in which the votes were recounted.

338. In the light of this finding, the Court concludes that it is not necessary to examine separately the applicants' remaining complaints under Article 3 of Protocol No. 1 to the Convention.

II. ALLEGED VIOLATION OF ARTICLE 34 OF THE CONVENTION

339. Two of the applicants complained of a hindrance of their right to individual petition as enshrined in Article 34 of the Convention, which reads:

> "The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

340. On 27 October 2014 the first applicant informed the Court, through Ms Napara, that he had received a telephone call inviting him to attend a meeting with an investigator at the St Petersburg Department of the Investigative Committee. He perceived the invitation as connected to the complaint lodged with the Court and aimed at dissuading him from supporting it. He did not attend the meeting.

341. In February 2015 Ms Napara informed the Court that in September 2014 the second applicant, Ms Andronova, had not received appropriate medical aid in St Petersburg, and that this might be linked to her complaint to the Court.

342. The Government submitted that only the first applicant, Mr Davydov, had expressly notified the Court about his contact with the investigator. The Government further argued that the applicant had been able to exercise his right of individual petition without any hindrance. He had ignored the invitation and the investigator, having collected sufficient information by other means, had given a decision not to open a criminal investigation, acting at the request of the CEC chairman (see paragraphs 169-172 above).

343. The Court agrees that only the first applicant made a corroborated complaint of hindrance. The allegations by the second applicant do not seem to raise prima facie issues under Article 34 of the Convention, and are therefore rejected.

344. In respect of the contact made by the investigator with the first applicant, which is not disputed by the parties, the Court reiterates that

applicants should be able to communicate freely with the Court without being subjected to any form of pressure from the authorities to withdraw or modify their complaints. The expression "any form of pressure" must be taken to cover not only direct coercion and flagrant acts of intimidation of applicants or their legal representatives but also other improper indirect acts or instances of contact designed to dissuade or discourage them from pursuing a Convention remedy, or with a "chilling effect" on the exercise of the right of individual petition by applicants and their representatives (see *Fedotova v. Russia*, no. 73225/01, § 48, 13 April 2006; *Mechenkov v. Russia*, no. 35421/05, § 116, 7 February 2008; and *Yefimenko v. Russia*, no. 152/04, § 164, 12 February 2013). At the same time, Article 34 does not prevent the State from taking measures to improve an applicant's situation or even from solving a problem which is at the heart of the Strasbourg proceedings (see *Vladimir Sokolov v. Russia*, no. 31242/05, § 81, 29 March 2011).

345. The Court reiterates that the inquiry in question was initiated at the request of the head of the CEC, to check the authenticity of the documents relied upon by the applicants, both in the domestic proceedings and before the Court. It does not appear that the State officials tried to persuade the applicant, directly or indirectly, to withdraw his complaint, or that being summoned in this connection to the investigative committee in itself amounted to a breach of the right of individual petition.

346. The parties agree that the first applicant ignored the summons and that the relevant complaint was eventually rejected for lack of evidence of any crime. In such circumstances, there is insufficient factual basis to enable the Court to conclude that any undue pressure or any form of coercion was put on the first applicant as a result of the case before it (see *Alpatu Israilova v. Russia*, no. 15438/05, §§ 95-98, 14 March 2013, and *Lyapin v. Russia*, no. 46956/09, § 40, 24 July 2014).

347. In such circumstances, the Court finds that the respondent State has not failed to comply with its obligations under Article 34 of the Convention in respect of the first two applicants.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

348. Article 41 of the Convention provides:

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

A. Damage

349. Four of the applicants (Mr Davydov, Mr Belyakov, Mr Truskanov and Ms Pushkareva) claimed 10,000 euros (EUR) each in respect of non-pecuniary damage. The other applicants did not seek any awards.

350. The Government found the sums claimed to be excessive.

351. The Court agrees that the applicants are victims of a violation of the right to free elections and that such a finding can lead to an award compensating for non-pecuniary damage. It awards the four applicants listed above EUR 7,500 each in respect of non-pecuniary damage.

B. Costs and expenses

352. Six of the applicants claimed a total of EUR 8,000 for costs and expenses incurred before the Court. They stated that Ms Napara had spent 50 billable hours on the case (at a rate of EUR 100 per hour) and Ms Moskalenko 25 billable hours (at a rate of EUR 150 per hour).

353. The Government stressed that the applicants had no written contract with the representatives, which made their claim unsubstantiated.

354. According to the Court's case-law, an applicant is entitled to reimbursement of his or her costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. The absence of a written agreement to recover fees does not preclude the existence of a contractual obligation (see *Fadeyeva v. Russia*, no. 55723/00, § 147, ECHR 2005-IV). The Court observes that Ms Moskalenko and Ms Napara represented the applicants throughout the proceedings before the Court; in particular, they submitted their applications and submitted written observations on their behalf. Having regard to the documents in its possession and the above criteria, the Court considers it reasonable to award EUR 8,000 as claimed (EUR 5,000 to Ms Napara and EUR 3,000 to Ms Moskalenko), plus any tax that may be chargeable to the applicants. The amounts awarded shall be payable into the representatives' bank accounts directly, as requested by the applicants.

C. Default interest

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

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to strike the seventh and eighth applicants (Mr Yakushenko and Mr Payalin) out of the list of applicants in the present case (see Appendix);

2. *Declares* the complaints of the remaining nine applicants under Article 3 of Protocol No. 1 to the Convention admissible;

3. *Holds* that there has been a violation of Article 3 of Protocol No. 1 to the Convention in respect of these nine applicants;

4. *Holds* that there is no need to examine separately the complaint under Article 13 of the Convention;

5. *Holds* that the respondent State has not failed to comply with its obligations under Article 34 of the Convention in respect of the first two applicants;

6. *Holds*
   (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 7,500 (seven thousand five hundred euros) each, plus any tax that may be chargeable, in respect of non-pecuniary damage, to Mr Davydov, Mr Belyakov, Mr Truskanov and Ms Pushkareva;
      (ii) EUR 8,000 (eight thousand euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses. This amount should be paid directly into the representatives' accounts, as detailed in paragraph 354 above;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 30 May 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips	Helena Jäderblom
Registrar	President

APPENDIX
Applicants' details

No.	Applicant's name and year of birth	Date application lodged/ withdrawn	Represented by/ Date power of attorney signed	Role in the elections and territorial/precinct electoral commissions concerned	Complains about
1.	Davydov, Andrey Vladimirovich, 1987	8 December 2011	Ms Moskalenko (8 December 2011); Ms Napara (8 December 2011; 31 March 2014)	Candidate for LA on Spravedlivaya Rossiya (SR) list. Complains about results of electoral division no. 19 (Kolpino district) of St Petersburg. Challenges results in 21 precincts: nos. 638, 639, 641, 642, 643, 644, 646, 648, 649, 651, 652, 653, 654, 657, 661, 662, 664, 665, 666, 667 and 668.	Right to be elected to the St Petersburg LA
2.	Andronova, Olga Olegovna, 1953		Ms Moskalenko (9 December 2011); Ms Napara (9 December 2011)	Voter and voting member of PEC no. 652 (SR) in Kolpino district, electoral division no. 19.	Right to vote in elections to LA and the State Duma
3.	Andronov, Aleksey Viktorovich, 1986		Ms Moskalenko (9 December 2011); Ms Napara (9 December 2011)	Voter and voting member (SR) of PEC no. 651 in Kolpino district, electoral division no. 19.	

4.	Nikolayeva, Tatyana Alekseyevna, 1988		Ms Moskalenko (no date); Ms Napara (no date)	Voter and voting member (SR) of PEC no. 654 in Kolpino district, electoral division no. 19.	
5.	Sizenov, Yevgeniy Petrovich, 1972		Ms Moskalenko (no date); Ms Napara (31 March 2014)	Voter and voting member (Yabloko) of PEC no. 661 in Kolpino district, electoral division no. 19.	
6.	Belyakov, Vladimir Gennadyevich, 1948	15 March 2012	Ms Moskalenko (27 January 2012); Ms Napara (27 January 2012, 2 April 2014)	Voter in electoral precinct no. 637 in Kolpino district, electoral division no. 18.	Right to vote in elections to LA
7.	Yakushenko, Sergey Vasilevich, 1954	15 March 2012. On 4 April 2014 Ms Napara informed the Court about the applicant's request to withdraw his complaint.	Ms Moskalenko (16 January 2012)	Voter in electoral precinct no. 623 in Kolpino district, electoral division no. 18.	

8.	Payalin, Nikolay Lvovich, 1968	15 March 2012. On 12 May 2014 signed a request to withdraw complaint, for personal reasons.	Ms Moskalenko (12 January 2012); Ms Napara (12 January 2012, 31 March 2014)	Candidate in LA elections on SR list. Complains about results of electoral division no. 22 of St Petersburg. Challenges official results in 22 precincts: nos. 721, 722, 723, 724, 725, 726, 727, 728, 729, 731, 733, 734, 735, 736, 739, 740, 741, 742, 743, 744, 745 and 794.	Right to be elected to LA
9.	Truskanov, Gennadiy Borisovich, 1946	15 March 2012	Ms Moskalenko (27 January 2012); Ms Napara (27 January 2012, 31 March 2014)	Candidate in LA elections on SR list. Complains about results of electoral division no. 17 of St Petersburg. Challenges official results in 10 precincts: nos. 486, 489, 495, 496, 497, 498, 500, 501, 508 and 509; and the procedure in two "closed" precincts nos. 1852 and 1853.	
10.	Pushkareva, Lyudmila Vasilyevna, 1957		Ms Moskalenko (8 December 2011); Ms Napara (10 March 2012)	Candidate in LA elections on SR list. Complains about results in electoral division no. 33 of St Petersburg. Challenges official results in 18 precincts: nos. 1070, 1084, 1089, 1090, 1093, 1097, 1098, 1103, 1104, 1107, 1108, 1109, 1111, 1114, 1115, 1118, 1126 and 1127; and the results cancelled in precincts nos. 1071, 1091, 1099 and 1113.	

11.	Shestakov, Sergey Sergeyevich, 1982		Ms Moskalenko (8 December 2011); Ms Napara (10 March 2012)	Candidate in LA elections on SR list. Complains about results of electoral division no. 15 of St Petersburg. Challenged results in 13 precincts: nos. 554, 555, 557, 592, 593, 597, 598, 600, 601, 605, 606, 610 and 611; plus procedural violations claimed in 16 precincts: nos. 549, 552, 553, 554, 444, 446, 558, 592, 594, 598, 601, 605, 606, 607, 608 and 611.	