Numéro de dossier
File-number 46998/08

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS
ЕВРОПЕЙСКИЙ СУД ПО ПРАВАМ ЧЕЛОВЕКА

Conseil de l'Europe - *Council of Europe*
Strasbourg, France - *Страсбург, Франция*

REQUÊTE
APPLICATION
ЖАЛОБА

présentée en application de l'article 34 de la Convention européenne des Droits de l'Homme, ainsi que des articles 45 et 47 du Règlement de la Cour

under Article 34 of the European Convention on Human Rights and Rules 45 and 47 of the Rules of Court

в соответствии со статьей 34 Европейской Конвенции по правам человека и статьями 45 и 47 Регламента Суда

IMPORTANT: La presente requete est un document juridique et peut affecter vos droits et obligations
This application is a formal legal document and may affect your rights and obligations.
ВАЖНО: Данная жалоба является официальным юридическим документом и может повлиять на Ваши права и обязанности.

I. **LES PARTIES**
THE PARTIES
СТОРОНЫ

A. LE REQUÉRANT / LA REQUÉRANTE
THE APPLICANT
ЗАЯВИТЕЛЬ

(Renseignements à fournir concernant le / la requérant(e) et son / sa représentant(e) éventuel(le))
(Fill in the following details of the applicant and the representative, if any)
(Данные о заявителе и его представителе, при наличии такового

1. Nom de famille */ Surname / Фамилия заявителя* **Михайлова**

2. Prénom (s) / *First name (s) / Имя(имена) и отчество* **Валентина Николаевна**

3. Nationalité / Nationality /Гражданство **Российское**

Sexe: **féminin** *Sex:* **female** *Пол:* **женский**

4. Profession / Occupation / *Род занятий*

5. Date et lieu de naissance / *Date and place of birth / Дата и место рождения*

6. Domicile / *Permanent address / Постоянный адрес*

7. Tel. N ▪ / *Номер телефона*

8. Adresse actuelle (si différente de 6.) *Present address (if different from 6.) / Адрес проживания в настоящее время (если отличается от п. 6)*

9. Nom et prénom du / de la représentant(e). *Name of representative* / Имя и фамилия представителя** **Бурков Антон Леонидович**

10. Profession du / de la représentant*(e) Occupation of representative / Род занятий представителя* **юрист, координатор программ Уральского центра конституционной и международной защиты прав человека общественного объединения «Сутяжник» (Екатеринбург)**

11. Adresse du / de la représentant(e) *Address of representative / Адрес представителя*

12. Tel. N ▪/ *Номер телефона* Fax N ▪ / *Номер телефакса* .....

B. **LA HAUTE PARTIE CONTRACTANTE**
THE HIGH CONTRACTING PARTY
ВЫСОКАЯ ДОГОВАРИВАЮЩАЯСЯ СТОРОНА
(Indiquer ci-après le nom de l'Etat / des Etats contre le(s) quel(s) la requête est dirigée)
(Fill in the name of the State(s) against which the application is directed)
(Укажите название государства, против которого направлена жалоба)

13. Российская Федерация

II. EXPOSÉ DES FAITS
STATEMENT OF THE FACTS
ИЗЛОЖЕНИЕ ФАКТОВ

(Voir chapitre II de la note explicative)
(See Part II of the Explanatory Note)
(См. Раздел II Инструкции)

14.

On 10 September 2008, Ms Mikhailova sent a preliminary application to the European Court of Human Rights (the "ECtHR" or the "Court") regarding the violation of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (the "ECvHR", or the "Convention"). In reply, two letters of 2 October and 28 October 2008 were received from the ECtHR, informing Ms Mikhailova that the application had been received and that she had six months from 2 October 2008 to submit the full application. The full application is contained in this submission.

Summary of the application

On 25 November 2007, while walking in the street toward the meeting point for an "Opposition March" the militia arrested, detained for three hours, and questioned Ms. Mikhailova and later charged for (i) participating in the march and (ii) not following the orders of a policeman. These offences are set out in the Russian Code of Administrative Offences ("CoAO") as follow:

-participation in the march:

"Article 20.2[1] - 2. Violating the procedure established for conducting a meeting, rally, demonstration, procession or picket shall entail the imposition of an administrative fine on the organisers thereof in the amount of one thousand to two thousand roubles, and on the participants thereof in the amount of five hundred to one thousand roubles."

-failure to follow the orders of a policeman:

"Article 19.3[2] - 1. Failure to follow a lawful order or demand of a militiaman, a military servicemen or an official of the body or institution of the criminal punishment system in connection with discharge of their official duties related to maintenance of public order and security, as well as impeding the discharge by them of their official duties shall entail the imposition of an administrative fine in the amount of five hundred to one thousand roubles or administrative arrest for a term of up to fifteen days."

Under the CoAO, both actions are administrative offences, rather than criminal. The maximum penalty for these offences is 1000 roubles and 15 days imprisonment respectively.

On 19 December 2007, the justice of the peace of the judicial area No 201 of Saint-Petersburg Vasilenko O. A., after considering the two offences together in a public hearing, fined Ms Mikhailova 500 roubles for each offence (1000 roubles in total), (Appendices 1 and 2).

During the course of the proceedings, Ms. Mikhailova asked the justice of the peace that free legal representation be provided to assist her in presenting her case. She argued that she had the right to free representation under Article 6 of the ECvHR (Appendices 19 and 20). This request was rejected by the justice of the peace (Appendices 21 and 22).

On 26 December 2007 Ms Mikhailova appealed the decision of the justice of the peace (Appendices 3 and 4). On 19 February 2008 and 11 March 2008 Ms Mikhailova filed applications (requests) for free legal

[1] Chapter 20 - Administrative Offences Encroaching upon Public Order and Security, Article 20.2 - Violating the Established Procedure for Arranging or Conducting a Meeting, Rally, Demonstration, Procession or Picket.
[2] Chapter 19 - Administrative Offences against Government Procedures, Article 19.3 - Failure to Follow a Lawful Order of a Militiaman, a Military Serviceman, an Officer of the Bodies for Control over the Traffic of Narcotics and Psychotropic Substances, of an Officer of the Bodies Authorised to Exercise the Functions of Control and Supervision in the Field of Migration or an Officer of the Body or Institution of the Criminal Punishment System.

assistance before the district court in order to be represented in the course of consideration of the appeal (Appendices 23-24 and 5-6 respectively). These requests were considered and refused on 19 February 2008 and 11 March 2008 by the Dzerzhinskii district court decisions (decisions of 19 February 2008 and 11 March 2008 - Appendices 25-28). On 11 March 2008 Ms Mikhailova supplemented her appeal of 26 December 2007 with an addition to the appeal (*дополнение к апелляционной жалобе*) for annulment of the decision of the judge of the peace in first instance (Appendices 5 and 6). The single basis for the addition to the appeal was that her case was decided by the justice of the peace without her being represented by a free advocate provided by the state, which constitutes a violation of Article 6(1) taken together with 6(3)(c) of the Convention. On 17 March 2008, the district court refused the appeal in its entirety (Appendices 7 and 8).

On 19 June 2008 Deputy Chief Justice of Saint-Petersburg City Court refused to bring an extraordinary appeal (*протест*) against the decisions of the justice of the peace dated 19 December 2007 and the district court judge dated 17 March 2008 (Appendices 9-12). The argument regarding free advocate representation was ruled out based on national legislation. The Convention arguments were not considered.

On 31 July 2008 Deputy Chief Justice of the Supreme Court of the Russian Federation refused to bring an extraordinary appeal (*протест*) against the decisions of the justice of the peace of 19 December 2007 and the district court judge of 17 March 2008 (Appendices 13-16). The argument regarding free advocate representation was ignored. The Convention arguments were not considered.

III. EXPOSÉ DE LA OU DES VIOLATION(S) DE LA CONVENTION ET / OU DES PROTOCOLES ALLÉGUÉE(S), AINSI QUE DES ARGUMENTS À L'APPUI
STATEMENT OF ALLEGED VIOLATION(S) OF THE CONVENTION AND / OR PROTOCOLS AND OF RELEVANT ARGUMENTS
ИЗЛОЖЕНИЕ ИМЕВШЕГО(ИХ) МЕСТО, ПО МНЕНИЮ ЗАЯВИТЕЛЯ, НАРУШЕНИЯ(ИЙ) КОНВЕНЦИИ И/ИЛИ ПРОТОКОЛОВ К НЕЙ И ПОДТВЕРЖДАЮЩИХ АРГУМЕНТОВ

(Voir chapitre III de la note explicative)
(See Part III of the Explanatory Note)
(См. Раздел Ш Инструкции)

Ms Mikhailova claims that

(1) the denial of access to free legal representation before the justice of the peace and the district court (the court of appeal) judge was a breach of Article 6(3)(c) of the Convention (the right to free legal assistance), and

(2) the failures by the court of appeal, Deputy Chief Justice of Saint-Petersburg City Court, and Deputy Chief Justice of the Supreme Court of the Russian Federation to address Ms Mikhailova's legal argument that she had been denied free legal representation in proceedings before the justice of the peace and the district court in breach of her rights under the ECvHR constituted violations of the right to a fair hearing, in breach of Article 6(1) of the ECvHR.

Article 6 of the ECvHR sets out a person's right to a fair trial:

> *"1 In the determination of his civil rights and obligations or of <u>any criminal charge</u> against him, everyone is entitled to a <u>fair</u> and public hearing ...*
> *3 Everyone <u>charged with a criminal offence</u> has the following minimum rights: ... (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free <u>when the interests of justice so require</u> ..." (emphasis added)*

(1) The denial of access to free legal representation before the justice of the peace and the district court (the court of appeal) judge was a breach of 6(3)(c) of the Convention (the right to free legal assistance)

(1 A) Notion of a 'criminal charge' under Article 6 and the right to free legal representation under Article 6(3)(c) of the ECvHR

(1 A i) Notion of 'criminal charge' in the case-law of the ECtHR (THE LAW)

Article 6(3)(c) of the ECvHR guarantees the right to legal representation for "everyone charged with a criminal offence". Since the criminal law of the Contracting States of the ECvHR varies, the ECtHR has defined the notion of 'criminal offence' and 'criminal charge' as autonomous terms with broader scope than simply those proceedings defined as 'criminal' in the individual Contracting States.

The ECtHR case law has established a methodology for assessing whether a particular charge can be classified as 'criminal'[3]. First, the ECtHR will treat the charge as 'criminal' if the national law of the Contracting States defines the charge as such. However, the ECtHR has repeatedly stated that "the indications furnished by the domestic law of the respondent State have only a relative value,"[4] when determining whether or not an offence should be considered of a criminal nature. Second, if the charge is not defined as 'criminal' in national law, the ECtHR will examine the substantive reality of the procedure in question, based on two alternative criteria[5]:

(i) the nature of the offence, and/or

(ii) the degree of severity of the penalty that the person concerned risks incurring.[6]

In evaluating the **nature of the offence**, the Court can take into account the following factors:

- Whether the rule is of general binding character, as opposed to rules addressed exclusively to a specific group, e.g. lawyers, soldiers[7].

- Whether the proceedings are instituted by a public body with statutory powers[8].

- Whether the legal rule has a punitive or deterrent character, as opposed to, for example, a pecuniary compensation for damage[9].

- Whether the imposition of a penalty is dependent upon a finding of guilt[10].

- Whether the Court can also verify how comparable procedures are classified in other Contracting States[11].

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[3] See e.g. *Engel v the Netherlands,* Application no. 5100-5102/71, 5354/72 and 5370/72, 8 June 1976, para. 82-83, *Ravnsborg v Sweden*, Application no. 14220/88, 23 March 1994, para. 30, *Benham v the United Kingdom*, Application no. 19380/92, 10 June 1996, para. 56, *Weber v. Switzerland*, Application no. 11034/84, 22 May 1990, paras. 31-34; *Putz v. Austria,* Application no. 18892/91, 22 February 1996, para. 31, *Schmautzer v Austria*, Application no. 15523/89, 23 October 1995, para. 27, *T v. Austria*, Application no. 27783/95, 14 November 2000, para. 61, *Ozturk v Germany,* Application no. 8544/79, 21 February 1984, ECHR para 50, para 56 and *Kadubec v Slovakia*, 2 September 1998, papa 50.

[4] *Kadubec v Slovakia*, cited, para 51. *Ozturk v Germany*, cited, para 52, *Benham v United Kingdom*, cited, para 56, *Engel and others v The Netherlands,* cited, para 82.

[5] The ECtHR ruled that a cumulative approach may be adopted where separate analysis of each criterion does not make it possible to reach a clear conclusion as to the existence of a criminal charge (*Bendenoun v France,* Application no. 12547/86, 24 February 1994, para. 47).

[6] *Engel and others v The Netherlands*, cited, para 82.

[7] *Bendenoun v France*, cited, para. 47, *Demicoli v Malta*, Application No. 13057/87, 27 August 1991, para. 33, *Ozturk v Germany*, cited, para. 53

[8] *Benham v the United Kingdom*, cited, para. 56

[9] *Bendenoun v France*, cited, para. 47, *Ozturk v Germany*, cited, para. 53

[10] *Benham v the United Kingdom*, cited, para. 56

[11] *Ozturk v Germany*, cited, para. 53

Even though the nature of the offence is the main criteria to determine the 'criminal' nature of a charge, where the national law does not qualify it as such, the ECtHR will also examine the degree of **severity of the maximum potential penalty** in a given case. In general, the ECtHR has found that "deprivations of liberty liable to be imposed as a punishment, except those which, by their nature, duration or manner of execution cannot be appreciably detrimental" belong to the criminal sphere[12].

Whether a potential imprisonment can be characterised as not being "appreciably detrimental" will depend on the circumstances of a case. The Court has considered that charges are disciplinary by their nature because, among other factors, they were confined to soldiers only. The ECtHR then ruled in these circumstances, that a 2-day arrest was too short of duration to be classified as criminal, whereas a potential 3 to 4 months committal to a disciplinary unit would belong to the 'criminal' sphere[13]. In another case, where 8 applicants risked between 5 and 90 days imprisonment for non-payment of community taxes due to the debtors' wilful refusal or culpable neglect, the Court decided that

> "Having regard to the severity of the penalty risked by the applicants and the complexity of the applicable law, the interests of justice demanded that, in order to receive a fair hearing, the applicants ought to have benefited from free legal representation before the magistrates."[14]

In the case law of the ECtHR, the application of 'criminal charge' is quite broad[15]. The ECtHR has considered that the minor offence of accusing your neighbour of causing a nuisance without justification, punishable with a fine, was 'criminal in nature' because of the general, deterrent and punitive character of the charge[16]. The Court classified as 'criminal' a fine imposed by Maltese House of Representatives to a journalist for breach of privilege and defamation, which was confirmed by the Maltese Constitutional Court. The maximum penalty in this case was a fine or imprisonment of up to 60 days or both[17]. The Court also ruled that a fine, convertible to 10 days of imprisonment, for breach of confidentiality in a judicial proceeding should be regarded as 'criminal'[18].

The fact that the sanction that could be imposed might only amount to a small financial penalty does not take away the punitive character of the sanction. Indeed, the Court has ruled that:

> "...There is in fact nothing to suggest that the criminal offence referred to in the Convention necessarily implies a certain degree of seriousness. […] it would be contrary to the object and purpose of Article 6 [art. 6], which guarantees to "everyone charged with a criminal offence" the right to a court and to a fair trial, if the State were allowed to remove from the scope of this Article [art. 6] a whole category of offences merely on the ground of regarding them as petty."[19]

This has been supported in subsequent decisions, where the Court ruled that "The relative lack of

[12] *Engel v the Netherlands*, cited, para. 82
[13] *Engel v the Netherlands.*
[14] *Perks and Others v United Kingdom*, Applications nos. 25277/94, 25279/94, 25280/94, 25282/94, 25285/94, 28048/95, 28192/95 and 28456/95. 12 October 1999, para. 62.
[15] The following offences have been found to fall within the notion of 'criminal charge': road traffic offences punishable by fines or restrictions imposed on a driving licence (*Schmautzer v Austria*, cited, *Malige v France*, Application no. 27812/95, 23 September 1998, *Lutz v Germany*, Application no. 9912/82, 25 August 1987), tax surcharge proceedings (*Bendenoun v France*, cited, *Jussila v Finland*, Application no. 73053/01, 23 November 2006), customs law (*Salabiaku v France*, Application no. 10519/83, 7 October 1988), competition law (*Sociŭtŭ Stenuit v France*, Application no. 11598/85, 27 February 1992) or financial proceedings (*Guisset v France*, Application no. 33933/96, 26 September 2000).
[16] *Lauko v Slovakia*, Application no. 26138/95, 2 September 1998.
[17] *Demicoli v Malta,* cited.
[18] *Weber v Switzerland,* cited.
[19] *Ozturk v Germany,* cited, para 53.

seriousness of the penalty at stake cannot deprive an offence of its inherent criminal character"[20].

(1 A ii) Application of the notion of 'criminal charge' to *Mikhailova v Russia* (THE FACTS)

Having regard to the case law of the Court, it is clear that the charges imposed on Ms Mikhailova should be classified as criminal under the ECvHR, because of **the nature of the offence** and **the severity of the maximum potential penalty**. As regards the nature of the offence, the charges imposed on Ms. Mikhailova fulfil the criteria set down by the ECtHR case law for criminal charges on the following grounds:

- The Russian CoAO in general, and the Articles applied in Mikhailova's case in particular, are of general binding character, which can potentially affect the whole population, and their application is not restricted to a special group.

- The proceedings are instituted and conducted by a public body with statutory powers, in this case, the Russian justice of the peace (see Article 22 of the CoAO).

- The legal rule has a punitive or deterrent character. This is evident from the definition of an administrative penalty in Article 3.1 of the CoAO: "a punitive measure for committing an administrative offence, established by the state". Moreover, several procedural guarantees, in particular the presumption of innocence (Article 1.5 of the CoAO), are indicative of the criminal nature of these charges. The legal rule was enforced in order to prevent Ms Mikhailova's participation in the march. When detained, Ms. Mikhailova had not yet participated in any march or rally, but the police believed that she was intending to participate in an opposition march denouncing certain government policies. Mikhailova was therefore charged with two offences as a means of punishing her for intending to participate in an opposition march, and as a means of deterring her from participating in future opposition marches.

- The imposition of a penalty is dependent upon a finding of guilt. The administrative offence, comprising the two offences for which Ms. Mikhailova was fined, is defined in Article 2.1. of the CoAO as "a wrongful, guilty action (omission) of a natural person or legal entity which is administratively punishable under this Code or the laws on administrative offences of subjects of the Russian Federation shall be regarded as an administrative offence":

  - In its decisions the justice of the peace evaluated and determined the guilt of Ms Mikhailova by stating that "the justice of the peace finds the guilt of Mikhailova V. N. in committing administrative offence determined" (*"Судья... находит вину Михайловой В. Н. в совершении административного правонарушения..."*), and "the guilt of Mikhailova V. N. in committing administrative offence... is proved by...[the following evidence]" (Appendices 1 and 2).

  - In its decisions the district court judge evaluated and determined the guilt of Ms Mikhailova by stating that "the justice of the peace made a well-founded conclusion regarding the guilt of Mikhailova V. N. in committing the administrative offence" (*"мировым судьей сделан обоснованный вывод о виновности Михайловой В.Н. в совершении административного правонарушения"*), (Appendices 7 and 8).

In this respect, Ms Mikhailova's case is very similar to the unanimous judgment in the case referred to above where the ECtHR analysed the criminal nature of the so-called minor offences under Slovakian law of unjustified accusation. In this case, the Court concluded that the general character of the legal provision together with the deterrent and punitive purpose of the penalty imposed on him, showed that the offence was criminal in nature. There was no need to examine the case under the second limb of severity of the maximum potential penalty criteria[21].

[20] *Kadubec v Slovakia*, cited, para 52.
[21] *Lauko v Slovakia*, cited, para. 58

As regards the severity of the penalty, in this case, the maximum fine that could be imposed was 1,000 roubles for participation in the protest or 15 days of administrative arrest for failure to follow the orders of a policeman. In light of the case law of the Court, the fine imposed on Ms. Mikhailova, which could also entail imprisonment of several days, and which is potentially applicable to all citizens, would trigger the severity threshold.[22] Moreover, had Ms Mikhailova not paid the fines for which she was charged, she risked a further penalty of up to fifteen days of administrative arrest per unpaid fine[23]. The Court has found in previous case law that the severity of the punishment that the applicant risked incurring was criminal in nature[24].

(1 B) The right to free legal representation under Article 6(3)(c) of the ECvHR and its application to *Mikhailova v Russia*

As the offences with which Ms. Mikhailova was charged are 'criminal' in nature, she should have been entitled to receive free legal assistance guaranteed by Article 6(3)(c) of the ECvHR.

The ECtHR has stated on a number of occasions[25] that the right of a person accused of a criminal offence to receive free legal assistance is one of the elements inherent to the notion of a fair trial. The ECvHR attaches two conditions to this right:

(i) the lack of sufficient means to pay for legal assistance, and

(ii) the 'interests of justice' require that this assistance is given for free.

(1 B i) The lack of sufficient means to pay for legal assistance

Ms Mikhailova could not pay for an advocate to represent her in her fight against incriminating charges due to the low level of her income. Ms Mikhailova is a pensioner with a monthly pension of 4000 roubles (less then EUR 100), (Appendix 18). This sum of money is not sufficient to survive in Saint-Petersburg. For this reason she started working for the "State Academic Russian Orchestra of V. V. Andreev" where she earns an average monthly income of 11253 roubles minus 13% tax (less then EUR 300) (Appendix 17). Not even this income allows Ms Mikhailova to hire an advocate, who charge on average U$ 100-150 per hour (approximately 75-100 EUR), (see Forbes' article on advocates in Moscow and Saint-Petersburg, attached, Appendix 29).

(1 B ii) The 'interests of justice' require that this assistance be given for free.

The ECtHR has also stated in past judgments that an indispensable requirement of the 'interests of justice' is "the requirement of a fair procedure before the courts, which, among other things, imposes on the State authorities an obligation to offer an accused a realistic chance to defend himself throughout the entire trial"[26]. The ECtHR will look at a number of factors, such as the nature of the charges held against the applicant, the need to develop appropriate arguments on complicated legal issues, or the complexity of the procedure. This also applies in cases where national law permits the accused to defend himself[27].

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[22] The case law on the 'severity of the maximum penalty' seems to combine elements from the first criterion ('nature of the offence'), in particular the general character of the offence. In a number of cases where the ECtHR ruled that a charge would be criminal because of the severity of the maximum penalty, it was because the offence was in fact of general character (*Demicoli v Malta,* cited, *Weber v. Switzerland,* cited). See also footnote 5 above on cumulative approach.

[23] Article 20.25. of the CoAO stipulates that "Failure to pay the administrative fine within the time limit fixed by this Code, - shall involve the imposition of the double amount of the unpaid administrative fine or an administrative arrest for a period of up to fifteen days."

[24] *Balsyté-Lideikiené v. Lithuania*, *Op. cit.,* para 61.

[25] *Granger v the United Kingdom*, Application no. 11932/86, 28 March 1990, *Quaranta v Switzerland*, Application no. 12744/87, 24 May 1991, *R.D. v Poland*, Application nos. 29692/96 and 34612/97, 18 December 2001, *Pham Hoang v France*, Application no. 13191/87, 25 September 1992)

[26] *R.D. v Poland*, cited, para. 49

[27] *Pakelli v Germany*, Application no. 8398/78, 25 April 1983, para. 31.

Complexity of the case.

Ms Mikhailova's case is a complex one for two reasons.

Firstly, a case of this nature involves the same elements as would be raised in purely criminal matters. They involve substantive notion of public order, proof of intention and elements related to substantive criminal offences. An accused is called before a judge where he or she must make full oral and written submissions, submit evidence and examine or cross-examine witnesses. These judgements may then be appealed to higher courts, including the Supreme Court of the Russian Federation. There were more than 5 hearings altogether in the court of first instance and the court of the appeal.

Secondly, the background of Ms Mikhailova's case is one of the Russian State using "administrative measures" to block and disrupt opposition protest marches or demonstrations. Any state actor has a responsibility for public order, and it may on occasion be entirely appropriate, within the law, for the state authorities to prevent or intervene in marches or demonstrations in order to maintain public order and secure the lives and property of its citizens. However, such measures should clearly be taken on the basis of due justification and within a legal framework of criminal law public order offences proved by the State against the individual. Ms Mikhailova argues that no such justification applied in her case, and the use of "administrative law" to prevent her participation in opposition marches and demonstrations is in violation of her rights under the Russian Constitution and the ECvHR. The violation of her rights to free speech/assembly under Articles 10 and 11 is outside the scope of the present application, which focuses solely on the denial of rights under Article 6, but this brief explanation is included here by way of background.

The nature of the charges and the sanctions involved in the present matter engender and inherent risk for politically motivated persecution of individuals by the State. A State official would be in a position to bring selective prosecutions against certain individuals (which could entail detention) without providing any adequate protection for legal representation that would otherwise be available for core-criminal charges against such individuals.

Without legal assistance, Ms. Mikhailova could not make a useful contribution to the examination of the legal issues, evidence, or to effectively provide oral arguments before the courts.

Ms. Mikhailova is a pensioner approaching the age of sixty (date of birth 4 October 1949). She is not a lawyer by profession. She was placed in an emotionally charged situation as she faced two charges of serious criminal nature.

Although Ms. Mikhailova could physically appear before the judge, submit written and oral statements, and cross-examine witnesses, as an elderly person with no legal background, she could not do this effectively without legal assistance. Although Ms. Mikhailova was able to find some assistance in formulating written submissions for the hearing, she was however devoid of any effective assistance before the courts and therefore unable to effectively present her argument, cross examine witnesses and function effectively on her own in such emotionally charged hearings. In such a complex case, it is in the interest of justice to provide an applicant with a legal representative who can effectively take care of the legal and emotional burden, can present the applicant's case calmly and dispassionately, making use of his/her legal training to focus on making the legally important points required to defend the vulnerable applicant successfully.

When detained, Ms Mikhailova did not know what proceedings or charges she might face. Once charged, she came to understand that she in fact risked being imprisoned. The fear of such a penalty affected Ms Mikhailova in her capacity to defend herself. Had Mikhailova had access to legal assistance, she would arguably have tried to defend her other rights that were violated in this case, including her rights to freedom of expression, to freedom of association and to peaceful assembly (Articles 10 and 11 of ECvHR). Having been deprived of legal assistance, she was not aware that she could claim these rights.

Her case was therefore likely to have been conducted differently had she had access to a lawyer[28].

The fact that Mikhailova lacked the sufficient means to pay for qualified legal representation herself and that the Russian authorities refused her free legal assistance was therefore a crucial factor affecting the fairness of the trial.

This principle of 'fairness', which has been recognised by the Court[29], should therefore have meant in this case that Ms Mikhailova received the assistance of a lawyer. The fact that she did not benefit from any legal assistance was a prejudice which deprived Ms Mikhailova of the related guarantees of article 6 of the Convention.

The severity of the penalty that Ms Mikhailova risked incurring, the complexity of the case, and the inability of Mikhailova to defend herself meant that, in the interests of justice, Ms Mikhailova should have had the benefit of free legal representation during the proceedings before both the justice of the peace of the judicial area 2001 of Saint-Petersburg and the Dzerzhinskii district court of Saint-Petersburg.

(2) The failures by the court of appeal, Deputy Chief Justice of Saint-Petersburg City Court, and Deputy Chief Justice of the Supreme Court of the Russian Federation to address Ms Mikhailova's legal argument that she had been denied free legal representation in proceedings before the justice of the peace and the district court in breach of her rights under the ECvHR constituted violations of the right to a fair hearing, in breach of Article 6(1) of the ECvHR.

(2 A) The requirement to give reasons and consider the arguments of the parties under Article 6 of the ECvHR

The lack of examination of the argument of the defendant is a violation of the right to a fair trial guaranteed by Article 6(1) of the Convention. This guarantee is implied in article 6(1), as it has been recognised by the Court on many occasions.

It has been recognised by the ECtHR that "Article 6 para. 1 (art. 6-1) obliges the courts to give reasons for their judgments"[30]. The Court has also gone further by saying that the court was under a duty to "conduct a proper examination of the submission, arguments and evidence adduced by the parties, without prejudice to its assessment of whether they are relevant to its decision"[31].

In a previous case concerning Russia, the Russian authorities did not allow evidence to be put before the court as to the applicants' freedom of religion, and refused to give reasons for doing so. The ECtHR found that "the crux of the applicants' grievances ... was thus left outside the scope of review by the domestic court which declined to undertake an examination of the merits of their complaint"[32]. There was therefore a breach of Article 6(1).

Although the courts have a general discretion when considering arguments and deciding what may be put before the court, the court must justify its activities by giving reasons for its decisions, including reasons

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[28] This aspect was important in determining the applicant's right to free legal assistance in *P., C. and S. v. The United Kingdom,* Application no. 56547/00, 16 November 2002, para 96.

[29] "… the key principle governing the application of Article 6 is fairness. In cases where an applicant appears in court notwithstanding lack of assistance by a lawyer and manages to conduct his or her case in the teeth of all the difficulties, the question may nonetheless arise as to whether this procedure was fair (see, for example, *McVicar v. the United Kingdom*, Application no. 46311/99, 7 August 2002, para 50-51). There is the importance of ensuring the appearance of the fair administration of justice and a party in civil proceedings must be able to participate effectively, *inter alia*, by being able to put forward the matters in support of his or her claims. Here, as in other aspects of Article 6, the seriousness of what is at stake for the applicant will be of relevance to assessing the adequacy and fairness of the procedures." *P., C. and S. v. The United Kingdom, cited,* para 91.

[30] *Hiro Balani v. Spain*, Application no. 18064/91, judgment of 09 December 1994, Series A no. 303-B, para 27.

[31] *Kraska v Switzerland,* Application no. 13942/88, 19 April 1993, para 30. The same reasoning has been reaffirmed in *Van de Hurk v. the Netherlands*, Application no. 16034/90, judgment of 19 April 1994, Series A no. 288, para 59.

[32] *Kuznetsov and other v Russia,* Application no. 184/02, 11 January 2007, para 84.

for a decision that certain material is irrelevant and need not be considered[33]. Otherwise, the parties do not know whether their submissions have been considered by the court: "the national courts must indicate with sufficient clarity the grounds on which they based their decision."[34] This is in part, so that the accused is able to exercise the right of appeal, and to demonstrate that the parties have been heard[35].

Lastly, in the *Dulaurans v. France* case, the Court reminds that the right to a fair trial guaranteed under Article 6(1) of the Convention includes the parties' right to raise observations they judge relevant and that this right is not solely theoretical:

> «The European Convention was not meant to simply declare theoretical, rather it was meant to provide concrete and effective protection of rights enshrined in the Convention. The rights at stake cannot really be fully addressed unless they are fully taken into account and examined in context by the tribunal.»[36]

The obligation to state reasons will vary depending on the nature of the decision and the circumstances of the case, and in particular taking into account the diversity of the submissions raised before the court, and the different weight that the Contracting States place on different types of submissions[37]. In two cases involving Spain, the applicants made submissions to the court in writing, and formulated their arguments in sufficiently clear and precise terms. The ECtHR found that the arguments raised were different in character from the decision made by the court, rather than a subsection of those decisions, and therefore they required a specific and express reply; "in the absence of such a reply, it is impossible to ascertain whether the [court] simply neglected to deal with the submission… or whether it intended to dismiss it, and if that was its intention, what its reason were for so deciding". Further, the ECtHR also commented that the courts silence could give rise to doubt as to the scope of the examination conducted by the court. The court must therefore also state why certain evidence or arguments are not being considered, if the court considered that the arguments have no merit or are irrelevant to the matters in dispute.

(2 B) Was there a violation of Article 6(1) of the ECvHR in *Mikhailova v Russia*?

The right to a fair trial set out in Article 6(1) of the ECvHR applies through the whole proceedings for the determination of a criminal charge. Therefore, the rights afforded to Ms Mikhailova under Article 6 of the ECvHR, including the right to free legal representation if the interests of justice so require, and the requirement to state reasons, would apply equally to the proceedings before the justice of the peace, the district court (as a court of appeal), Deputy Chief Justice of Saint-Petersburg City Court, and Deputy Chief Justice of the Supreme Court of the Russian Federation (as extra judicial instances).

1. On 19 February 2008 (Appendices 23-24) and 11 March 2008 (Appendices 5-6; the request of 11 March 2008 was included into the text of the addition to the appeal) Ms. Mikhailova filed a request to the district court for a free advocate to represent her in the appeal proceedings before the district court (it was done in advance to the hearing of the appeal). The requests were argued based on Article 6 of the ECvHR and the case-law of the ECtHR. The request was rejected on 19 February 2008 (Appendices 25-26) and 11 March 2008 (Appendices 27-28) based on the national legislation. Ms Mikhailova's arguments, which were based on the Convention, were not considered.

2. On 17 March 2008 her appeal was dismissed by the district court. In the appeal decision of 17 March 2008 (Appendices 7-8) the district court ignored Ms Mikhailova's argument contained in the addition to the appeal (Appendices 5-6), which was based on the Convention. This argument expressed that, in

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[33] *Suominen v Finland*, Application no 37801/97, 1 July 2003, para 36.
[34] *Hadjianastassiou v. Greece*, Application no. 12945/87, judgment of 16 December 1992, Series A no. 252, para 33.
[35] *Kuznetsov and other v Russia*, cited, para 83 to 85.
[36] "La Convention ne visant pas à garantir des droits théoriques ou illusoires mais des droits concrets et effectifs. Ce droit ne peut passer pour effectif que si ces observations sont vraiment «entendues», c'est-à-dire dûment examinées par le tribunal saisi." *Dulaurans v. France*, Application no. 34553/97, judgment of 21 March 2000, no 34553/97, para 33.
[37] *Hiro Balani v Spain*, Application no 18064/91, 9 December 1994, paras 27 and 28 and *Ruiz Torija v Spain*, Application no 18390/91, 9 December 1994, paras 29 and 30.

violation of Article 6(1) taken together with Article 6(3)(c) of the ECvHR, her case was considered by the justice of the peace without her being represented by a free advocate provided by the state (Appendices 5-6). Although the decision of the district court judge mentions that Ms Mikhailova's argued that the judgment of the justice of the peace should be quashed because the case was heard without legal representation which should have been provided to her free of charge ("*Михайлова ссылается на то, что дело было рассмотрено без участия защитника, который по ее просьбе не был предоставлен ей бесплатно*"), in its judgment the district court did not give any reply to this argument.

3. On 19 June 2008 Deputy Chief Justice of Saint-Petersburg City Court Pavluchenko M. A. refused to allow an extraordinary appeal (*протест*) on decisions by the justice of the peace of 19 December 2007 and the district court judge of 17 March 2008. The argument by Ms Mikhailova regarding free advocate representation (Appendices 9-10) was ruled out based on the lack of the right to free advocate in the Code on Administrative Offences ("*Довод о том, что судьей незаконно было отказано в ходатайстве о предоставлении Вам бесплатной юридической помощи, не обоснован, поскольку нормами КоАП РФ не предусмотрено назначение адвоката лицу, привлекаемому к административной ответственности*."). The ECvHR arguments were not considered (Appendices 11-12).

4. On 31 July 2008 Deputy Chief Justice of the Supreme Court of the Russian Federation refused to allow an extraordinary appeal (*протест*) on the decisions of the justice of the peace of 19 December 2007 and the district court judge of 17 March 2008. The argument by Ms Mikhailova regarding free representation by advocate (Appendices 13-14) was ignored. The Convention arguments were not considered (Appendices 15-16).

The refusal by the district court's, the Deputy Chief Justice of Saint-Petersburg City Court's, and the Deputy Chief Justice of the Supreme Court of the Russian Federation to consider Ms Mikhailova's submissions in relation to her right to free legal representative under the Convention, and the failure to address these arguments in their decisions, was a breach of the requirement to state the reasons for a decision set out in Article 6(1) of the ECvHR. As set out in the case law, while the court has discretion as to the arguments it considers, if it considers an argument to be irrelevant, it should set this out in the judgment.

As the arguments raised by Ms Mikhailova in relation to her right to a fair trial were different from the arguments relating to the charges imposed on her, the courts should have addressed the arguments related to her right to a fair trial directly, or explained their reasons for considering the arguments irrelevant. The courts should therefore have stated the reasons for their decision, and the reasons why they did not consider Ms Mikhailova's application or arguments about her right to free legal representation, in their judgments. By not doing so, Ms. Mikhailova has no way of knowing if she was heard, or whether her arguments based on the ECvHR were considered.

This is a case where the tribunals simply failed to examine the question in the first place, and have not mentioned the argument in their judgments. Therefore, this is not a case where a tribunal has decided not to respond to each argument in a detailed fashion, but rather a case where a tribunal has chosen to consciously ignore a valid argument brought up by the accused.

Indeed, that omission raises many questions. In the cases referred to above concerning Spain, the ECtHR ruled that the fact that the Supreme Court had not addressed the petitioner's arguments was a violation of Article 6(1) of the Convention and added: "that the silence of the Supreme Court in this matter could give rise to doubts as to the scope of the examination conducted by that court."[38]

These same doubts are also present in the Mikhailova case. One must keep in mind that the requirement of a justification exists to protect against the arbitrary and to force the judge to explain what motivated his decision. The legal process finds much of its legitimacy in the justification of its judgments.[39]

[38] Hiro Balani, cited, para 25.

[39] MILANO, Laure, Le droit a un tribunal au sens de la Convention europeenne des droits de l'homme, Paris : Dalloz, 2006, p. 552.

This is the firm position of the European Court of Human Rights that "Effective implementation of the European Convention on Human Rights at national level is crucial for the operation of the Convention system. In line with its subsidiary character the Convention is intended to be applied first and foremost by the national courts and authorities".[40] The Committee of Ministers of the Council of Europe is of the position that "The rights and freedoms guaranteed by the Convention [the ECvHR] be protected in the first place at the national level and applied by national authorities...".[41] "States give effect to the Convention in their legal order, in light of the case-law of the Court."[42]

The courts must address applicants' submissions, including submissions containing ECvHR arguments, if applicants raise them.

IV. EXPOSÉ RELATIF AUX PRESCRIPTIONS DE L'ARTICLE 35 § 1 DE LA CONVENTION *STATEMENT RELATIVE TO ARTICLE 35 § 1 OF THE CONVENTION ЗАЯВЛЕНИЕ В СООТВЕТСТВИИ СО СТАТЬЕЙ 35§ 1 КОНВЕНЦИИ*

(Voir chapitre IV de la note explicative. Donner pour chaque grief, et au besoin sur une feuille séparée, les renseignements demandés sous les points 16 à 18 ci-après)
(See Part IV of the Explanatory Note. If necessary, give the details mentioned below under points 16 to 18 on a separate sheet for each separate complaint)
(См. Раздел IV Инструкции. Если необходимо, укажите сведения, упомянутые в пунктах 16-18 на отдельном листе бумаги)

Final decisions on the case were delivered on 17 March 2008 by Dzerzhinskii District Court of Saint-Petersburg. It left unchanged the judgments of 19 December 2007 of the justice of the peace of the judicial area № 201 of Saint-Petersburg. The initial application was submitted before the ECtHR on 10 September 2008.

15. Autres décisions (énumérées dans l'ordre chronologique en indiquant, pour chaque décision, sa date, sa nature et l'organe – judiciaire ou autre – l'ayant rendue). *Other decisions (list in chronological order, giving date, court or authority and nature of decision for each of them). Другие решения (список в хронологическом порядке, даты этих решений, орган - судебный или иной - его принявший)*

The judgment of 19 December 2007 of the justice of the peace of the judicial area № 201 of Saint-Petersburg regarding charges of Article 20.2 part 2 of the CoAO.

The judgment of 19 December 2007 of the justice of the peace of the judicial area № 201 of Saint-Petersburg regarding charges of Article 19.3 part 1 of the CoAO.

The decision of 17 March 2008 by Dzerzhinskii District Court of Saint-Petersburg regarding charges of Article 20.2 part 2 of the CoAO.

The decision of 17 March 2008 by Dzerzhinskii District Court of Saint-Petersburg regarding charges of Article 19.3 part 1 of the CoAO.

Reply of 19 June 2008 by Deputy Claimant of the Saint-Petersburg City Court regarding charges of Article 20.2 part 2 of the CoAO.

Reply of 19 June 2008 by Deputy Claimant of the Saint-Petersburg City Court regarding charges of

[40] Erik Fribergh, "Foreword by the Registrar on the occasion of the 100th issue of the Case-Law of the European Court of Human Rights," *Information Note of the European Court of Human Rights*, no. 100 (September 2007). P. 1.
[41] Recommendations of the Committee of Ministers of the Council of Europe Rec(2004)4, Preamble, Rec(2004)5, Preamble.
[42] Recommendation of the Committee of Ministers of the Council of Europe Rec(2004)5, section 3.

Article 19.3 part 1 of the CoAO.

Reply of 31 July 2008 by Deputy Chief Justice of the Supreme Court of the Russian Federation regarding charges of Article 20.2 part 2 of the CoAO.

Reply of 31 July 2008 by Deputy Chief Justice of the Supreme Court of the Russian Federation regarding charges of Article 19.3 part 1 of the CoAO.

16. Disposez-vous d'un recours que vous n'avez pas exercé? Si oui, lequel et pour quel motif n'a-t-il pas été exercé? *Is there or was there any other appeal or other remedy available to you which you have not used? If so, explain why you have not used it. Располагаете ли Вы каким-либо средством защиты, к которому Вы не прибегли? Если да, то объясните, почему оно не было Вами использовано?*

All national remedies available in this case were exhausted.

V. EXPOSÉ DE L'OBJET DE LA REQUÊTE ET PRÉTENTIONS PROVISOIRES POUR UNE SATISFACTION EQUITABLE
STATEMENT OF THE OBJECT OF THE APPLICATION AND PROVISIONAL CLAIMS FOR JUST SATISFACTION
ИЗЛОЖЕНИЕ ПРЕДМЕТА ЖАЛОБЫ И ПРЕДВАРИТЕЛЬНЫЕ ТРЕБОВАНИЯ ПО СПРАВЕДЛИВОМУ ВОЗМЕЩЕНИЮ

(Voir chapitre V de la note explicative)
(See Part V of the Explanatory Note)
(*См. Раздел V Инструкции)*

The applicant claims that

(1) the refusal of free legal representation by the justice of the peace and the district court (the court of appeal) judge was a breach of Article 6(3)(c) of the Convention (the right to free legal assistance), and

(2) the failure by the court of appeal, Deputy Chief Justice of Saint-Petersburg City Court, and Deputy Chief Justice of the Supreme Court of the Russian Federation to address Ms Mikhailova's legal argument which were based on the ECvHR that her case before the justice of the peace without free legal representation is a violation of the right to a fair hearing, was a breach of Article 6(1) of the Convention.

VI. AUTRES INSTANCES INTERNATIONALES TRAITANT OU AYANT TRAITÉ L'AFFAIRE
STATEMENT CONCERNING OTHER INTERNATIONAL PROCEEDINGS
ДРУГИЕ МЕЖДУНАРОДНЫЕ ИНСТАНЦИИ, ГДЕ РАССМАТРИВАЛОСЬ ИЛИ РАССМАТРИВАЕТСЯ ДЕЛО

(Voir chapitre VI de la note explicative)
(See Part VI of the Explanatory Note)
(См. Раздел VI Инструкции)

The case has not been considered by any international organs.

17. Avez-vous soumis à une autre instance internationale d'enquête ou de règlement les griefs énoncés dans la présente requête? Si oui, fournir des indications détaillées à ce sujet.
Have you submitted the above complaints to any other procedure of international investigation or settlement? If so, give full details.
Подавали ли Вы жалобу, содержащую вышеизложенные претензии, на рассмотрение в другие международные инстанции? Если да, то предоставьте полную информацию по

этому поводу.

No

PIÈCES ANNEXÉES (PAS D'ORIGINAUX, *LIST OF DOCUMENTS* UNIQUEMENT DES COPIES)
СПИСОК ПРИЛОЖЕННЫХ ДОКУМЕНТОВ (NO ORIGINAL DOCUMENTS, ONLY PHOTOCOPIES) (НЕ ПРИЛАГАЙТЕ ОРИГИНАЛЫ ДОКУМЕНТОВ, А ИСКЛЮЧИТЕЛЬНО ФОТОКОПИИ)

(Voir chapitre VII de la note explicative. Joindre copie de toutes les décisions mentionnées sous ch. IV et VI ci-dessus. Se procurer, au besoin, les copies nécessaires, et, en cas d'impossibilité, expliquer pourquoi celles-ci ne peuvent pas être obtenues. Ces documents ne vous seront pas retournés.)
(See Part VII of the Explanatory Note. Include copies of all decisions referred to in Parts IV and VI above. If you do not have copies, you should obtain them. If you cannot obtain them, explain why not. No documents will be returned to you.)
(См. Раздел VII Инструкции. Приложите копии всех решений, упомянутых в Разделах IV и VI. Если у Вас нет копий, Вам следует их получить. Если Вы не можете их получить, то объясните причину. Полученные документы не будут Вам возвращены.)

1. The judgment of 19 December 2007 of the justice of the peace of the judicial area № 201 of Saint-Petersburg regarding charges of Article 20.2 part 2 of the CoAO.

2. The judgment of 19 December 2007 of the justice of the peace of the judicial area № 201 of Saint-Petersburg regarding charges of Article 19.3 part 1 of the CoAO.

3. Appeal on the judgment of the justice of the peace of 19 December 2007 regarding charges of Article 20.2 part 2 of the CoAO.

4. Appeal on the judgment of the justice of the peace of 19 December 2007 regarding charges of Article 19.3 part 1 of the CoAO.

5. Addition to the appeal on the judgment of the justice of the peace of 19 December 2007 regarding charges of Article 20.2 part 2 of the CoAO and Mikhailova's request of free advocate to represent her before the court of appeal (Article 20.2 part 2 of the CoAO).

6. Addition to the appeal on the judgment of the justice of the peace of 19 December 2007 regarding charges of Article 19.3 part 1 of the CoAO and Mikhailova's request of free advocate to represent her before the court of appeal (Article 19.3 part 1 of the CoAO).

7. The decision of 17 March 2008 by Dzerzhinskii District Court of Saint-Petersburg regarding charges of Article 20.2 part 2 of the CoAO.

8. The decision of 17 March 2008 by Dzerzhinskii District Court of Saint-Petersburg regarding charges of Article 19.3 part 1 of the CoAO.

9. Application to the Saint-Petersburg City Court regarding charges of Article 20.2 part 2 of the CoAO.

10. Application to the Saint-Petersburg City Court regarding charges of Article 19.3 part 1 of the CoAO.

11. Reply of 19 June 2008 by Deputy Claimant of the Saint-Petersburg City Court regarding charges

of Article 20.2 part 2 of the CoAO.

12. Reply of 19 June 2008 by Deputy Claimant of the Saint-Petersburg City Court regarding charges of Article 19.3 part 1 of the CoAO.

13. Application to the Supreme Court of the Russian Federation regarding charges of Article 20.2 part 2 of the CoAO.

14. Application to the Supreme Court of the Russian Federation regarding charges of Article 19.3 part 1 of the CoAO.

15. Reply of 31 July 2008 by Deputy Chief Justice of the Supreme Court of the Russian Federation regarding charges of Article 20.2 part 2 of the CoAO.

16. Reply of 31 July 2008 by Deputy Chief Justice of the Supreme Court of the Russian Federation regarding charges of Article 19.3 part 1 of the CoAO.

17. Reference on the amount of Ms. Mikhailova's salary.

18. Reference on the amount of Ms. Mikhailova's pension.

19. Mikhailova's request to the justice of the peace for free legal assistance (Article 20.2 of the CoAO).

20. Mikhailova's request to the justice of the peace for free legal assistance (Article 19.3 of the CoAO).

21. Decision of 19 December 2007 of the justice of the peace regarding Mikhailova's request of free legal representation in the case on charges of Article 20.2 part 2 of the CoAO.

22. Decision of 19 December 2007 of the justice of the peace regarding Mikhailova's request of free legal representation in the case on charges of Article 19.3 part 1 of the CoAO.

23. Mikhailova's request of 19 February 2008 of free legal representation (Article 20.2 part 2 of the CoAO).

24. Mikhailova's request of 19 February 2008 of free legal representation (Article 19.3 part 1 of the CoAO).

25. Decision of Dzerzhinskii District Court of 19 February 2008 regarding Mikhailova's request of free legal representation (Article 20.2 part 2 of the CoAO).

26. Decision of Dzerzhinskii District Court of 19 February 2008 regarding Mikhailova's request of free legal representation (Article 19.3 part 1 of the CoAO).

27. Decision of Dzerzhinskii District Court of 11 March 2008 regarding Mikhailova's request of free legal representation (Article 20.2 part 2 of the CoAO).

28. Decision of Dzerzhinskii District Court of 11 March 2008 regarding Mikhailova's request of free legal representation (Article 19.3 part 1 of the CoAO).

29. Forbes' article.

30. The power of attorney.

VII. DÉCLARATION ET SIGNATURE
DECLARATION AND SIGNATURE
ЗАЯВЛЕНИЕ И ПОДПИСЬ

(Voir chapitre VIII de la note explicative)
(See Part VIII of the Explanatory Note)
(См. Раздел VIII Инструкции)

Je déclare en toute conscience et loyauté que les renseignements qui figurent sur la présente formule de requête sont exacts.
I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.
Настоящим, исходя из моих знаний и убеждений, заявляю, что все сведения, которые я указал(а) в формуляре, являются верными.

Lieu / *Place / Место*.....
Date / *Date / Дата*.....

(Signature du / de la requérant(e) ou du / de la représentant(e))
(Signature of the applicant or of the representative)
(Подпись заявителя или его представителя)