

NON-GOVERNMENTAL ORGANIZATION
«SUTYAJNIK»

WE ARE TEN

Annual Report 2003

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2004

CO-AUTHORS:

Lyudmila Churkina, attorney, program manager with NGO SUTYAJNIK, postgraduate law student at the Urals State Law Academy
Anna Demeneva, attorney, program manager with NGO SUTYAJNIK, postgraduate law student at the Urals State Law Academy
Anton Burkov, attorney, program manager with NGO SUTYAJNIK, lecturer at the Administrative Law Department of the Urals State Law Academy, at present postgraduate law student (LLM in International Human Rights Law) at the University of Essex (Colchester, the UK)
Elena Guzeva, attorney, program manager with NGO SUTYAJNIK, postgraduate law student at the Urals State Law Academy
Natalya Ermilova, attorney, program manager with NGO SUTYAJNIK
Irina Muromskaya, attorney with NGO SUTYAJNIK
Natalya Kozlova, attorney with NGO SUTYAJNIK
Anna Tropina, attorney with NGO SUTYAJNIK
Olga Kapralova, attorney with NGO SUTYAJNIK
Ilya Bogdashkin, attorney with NGO SUTYAJNIK

Cover design: *Leonid Burkov*

Editors:

Lyudmila Churkina; *Anton Burkov*;
Natasha C. Lisman, a partner in the Boston law firm of Sugarman, Rogers, Barshak & Cohen and a member of the Board of Directors and a volunteer with the International Senior Lawyers Project

Translated by: *Lyudmila Churkina*, *Natasha C. Lisman*

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ABOUT SUTYAJNIK

SUTYAJNIK, a non-governmental human rights organization founded in Yekaterinburg in 1994, is a resource center for many non-governmental public interest groups of the Ural region and provides free legal defense of the rights and interests of citizens and their associations.

Areas of Activity

Substantive priorities:

- 1) freedom of association;
- 2) rights of minorities and prohibition against discrimination;
- 3) freedom from torture;
- 4) freedoms from unlawful detention, arrest, and forced medical treatment;
- 5) freedom of expression;
- 6) freedom of religion;
- 7) other rights and freedoms.

Operations:

- 1) providing legal aid, by telephone, at public walk-in centers, and via the Internet;
- 2) providing incorporation and other legal services to NGOs and acting as a resource centre for NGOs in the Urals region;
- 3) representation of individuals and NGOs in judicial and administrative forums (in both strategic public interest litigation and conventional cases);
- 4) conducting public issue campaigns and lobbying;
- 5) sponsorship of seminars and conferences;
- 6) clinical legal education (supervise law students in a clinical setting in the representation of clients in strategic and conventional cases);
- 7) operation of a news agency specializing in reporting human rights NGOs' news;
- 8) challenging legislative and administrative enactments in the courts;

9) preparation of applications and litigation of cases in the European Court of Human Rights.

Board of Directors:

Tatyana Merzlyakova, Human Rights Ombudsman for Sverdlovsk oblast

Ludmila Alexeeva, the Chairperson of the Moscow Helsinki Group
Demyan Bakhrakh, Professor of Law at the Urals State Law Academy

Kathryn Hendley, Professor of Law at the University of Wisconsin Law School

William Anspach, partner in the union-side labor law firm Friedman & Wolf

HUMAN RIGHTS OMBUDSMAN ON SUTYAJNIK

The NGO Sutyajnik continues to maintain a high level of activity <...> The list of judicial decisions in cases initiated by Sutyajnik at all levels, including the European Court of Human Rights, which have led to various corrections of the decrees of the Mayor of Yekaterinburg is truly impressive. There were three such decisions just in 2003. The Oblast Charter Court considered two cases against the administration of Yekaterinburg, and in another, the Federal Court for the Lenin rayon of Yekaterinburg struck down a decree of the Mayor of Yekaterinburg.

From the 2003 report of the Human Rights Ombudsman of Sverdlovsk Oblast, T. G. Merzlyakova

OUR ACTIVITIES

A. LEGAL SERVICES

1. Legal Counseling

Our staff attorneys provide citizens with free legal advice in consultations held at two public drop-in centers in Yekaterinburg and two in the Sverdlovsk oblast, as well as by telephone and mail. In 2004, Sutyajnik is launching legal counseling by the Internet.

In 2003, our attorneys provided 1,727 consultations, of which 623 were by telephone, 561 were in person and included assistance with the preparation of legal documents, and 543 in writing. 1624 of these consultations were in response to requests from individuals and 103 from organizations.

The topics covered in our consultations included the following:

- Issues concerning the submission of complaints, including eligibility, to the European Court of Human Rights and the UN Committee on Human Rights — 435;
- civil procedure — 318;
- labour law — 342;
- civil law — 204;
- housing law — 175;
- tax law — 45;
- administrative law — 74;
- family law — 78;
- criminal procedure — 56.

2. Representation of Individuals and Organizations in Domestic Courts

Our staff attorneys represent individuals and organizations in the courts of general jurisdiction in the Sverdlovsk oblast (including the cities of Ekaterinburg, Nijny Tagil, Polevskoy, Berezovsky, Revda, and others),

and the Tyumen and Chelyabinsk oblasts, as well as in the Supreme Court of the Russian Federation, the Commercial Courts for the Ural District at all levels, and the Charter Court of Sverdlovsk oblast.

One of Sutyajnik's principal endeavors is the defense of human rights by seeking to bring domestic legislation into conformity with the international and constitutional standards.

On *14 February 2003*, the Sverdlovsk oblast Charter Court reaffirmed its prior decree of 10 March 2002, in which it had granted a citizens' request for a declaration that the Executive Order of the Mayor of Yekaterinburg of 23 January 2002 entitled «On raising the fares for public municipal transport» violated the Charter of Sverdlovsk oblast on the ground that it exceeded the scope of the Mayor's authority.

On *25 March 2003*, the Supreme Court of the Russian Federation issued a decision declaring that Article 15(a) of the Resolution of the Council of Ministers of the USSR of 4 December 1981 № 1145 entitled «On the Order and Conditions of Combining Occupations (Positions)» invalid. Following the invalidation of that enactment, managers and deputy managers of structural subdivisions, departments, shops, and services acquired the same right as other employees to receive additional compensation for combining professions and positions, of which they had been deprived by the challenged enactment.

On *26 March 2003*, the head of the Judicial Department of the Hanty-Mansiysk Autonomous District repealed a provision entitled «On the Procedure for the Implementation of the System of Admission to Federal Courts of General Jurisdiction of the Hanty-Mansiysk Autonomous District during Business Hours». The repeal of this enactment was the result of a complaint filed in court by citizens alleging that its provisions violated citizens' rights to public trial and media access to the courts, and, in addition, that even though the enactment concerned citizens' rights, it had not been made publicly known.

On *24 April 2003*, in response to a petition of a citizen challenging a provision violating her right to early pension by reason of special work conditions, the Government of the Russian Federation introduced appropriate amendments into the Decree of 18 July 2002 № 537 entitled «On the Enumeration of Industries, Jobs, Occupations, and Positions

On Account of Which Early Retirement Pension Benefits Are Granted In Accordance With Art. 27 of the Federal Law «On Labour Pensions in the Russian Federation».

On 3 June, the Federal Court for the Lenin district of Yekaterinburg declared invalid 2003 Articles 3.3(k), 3.4, 4.1, and p. 1 of Article 4.6 of the Municipal Ordinance № 26/10 of 14 October 1997 entitled «On the System of Conversion of Residential Premises in the City of Yekaterinburg Into Nonresidential». As a result of the challenge to this enactment, unlawful restrictions on the rights of property owners to convert residential properties into nonresidential were abolished.

On 3 October 2003, as a result of a citizens' complaint in the Charter Court against the Order of the Mayor of Yekaterinburg № 33 of 24 January 1996 entitled «On the Confirmation of the Program of Resettling of Residents of Ground Floor Dwellings in Buildings Along Main Avenues in the Business District of the City and On Regulations for the Resettlement of Ground Floor Occupants of Residential Buildings» as violative of the rights of owners of residential properties, this enactment was rescinded by the organ of local government that had promulgated it.

Among our most significant victories of the past year in changing practices in the application of laws, the following may be singled out:

- The widespread practice of airport Security Service personnel of confiscating and destroying passengers' possessions (including items whose transport is forbidden) was declared unlawful.

- The judicial system was offered an opportunity to correct its errors in the compilation of juror lists but declined to avail itself of this opportunity, as a result of which it suffered a defeat in the European Court of Human Rights in the case *Posokhov v. Russia*.

- A court imposed an obligation on the railway service to make free toilet facilities available to passengers at railroad stations. Failure to fulfill this obligation led to a court-award of moral damages to a passenger in the sum of 5, 000-roubles.

- The practice of compensation for moral damages in connection with illegal detention for less than 3 hours was created.

- The widespread practice of hotels of charging a guests for an

entire extra day when he finds himself forced to delay his departure by a few hours was recognized as illegal.

- A precedent was set for obligating the Main Administration of the Ministry of Justice of the Russian Federation for the Sverdlovsk oblast to refund fees paid by NGOs which are refused registration as a legal entity.
- An NGO was awarded recovery of taxes and fines it had been illegally assessed by the tax inspection authorities.

3. The Defense of Human Rights in International Forums

International human rights protection became one of our organization's top priorities in 2003.

Sutyajnik received 435 inquiries regarding the use of international mechanisms for the defense of civil rights, which constitutes 1/4 of all requests for legal assistance. In this connection, the organization considers it part of its role to explain the submission rules and admissibility criteria to the individuals and representatives of organizations who turn to us, so as to prevent the submission of clearly inadmissible complaints to international forums.

In 2003, the organization prepared and filed 13 applications on behalf of citizens to the European Court of Human Rights, alleging violations of such human rights as the right to a fair trial, freedom from torture and inhumane treatment and punishment, the right to property, and freedom of association. As noted above, the organization is not seeking to maximize the number of cases. In preparing applications, we select cases that meet the criteria of admissibility and have the prospect of setting precedent, i. e. affirmatively influencing the making and application of laws in Russia so as to promote their conformity to the European standards for the protection of human rights.

On 17 June 2003, the European Court of Human Rights held a public hearing in the case *Rakevich v Russia*, which our organization had been litigating for three years. The case focuses on the rights of the applicant under Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention) (the

right to liberty and inviolability of the person), which were violated in the course of her involuntary hospitalization at a psychiatric facility. The applicant was represented in the European Court of Human Rights by a Sutyajnik staff attorney, Anna Demeneva, with the support of attorneys from INTERIGHTS (London), Borislav Petranov and Vesselina Vandova.

On 28 October 2003, the European Court of Human Rights rendered its decision in the case of *Rakevich v. Russia*, finding that the Russian Federation had committed violations of the applicant's rights guaranteed by Articles 5.1 and 5.4 of the Convention.

The case history, including press-releases, media reports, video and audio recordings of the public hearing, as well as the texts of all the decisions and judgments in the case can be found on our website, http://www.sutyajnik.ru/eng/news/2004/r_v_r.html

B. GENERAL PROJECTS

1. «Internship at the European Court of Human Rights». Supported by the Institute of International Education (Washington)

From 15 June to 1 July, 2003, two clinical students from Sutyajnik, a staff attorney from the Centre «Solidarity» (Moscow), and a post-graduate student at the Department of International Law of the Urals State Law Academy, had an internship at the European Court of Human Rights under the supervision of Anna Demeneva.

In the course of the internship, the supervisor and the interns were involved in a variety of activities:

- attending the hearings in the European Court of Human Rights in the matters of *Rakevich v Russia*, *R. L. & M.-J. D. v France*, and *Maestri v Italy*; analyzing the cases and of the arguments of the parties;
- participating in a training session on the European Convention on Human Rights;
- working at the library of the European Court;
- meetings with staff members of the Secretariat of the Court and the Committee of the Ministers and Directorate for human rights of the

Council of Europe: Christoff Zimann, a staff member of the Russian Secretariat Aleksey Datskevich and a staff member of the Department of the Execution of Decisions of the European Court, Michael Lobov;

- visits to the Council of Europe and the European Parliament;
- meeting with staff members of the European Youth Centre Julia Perervoy and Andre Dodin.

Further detail about the Internship project is available in Russian at http://www.sutyajnik.ru/rus/library/articles/kanikuli_v_strasburge.html

2. «Developing Competence in the International Defense of Human Rights». Supported by the Open Society Institute (Moscow)

In May, as part of this project, Sutyajnik conducted a five-day training seminar in the city of Perm for representatives of NGOs of the Perm region. The participants were provided instruction on international human rights treaties and the practical implementation of their provisions, with the objective of strengthening competence in such areas as analyzing the circumstances of specific cases and identifying actions that are violative of specific human rights guarantees.

3. «Staff Attorney Fellowship»

From September 2002 to September 2003, Anton Burkov's worked at Sutyajnik as a second-year participant in the Public Interest Law Fellowship Program of the Open Society Justice Initiative, the operational program of the Open Society Institute.

4. «Mandatory Personal Attendance At Court Hearings As a Restriction of Access to Justice» Supported by the Open Society Institute (Budapest), October 2002 — October 2003

The basic objective of this project is overcoming procedural obstacles to individuals' use of class action as an effective mechanism

for the defense of their rights. This project is now being utilized in the Russian Urals to attack such problems as various types of discrimination and other mass violations of human rights.

**5. «Public INTERNET-CONFERENCE-CENTRE
For The Dissemination of Knowledge About International
Mechanisms For The Defense of Human Rights». Supported
by John D. and Katherine T. MacArthur Foundation (Moscow)**

The Project, which was begun in 2002, continued in 2003. The INTERNET-CONFERENCE-CENTRE, operated by Sutyajnik, is a forum for round tables, conferences, presentations of projects and publications, video lectures and The Practical School Of Human Rights for lawyers and representatives of NGOs. On a weekly basis, lawyers and organizations provide citizens with counseling on legal issues.

**6. «Christmas Behind Bars». Supported by the Civil Liberties
Foundation**

The Civil Liberties Foundation provided the funds for an action in which, with the cooperation of institutions of the Main Correctional Administration, gifts of 4 US Dollars in value were prepared and distributed to each juvenile confined to correctional camps of the Sverdlovsk oblast. The gifts were delivered personally to each juvenile by members of our organization. The purpose of the project was to attract attention to the conditions of confinement of under age prisoners.

**7. «Human Rights Monitoring Network».
Supported by the Moscow Helsinki Group (Moscow)**

As part of this project, in May and June 2003, the Moscow Helsinki Group conducted the monitoring of psychiatric clinics in Russia. Sutyajnik conducted this monitoring in Yekaterinburg and Sverdlovsk oblast. We organized visits to several clinics (the regional general psychiatric clinic, children's general psychiatric clinic, and the general psychiatric clinic in

the city of Ninny Tagil), prepared monitoring reports (technical information on the presence of acceptable conditions of confinement and treatment), and interviewed the clinics' chief psychiatrists, nurses, and department administrators in accordance with a pre-prepared interview protocol.

From September through December 2003, there was monitoring of the observance of the voting rights in the parliamentary election campaign of 2003. Members of Sutyajnik staff interviewed representatives of election offices, local authorities, election commissions, the media, and Human Rights Ombudsmen of the Sverdlovsk oblast and analyzed news outlets on the Internet with the goal of gathering information on the observance of voting rights in the course of the pre-election campaign and the elections themselves.

**8. «Preparing and Litigating Cases In the Supreme and Constitutional Courts of the Russian Federation and the European Court of Human Rights».
Supported by the Open Society Institute (Budapest)**

In September 2003, we began a yet another project: «Preparation and Conduct of cases in the Supreme and Constitutional Courts of the Russian Federation and the European Court of Human Rights».

The objective of the project is to provide support for the organization's conduct of public interest cases aiming to reform Russian legislation that is contrary to the Constitution of the Russian Federation and international norms, as well judicial practices in the region with respect to the defense of human rights by applying constitutional and international human rights standards in the national and international courts.

The project also includes providing free legal counseling to citizens regarding challenging of law enactments that are violative of citizens' rights and contrary to the Constitution of the Russian Federation and international standards.

The project's activities are publicized in the media through the publication of commentaries on conduct of government officials or enactments that are inconsistent with international norms, articles, and giving radio and television interviews.

C. PUBLIC EDUCATION

1. Our Panels and Seminars

In the course of the year, we held 35 seminars, round tables, and press-conferences devoted to the various activities of Sutyajnik and other organizations in the city and the Ural region. Examples include a round table on «Access to Justice in the Urals Region: Problems and Solutions», a training seminar for NGO leaders and activists on «Tactics for the Conduct of Class Actions», and a press-conference on the results of the first year of the operation of the «Public INTERNET-CONFERENCE-CENTRE for the Dissemination of Knowledge About the International Mechanisms of Human Rights Defense».

For a detailed listing of our undertakings please go to the electronic version of this report in Russian on our website at http://www.sutyajnik.ru/rus/reports/report_2003.html#6

2. Our Guest Appearances

In addition to the organization's own activities, Sutyajnik lawyers took part in 42 separate seminars, trainings, round tables, etc., at the invitation of other organizations. They included a round table «The Defense of Human Rights Protection in the European Court of Human Rights», organized by the Centre for Cooperation With International Protection (Moscow), a training seminar on «Combating Discrimination in Russia: Main Directions for the Work of the Human Rights Movement Lawyers and Activists», sponsored by the Soros Foundation, Moscow. At the invitation of the American Bar Association's Central European and Eurasian Law Initiative (ABA/CEELI, Moscow), Sutyajnik lawyers conducted a training seminar for practicing attorneys, litigators, and NGO representatives on «Challenging normative acts».

For a detailed listing of our undertakings please go to the electronic version of this report in Russian on our website at http://www.sutyajnik.ru/rus/reports/report_2003.html#7

3. In the Media

In 2003, Sutyajnik lawyers were interviewed in newspapers, «Our Newspaper», «Tempo of the City»; on the radio, «United Nations Radio», radio «Echo of Moscow», and radio «Liberty»; on television, the Sverdlovsk State TV Company, All-Russian TV company, NTV, and regional TV companies, newspapers and radio stations.

In addition, the BBC television company made a film about Sutyajnik and its work.

4. Publications

In 2003, fifty-one articles authored by Sutyajnik lawyers were published in nationally distributed legal and human rights periodicals, on the following topics:

Russia and the European Court of Human Rights.

State structure.

Challenging unlawful legislation.

Administrative law.

Authorities and human rights Access to court.

Judges and law.

Protecting one's own rights.

Sutyajnik also issued two reports on human rights violations:

- A report on human rights violations in the Sverdlovsk region in 2003.

- A brief report on violations of human rights in the Sverdlovsk region, delivered at the public hearings on the 2003 Annual Report of the Ombudsman in the Sverdlovsk region.

The reports can be accessed in the Sutyajnik's web-library at <http://www.sutyajnik.ru/rus/library/main.html>

5. Our Website

In 2003 Sutyajnik launched a new website, www.sutyajnik.ru, which makes available human rights news reported by the News Agency

Sutyajnik-Press, the publications of the organization's attorneys and interns, information about grants, competitions, conferences, legal advice, etc. The 2002 Annual Report and the present report are posted on the website.

One can also visit the website to see our faces, register complaints about us, review published interviews given by us «sutyajniks», and find out what we «sutyajniks» and the press, the Sverdlovsk oblast human rights Ombudsman, and the well-known Russian lexicographer Vladimir Dal, think about Sutyajnik.

IN CONCLUSION: 2003 IN HIGHLIGHTS

For the first time the whole Sutyajnik team got involved in an independent project on litigating cases before the European Court of Human Rights, the Constitutional and Supreme Courts of the Russian Federation, and the Charter Court of the Sverdlovsk oblast. This project is continuing. May it enjoy success and future victories!

While the European Court of Human Rights is still only planning direct broadcasting of its public sessions, we have already managed to set up direct broadcasting of the session in the case of *Rakevich v Russia*, which we, incidentally, won against Russia.

Meanwhile, two lady «sutyajniks» gave birth to two girls. Three «sutyajniks» entered graduate programs in law. And another «sutyajnik» went off to the University of Essex (Colchester, the UK) to get «degreed» (to earn an LL.M. in International Human Rights Law).

And, all of the organization's activity is «strictly overseen» by the Board of Advisers.

Contact Information

Telephone/fax: 7-343-355-36-51

Address: Russia, Yekaterinburg, 620072, Sirenevyi Boulevard, 1–313;

web site: www.sutyajnik.ru

beliaev@sutyajnik.ru

Sergey Belyaev, President of the NGO Sutyajnik

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