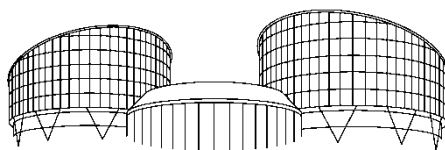


La Corte Edu sulla violazione dei principi in materia di libertà di riunione (CEDU, sez. I, sent. del 20 luglio 2023, ric. n. 29316/13 e altri)

La decisione in oggetto ha avuto origine dalle rimostranze sollevate contro la Russia da parte di alcuni ricorrenti i quali lamentavano l'applicazione nei loro confronti di misure sproporzionate in quanto organizzatori o partecipanti in assemblee pubbliche. Misure consistite nell'arresto e nella condanna per reati amministrativi.

Facendo riferimento a principi ormai consolidati nella sua giurisprudenza, la Corte ha ritenuto che nel caso di specie le interferenze con la libertà di riunione dei ricorrenti non fossero "necessarie in una società democratica", riscontrandosi per questa via una violazione dell'art. 11 della Convenzione.



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

FIRST SECTION

CASE OF XXX v. RUSSIA

(Applications nos. 29316/13 and 14 others – see appended list)

JUDGMENT
STRASBOURG
20 July 2023

This judgment is final but it may be subject to editorial revision.

In the case of XXX v. Russia,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Lətif Hüseyinov, *President,*

Ivana Jelić,

Erik Wennerström, *judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 29 June 2023,

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

PROCEDURE

1. The case originated in applications against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.
2. The Russian Government (“the Government”) were given notice of the applications.

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.
4. The applicants complained of the disproportionate measures taken against them as organisers or participants of public assemblies. They also raised other complaints under the provisions of the Convention.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. JURISDICTION

6. The Court observes that the facts giving rise to the alleged violations of the Convention occurred prior to 16 September 2022, the date on which the Russian Federation ceased to be a party to the Convention. The Court therefore decides that it has jurisdiction to examine the present applications (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023).

III. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

7. The applicants complained principally of disproportionate measures taken against them as organisers or participants of public assemblies, namely their arrest in relation to the dispersal of these assemblies and their conviction for administrative offences. They relied, expressly or in substance, on Article 11 of the Convention.
8. The Court refers to the principles established in its case-law regarding freedom of assembly (see *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, ECHR 2015, with further references) and proportionality of interference with it (see *Oya Ataman v. Turkey*, no. 74552/01, ECHR 2006-XIV, and *Hyde Park and Others v. Moldova*, no. 33482/06, 31 March 2009).
9. In the leading cases of *Frumkin v. Russia*, no. 74568/12, ECHR 2016 (extracts), *Navalnyy and Yashin v. Russia*, no. 76204/11, 4 December 2014 and *Kasparov and Others v. Russia*, no. 21613/07, 3 October 2013, the Court already found a violation in respect of issues similar to those in the present case.
10. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion as to the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the interferences with the applicants’ freedom of assembly were not “necessary in a democratic society”.

11. These complaints are therefore admissible and disclose a breach of Article 11 of the Convention.

IV. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

12. Some applicants submitted other complaints which also raised issues under the Convention and its Protocols, given the relevant well-established case-law of the Court (see appended table). These complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible.

13. Having examined all the material before it, the Court concludes that these complaints also disclose violations of the Convention and its Protocols in the light of its findings in *Butkevich v. Russia*, no. 5865/07, §§ 63-65, 13 February 2018, *Tsvetkova and Others v. Russia*, nos. 54381/08 and 5 others, §§ 115-31, 10 April 2018, *Korneyeva v. Russia*, no. 72051/17, §§ 34-36, 8 October 2019, and *Teslenko and Others v. Russia*, nos. 49588/12 and 3 others, §§ 72-74 and 81-82, 5 April 2022, as to administrative escorting to and/or detention in a police station beyond three hours for non-custodial offences, without substantiating the impossibility to compile an offence report at the rally venue or any exceptional circumstances or another valid ground under the Code of Administrative Offences (CAO) or continued detention after the offence report was compiled; *Karelin v. Russia*, no. 926/08, §§ 58-85, 20 September 2016, concerning the absence of a prosecuting party in the proceedings under the CAO; *Korneyeva*, cited above, §§ 62-65 as to the right of the organisers or participants of public assemblies not to be tried and punished twice for the same offence.

V. REMAINING COMPLAINTS

14. Some applicants raised further additional complaints under various Articles of the Convention concerning other aspects of the administrative-offence proceedings. In view of the findings in paragraphs 11 and 13 above, the Court considers that there is no need to deal separately with these remaining complaints.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. Regard being had to the documents in its possession and to its case-law (see in particular *Navalnyy and Others v. Russia* [Committee], nos. 25809/17 and 14 others, § 22, 4 October 2022), the Court finds it reasonable to award the sums indicated in the appended table and dismisses the remainder of the applicants' claims for just satisfaction.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Holds* that it has jurisdiction to deal with the applicants' complaints as they relate to facts that took place before 16 September 2022;
3. *Declares* the complaints under Article 11 of the Convention and the other complaints under the well-established case-law of the Court, as set out in the appended table, admissible, and *finds* that there is no need to examine separately the remaining complaints under the Convention;
4. *Holds* that these complaints disclose a breach of Article 11 of the Convention;
5. *Holds* that there has been a violation of the Convention and the Protocols thereto as regards the other complaints raised under well-established case-law of the Court (see appended table);

6. *Holds*

(a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(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' claims for just satisfaction.

Done in English, and notified in writing on 20 July 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina Acting Deputy Registrar

Lətif Hüseynov President