



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

THIRD SECTION

CASE OF TIMUR SHARIPOV v. RUSSIA

(Application no. 15758/13)

JUDGMENT

Art 10 • Freedom of expression • No relevant and sufficient reasons provided by domestic authorities for removal of election observer from polling station
• Enhanced Art 10 protection for election observers exercising the same function as a “public watchdog”

STRASBOURG

13 September 2022

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Timur Sharipov v. Russia,

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

Georges Ravarani, *President*,

Georgios A. Serghides,

Darian Pavli,

Peeter Roosma,

Andreas Zünd,

Frédéric Krenc,

Mikhail Lobov, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 15758/13) 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 a Russian national, Mr Timur Rustambekovich Sharipov (“the applicant”), on 21 January 2013;

the decision to give notice to the Russian Government (“the Government”) of the applicant’s complaint concerning his removal from a polling station and to declare inadmissible the remainder of his application;

the parties’ observations;

Having deliberated in private on 28 June 2022,

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

INTRODUCTION

1. The case concerns the applicant’s removal from a polling station, where he was an observer during the 2011 Russian legislative elections.

THE FACTS

2. The applicant was born in 1982 and lives in Moscow. He was represented by Mr M. Sharipov, a lawyer practising in the same city.

3. The Government were initially represented by Mr A. Fedorov and Mr M. Galperin, former Representatives of the Russian Federation to the European Court of Human Rights, and later by their successor in that office, Mr M. Vinogradov.

4. The facts of the case may be summarised as follows.

I. ELECTION OBSERVATION BY THE APPLICANT AND HIS REMOVAL FROM THE POLLING STATION

5. The applicant was an election observer appointed by a political party to observe the Russian legislative elections of 4 December 2011 at precinct polling station no. 2295 in Moscow.

6. On polling day, the precinct electoral commission of that polling station (“the PEC”) issued decision no. 9, which set out the rules on filming at the polling station (“the Rules”). The Rules stipulated that observer could film the electoral process if they so wished. Filming had to be carried out continuously, and filming the officials’ faces without their written consent was forbidden, as was commenting on the events while filming.

7. The PEC informed the applicant of the Rules and asked him to sign an information notice. He signed the notice expressing his disagreement with the Rules (he wrote “disagree” before his signature). After that he was allowed to film the elections.

8. The applicant had filmed the poll and was filming the vote counting when the PEC noted that he had repeatedly breached the Rules. The PEC prepared two formal records (*акт о нарушении проведения видеосъемки процесса голосования и подсчета голосов избирателей*) in respect of his misconduct. One of those records was submitted to the Court by the applicant. It stated that he had carried out filming without the written consent of the PEC’s members. It did not contain any further details of the breach imputable to him.

9. At an unspecified time thereafter, the PEC ordered a police officer who was present at the polling station to remove the applicant from the station for his misconduct. The PEC’s decision to that effect reads as follows:

“[The PEC’s] members established repeated breaches of decision no. 8 [*sic*], which had been notified to all of the observers before the poll started. The observers had signed the information notice in that respect. The breach consisted of repeatedly turning the camera on and off while filming and repeated incidents of putting pressure on [the PEC]. [Therefore], the decision to remove [the applicant] from the voting room [was] taken.”

10. According to the applicant, he was removed for filming grave procedural violations by the PEC’s members, including an unlawful break before the vote counting and an attempt by the PEC’s chairperson to illegally take the list of the voters out of the room for vote counting. The election observers later reported those incidents to a higher electoral authority. The applicant published his video on YouTube. It was viewed several thousand times.

11. The applicant further submitted, and the Government did not contest this, that after his removal from the polling station the PEC had ordered that the remaining observers also be removed from the station.

II. COURT PROCEEDINGS

12. On an unspecified date the applicant brought an action before the Cheremushki District Court of Moscow (“the District Court”) challenging the lawfulness of his removal from the polling station on the grounds that it had been carried out in breach of the electoral legislation. The District Court

dismissed his claim on 22 December 2011. The relevant part of the judgment reads as follows:

“According to [the records prepared by the PEC’s members], two incidents of [the applicant] filming without the written consent of [the PEC’s] members were established.

Those records were signed by [the PEC’s] chairperson and its members.

By virtue of [the PEC’s] decision no. 1 of 4 December 2011, [the applicant] was removed from the voting room on account of repeated breaches of rule 1 [of the Rules] enacted by [the PEC’s] decision no. 8, [specifically on account of] filming and repeatedly putting pressure on [the PEC].

The court finds that the aforementioned decision to remove [the applicant] from precinct polling station no. 2295 was lawful and well founded, because the violations recorded by [the PEC] – filming without the required written consent and putting pressure on [the PEC] – breached [the Rules] introduced by decision no. 9 and by the Electoral Rights Act and obstructed the work of [the PEC].

It follows that on the grounds of section 64(12) of the Electoral Rights Act, the observer had to be removed from the voting room.

Consequently, there are no grounds for granting the [applicant’s] claim.”

13. The applicant challenged the above judgment before the civil chamber of the Moscow City Court, which dismissed his appeal on 18 April 2012, endorsing the District Court’s reasoning.

14. The applicant subsequently lodged a cassation appeal against the judgments delivered in his case. It was dismissed by a single judge of the Moscow City Court on 4 December 2012. The judge concluded that there were no circumstances which could warrant the quashing of the final judgments challenged by the applicant.

RELEVANT LEGAL FRAMEWORK

I. DOMESTIC LAW AND PRACTICE

A. The Electoral Rights Act (Federal Law no. 67-FZ of 12 June 2002)

15. Under the Electoral Rights Act, as in force at the material time, an election observer could be appointed by a registered candidate, electoral association, or, if domestic law allowed, by other types of public associations (section 30(4)). An election observer had the right to witness the poll and vote counting and to submit proposals or remarks regarding the organisation of the poll to the PEC’s chairperson (section 30(9)(b)); an observer was not to obstruct the PEC’s work (section 30(10)(e)). An observer who breached the Electoral Rights Act had to be removed immediately from the voting room. A reasoned decision to that effect had to be adopted in writing by the PEC or by a higher electoral authority (section 64(12)).

16. A 2016 amendment to the Electoral Rights Act (Federal Law no. 29-FZ of 15 February 2016) granted election observers the right to film the electoral process (section 30(9)(k)).

B. The Duma Election Acts

17. The 2005 Duma Election Act (Federal Law no. 51-FZ of 18 May 2005), as in force at the material time, stipulated that election observers could be appointed by any political party which had registered a list of candidates for election (section 30(1)). It set out a list of the rights and obligations of election observers (section 30(6) and (7)), which was similar to that set out in the Electoral Rights Act cited in paragraph 15 above. However, it did not explicitly provide for an election observer's right to film the elections. That right was given only to representatives of the media (section 32(5)).

18. The 2014 Duma Elections Act (Federal Law no. 20-FZ of 22 February 2014), which came into force after the events in the present case took place, provided that election observers could film the elections from the dedicated spot determined by the PEC's chairperson. The election observer had to inform the PEC's chairperson, his or her deputy or the PEC's registrar of his or her intention to carry out filming.

II. COUNCIL OF EUROPE MATERIAL

A. Venice Commission of the Council of Europe

Guidelines on an internationally recognised status of election observers, no. CDL-AD(2009)059, 14 December 2009

19. The relevant parts of the guidelines read as follows:

“I. General remarks

...

11. Election observers should be given the widest possible opportunity to participate in an election observation process ...

12. Observation of an election should ascertain whether any irregularities occurred before and after election day as well as on election day itself. This is the only way to ensure that the election has been conducted in accordance with domestic legislation and international rules and standards for democratic elections and has been organised in a democratic and transparent manner. Election observers must be in a position to note if laws or actions of the state and/or electoral officials unduly obstruct the exercise of election-related rights which are guaranteed by law, the constitution or applicable international human rights instruments ...

III. Guidelines for international and domestic election observers

1. Rights of international and domestic election observers

...

1.7. Reporting

...

vii. Guarantees should be provided by governmental authorities to allow election observers to implement their duties.

2. Duties of international and domestic election observers

...

2.3. Election observers should never obstruct the conduct of the election process, in any of its elements; they must not interfere in the electoral process ...

B. Parliamentary Assembly of the Council of Europe (PACE)

PACE Resolution 1771 (2010) on an internationally recognised status of election observers

20. The relevant parts of the Resolution read as follows:

“3. Observation of elections plays an important role in enhancing the democratic electoral process and promoting the protection of human rights. Election observers monitor elections that are held according to domestic and international law standards. They also scrutinise the existing electoral legal framework. Therefore, election observation is an effective instrument for identifying shortcomings of the electoral process and deterring fraud. It is also a tool to increase the confidence of the electorate in the electoral process.

...

14. Furthermore, the Assembly calls on Council of Europe member states to implement the Venice Commission guidelines on an internationally recognised status of election observers ... In fixing explicit rules on the rights and duties of election observers, member states should in particular:

14.1. provide that election observers’ tasks should cover areas of assessment of the whole electoral process, including the pre-voting phase, the voting day phase and the post-voting phase;

...

14.4. provide for remedies if election observers’ rights are not respected;

14.5. ensure that observers’ freedom of movement is not restricted;”

III. OTHER INTERNATIONAL MATERIAL

Organization for Security and Co-operation in Europe

Organization for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights Election Observation Mission Final Report, “Elections to the State Duma 4 December 2011”, 12 January 2012

21. The relevant parts of the report read as follows:

“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.

...

Twelve cases of extended breaks in the counting process were reported. In some instances, [electoral commissions] 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. ...

...

On and following election day, the OSCE/ODIHR EOM observed a number of protests in Moscow against alleged violations during these elections ...

The biggest protest rallies were held on 10 December on Bolotnaya Square and on 24 December on Saharov Avenue in Moscow, when tens of thousands of people gathered. ...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

22. The applicant complained that his removal from the polling station had breached Article 10 of the Convention and Article 3 of Protocol No. 1. His complaint does not, however, fall within the scope of the right to free elections protected by the latter Article, as it does not concern the applicant’s right to vote, his right to stand as a candidate for elections, or the positive obligations imposed by that Article (see *Mugemangango v. Belgium* [GC], no. 310/15, §§ 68-69, 10 July 2020, and *Riza and Others v. Bulgaria*, nos. 48555/10 and 48377/10, §§ 136-41, 13 October 2015). The Court therefore considers that the complaint should be examined under Article 10 of the Convention, the relevant part of which reads as follows:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. ...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

A. Admissibility

1. *Submissions by the parties*

23. The Government submitted that the complaint was manifestly ill-founded. Relying on the findings by the domestic courts, they stated that the interference with the applicant's right had been lawful. They noted that the Rules breached by the applicant had not restricted his rights as an election observer but had in fact broadened them by including the right to film, which the 2005 Duma Election Act did not provide for (see paragraph 17 above). The applicant had been aware of the content of the Rules and the relevant domestic law and could have foreseen the consequences of his conduct. His removal from the polling station for his misconduct had therefore been lawful and "necessary in a democratic society" to put a stop to the undue pressure he had been exercising on the PEC and to protect the rights of voters. The Government referred to the wide margin of appreciation afforded to them under Article 10 of the Convention.

24. The applicant maintained his complaint. He stated that the Rules adopted by the PEC had restricted his rights guaranteed by the Electoral Rights Act and that the decision to remove him from the polling station had been unlawful. According to the applicant, the PEC had removed him from the polling station owing to his attempts to film the electoral fraud he had witnessed. His removal had given the PEC an opportunity to tamper with the results of the voting unnoticed.

2. *Assessment by the Court*

(a) *Ratione materiae*

25. The Court has previously applied Article 10 of the Convention to the activity of gathering information by journalists, when it was an essential preparatory step in their work as "public watchdogs" in a democratic society (see *Pentikäinen v. Finland* [GC], no. 11882/10, § 83, ECHR 2015; *Dammann v. Switzerland*, no. 77551/01, § 52, 25 April 2006; *Selmani and Others v. the former Yugoslav Republic of Macedonia*, no. 67259/14, § 61, 9 February 2017; *Szurovecz v. Hungary*, no. 15428/16, § 52, 8 October 2019; and *Mándli and Others v. Hungary*, no. 63164/16, § 45, 26 May 2020). It has also recognised that non-governmental organisations, academic researchers, authors of literature, bloggers and popular users of social media who draw attention to matters of public interest exercise the same function as a "public watchdog" and enjoy the protection of Article 10 of the Convention (see *Magyar Helsinki Bizottság v. Hungary* [GC], no. 18030/11, §§ 166-68, 8 November 2016, and *Társaság a Szabadságjogokért v. Hungary*, no. 37374/05, §§ 26-28, 14 April 2009 and the references cited therein).

26. The applicant in the instant case gathered information by overseeing the election in his capacity as an election observer appointed by a political

party to convey that information to the public. It was an essential part of his duties which served the important public interest in free and transparent elections. Given the fundamental importance of such elections in any democratic society and the essential role of political parties in the electoral process, the Court considers that the applicant exercised his freedom of expression as a “public watchdog” in a democratic society and that the protection of Article 10 of the Convention therefore applies to his activity, which is of similar importance to that of the press. His complaint is therefore compatible *ratione materiae* with the provisions of the Convention.

(b) Six-month rule and exhaustion of domestic remedies

27. Having lodged his application with the Court on 21 January 2013, the applicant has complied with the six-month rule. The relevant time-limit started to run when the Moscow City Court delivered its judgment on the cassation appeal on 4 December 2012. Although at that time the question whether the cassation appeal was a remedy to be exhausted had not yet been decided (see *Abramyan and Others v. Russia* (dec.), nos. 38951/13 and 59611/13, §§ 76-96, 12 May 2015), the applicant cannot be criticised for having made use of that remedy, as its effectiveness was subsequently confirmed by the Court (see *Timofeyev and Postupkin v. Russia*, nos. 45431/14 and 22769/15, §§ 111-13, 19 January 2021). There is no need to consider whether he should have lodged a cassation appeal before the Supreme Court of Russia, since the Government have not argued that it was a remedy to be exhausted.

(c) Other grounds

28. The applicant’s complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

29. The applicant submitted that he had been unlawfully removed from the polling station. According to him, the Rules adopted by the PEC ran counter to the Electoral Rights Act because they restricted the observers’ right to film the electoral process. He also noted that he had been removed for “putting pressure on the PEC” – a ground which had not been provided for by the Electoral Rights Act (which provided for the PEC’s right to remove an observer if he or she “obstruct[ed] the PEC’s work”). His removal had therefore been based on unclear and unforeseeable provisions. The applicant also submitted that the measure complained of had not been necessary in a democratic society and that it had undermined trust in the elections.

30. The Government did not comment specifically on the merits of the case. Their arguments are summarised in paragraph 23 above.

2. *Assessment by the Court*

(a) **Whether there was an interference**

31. The applicant's removal from the polling station prevented him from carrying out his function as an election observer, that is to say from obtaining first-hand and direct knowledge of the electoral process and imparting the results of his observations. There has accordingly been an interference with his rights guaranteed by Article 10 of the Convention (compare *Szurovecz*, cited above, §§ 52-54, and *Mándli and Others*, cited above, §§ 45-46).

(b) **Whether the interference was justified**

32. The Court observes that the measure contested by the applicant was based on section 64(12) of the Electoral Rights Act read in conjunction with its section 30(10)(e) and rules 2 to 5 of the Rules (see paragraphs 6 and 14 above). It is not clear from the documents in the case file or the parties' submissions what the statutory basis for the PEC's competence to lay down rules was. The Court doubts that the PEC, being a low-level electoral authority, was competent to issue restrictive rules in respect of the election observers' rights. In the circumstances of the present case, the Court will not, however, examine this issue in addition to the remaining aspects of the "lawfulness" criterion, because the interference in question was in any event unjustified for the reasons outlined below.

33. Even assuming that the applicant's removal was aimed at preventing obstruction of the PEC's work and protecting the rights of the participants in the election, therefore pursuing the legitimate aims of "prevention of disorder" and "protection of the rights of others" (compare *Mándli and Others*, cited above, § 57), it has not been shown that the interference was "necessary in a democratic society".

34. The adjective "necessary", within the meaning of Article 10 § 2 of the Convention, implies the existence of a "pressing social need". The Contracting States have a certain margin of appreciation in assessing whether such a need exists, but it goes hand in hand with European supervision, embracing both the legislation and the decisions applying it, even those given by an independent court. The Court is therefore empowered to give the final ruling on whether a "restriction" is reconcilable with freedom of expression as protected by Article 10. Its task, in exercising its supervisory jurisdiction, is not to take the place of the competent national authorities but rather to review under Article 10 the decisions they delivered in the exercise of their power of appreciation. What the Court has to do is, *inter alia*, to look at the interference complained of in the light of the case as a whole and determine

whether the national authorities adduced “relevant and sufficient” reasons to justify it (see *Bédat v. Switzerland* [GC], no. 56925/08, § 48, 29 March 2016).

35. The applicant in the present case was an election observer. Given the important role that oversight of elections plays in enhancing the democratic electoral process and promoting the protection of human rights (see paragraphs 19-20 above), the Court considers that the applicant’s status conferred on him enhanced protection under Article 10 of the Convention, essential for the effective performance of his task of purveyor of information and public watchdog. That protection, however, is not absolute and cannot exempt election observers from such “duties and responsibilities” as may follow from paragraph 2 of Article 10 of the Convention (compare to the concept of “responsible journalism” explained in *Pentikäinen*, cited above, §§ 90-91). Bearing that in mind, the Court will examine whether the reasons adduced by the authorities were “relevant and sufficient” to justify the applicant’s removal from the polling station.

36. According to the domestic authorities, the applicant was removed from the polling station for putting pressure on PEC members and for filming with interruptions and without the consent of the PEC members (see paragraphs 9 and 12-14 above). The domestic courts relied primarily on the applicant’s supposed failure to obtain the PEC members’ consent before filming them (see paragraph 12 above).

37. The Court notes that the PEC’s decision did not contain even basic details of his misconduct. While the Court is mindful of the objective difficulties experienced by the PEC on account of drafting its decision on the spot, it does not consider that those difficulties can exempt the PEC from describing the factual circumstances of the decision taken. Such a description was required for maintaining a clear audit trail, which is an important guarantee against arbitrariness and a necessary precondition for the thorough examination of a case.

38. The domestic courts did not make good the lack of factual details. In particular, it was not shown in what specific way the applicant had obstructed the PEC’s work. Furthermore, the domestic courts failed to assess to what degree the alleged misconduct of the applicant had obstructed the electoral process. Even assuming that the applicant’s filming had been disruptive, it was not determined whether it was so serious that it could justify the observer’s removal from the polling station, thus depriving him of any possibility to observe the process during the crucial vote-counting stage. The courts did not determine, in this context, whether it had been possible, for example, to simply bar the applicant from filming. The Court therefore concludes that no “relevant and sufficient” reasons for the application of the impugned measure were put forward by the authorities.

39. There has accordingly been a violation of Article 10 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

40. 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.”

41. The applicant claimed 10,000 euros (EUR) in respect of non-pecuniary damage.

42. The Government submitted that the claim was excessive, unlawful and unsubstantiated.

43. The Court notes that the claim for non-pecuniary damage does not necessarily need to be substantiated. It considers that the applicant has suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation, and that compensation should thus be awarded. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant EUR 2,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

44. 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

1. *Declares*, unanimously, the application admissible;
2. *Holds*, by six votes to one, that there has been a violation of Article 10 of the Convention;
3. *Holds*, by six votes to one,
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 2,000 (two thousand euros), plus any tax that may be chargeable, to be converted into the currency of the respondent State at the rate applicable at the date of settlement, in respect of non-pecuniary damage;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses*, unanimously, the remainder of the applicant’s claim for just satisfaction.

TIMUR SHARIPOV v. RUSSIA JUDGMENT

Done in English, and notified in writing on 13 September 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Georges Ravarani
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Lobov is annexed to this judgment.

G.R.
M.B.

DISSENTING OPINION OF JUDGE LOBOV

1. I have disagreed with the majority’s conclusion in which they find a violation of Article 10 in the present case.

2. The facts of the case are quite simple. The applicant, an election observer during the legislative elections of 4 December 2011, infringed the national rules on filming the work of electoral commissions. Those required that (1) any recording be continuous; and (2) the faces of persons working for the electoral commission officials be filmed only with their consent. The applicant was notified of the rules, with which he “disagreed”; he did not, however, specify his reasons (see paragraph 7 of the judgment). As the day went on the applicant repeatedly failed to comply with the rules. Two formal records of breach were made before he was removed from the polling station. The issue he brought before the Court is also rather simple: did his removal from the polling station amount to a violation of his rights under Article 10?

3. At the outset, what is surprising is how easily the case passed the Court’s admissibility test. Indeed, the case file suggests that the applicant blatantly failed to rely, either in form or in substance, on any grounds relating to Article 10 in the domestic proceedings. His complaint, lodged with the Cheremushkinskiy District Court of Moscow, concerned solely “the protection of his electoral rights”, as quoted by the district court’s decision of 22 December 2012. This is a fair explanation for why the domestic adjudication was strictly limited to the assessment of the lawfulness of the impugned decisions, rather than engaging in the proportionality test under Article 10 of the Convention. Accordingly, in the absence of free-speech arguments, the domestic court was examining another matter and gave an adequate reply to the applicant’s submissions, contrary to what the majority suggest in paragraph 38 of the present judgment.

4. Furthermore, the majority equate the applicant’s role as an observer with that of a journalist acting as “public watchdog” in a democratic society. This statement calls for a strong caveat. The main task of an election observer is indeed to follow the electoral process and flag up alleged violations through official reports, but it is certainly not to broadcast the events through video channels. Accordingly, there are many State Parties to the Convention which provide for no possibility whatsoever of video recording at polling stations. No one would ever think of claiming that such more restrictive rules violate any right under the Convention. There is nothing to suggest that the video-recording rules were not clear to the applicant.

5. Lastly, even accepting the majority’s view that the principles of “responsible journalism” should apply to the applicant’s duties as an observer (see paragraph 35 of the judgment), no reporting activity should encroach upon other significant public and private interests, be they the privacy of the electoral commission’s officials or the public order which ensures that these officials can exercise their duties without pressure or harassment. It does not

flow from the majority’s reasoning in what manner the filming of the officials’ faces – in itself an interference with their protected rights under Article 8 – had been required either for the observer’s duties or for “responsible” reporting on matters of public concern. Nor does the case file support the majority’s assertion that the applicant’s conduct during “the crucial vote-counting stage” had not been sufficiently disruptive or “serious” to justify his removal.

6. In conclusion, I can hardly perceive any arbitrariness or abuse on the part of the domestic courts which upheld the applicant’s removal from the polling station. True, the domestic court’s findings were concise, but so also were the parties’ pleadings. The courts’ failure to follow strictly, of their own motion, the Court’s proportionality test under Article 10 is not sufficient to find a violation of that provision (see the joint dissenting opinion by judges Elósegui and Lobov in *Bodalev v. Russia*, no. 67200/12, 6 September 2022 (not yet final)). Neither the context nor the alleged gravity of the consequences of the impugned restriction appear disproportionate under the Convention standards.