European Court of Human Rights: Taranenko v. Russia

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Dirk Voorhoof
Human Rights Centre, Ghent University and Legal Human Academy

The European Court's judgment in the case of Taranenko v. Russia illustrates how Article 10, in conjunction with Article 11 (freedom of assembly and association), also protects collective action, expressive conduct and distribution of leaflets as a form of protected speech. The case concerns the detention and conviction of Ms Taranenko, a participant in a protest against the politics of President Putin in 2004. The protesters had occupied the reception area of the President's Administration building in Moscow and locked themselves in an office. They waved placards with "Putin, resign!" («Путин, уйди!») and distributed leaflets with a printed address to the President that listed ten ways in which he had failed to uphold the Russian Constitution, and a call for his resignation. One of the protesters, Ms Taranenko, complained in Strasbourg about the way the Russian authorities have treated, detained, prosecuted and convicted her for participating in this protest action, claiming that her right to freedom of expression and her right of peaceful assembly had been violated.

The Court reiterated that "the right to freedom of assembly is a fundamental right in a democratic society and, like the right to freedom of expression, is one of the foundations of such a society. Thus, it should not be interpreted restrictively". The Court also emphasised that any measures interfering with freedom of assembly and expression "other than in cases of incitement to violence or rejection of democratic principles do a disservice to democracy and often even endanger it". The Court noted that the issues of freedom of expression and freedom of peaceful assembly are closely linked in the present case: "Indeed, the protection of personal opinions, secured by Article 10 of the Convention, is one of the objectives of freedom of peaceful assembly as enshrined in Article 11 of the Convention". The European Court underlined that the protest, although involving some disturbance of public order, had been largely non-violent and had not caused any bodily injuries. The participants in the protest action came to the President's Administration building to meet officials, hand over a petition criticising the President's policies, distribute leaflets and talk to journalists. The aim of the protesters in Moscow was indeed to obtain media-exposure, in which they effectively succeeded. The disturbance that followed was not part of their initial plan but a reaction to the guards' attempts to stop them from entering the building. In this context, the Court had to examine with particular scrutiny the prison sentence as a sanction imposed by the national authorities for non-violent conduct. The Court found in particular that while a sanction for Ms Taranenko's actions might have been warranted by the demands of public order, her detention

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pending trial of almost one year and the suspended prison sentence of three years imposed on her had to have had a deterring effect on protesters. The Court considered the pre-trial detention and the prison sentence as an “unusually severe sanction” having a chilling effect on Ms Taranenko and other persons taking part in protest actions. The Court referred to the “exceptional seriousness of the sanctions” as being disproportionate and therefore concluded that the interference had not been necessary in a democratic society for the purposes of Article 10. There had accordingly been a violation of Article 10 interpreted in the light of Article 11 of the Convention.

Judgment by the European Court of Human Rights (First Section), case of Taranenko v. Russia, Appl. No. 19554/05 of 15 May 2014

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