

Numéro de dossier	19841/06
<i>File-number</i>	

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

Conseil de l'Europe – *Council of Europe*  
Strasbourg, France

REQUÊTE  
*APPLICATION*

**Bagdonavichus and Others v. Russia**

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 Court

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

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## SUMMARY OF THE CASE

This case is brought by 33 applicants from six Roma families (“six applicant families”), who span three generations of long-term residents of Dorozhnoe village.<sup>1</sup> The families include the Bagdonavichus family (“first applicant family”), Arlauskas family (“second applicant family”), Zhguleva family (“third applicant family”), Alexandrovich family (“fourth applicant family”), Samulajtis-Petravichute family (“fifth applicant family”), and Kasperavichus family (“sixth applicant family”). Dorozhnoe village is in the Gurievsk district of Kaliningrad Oblast and is located approximately seven kilometres from Kaliningrad city in north-western Russia.<sup>2</sup>

During the week of 29 May through 2 June 2006, special police forces (OMON) of the Government of the Russian Federation, the bailiff service of the Russian Government, and officials of the Gurievsk administration violently demolished and burned the houses of the six applicant families, forcibly evicting the applicants from their homes and separating them from each other and from individual family members. The destruction of their homes, which capped a series of sham legal proceedings designed to justify the collective, racially-motivated eviction of Roma from Dorozhnoe, has effectively rendered the applicants homeless and, as the winter approaches, in increasing danger.

A profound injustice of this case is that the Russian authorities today have evicted the applicants from the land on which the Soviet authorities in Kaliningrad forced their ancestors to settle. Pursuant to the 1956 Soviet Decree which ordered forced sedentarisation of Roma, the Kaliningrad authorities designated Dorozhnoe village for the Roma to establish permanent residence. The applicants are all descendants of the original settlers of Dorozhnoe village, with the eldest generation of applicants having resided in Dorozhnoe village for the majority of their lives and the younger generations for their entire lives. All the applicants had lived in their homes from which they were evicted for over 15 years, a number of them in houses they – or their own family members – built from scratch.

Government services to the segregated Roma community of Dorozhnoe village and the infrastructure of the settlement have always been substandard, perpetuating official discrimination and marginalization of the Roma of Kaliningrad. Roma residents of Dorozhnoe village encountered difficulties accessing – and many were denied – education, medical care and official documentation from the government, such as birth certificates and registration papers. At least in Dorozhnoe the Roma were able to build and maintain their homes.

After the fall of the Soviet Union, documentary proof of property ownership acquired a new importance. From 2001 to 2002, the Kaliningrad authorities engaged with the Roma community of Dorozhnoe village, encouraging the families to formalize title to their property through the courts and administration. Two of the six applicant families received initial court decisions recognizing their families’ legal title to their property in 2002. None of the applicant

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<sup>1</sup> This application will use “Dorozhnoe” as the proper transliteration from the Russian language, although the proper name for this village has been transliterated as “Dorozhny” elsewhere. Both of these transliterations refer to the same Roma village in Kaliningrad known as “Дорожное.”

<sup>2</sup> Kaliningrad Oblast is a federal administrative subject of the Russian Federation, noncontiguous with mainland Russia, located between Poland and Lithuania on the Baltic Sea.

families, however, had the necessary paperwork in order to complete the complex, bureaucratic application process. Also during this time, the Kaliningrad Regional Building Committee met with the Roma community of Dorozhnoe village to jointly draw up a master development plan for the village. This plan acknowledged the boundaries of land parcels and existing homes of the residents of the village and projected the provision of public and private services to the community.

By the end of 2002, however, the local authorities changed their stance. They stopped legalizing title to property in the village and began deregistering long-term residents from Dorozhnoe village. By 2005, the Kaliningrad administration issued propaganda through the media vilifying all the inhabitants of Dorozhnoe village as criminals and drug dealers. Rather than prosecute individuals for alleged involvement in crime, however, the authorities instituted legal proceedings in the Gurievsk District Court. In proceedings that violated fundamental standards of due process, the Gurievsk District Court declared the residents' occupancy of their homes illegal, thereby authorizing the government to demolish the homes. All of the applicants appealed these decisions, but in further proceedings that denied the applicants a fair trial, the Kaliningrad Regional Court upheld the District Court's conclusions.

The week of 29 May through 2 June 2006, the Kaliningrad authorities came to forcibly demolish the applicants' homes and evict them; other homes in Dorozhnoe village had been destroyed earlier in the year. The authorities made explicit their racial animus toward the applicants; threatening them with machine guns, the special police forces brutally evicted the applicants before the authorities bulldozed the applicants' homes and set the ruins and the applicants' possessions on fire. As they did so, the authorities subjected the applicants to a barrage of racist remarks such as "You the Gypsies, get out of our land," and "you the Gypsies are all the same and you must be exterminated."

The applicants establish herein that the Russian authorities have endangered their lives and subjected them to inhuman and degrading treatment and punishment. The authorities have demolished the applicants' homes, separated the families, and forced them to find makeshift shelter, thereby violating the applicants' rights to their home, private, and family life and interfering with their enjoyment of their possessions. Furthermore the Russian courts have denied the applicants a fair trial and an effective remedy. It is clear that the Russian authorities were motivated in all of these actions by racial animus toward the applicants on account of their Roma ethnicity. As such, the applicants request that this Court declare that the Russian Government has breached their rights under Articles 2, 3, 6, 8, 13 of the Convention, Article 1 of Protocol No. 1 of the Convention, and Article 14 together with the aforementioned rights, grant the applicants pecuniary and non-pecuniary damages for the rights violations they continue to suffer, and order restitution of their lawful right to their homes in Dorozhnoe village.

Given the exigencies of the applicants' deteriorating condition and the gravity of the violations they suffer, the applicants respectfully request this Court to expedite consideration of their case pursuant to Rule 40 of the Rules of the Court. As a result of their violent expulsion from their homes, the six applicant families have been forcibly separated and are effectively homeless, living in temporary, makeshift shelters that do not have any heat, gas, electricity or water. As winter approaches, the applicants are exposed to the elements, facing sub-freezing

temperatures that endanger their health and lives. The children applicants are unable to go to school and all of the applicants, now that they have no official residence, face difficulties obtaining medical care for chronic conditions or illnesses arising from the mental hardship and the harsh conditions they endure as a result of their forced evictions.

## IX. THE PARTIES

### D. THE APPLICANTS

#### *Bagdonavichus Family*

##### ***Applicant 1***

**1. Surname:** Bagdonavichus

2. *First name(s):* Leonas Iono

*Sex:* male

3. *Nationality:* Russian and Lithuanian

4. *Occupation:* Self employed driver

5. *Date and place of birth:* 16.11.1950, Lithuania

6. *Permanent Address:* Dorozhnoe village, Guriev District, Kaliningrad region, Russia

7. *Tel. No.:* 8-909-786-8573

8. *Present address (if different from 6.):* Lesnoye village, Kaliningrad region, Russia

9. *Name of Representatives:*<sup>3</sup>

(1) James A. Goldston, Julia Harrington, Mirna Adjami, Open Society Justice Initiative;

(2) Vladimir Luzin

10. *Occupation of Representatives:*

(1) Executive Director, Senior Legal Officer, Legal Officer and Attorneys-at-Law;

(2) Attorney; Open Society Justice Initiative Anti-Discrimination Resident Fellow in Russia

11. *Address of Representatives:*

(1) Open Society Justice Initiative, Oktober 6.u. 12. 7th Floor, H-1051 Budapest, Hungary

(2) 23 Piskunova ul. 40 A, Nizhny Novgorod, 603005 Russia

12. *Tel No.*

(1) +1-212-548-0347

(2) +7-831-232-8320

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##### ***Applicant 2***

**1. Surname:** Bagdonavichene

2. *First name(s):* Magdalena

*Sex:* female

3. *Nationality:* Lithuanian

4. *Occupation:* Not employed

5. *Date and place of birth:* 06.02.1953, Lithuania

6. *Permanent Address:* Dorozhnoe village, Guriev District, Kaliningrad region, Russia

7. *Tel. No.:* None

8. *Present address (if different from 6.):* Lesnoye village, Kaliningrad region, Russia

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##### ***Applicant 3***

**1. Surname:** Bagdonavichus

2. *First name(s):* Sasha

*Sex:* male

3. *Nationality:* Lithuanian

4. *Occupation:* Not employed

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<sup>3</sup> Under separate cover, the 33 applicants who are party to the present communication submit letters of authority indicating James A. Goldston, Julia Harrington, Mirna Adjami, and Vladimir Luzin as their legal representatives before this Court. Please note that the contact information concerning the legal representatives, indicating their occupation, address, and telephone numbers, pertains to each of the 33 applicants listed as parties to this communication under Section I and will therefore not be repeated.

5. *Date and place of birth:* 14.03.1978, Lithuania
  6. *Permanent Address:* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. No.:* None
  8. *Present address (if different from 6.):* Unknown
- 

***Applicant 4***

1. ***Surname:*** Bagdanavichute
  2. *First name(s):* Helena
  - Sex: female
  3. *Nationality:* Lithuanian
  4. *Occupation:* Not employed
  5. *Date and place of birth:* 13.04.1972, Russia
  6. *Permanent Address:* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. No.:* None
  8. *Present address (if different from 6.):* Unknown
- 

***Applicant 5***

1. ***Surname:*** Bogdanovichus
  2. *First name(s):* Olegas
  - Sex: male
  3. *Nationality:* Lithuanian
  4. *Occupation:* Self employed driver
  5. *Date and place of birth:* 14.02.1970, Russia
  6. *Permanent Address:* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. No.:* None
  8. *Present address (if different from 6.):* Unknown
- 

***Applicant 6***

1. ***Surname:*** Bagdanavichute
  2. *First name(s):* Tamila
  - Sex: female
  3. *Nationality:* Lithuanian
  4. *Occupation:* Not employed
  5. *Date and place of birth:* 16.01.1988, Lithuania
  6. *Permanent Address:* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. No.:* None
  8. *Present address (if different from 6.):* Lesnoye village, Kaliningrad region, Russia
- 

***Applicant 7***

1. ***Surname:*** Bagdanavichute
  2. *First name(s):* Ana
  - Sex: female
  3. *Nationality:* Lithuanian
  4. *Occupation:* -
  5. *Date and place of birth:* 28.09.2004, Lithuania
  6. *Permanent Address:* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. No.:* None
  8. *Present address (if different from 6.):* Lesnoye village, Kaliningrad region, Russia
- 

***Applicant 8***



1. **Surname Alexandrovich**
  2. *First name(s)* Leonid Olegovich
  - Sex male
  3. *Nationality* Russian
  4. *Occupation* -
  5. *Date and place of birth* 06.05.1998, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Unknown
- 

***Applicant 9***

1. **Surname Alexandrovich**
  2. *First name(s)* Nikita Olegovich
  - Sex male
  3. *Nationality* Russian
  4. *Occupation* -
  5. *Date and place of birth* 14.03.2000, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Unknown
- 

***Applicant 10***

1. **Surname Alexandrovich**
  2. *First name(s)* Natalya Antano
  - Sex female
  3. *Nationality* Russian
  4. *Occupation* Not employed
  5. *Date and place of birth* 07.08.1978, Lithuania
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Unknown
- 

***Arlauskas Family***

***Applicant 11***

1. **Surname Arlauskas**
  2. *First name(s)* Alexandras Andreyaus
  - Sex male
  3. *Nationality* Russian
  4. *Occupation* Self employed driver
  5. *Date and place of birth* 15.05.1956, Lithuania
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* 7-905-244-2784
  8. *Present address (if different from 6.)* ul. Muromskaya, Kaliningrad, Russia
- 

***Applicant 12***

1. **Surname Arlauskene**
2. *First name(s)* Mariya Savel'evna
- Sex female
3. *Nationality* Russian
4. *Occupation* Not employed

5. *Date and place of birth* 08.04.1958, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* ul. Muromskaya, Kaliningrad, Russia
- 

***Applicant 13***

**1. Surname Arlauskajte**

2. *First name(s)* Anastasiya Alexandrovna
  - Sex female
  3. *Nationality* Russian
  4. *Occupation* Not employed
  5. *Date and place of birth* 26.02.1981, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* ul. Muromskaya, Kaliningrad, Russia
- 

***Applicant 14***

**1. Surname Arlauskas**

2. *First name(s)* Mihail Alexandrovich
  - Sex male
  3. *Nationality* Russian
  4. *Occupation* Not employed
  5. *Date and place of birth* 25.11.1976, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Znamensk, Kaliningrad region, Russia
- 

***Applicant 15***

**1. Surname Arlauskajte**

2. *First name(s)* Angela Alexandrovna
  - Sex female
  3. *Nationality* Russian
  4. *Occupation* Not employed
  5. *Date and place of birth* 22.08.1983, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev district, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Lithuania/accurate address is unknown
- 

***Applicant 16***

**1. Surname Arlauskas**

2. *First name(s)* Mihail Mihajlovich
  - Sex male
  3. *Nationality* Russian
  4. *Occupation* -
  5. *Date and place of birth* 14.06.1995, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Znamensk, Kaliningrad region, Russia
- 

***Applicant 17***

**1. Surname Arlauskas**

2. *First name(s)* Vanya Alexandrovich
  - Sex male
  3. *Nationality* Russian
  4. *Occupation* -
  5. *Date and place of birth* 10.04.2001, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Lithuania/accurate address is unknown
- 

***Applicant 18***

**1. Surname Arlauskajte**

2. *First name(s)* Olga Alexandrovna
  - Sex female
  3. *Nationality* Russian
  4. *Occupation* -
  5. *Date and place of birth* 13.04.2002, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Lithuania/accurate address is unknown
- 

***Applicant 19***

**1. Surname Arlauskas**

2. *First name(s)* Rustam Alexeevich
  - Sex male
  3. *Nationality* Russian
  4. *Occupation* -
  5. *Date and place of birth* 06.05.2002, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* ul. Muromskaya, Kaliningrad, Russia
- 

***Zhguleva Family***

***Applicant 20***

**1. Surname Zhguleva**

2. *First name(s)* Nonna Alexeevna
  - Sex female
  3. *Nationality* Russian
  4. *Occupation* Not employed
  5. *Date and place of birth* 26.12.1970, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* as above
- 

***Applicant 21***

**1. Surname Zhgulev**

2. *First name(s)* Dinari Arunovich
- Sex male
3. *Nationality* Russian
4. *Occupation* -
5. *Date and place of birth* 21.04.2002, Russia

6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* as above
- 

### ***Alexandrovich Family***

#### ***Applicant 22***

**1. Surname Alexandrovich**

2. *First name(s)* Nikolaj Ivanovich

*Sex* male

3. *Nationality* Russian

4. *Occupation* Pensioner

5. *Date and place of birth* 05.05.1946, Lithuania

6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia

7. *Tel. N* None

8. *Present address (if different from 6.)* as above

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#### ***Applicant 23***

**1. Surname Alexandrovich**

2. *First name(s)* Tamara Alexeevna

*Sex* female

3. *Nationality* Russian

4. *Occupation* Pensioner

5. *Date and place of birth* 17.11. 1949, Kasakhstan

6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia

7. *Tel. N* None

8. *Present address (if different from 6.)* as above

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#### ***Applicant 24***

**1. Surname Matulevich**

2. *First name(s)* Margarita Alexeevna

*Sex* female

3. *Nationality* Russian

4. *Occupation* Not employed

5. *Date and place of birth* 22.03.1969, Russia

6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia

7. *Tel. N* None

8. *Present address (if different from 6.)* as above

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#### ***Applicant 25***

**1. Surname Matulevich**

2. *First name(s)* Lyubov' Grafovna

*Sex* female

3. *Nationality* Russian

4. *Occupation* -

5. *Date and place of birth* 10.04.1992, Russia

6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia

7. *Tel. N* None

8. *Present address (if different from 6.)* as above

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### ***Samulajtis-Petravichute Family***

#### ***Applicant 26***

**1. Surname Samulajtis**

2. *First name(s)* Konstantin Sergeevich

*Sex* male

3. *Nationality* Russian

4. *Occupation* A security guard

5. *Date and place of birth* 04.08.1961, Russia

6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia

7. *Tel. N* None

8. *Present address (if different from 6.)* Unknown

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#### ***Applicant 27***

**1. Surname Petravichute**

2. *First name(s)* Anastasiya Silvestras

*Sex* female

3. *Nationality* Russian

4. *Occupation* Not employed

5. *Date and place of birth* 16.02.1975, Russia

6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia

7. *Tel. N* None

8. *Present address (if different from 6.)* Unknown

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#### ***Applicant 28***

**1. Surname Arlauskajte**

2. *First name(s)* Rada Viktorovna

*Sex* female

3. *Nationality* Russian

4. *Occupation* Not employed

5. *Date and place of birth* 18.10.1973, Russia

6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia

7. *Tel. N* None

8. *Present address (if different from 6.)* Unknown

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#### ***Applicant 29***

**1. Surname Arlauskajte**

2. *First name(s)* Ramina Ruslanovna

*Sex* female

3. *Nationality* Russian

4. *Occupation* -

5. *Date and place of birth* 28.04.1997, Russia

6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia

7. *Tel. N* None

8. *Present address (if different from 6.)* Unknown

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### ***Kasperavichus Family***

#### ***Applicant 30***

**1. Surname Kasperavichus**

2. *First name(s)* Vitautas Mikolo
  - Sex male
  3. *Nationality* Russian
  4. *Occupation* Retired because of illness
  5. *Date and place of birth* 10.10.1951, Lithuania
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Kaliningrad/accurate address is unknown
- 

***Applicant 31***

1. ***Surname*** Kasperavichus
  2. *First name(s)* Alexander Vitautovich
  - Sex male
  3. *Nationality* Russian
  4. *Occupation* Not employed
  5. *Date and place of birth* 01.11.1977, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Unknown
- 

***Applicant 32***

1. ***Surname*** Kosporovichus
  2. *First name(s)* Graf Viktorovich
  - Sex male
  3. *Nationality* Russian
  4. *Occupation* Not employed
  5. *Date and place of birth* 27.06.1980, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Kaliningrad/accurate address is unknown
- 

***Applicant 33***

1. ***Surname*** Kasperavichute
  2. *First name(s)* Kristina Alexandrovna
  - Sex female
  3. *Nationality* Russian
  4. *Occupation* -
  5. *Date and place of birth* 18.03.1999, Russia
  6. *Permanent Address* Dorozhnoe village, Guriev District, Kaliningrad region, Russia
  7. *Tel. N* None
  8. *Present address (if different from 6.)* Unknown
- 

## **E. THE HIGH CONTRACTING PARTY**

13. The Russian Federation

## X. STATEMENT OF THE FACTS

This section sets forth the facts of the applicants' case. It begins with an overview of the history of Roma settlement in Dorozhnoe village from its creation by the Soviet Government to its destruction by the Russian Government. It then recounts the facts pertaining to each of the six applicant families regarding their claims that the Russian government has violated their rights under the European Convention; the description of each applicant family summarises the legal remedies each family exhausted before national courts in Russia. Next, this section details the evidence of discrimination that permeates this case; this evidence covers both facts contained in the record in the instant case and independent reports of the systemic nature of discrimination against Roma in Russia in particular, and the emerging pattern of forced evictions of Roma throughout Council of Europe states. This section concludes with a summary of the relevant domestic statutory law and domestic comparative jurisprudence that underlies the six applicant families' claims.

### E. OVERVIEW OF ROMA SETTLEMENT IN DOROZHNOE VILLAGE

Ethnic Roma have been present in the territory of modern-day Russia for over three centuries. Originally following nomadic and semi-nomadic traditions, Roma in Russia have continually suffered official discrimination and underwent forced sedentarisation under Soviet rule.<sup>4</sup>

A profound injustice of this case is that the Russian authorities today have evicted the applicants from the land on which the Soviet authorities in Kaliningrad forced their ancestors to settle. On 5 October 1956, the Soviet authorities adopted Decree Number 450 entitled "On Engaging Vagrant Gypsies in Labour."<sup>5</sup> This decree criminalized Roma nomadic living, forcing Roma to establish fixed residence. The Soviet authorities selected sites for Roma to settle and even provided some communities with building materials to aid in the construction of their first houses.<sup>6</sup> The text of the 1956 decree reads as follows:

#### **No. 450            On Engaging Vagrant Gypsies in Labour**

As a result of measures taken by the Soviet state with the purpose of employing nomadic Gypsies, improving their life conditions, raising their cultural level, the majority of them have changed over to a settled way of life and started living on their own earnings. However, up to now some of the Gypsies have continued to be vagrants, leading a parasitic life and not infrequently committing crimes.

With the purpose of engaging vagrant Gypsies in socially useful labour, the Presidium of the Supreme Soviet of the USSR hereby **decrees:**

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<sup>4</sup> See Ex. 54; see also European Roma Rights Centre (ERRC), *In Search of Happy Gypsies: Persecution of Pariah Minorities in Russia*, 43-53 (May 2005).

<sup>5</sup> Ex. 54.

<sup>6</sup> See Vadim Toporov and Valdemar Kalinin, *A Phenomenon of Roma Common Law in Russia*, available at <http://www.liga-ivanovo.narod.ru/fenomen.htm>.

1. To prohibit vagrancy and propose to Gypsies to change over to a settled way of life and live on their own earnings.
2. To oblige the Councils of Ministers of the Soviet Republics to take measures for settling the vagrant Gypsies in permanent domicile, placing them in a job and carrying out their cultural and domestic servicing.
3. To establish that Gypsies being of age who will maliciously evade socially useful labour and live a vagrant lifestyle shall be punished under a sentence passed by a People's Court by exile in conjunction with corrective labour for a period of time not exceeding five years.<sup>7</sup>

Pursuant to the 1956 decree, authorities in Kaliningrad allocated Dorozhnoe village for the settlement of the local Roma population and since then, Dorozhnoe village developed as an almost exclusive Roma settlement on the outskirts of Kaliningrad city.<sup>8</sup> Roma families built permanent houses on parcels of land in Dorozhnoe Village. Furthermore, they obtained passports that officially recognized their permanent residence as their homes in Dorozhnoe village. Descendants of the original Roma settlers of Dorozhnoe Village inherited and maintained their homes in Dorozhnoe village, while other Roma sold their homes throughout the years to other Roma members of the Dorozhnoe community.

Although there was no official private ownership of houses under the communist Soviet regime, the Soviet government nevertheless acknowledged and officially sanctioned the permanent residence of the Roma families in Dorozhnoe village. This is demonstrated by the official stamps Roma individuals, including some of the applicants, received from the Soviet authorities registering their permanent residence in Dorozhnoe village.<sup>9</sup>

Government services to the segregated Roma community in Dorozhnoe village and the infrastructure of the settlement have always been substandard, perpetuating official discriminatory treatment toward the Roma of Kaliningrad. The government failed to maintain the roads within the village and did not provide any public transportation linking the village with Kaliningrad city or other communities. While in Soviet times, the Roma residents of Dorozhnoe village obtained and paid for electricity from the municipal government, the government cut the power supply to the village sometime around 2000. (Ex. 3, ¶ 10; Ex. 6, ¶ 18) Municipal fire brigades, ambulances, and waste-removal operations would not serve the Roma of Dorozhnoe community, leaving the residents to pool their resources to take care of such community needs. (Ex. 1, ¶ 28). The closest school was located approximately 5 kilometres from Dorozhnoe village and the government did not provide public transportation to bring Roma children from the village to attend school.<sup>10</sup> Only a few families who had private means of transportation,

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<sup>7</sup> ERRC, *In Search of Happy Gypsies*, pp. 51-52, fn. 81.

<sup>8</sup> See Northwest Center of Social and Legal Protection for Roma (Memorial/St. Petersburg), *Roma Settlements in Northwest Russia: Right to Live*, p. 26 (2006) (hereinafter "*Roma Settlements in Northwest Russia: Right to Live*"). In 2006, of approximately 43 houses in Dorozhnoe village only two houses were owned by non-Roma.

<sup>9</sup> The official stamp in internal passports is called a *propiska*. In Soviet times, individuals needed to seek permission from the authorities to register their permanent registration as formalized through a *propiska*. See Amnesty International, *Dokumenty!: Discrimination on Grounds of Race in the Russian Federation*, AI Index: EUR 46/001/2003, p. 26 (2003) (hereinafter "*Dokumenty!*").

<sup>10</sup> See *Roma Settlements in Northwest Russia: Right to Live*, p. 26.



including some of the applicants and their children, were able to pay to send their children to attend school. (Ex. 1, ¶ 11; Ex. 6, ¶ 22)

The Roma of Dorozhnoe village, including the six applicant families, maintained their permanent residence in their family homes after the dissolution of the Soviet Union. In 2001, the Gurievsk district administration invited the Roma residents of Dorozhnoe village to collaborate in the development of a general reconstruction plan for their community. (Ex. 1, ¶ 13) The Dorozhnoe residents retained a copy of this plan in their files and it is therefore available as evidence before this Court. (Exs. 50-51) This plan foresaw the provision of based public services from the government, including electricity and waste disposal, in addition to reserved space for private development. On 29 March 2001, representatives of the Roma residents of Dorozhnoe discussed this development plan with the Kaliningrad Regional Building Committee, which approved the general structure of the plan and decided to continue to elaborate the plan further. Shortly after the general adoption of this master development plan, municipal officials began implementing some aspects of the plan, for example, by proceeding to name some of the streets within Dorozhnoe village.

An extract of the 29 March special meeting of the Kaliningrad Regional Building Committee is available for this Court's review. (Ex. 49) It confirms the Committee's approval of the master development plan and the position of the Kaliningrad government at that time recognizing the property rights of the Roma families to their houses in Dorozhnoe village. (Ex. 49) Furthermore, after the general approval of the master development plan for Dorozhnoe village, the local administration inspected the Roma residents' houses and approved their structures. Proof of this is before this Court in a copy of a letter dated 5 May 2004 from Mr. Yuhtenko Yu. V., head of the Gurievsk Administration addressed to the Roma residents of Dorozhnoe village, confirming that the administration had checked the Roma houses of Dorozhnoe village that are included on the master development plan and stating the administration's agreement to formally recognize the Roma residents' legal title to their houses in this community. (Ex. 48)

As the Kaliningrad authorities were discussing the terms of the Dorozhnoe village development plan in 2001, they were also encouraging village residents to undergo legal proceedings to formalize their legal title to their houses in Dorozhnoe village. Several families, including some of the applicant families as elaborated in detail below, began these proceedings and obtained positive decisions in 2002 from the Gurievsk District Court, the local court of first instance, recognizing their entitlement to their homes. Obtaining these positive decisions from the Gurievsk District Court was a first step that paved the way for families to put together applications to the administrative authorities to obtain final administrative authorization and documentation of their property title. (Exs. 43, 47, 52, 53)

By the end of 2002, the local government administration changed its policy and halted further legalization and development of the Dorozhnoe community. Furthermore, it began a campaign to deregister or refuse to issue official permanent residence registration to the long-term residents of Dorozhnoe village. As registration continues to serve as the key to access social services, the situation of the Roma of Dorozhnoe deteriorated. Without registration, some adult Roma of Dorozhnoe village have been condemned to unemployment despite their will to

find jobs. (Ex. 7, ¶ 6) Roma children without registration have been denied access to schools. (Ex. 7, ¶ 8) One applicant was forced to bribe local authorities in 2003 to obtain official registration for his 16-year old daughter in order for her to officially graduate from school. (Ex. 5, ¶ 18) In another case, an applicant's sick four-year old son has been unable to obtain necessary health care because he has not been able to obtain any official identity documentation, including residence registration. (Ex. 8, ¶ 11).

From 2005 on, government officials increasingly propagated allegations through the media that Dorozhnoe village was a haven for drug dealing that must be destroyed. By 2005, the new Governor of Kaliningrad, Georgi Boos, and the local branch of the Federal Drug Enforcement Agency (Gosnarkokontrol) increased their public allegations that Dorozhnoe village was a haven for drug dealing. Rather than pursue prosecutions of alleged criminals, however, the local government announced that it would destroy the entire village on the basis that the long-term residents were living there illegally. The government instituted legal proceedings to obtain official court orders declaring Roma families' occupation of their houses illegal. As will be set forth in detail below, in legal proceedings that violated fundamental notions of due process and this Court's fair trial standards, the Gurievsk District Court and the Kaliningrad Regional Court issued decisions that rubber stamped the government's predetermined intent to demolish the houses. In a series of campaigns from November 2005 through June 2006, the Kaliningrad authorities bulldozed, then burned the Roma houses in Dorozhnoe village. During the week of 29 May through 2 June 2006, the Russian authorities demolished and burned the homes of the six applicant families. In all, the Russian Government razed the approximately 43 Roma houses that had formed Dorozhnoe village, leaving only two private dwellings in the area, both owned by ethnic Russians, standing.

## **F. FACTS PERTAINING TO THE SIX APPLICANT FAMILIES**

### ***1. Bagdonavichus Family***

The first applicant family is the Bagdonavichus family and the following applicants are members of this family: Mr. Leonas Iono Bagdonavichus ("Mr. Bagdonavichus") (Applicant 1) is the head of household (Applicant 1); his wife is Magdalena Bagdonavichene (Applicant 2); their three adult children are Sasha (Applicant 3), Helena (Applicant 4), and Olegas (Applicant 5); their grandchildren are Tamila (Applicant 6), Ana (Applicant 7), Leonid Olegovich (Applicant 8), Nikita Olegovich (Applicant 9); and their daughter-in-law is Natalya Antano Alexandrovich (Applicant 10).

Mr. Bagdonavichus was born on 16 November 1950 in what was then the Soviet Socialist Republic of Lithuania. His parents moved to Kaliningrad in 1956 and after the 1956 decree, his family settled in Dorozhnoe village, Kaliningrad. From 1956 to 1963, he lived with his family in a one-room flat in a German barrack in Dorozhnoe village. In 1963, his father built a house in Dorozhnoe village in which he lived with his growing family; they moved to another house in Dorozhnoe village bought by his parents in 1978. (Ex. 1, ¶ 9)

In 1990, Mr. Bagdonavichus hired workers to build a house in Dorozhnoe village to live in with his wife and family. The house was 10 by 12 metres with three rooms and a kitchen on the ground floor and four bedrooms on the second floor. Mr. Bagdonavichus built this house with the approval of the collective farm director. His children started to raise their own families in Mr. Bagdonavichus's home. Mr. Bagdonavichus's grandson, Leonid Alexandravichus, born on 6 May 1998 in Dorozhnoe village to Olegas Bogdanovichus, lived in Mr. Bagdonavichus's home and attended school. (Ex 1, ¶ 11)

Mr. Bagdonavichus participated in the discussions with the Gurievsk administration land commission in 2001-2002 regarding the development plan of Dorozhnoe village. Although several families obtained legal title to their property during this time, Mr. Bagdonavichus did not initiate proceedings regarding his title over his home and land parcel at this time.

In 2005, Mr. Bagdonavichus learned of the government's intent to destroy the Dorozhnoe village settlement justified by propaganda to the effect that Roma residents of Dorozhnoe village were engaged in criminal activity. In a private audience with Governor Boos in 2005, Mr. Bagdonavichus raised his concerns on behalf of the residents of Dorozhnoe village: "When I tried to raise issues about my community in the Dorozhnoe village, the governor said that such a village does not exist. But then I replied that how could it be that there was no village since I have lived there with my family since 1963. He repeated his response that there is no such village." (Ex. 1, ¶ 20) To advocate for the rights of the Roma resident community of Dorozhnoe village under threat, Mr. Bagdonavichus created an organisation called Bakhtalodrom. (Ex. 1, ¶ 19)

Mr. Bagdonavichus believes that the Kaliningrad Government is motivated to destroy the Roma community of Dorozhnoe village in order to sell the land to others for profit. As Mr. Bagdonavichus explains: "I think the authorities destroyed our homes because somebody wants to make a profit from this land. Months before the demolition, I heard a TV report called "Position" that this land of the Roma village will be for sale in April 2006. When we heard this TV report, we went to the municipality, and asked them to sell the land to us. They did not give us any answer." (Ex. 1, ¶ 27)

Mr. Bagdonavichus received a summons in January 2006 informing him of the government's intention to demolish his house. But the government simply left notices at houses in the village without ensuring proper notification of relevant court proceedings. Mr. Bagdonavichus was never notified of any court proceeding regarding his house. (Ex. 1, ¶ 15) Mr. Bagdonavichus only learned that the Gurievsk District Court issued a decision on 7 February 2006 declaring his family's residence in the house he built in 1990 illegal after the hearing when he received a copy of the decision. (Ex. 29)

In April 2006 special police forces (OMON) came to Dorozhnoe village to destroy houses. Mr. Bagdonavichus successfully pleaded with the authorities not to touch his house. Mr. Bagdonavichus's granddaughter Tamila filmed the destruction of several houses in Dorozhnoe village with a video camera. The OMON forces had special masks and weapons and used their guns to threaten everyone to stay out of the houses. Some special forces tried to

forcibly yank the video camera from Tamila's hands. (Ex. 2, ¶ 13) The Bagdonavichus family witnessed special forces using physical force in confronting community members on that day; Magdalena Bagdonavichene observed them beat an elderly man. (Ex. 2, ¶ 13) Mr. Karabakin of the local municipality was present overseeing the demolition of the houses.

With this wave of demolitions of houses in the Dorozhnoe village in April 2006, Mr. Bagdonavichus had a private meeting with Mr. Karabakin of the municipal authority. Mr. Bagdonavichus stated his position to Mr. Karabakin as follows: "We did not want to be scattered all over. We wanted our village to be moved to another place as a whole, away from Kaliningrad, but the municipal authority refused." (Ex. 1, ¶ 21) Mr. Bagdonavichus assisted evicted families buy temporary homes in garden associations close to Kaliningrad.

On 2 May 2006, an attorney retained by Mr. Bagdonavichus filed an appeal with the Kaliningrad Regional Court of the 7 February 2002 Gurievsk District Court decision in Mr. Bagdonavichus's case. The submission argued that under the Russian Civil Code, Mr. Bagdonavichus had acquisitive ownership of his house in Dorozhnoe village. Furthermore, they raised violations of Articles 2, 3, 6, 8, and 14 of the European Convention, in addition to Article 1, Protocol 1. (Ex. 28)

After the Kaliningrad Regional Court dismissed the Bagdonavichus's appeal on 3 May 2006, declaring the Bagdonavichus family's occupation of their home illegal and providing a legal order for the government to demolish the house. (Ex. 27)

On 1 June 1 2006, the local authorities came to destroy the Bagdonavichus family's house. Mr. Bagdonavichus, his wife, and their grandchildren were at home at that time. Special forces wearing masks with machine guns and in uniforms ordered them out of their house immediately. Although they were fearful and crying, they tried to save whatever belongings and furnishings they could before the bulldozer razed their home. They lost many of their possessions. (Ex. 1, ¶ 25)

After the authorities demolished the Bagdonavichus house, the family lived for some time in a shed in Dorozhnoe village. They then moved to a train coach that they have tried to convert into a home where they reside to date. There is not enough space in this train coach so the family members must take turns sleeping between the bed and the floor. Their daughter Helena and son Olegas sleep elsewhere with acquaintances because there is not enough room. Helena and Olegas's children, however, live in the train coach; thus the parents are now separated from their children. (Ex. 1, ¶ 30; Ex. 2, ¶ 18; Ex. 3, ¶ 15)

The Government's demolition of their house has separated the Bagdonavichus family and destroyed their dignity. In Mr. Bagdonavichus's words: "My wife and I were crying, I cannot explain it. The house where I spent decades of my life was destroyed in one hour, and now nothing is left.. . Our family has been torn apart. We have no water, no gas, and no electricity . . . The government did not help me once after demolishing my home. They do not care about me or my family." (Ex. 1, ¶¶ 25, 30) In Olegas Baddonavichus's words: "My son is one of the best students in school but what can he say when he is asked about his address? It is so humiliating." (Ex. 3, ¶ 13) Magdalena Bagdonavichene's words: "[W]e used to live quite well,

but today discrimination is very real. We used to have electricity, we could build homes of any kind. We had a right to have a home and community for our family. Now that has been broken apart.” (Ex. 2, ¶ 20)

## ***2. Arlauskas Family***

The second applicant family is the Arlauskas family and the following applicants are members of this family: the head of the household is Mr. Alexandras Andreyaus Arlauskas (“Mr. Arlauskas”) (Applicant 11); his wife is Mariya Savel’evna Arlauskene (Applicant 12); their daughters are Anastasiya Alexandrovna Arlauskajte (Applicant 13) and Angela Alexandrovna Arlauskajte (Applicant 15) and their son is Mihail Alexandrovich Arlauskas (Applicant 14); their four grandchildren are Mihail Mihajlovich Arlauskas (Applicant 16), Vanya Alexandrovich Arlauskas (Applicant 17), Olga Alexandrovna Arlauskajte (Applicant 18), and Rustam Alexeevich Arlauskas (Applicant 19).

Mr. Arlauskas was born on May 15, 1956 in Lithuania; he moved to Dorozhnoe village, Kaliningrad and has lived there since 1971. His wife, Mariya, was born in Dorozhnoe village in 1958. Mr. Arlauskas and his family at first lived in his grandmother’s house, but when his mother died in 1985, he built his own house in Dorozhnoe village on the same plot. Mr. Arlauskas has proof of official registration of his permanent residence in Dorozhnoe village from 1990 in the form of a residence registration stamp in his internal national passport. (Ex. 5) Mr. Arlauskas’s house was large, with four rooms and a big kitchen; he also built a brick house on his land parcel; the family obtained water and electricity through their own self-paid supply sources. (Ex. 6, ¶ 8).

The Arlauskas family has made several attempts to legalize their ownership of their house and land. In 2000, they tried to do so, but they were unable to obtain their birth certificates due to bureaucratic discrimination, a condition of the process, so they were unable to go forward with the application. (Ex. 6, ¶ 17) In 2002, the local authorities encouraged Mr. Arlauskas to undergo the process to legalize his house. He began gathering necessary documents, such as a copy of his passport and the border-demarcation of his land parcel, but again did not complete the process. (Ex. 5, ¶11) But he did not pursue this process after the local authorities stopped legalizing individuals’ homes and land parcels in Dorozhnoe village.

In the spring of 2006, Mr. Arlauskas received a notice that the government would demolish his house. He approached a local lawyer, Lucia Schachnazarova, for help. They investigated and learned that the Gurievsk District Court had issued a decision on 8 February 2006 declaring illegal his family’s residence in the house they built and lived in since 1985. (Ex. 32) The Gurievsk District Court held proceedings in his case in his absence, without having given him proper notice: “But I did not even know about the case. Nobody had ever informed me that there was a case in my name. I never had a lawyer and never appeared in the court of the first instance before the decision was made. I was sick in the hospital the day that the court of first instance issued its decision to demolish my home and deny my property rights.” (Ex. 5, ¶ 13) Ms. Shachnazarova filed an appeal in Mr. Arlauskas’s case, but on 3 May 2006, the Kaliningrad District Court issued a decision upholding the District Court’s decision denying Mr. Arlauskas’s property rights and authorizing the government to demolish his house.

On 1 June 2006, the special police forces (OMON) wearing masks and armed came with bulldozers to demolish and burn Mr. Arlauskas's house. According to Mr. Arlauskas: "When I asked the special police why they were demolishing our homes, they said it was because there is criminal activity in this village. . . I said, terrible things take place in the city, but you do not destroy the city. They said 'you the Gypsies are all the same and you must be exterminated.'" (Ex. 5, ¶ 15) His son, Mihail Arlauskas recounts the demolition as follows: "The authorities insulted us. They called us 'sons of bitches' and other vulgar terms. After coming in and yelling at us to leave, they came out of the house and formed a human ring around it so that nobody could go through the ring. They started taking everything out of the house. We tried to take some of our things like clothes, but not everything. Everything we could not take was burned. We took some chairs. My child was scared. After my home was demolished, they burned it." (Ex. 7, ¶ 11)

After the authorities demolished and burned their home, the Arlauskas family lived in a tent in the field for two weeks, exposed to the elements and pouring rain. Mariya Arlauskas moved in with her brother's family in a small bungalow in Kaliningrad and the family has been scattered ever since. (Ex. 6, ¶ 15)

Mariya Arlauskas witnessed how the special police (OMON) violently threatened families living in tents in Dorozhnoe village after their homes had been demolished in an attempt to force them to leave the village: "About one week after the demolition, one woman was sitting in a shed with her grandchildren, and one morning the police came and put petrol all over the shed and burned it. They put petrol on the shed while she was in it. She saw the smoke and ran out of the shed. Once the police saw her flee the shed, they realized that there was someone inside. Then they helped her escape. All of the Roma in the tents were crying and said that if you are going to burn the shed, you must at least check to see if there is somebody inside. They were so careless. We could not believe it." (Ex. 6, ¶ 16).

### ***3. Zhguleva Family***

The third applicant family is the Zhguleva family and the following applicants are members of this family: Ms. Nonna Zhguleva (Applicant 20) is the head of household; her son is Dinari Arunovich Zhgulev (Applicant 21). Nonna Zhguleva is the daughter of Mr. Nikolaj Ivanovich Alexandrovich (Applicant 22) and Tamara Alexeevna Alexandrovich (Applicant 23) of the Alexandrovich family, the fourth applicant family before this Court.

Nonna Zhguleva was born on December 26, 1970 in Dorozhnoe village and lived there her whole life. She bought her house about 15 years ago for \$3,000 from Roma people who were leaving the village. The house was sturdy on a suitable land plot. The house had two large rooms, a kitchen, and a large terrace. She lived in this house with her son.

In 2001, Nonna Zhguleva obtained her new passport, containing a registration stamp indicating she was born in 1970 in Dorozhnoe village and that she received official permanent residence registration in Dorozhnoe village since 1989. (Ex. 19) Nonna Zhguleva's son was born on 21 April 2002. Since his birth, he has not obtained registration or proof of

citizenship. Nonna Zhguleva did not apply to obtain official legal title to her house during the period of legalization in 2001.

Nonna Zhguleva explains that the local authorities began coming to the Roma in Dorozhnoe village in the winter of 2006 and “told us to go away. They said, ‘we need your land.’” (Ex. 8, ¶ 12). Nonna Zhguleva was not aware of any legal proceedings regarding her case: “The officials afterward came several times over several months to harass us. Sometimes they came with papers and forced us to sign things, but I did not know what I was signing because I only read a little and was threatened. I did not know of the District Court hearing regarding my house.” (Ex. 8, ¶ 13). On 9 February 2006, the Gurievsk District Court ruled that Nonna Zhguleva did not have legal title to her house. (Ex. 35). Nonna Zhguleva filed her own appeal before the Kaliningrad Regional Court. (Ex. 34) On 3 May 2006, the Kaliningrad District Court issued its final decision upholding the District Court’s judgment that she did not legally own her house, permitting the government to evict her. (Ex. 33).

The authorities came to demolish her house at the end of May 2006. In Nonna Zhguleva’s words: “They had machine guns and shot at our feet. . . . The authorities said we are Gypsies and we cannot live here. First, they bulldozed our houses and then they used petrol to burn them. They did not leave even a shed for us. They insulted women and children. They said we will be burned together with our children if we do not leave this place. . . They poisoned our water wells after they demolished our homes. They said that if we drink water from this well, we will die. Some of our children do not understand this, and they drink the water anyway.” (Ex. 8, ¶¶ 14-15)

After the authorities demolished her house, Nonna Zhguleva has lived in a tent with her son. The special forces (OMON) have come to their tent to harass them: “Some special police (OMON) and some civilian officers have come a few times since the demolition late at night when they are drunk and threaten to burn our tents if we do not leave. A few times, they have beaten people. They used a special device that had an electric current in it. My mother is an old woman and they tried to beat her. I stood between her and the authorities and yelled at them to go away. I thought she would die. They yelled at us, ‘you are the Gypsies.’ They say that they will burn the tents to get rid of us. They come at night in masks. They make so much noise, they shoot. We escape to the field. We are afraid of our children being shot. Our children are very scared. The authorities use very vulgar words – they say, ‘if you do not leave, we will rape you and your small girls.’ They do not consider us human beings.” (Ex 8, ¶ 17).

Nonna Zhguleva’s son is ill: “My son is in such a bad condition that I do not know how long he can stand it. . . He should go to the hospital to get a check up, but he does not have any registration. He has been without registration since birth. They will not give him registration or citizenship. He is nothing. As far as the authorities are concerned, he does not exist. He is my only child, I do not know what I can do.” (Ex. 8, ¶ 11)

#### ***4. Alexandrovich Family***

The fourth applicant family is the Alexandrovich family and the following applicants are members of this family: Mr. Nikolaj Ivanovich Alexandrovich (“Mr.

Alexandrovich”) (Applicant 22) is the head of household; his wife is Tamara Alexeevna Alexandrovich (Applicant 23); their adult daughter is Margarita Matulevich (Applicant 24); and their granddaughter is Lyubov’ Grafovna Matulevich (Applicant 25).

Mr. Alexandrovich was born in 1946 in Kaunas, Lithuania. After serving in the Soviet military for three and a half years, he came to live in Kaliningrad with his family. He has been a resident of Dorozhnoe village since 1968. As his family grew, Mr. Alexandrovich saved money and built his own house in 1986. The Soviet authorities authorized his house without any formal paperwork. (Ex. 9, ¶ 13) The dimensions of this house were 12 by 11 metres; the house had four rooms on the ground floor and one room upstairs. Mr. Alexandrovich improved the house and renovated it many times. (Ex. 9, ¶ 11) Mr. Alexandrovich had registration proving his residence in Dorozhnoe village, but lost this registration in 2005. His daughter, Margarita Alexeevna Matulevich currently retains her registration that shows that she has been officially registered in Dorozhnoe village since 1986. (Ex. 22) On 15 March 2006, Mr. Alexandrovich obtained a certificate from the Gurievsk Administration that confirms that he and his wife Tamara Alexeevna Alexandrovich have been officially registered in Dorozhnoe village since 1982. (Ex. 23)

In the winter of 2006, authorities approached Mr. Alexandrovich and told him they would demolish the houses in Dorozhnoe village “to construct new ones for others.” (Ex. 9, ¶ 15) He explained further: “Sometimes they forced us to sign papers, but I did not know what I was signing because they did not tell me and I cannot read. I never knew of the District Court hearing regarding my house.” (Ex. 9, ¶ 15) Indeed, the Gurievsk District Court issued a decision on 8 February 2006 declaring his house ownership illegal and authorizing the government to demolish it. (Ex. 38) Upon learning of the decision, Mr. Alexandrovich’s wife retained an attorney to appeal their case, (Ex. 37) but on 3 May 2006, the Kaliningrad District Court rejected the appeal, upholding the District Court decision authorizing the government to demolish their house. (Ex. 36) The local authorities came in late May 2006 to demolish Mr. Alexandrovich’s house. They came with bulldozers to destroy the house, then burned it. (Ex. 9, ¶ 16)

Mr. Alexandrovich and his wife are in poor health and the harsh mistreatment they received from the Russian special forces when they came to harass them in their house has placed their lives in danger. Once after the OMON special forces came to harass the Alexandrovich family, Mrs. Tamara Alexandrovich had a heart attack and was hospitalized. (Ex. 9, ¶ 15) The special forces physically brutalized Mr. Alexandrovich. In his words: “I am an old man and do not have the strength to go on. I have problems breathing because I have terrible asthma and serious heart problems. So when I was shouting to the authorities, ‘what are you doing? Why are you doing this to us?’ they threw me on the floor and took me out to the street. One police officer hit me in my chest with his foot and broke one of my ribs. I was just trying to protect my family. I did not use any force, I was trying to fight with words. I was not even threatening them. But they said, if you complain about this, all of you will be shot. I was really afraid to complain to anyone. I was afraid that something might happen to my family.” (Ex. 9, ¶ 15).



After the authorities demolished the Alexandrovich house, Mr. and Mrs. Alexandrovich and their small grandchildren went to live in a shed close to their house because they had nowhere else to go. “But soon after my home had been destroyed, the special police (OMON) came on night at 3am and they were drunk. It was raining very hard. They started threatening me. They said that if I did not move out of the shed, me and my family would be burned inside. We exited the shed and spent the whole night sitting outside in the pouring rain feeling cold. It rained very hard on our small grandchildren. By the morning time, we saw that the shed had been burned.” (Ex. 9, ¶ 21) Since then, the Alexandrovich family has lived on a small tent on the same plot, his family has been broken up by the demolition as they have scattered to find shelter and to protect their children from danger from the authorities. (Ex. 9, ¶ 24).

### ***5. Samulajtis-Petravichute Family***

The fifth applicant family is the Samulajtis-Petravichute family and the following applicants are members of this family: the head of household is represented in this application by Anastasiya Silvestras Petravichute (“Anastasiya Petravichute”) (Applicant 27); her brother is Konstantin Sergeevich Samulajtis (Applicant 26); Konstantin Samulajtis’s wife is Rada Viktorovna Arlauskajte (Applicant 28); and Anastasiya Petravichute’s daughter is Ramina Rusalanovna Arlauskajte (Applicant 29).

Anastasiya Petravichute was born in Dorozhnoe village on 16 February 1975 and lived there her whole life. She has always lived with her family, including her brother, Konstantin Samulajtis, and their respective families. In 1983, they sold their family house in Dorozhnoe village to another Roma family and moved together into another house. It was made of wood and brick, with two bedrooms, a kitchen, and a living room. (Ex. 10, ¶ 6) Konstantin Samulajtis obtained an internal passport that documented his official residence registration in Dorozhnoe village since 1986. (Ex. 24) Anastasiya Petravichute also obtained an internal passport indicating official registration in Dorozhnoe village since 1991. (Ex. 25)

Anastasiya Petravichute and her brother were encouraged by the Gurievsk government to legalize their house in 2001-2002. They prepared the necessary documents and went to court to obtain legal title to their house. On 20 February 2002, the Gurievsk District Court issued a positive decision, recognizing the Samulajtis-Petravichute family’s private legal ownership of their home and land parcel. (Ex. 43) Having won title from the court, the family proceeded to obtain further documents and proof of ownership. But soon after the positive decision from the District Court, the local administration authorities stopped processing the Samulajtis-Petravichute family’s application to legalize their house in Dorozhnoe village. On 24 June 2002, the Kaliningrad Regional Court overturned the Gurievsk District Court’s decision recognizing their title to their property. (Ex. 42). After the local authorities announced their plan to demolish the village, the Gurievsk District Court re-examined the case of the Samulajtis-Petravichute house. On 27 December 2005, the Gurievsk District Court issued a decision refusing to recognize the private ownership of the Samulajtis-Petravichute house. (Ex. 41) The Samulajtis-Petravichute family appealed this decision on 23 January 2006 (Ex. 40), but the Kaliningrad Regional Court issued its final decision affirming the District Court decision that

declared the Samulajtis-Petravichute ownership of their house illegal and granting an order for the government to demolish the house. (Ex. 39).

Local authorities came to harass the Samulajtis-Petravichute family in April 2006, threatening to demolish their house. On 30 May 2006, special police forces (OMON) came at 8:00 a.m. to demolish the Samulajtis-Petravichute house. Anastasiya was having breakfast with her daughter Ramina at this time. The OMON forces did not give the Samulajtis-Petravichute family any time to collect their belongings. According to Anastasiya Petravichute: “The special police were passing our homes and threatened us that if we said anything, they would burn us. They said many times, ‘you are the Gypsies, you have illegal houses, you will not be able to live here, and your houses will be destroyed.’ After bulldozing our house, they went to bulldoze other houses. Then they came back and set ruins of our house on fire.” (Ex. 10, ¶ 12).

After the local authorities demolished the Samulajtis-Petravichute house, Anastasiya and her daughter lived in a tent for five days. Since then, they have been renting a small bungalow in Kaliningrad city in the Moscovsky district and living in harsh conditions: “It is difficult to live there because neither the neighbours nor the chief of the garden association want us there. They refuse to give my bungalow any electricity. They say that they will get rid of us just like they got rid of the Jews from the area. My daughter does not have any friends there. In fact, many parents refuse to allow their children to play with my daughter. They make fun of her and she feels insulted. Also this bungalow is very far from her school. I do not know what I will do.” (Ex. 10, ¶ 16) Anastasiya’s brother, Konstantin, was away on 30 May 2006, when his house was demolished and burned. He now lives in a separate bungalow near his workplace. While Anastasiya and Konstantin’s families had lived together in their joint home in Dorozhnoe village, they are now torn apart. “Now my family lives separately. I feel very nostalgic for that house. Me and my brother did not have a father, but our family was very important to us. But now we cannot see each other. Of course this has a huge impact on us. I think this is a major turn in our life.” (Ex. 10, ¶ 18).

## ***6. Kasperavichus Family***

The sixth applicant family is the Kasperavichus family and the following applicants are members of this family: the head of the household is Vitautas Mikolo Kasperavichus (“Mr. Kasperavichus”) (Applicant 30); his sons are Alexander Vitautovich Kasperavichus (Applicant 31) and Graf Viktorovich Kosporovichus (Applicant 32); his granddaughter is Kristina Alexandrovna Kasperavichute (Applicant 33).

Vitautas Kasperavichus was born on 10 October 1951 in Kaunas City. He came with his parents to Kaliningrad in 1956. He has been a resident of Dorozhnoe village from 1964, when he began constructing his house, until it was destroyed on May 30, 2006. His house measured 9 by 6 metres; it had a large living room, kitchen, bedroom, and auxiliary rooms. He lived there with three sons, two daughters, a granddaughter, and a baby grandson. (Ex. 11, ¶ 11) Mr. Kasperavichus obtained an internal passport that records his official permanent residence registration in Dorozhnoe village since 1983. (Ex. 26)

Mr. Kasperavichus learned through the Roma community of Dorozhnoe village that the local authorities were legalizing property title in 2001-2002. He then approached the local administration to learn about the process to obtain title to his house. On 12 March 2002, the Gurievsk District Court issued a judgment recognizing Mr. Kasperavichus's right to own his house. (Ex. 47) Mr. Kasperavichus took this decision along with the 'technical passport' of his house and map delineating the boundaries of his land parcel to the Gurievsk administration to finalize paperwork establishing his legal title. Six months after the Gurievsk District Court's decision but before the Gurievsk administration completed and formalized Mr. Kasperavichus's title, Mr. Kasperavichus learned that the Gurievsk administration reversed its position and would not recognize Mr. Kasperavichus's title to his property. As the Kaliningrad Government's intent to demolish the Dorozhnoe settlement became known in 2005, Mr. Kasperavichus went back to court to seek clarification of his title. The Gurievsk District Court issued a decision on 20 December 2005 declaring his occupation of his house illegal and granting the government the right to demolish it. Mr. Kasperavichus appealed this decision through an attorney on 13 January 2006 (Ex. 45). On 22 February 2006, Mr. Kasperavichus went back to court for clarification and on 22 February 2006, the Kaliningrad Regional Court affirmed the Gurievsk District Court's decision. (Ex. 44) On 30 May 2006, local authorities came to destroy Mr. Kasperavichus's house.

After the authorities demolished Mr. Kasperavichus's house, he lived for a short time with his sister in Dorozhnoe village, but then the authorities demolished her house too. From there, he went to live with a friend in a rented flat. His family has been separated, with his eldest son staying with his eldest sister in a different town in Kaliningrad and his other son in another flat in the city of Kaliningrad. (Ex. 11, ¶ 23) Mr. Kasperavichus is caring for his seven-year old granddaughter who is ill and requires short stays in the local sanatorium. In Mr. Kasperavichus's words: "My granddaughter is very sick and but for my friend, she would be living in a tent." (Ex. 11, ¶ 24)

Mr. Kasperavichus has never received a legal explanation as to why the Gurievsk administration revoked his right to his house and lands in 2002, shortly after the Gurievsk District court recognized his title to his home and land as a matter of law in 2001. He explains his view as follows: "I think the authorities demolished my home because they are alleging that heroin is for sale there, but we are not selling heroin. And even if it were true, it is being sold in the city, and the authorities are not demolishing the whole city. When the authorities came to demolish our homes, they said that 'All of you are drug dealers and criminals. Get out of here and go to Lithuania! We are going to [set] your homes on fire!'" (Ex. 11, ¶ 21)

## **G. EVIDENCE OF DISCRIMINATION**

The applicants contend that the Russian Government has violated their Convention rights motivated by racial animus towards their Roma ethnicity. Article 14 is not a freestanding right, but rather must be invoked in conjunction with other substantive Convention rights as the applicants do below in Section III where they set forth violations of Article 14 taken together with Articles 2, 3, 6, 8, 13 and Article 1 of Protocol No. 1. As a preliminary matter, this section identifies the facts which give raise to the applicant's claims of discrimination.

Because overt discrimination lies at the core of the alleged violations in this case, it may be useful to recall that Article 14 guarantees the following:

#### Article 14: Prohibition of Discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, or political or other opinion, national or social origin, association with a national minority, property, birth or other status.

This Court has interpreted Article 14 so that “discrimination means treating differently, without an objective and reasonable justification, persons in relevantly similar situations.” *Willis v. the United Kingdom*, No. 36042/97, § 48 (11 June 2002). A difference of treatment for purposes of Article 14 has no “objective and reasonable justification if it does not pursue a ‘legitimate aim’ or if there is not a ‘reasonable relationship of proportionality between the means employed and the aim sought to be realized.’” *Willis* at § 39. *See also Belgian Linguistics Case*, No. 2, § 10 (23 July 1968) (same).

This section will first set forth the evidence in the record of the instant case that proves that the Russian Government subjected the applicants to differential treatment without an objective or reasonable justification. It then summarizes relevant independent evidence that confirms that Roma are the subject of systemic discrimination in Russia and that discrimination of Roma through forced evictions is widespread throughout the Council of Europe.

### **1. Evidence of Discrimination in the Record of the Instant Case**

The evidence in the instant case proves that the Russian authorities have consistently harboured racial animus toward the Roma applicants and were motivated by discrimination in violently and forcibly evicting the applicants and denying them due process of law on account of the applicants’ Roma ethnicity.

First, the abundant and consistent testimony of the numerous applicants establishes that the Russian authorities repeatedly revealed their invidious racism and prejudice toward the Roma applicants. The following are striking accounts of the racist and discriminatory animus expressed to the applicants by the Russian authorities:

From Mr. Nikolaj Alexandrovich (Ex. 9, ¶ 18):

The authorities used really vulgar words when they came to demolish my home. They said that if you do not move, we will rape your wives and your small girls. And they were called us “Gypsies.” They said, “You the Gypsies, get out of our land!”

From Nonna Zhguleva (Ex. 8, ¶¶ 17, 20):

They yelled at us, “you are the Gypsies.” They say that they will burn the tents to get rid of us. They come at night in masks. They make so much noise, they shoot. We

escape to the field. We are afraid of our children being shot. Our children are very scared. The authorities use very vulgar words – they say, “if you do not leave, we will rape you and your small girls.” They do not consider us human beings. . . .

They demolished our community because we are Gypsies. They even explained it that way themselves.

From Vitautas Kasperavichus (Ex. 11, ¶¶ 12, 21, 27):

They used to say that we are not human beings. They said that the Roma should be destroyed as a people. They said that the village should not exist. I heard an authority figure say that the village should not exist as recently as the Spring of 2006. The first special police (OMON) team that came to demolish homes in the Autumn of 2005 said that our village should not exist because we are Gypsies. . . .

When the authorities came to demolish our homes, they said that “All of you are drug dealers and criminals. Get out of here and go to Lithuania! We are going to your homes on fire!” . . .

The local government hates my people.

From Alexandras Arlauskas (Ex. 5, ¶ 15):

When I asked the special police why they were demolishing our homes, they said it was because there is criminal activity in this village. The government said we are all the same – we are all involved. They said we should go back to Lithuania. I said, terrible things take place in the city, but you do not destroy the city. They said “you the Gypsies are all the same and you must be exterminated.”

From Mihail Arlauskas (Ex. 7, ¶¶ 11, 13-14):

The authorities insulted us. They called us “sons of bitches” and other vulgar terms. . . .

The authorities destroyed our village because they say that we are all criminals. They need to justify their acts somehow. That is why they are saying that. . . .

The authorities do not treat the Roma the same way they treat other Russians. We are treated like pigs.

Second, attorneys Marina Nosova from St. Petersburg and Lucia Shachnazarova from Kaliningrad met with Kaliningrad political authorities and testify that the decision to raze Dorozhnoe village was driven by extra-legal political considerations and racial animus. Government officials revealed their discriminatory attitude that the Roma community of Dorozhnoe village is a convenient scapegoat for local political purposes and an economically disadvantaged and politically powerless group whose rights can be flouted with impunity.

For example, Marina Nosova assisted counsel before the Kaliningrad Regional Court when it heard the appeals of the Bagdonavichus, Arlauskas, and Alexandrovich families, which it rejected. After the appeals were lost, Marina Nosova approached and spoke with several political actors in the Gurievsk Administration, who revealed the political underpinnings

of the decision to demolish the applicants' homes and raze Dorozhnoe village based on racial prejudice toward the Roma. Marina Nosova testifies to the following (Ex. 12, ¶¶12-14):

I met with Mr. Chinurov, the director of the marshals, and told him that I thought it might be possible to negotiate a solution. . . [H]e replied that he cannot do anything about the court's decision and that it is now out of their power to do anything.

After that, I went to the Gorievsk administration and met the deputy mayor, Mr. Karabakin on May 3 or 4, 2006. I had a private conversation with him. He was asking me not to use any recording devices. He would only speak off the record and confidentially. In general, he said that unfortunately, the decision concerning the demolition of these houses comes from high up and neither the courts nor anybody else would be able to help the community. He blamed alleged drug trafficking in the community for the demolitions. In order to speak with me about the legal aspects about this case, he invited a lawyer and the lawyer explained that in 2001, there were some court decisions which recognized the title of that land. Representatives of the Gorievsk administration had asked the inhabitants to implement those decisions [by obtaining the necessary administrative paperwork to ratify that recognition], but due to their being illiterate, most could not do that. But soon thereafter, there was an informal decision from the Governor that the Roma should be evicted from Dorozhny Village. Another independent lawyer at a later stage confirmed this. We sought his advice before the Kaliningrad Regional Court because he had some connections to the court. He told us that the representations made by the lawyer from the Gorievsk administration at my meeting with Mr. Karabakin were true.

We tried to have a meeting with Governor Boos, but it was not possible. We also wanted to meet the ombudman, Ms. Vershinina but at first she was hostile. She said "they deserve what they get."

Furthermore, Lucia Shachnazarova testifies to the endemic racial animus of the Kaliningrad police toward the Roma. She recounts the following incident in which the Kaliningrad police harassed her because she was serving as the legal representative to Roma clients of Dorozhnoe village and explains that she has no recourse before the Kaliningrad authorities (Ex. 13, ¶¶ 19-20):

I was driving to Dorozhnoe Village with my husband [a Roma from Dorozhnoe village] at 8pm to meet with the clients to give them an update about what we are doing in their cases. . . Then police officers from the organized crime unit pulled their car over in front of ours. They exited the car. They asked for our documents. . . They ordered us to put our hands on the car, and to stand with our legs apart. They put a rubber stick to our throats. They were threatening us. They asked us why we came here. I explained that I am a lawyer and am visiting my clients here. They said, "what kind of case are you litigating?" They said, "haven't we broken your windows and slashed your tires enough that you should be fed up with us by now?" . . . And they said things like drugs are being sold here. And they continued to threaten us. They were checking our legs and arms to see if we were using heroin. They wanted to call other people, the traffic police. They drove me crazy. I argued with them. I told them that we don't look like people who are dealing with drugs. And then finally after some time, they returned the keys with the car.

And that is how it ended. . . It has happened to me several times. They have even tried to take me to do a medical examination as though I am taking drugs. Once they even tried to deprive me of my car. And now they have added my information to a database.

I have never tried to file a complaint about this. I think it would be futile. If I showed up at the prosecutor's office, they would just shuttle me around. The case would be there for one or two months, and then they would tell me that they are just trying to detect criminals in order to eliminate them and would throw out my complaint. Yesterday, I tried to ask the police for identification, but they just used vulgar language in response. In any case, it would probably be dangerous for me to file a complaint.

Third, two decisions from the Oktyabrski District Court in Kaliningrad from January and March 2006 that examined similar civil claims to legal title of homes and property that involved non-Roma Russian citizens demonstrate the differential treatment Kaliningrad courts afford non-Russian litigants versus the Roma applicants involved in the instant case. These decisions, elaborated below, make clear that land claims require an in-depth examination and analysis, which the Kaliningrad courts failed to conduct for the applicants.

Finally, the applicants present photographic evidence that depicts striking images of the differential treatment of the Russian authorities toward the two Russian-owned houses in Dorozhnoe village compared to the Roma applicants of this case and the rest of Dorozhnoe village. Of approximately 45 houses that stood in Dorozhnoe village, only two remain standing after the Russian government's demolition campaign. These two houses are owned by the Hristeva and Kotev families; they are ethnic Russians. It is public knowledge that the Kaliningrad authorities are in negotiations to buy or compensate at least one of the Russian-owned houses, namely the Hristeva house. The Hristeva house stood directly next to the Bagdonavichus family house and in close proximity to the other applicant families' homes and land parcels. The legal representatives for the applicants attempted to approach the Hristeva and Kotev families to obtain information regarding the legal status of their homes, but the families were not approachable to the applicants for such purposes.

The applicants present the following pictorial evidence: photographs of the Arlauskas house before the demolition (Ex. 61) and after its demolition (Ex. 62); photographs of Tamara Alexandrovich sitting before the window of her house before the demolition (Ex. 63) and in the process of being bulldozed (Ex. 64); photographs of the elderly Mr. Alexandrovich living in his makeshift tent exposed to the elements after his home was demolished (Ex. 65) and of Dorozhnoe village residents' possessions burning after they had been removed from houses that had been demolished (Ex. 66); photographs of Mr. Bagdonavichus's freshly demolished home (Ex. 67, 68); photographs from October 2006 of the ruins that remain of the homes of the Bagdonavichus family (Ex. 69), Arlauskas family (Ex. 70), Zhguleva family (Ex. 71), Samulajtis-Petravichute family (Ex. 72), and Kasperavichus family (Ex. 73).

In contrast to these photographs of destruction, the applicants present several photographs taken in October 2006 of the two Russian-owned houses of Dorozhnoe village standing untouched and undisturbed surrounded by the devastation wrought by the authorities' demolition of all of the Roma houses of Dorozhnoe village. (Exs. 68, 74, 75),

The applicants submit that the overwhelming weight of the evidence in the record of the instant case proves the differential treatment they received and continue to suffer as a result of racist and discriminatory motivations of the Russian authorities.

## **2. Independent Evidence of Systemic Discrimination of Roma in Russia and of Discrimination of Roma through Forced Evictions throughout the Council of Europe**

In addition to the evidence in the record of the instant case, independent sources document and establish that Roma are victims of systemic discrimination in Russia. Independent reports also confirm and denounce the widespread trend by which Roma fall particular victim to discriminatory forced evictions throughout Council of Europe Member States.

The European Roma Rights Centre (ERRC) issued a comprehensive report in 2005 that documents the systemic nature of discrimination against Roma that permeates all sectors of the Russian Federation.<sup>11</sup> The report traces widespread intolerance and resentment toward the Roma in Russia to the prejudicial stereotype, perpetuated by the media that associates all Roma with criminal activity, particularly in the realm of drug dealing.<sup>12</sup> Relevant to the instant case, the ERRC documents the prevalent practice by which Russian police fabricate incriminating evidence against innocent Roma with impunity.<sup>13</sup> The report also describes the frequency of abusive police raids of Roma settlements; though ostensibly justified in the search for criminal suspects, the ERRC reports that such police raids target entire Roma settlements and communities, without particularized evidence: “[U]nlike in cases in which police undertake arrests in non-Romani quarters, when raiding Romani settlements, police raid all houses of the neighbourhood indiscriminately, and approach the whole Romani community as if it were one household, thus violating a number of individual rights.”<sup>14</sup> Additionally, the report documents the fundamental anti-Roma bias that underpins the Russian judicial sector that effectively denies Roma access to a fair trial or an effective remedy before Russian courts.<sup>15</sup>

The ERRC notes the systematic denial of security of tenure of Roma throughout the Russian Federation,<sup>16</sup> detailing occurrences of forced eviction of Roma communities in areas such as Archangelsk, Volgograd, and Omsk.<sup>17</sup> The European Commission against Racism and Intolerance (ECRI) has also reported on widespread and systemic discrimination against Roma in Russia throughout all sectors of Russian government and society in its *Third Report on the Russian Federation*, which it issued on 16 December 2005.<sup>18</sup>

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<sup>11</sup> See European Roma Rights Centre (ERRC), *In Search of Happy Gypsies: Persecution of Pariah Minorities in Russia* (May 2005).

<sup>12</sup> See *id.* at 131-39.

<sup>13</sup> See *id.* at 72-78.

<sup>14</sup> *Id.* at 80.

<sup>15</sup> See *id.* at 97-119.

<sup>16</sup> “Russian authorities as a rule fail to assist Roma in legalizing their houses, in particular when these are in informal settlements. Roma frequently meet obstacles in registering houses built by them.” *Id.* at 169.

<sup>17</sup> See *id.* at 157-71.

<sup>18</sup> ECRI’s *Third Report on the Russian Federation*, CRI(2006)21 is available at [http://www.coe.int/t/e/human\\_rights/ecri/1-ECRI/2-Country-by-country\\_approach/Russian\\_Federation/Russian\\_Federation\\_CBC\\_3.asp](http://www.coe.int/t/e/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Russian_Federation/Russian_Federation_CBC_3.asp).



Forced evictions constitute a grave violation of international human rights law. The United Nations Commission on Human Rights Resolution 1993/77 on forced evictions of 10 March 1993 states: “The Commission on Human Rights . . . affirms that the practice of forced evictions constitutes a gross violation of human rights.” The Commission thereby urged governments “to take immediate measures, at all levels, aimed at eliminating the practice of forced evictions . . . to confer legal security of tenure on all persons currently threatened with forced evictions.” Forced evictions are defined by the United Nations Committee on Economic, Social, and Cultural Rights as “the permanent or temporary removal against their will of individuals, families and or/communities from their homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”<sup>19</sup>

The United Nations Committee on the Elimination of Racial Discrimination adopted General Recommendation No. 27 to address persistent and systemic discrimination against Roma. In the domain of the right to adequate housing, the Recommendation calls on governments to “act firmly against any discriminatory practices affecting Roma, mainly by local authorities and private owners, with regard to taking up residence and access to housing; to act firmly against local measures denying residence to and unlawful expulsion of Roma, and to refrain from placing Roma in camps outside populated areas that are isolated without access to health care and other facilities.”<sup>20</sup>

While the circumstances of the forced eviction of the applicants and the entire Roma community of Dorozhnoe village are unique, incidents of forced evictions of Roma from their established homes are on the rise not only in the Russian Federation but throughout Europe.<sup>21</sup> Former Council of Europe Commissioner for Human Rights Alvaro Gil-Robles deplored that Roma live in substandard housing conditions throughout Council of Europe states,<sup>22</sup> and expressed concern about reports of forced evictions of Roma and Travellers throughout the Council of Europe.<sup>23</sup> More recently, Council of Europe Commissioner for Human Rights Thomas Hammarberg has denounced reports of forced evictions of Roma families not only in the Russian Federation, but also in Albania, Bulgaria, the Czech Republic, France, Greece, Turkey, and the United Kingdom.<sup>24</sup> Importantly, Commissioner Hammarberg condemned the pattern of forced evictions as violative of international law, recalling that

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<sup>19</sup> UN CESCR General Comment No. 7 (1997), “General Comment 7 on the Right to Housing (Art 11(1) of the Covenant): forced evictions.”

<sup>20</sup> United Nations Committee on the Elimination of Racial Discrimination, *General Recommendation XXVII: Discrimination against Roma* (16 August 2000).

<sup>21</sup> See, e.g., European Roma Rights Centre, *Ambulance not on the Way: The Disgrace of Health Care for Roma in Europe*, pp. 70-73 (September 2006).

<sup>22</sup> Council of Europe Office of the Commissioner for Human Rights, *Final Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, On the Human Rights Situation of The Roma, Sinti and Travellers in Europe*, CommDH(2006)1, ¶¶ 26-35 (15 February 2006), available at <https://wcd.coe.int/ViewDoc.jsp?id=962605&BackColorInternet=99B5AD&BackColorIntranet=FABF45&BackColor>

<sup>23</sup> See *id.* at ¶¶ 40-43.

<sup>24</sup> Council of Europe Commissioner for Human Rights Thomas Hammarberg, *Viewpoint: Forced Eviction of Roma Families Must Stop* (4 September 2006), available at [http://www.coe.int/t/commissioner/Viewpoints/060904\\_en.asp](http://www.coe.int/t/commissioner/Viewpoints/060904_en.asp). See also Niki Kitsnatonis, *Roma in Greece find limits to cultural diversity*, International Herald Tribune (24 October 2006).

fundamental due process norms must be safeguarded for Roma confronted with forced eviction and that “[t]hese norms also apply to local authorities. That abusive decisions sometimes are taken on local level does not absolve the central government from responsibility under its international obligations. The state should exercise oversight and, if necessary, regulate local action.”<sup>25</sup> Similarly, the United Nations Special Rapporteur on Adequate Housing has received continuous reports on incidents of forced evictions of Roma throughout Europe and Latin America.<sup>26</sup>

## H. RELEVANT DOMESTIC LAW

### 1. Applicable Statutes

The applicants maintain, and argued before the Kaliningrad courts, that they are entitled to their homes and land parcels as a matter of acquisitive prescription in accordance with Russian law. Article 234 of the Civil Code of the Russian Federation grants individuals legal ownership of property through acquisitive prescription, provided that they have been in possession of such property openly and uninterruptedly for fifteen years. The text of this provision is as follows:

#### Article 234. Acquisitive Prescription

1. A person—a citizen or legal person—who is not the owner of property but who has in good faith, openly, and uninterruptedly possessed as its own immovable property for fifteen years or other property for five years, shall acquire ownership of this property (acquisitive prescription). The right of ownership of an immovable and of other property subject to state registration shall arise for a person who has acquired this property by virtue of acquisitive prescription from the time of such registration.
2. Until the acquiring of the right of ownership to the property by virtue of acquisitive prescription, a person possessing property as its own has the right to protection of its possession against third persons who are neither owners of the property nor have the right of possession by virtue of another basis provided by a statute or contract.
3. A person relying on prescription by possession may join to the time of its possession all the time during which the property was possessed by the one to whom this person is a legal successor.
4. The running of the period of acquisitive prescription with respect to things located with a person from whose possession they could be taken in accordance with Articles 301 and 305 of the present Code starts not sooner than the expiration of the period of limitation of actions for the respective claims.

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<sup>25</sup> *Id.*

<sup>26</sup> See United Nations Commission on Human Rights, *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living*, Mr. Miloon Kothari, UN Doc. E/CN.4/2004/48 (8 March 2004).

The Gurievsk District Court and Kaliningrad Regional Court, however, contend that the applicants' homes constitute "unauthorized buildings," which the Government is authorized to destroy in order to expropriate the land. Article 222 of the Civil Code of the Russian Federation reads as follows:

Article 222. Unauthorized Building

1. An unauthorized building is a dwelling house, other structure, construction, or other immovable property made on a land parcel not allocated for these purposes by the procedure established by a statute and other legal acts or made without receipt of the necessary permissions thereto or with substantial violation of urban planning and construction norms and rules.
2. A person who has made an unauthorized building does not acquire the right of ownership to it. He does not have the right to dispose of the building, to sell, give, lease out, or make other transactions. The unauthorized building must be torn down by the person who made it or at this person's expense except for the cases provided by Paragraph 3 of the present Article.
3. The right of ownership to an unauthorized building may be recognized by a court for the person who made the building on a land parcel not belonging to it on the condition that the given parcel shall be granted to this person by the established procedure for the building that was made. The right of ownership to an unauthorized building may be recognized by a court for the person in whose ownership, lifetime inheritable possession, permanent (without limit of time) use is the land parcel where the building was made. In this case the person for whom the right of ownership to the building is recognized shall compensate the person who made it for the building expenses in an amount determined by the court. The right of ownership to an unauthorized building may not be recognized for these persons if the keeping of the building violates the rights and interests protected by a statute of other persons or creates a threat to the life and health of citizens.

## **2. Relevant Domestic Jurisprudence**

### **(a) Supreme Court of the Russian Federation 2003 Decision**

In 2003, the Supreme Court of the Russian Federation provided guidance on how the acquisitive prescription rule of Article 234 of the Russian Civil Code interacts with the rule that individuals cannot gain legal title to unauthorized buildings as set forth in Article 222 of the Russian Civil Code. In pertinent part, it concluded the following:

Acquisitive prescription may not be applied in respect of any cases when the object of ownership and use is a voluntarily constructed building located on unlawfully occupied land parcel.

(Ex. 54) In this case, because the claimant had voluntarily constructed an individual dwelling in 1955 on land that had never been allocated for the purpose of private dwellings, the Supreme Court concluded that the claimant could not obtain legal title to that land under the theory of acquisitive prescription as set forth in Article 234 of the Russian Civil Code due to the constraints of Article 222 of the Russian Civil Code. (Ex. 54)

**(b) Comparative Jurisprudence from the Oktyabrski District Court of Kaliningrad – 2006**

In the six applicant families' appeals of the Gurievsk District Court decisions before the Kaliningrad District Court, the local lawyers for the six applicant families argued that the Kaliningrad courts had previously established that they would recognize individual title to private dwellings so long as these dwellings are constructed on land parcels that are authorized for the purpose of containing individual dwellings, even if the land parcels had not been explicitly granted through legal title to the individuals *prior* to the voluntary individual construction of private dwellings. (Exs. 55-56)

In one of these decisions dated 24 January 2006, the Oktyabrski District Court legalized an individual house that had been constructed in an area allocated for private dwellings, even though the individual did not have a legal contract or recognized title to the land from the Kaliningrad authorities prior to his building of the house. The Oktyabrski District Court conducted an in-depth analysis of the claims put forward by the individual claimant and the defendant Kaliningrad City Administration and concluded: "that the land parcel (construction No.3) in the block of individual house building at Kosogornaya Street – Kashtanovaya Avenue, on which the building voluntarily constructed by I.M. Teran is located may be granted and actually is granted for the building constructed by him." (Ex. 55)

A second case from the Oktyabrski District Court dated 6 March 2006 established that where the local government allocates land for the specific purpose that private dwellings may be built by individuals, the District Court will recognize legal title to privately constructed houses, even if the individuals who built such houses did not finalize a contract directly with the Kaliningrad authorities to that end. (Ex. 56).

**XI. STATEMENT OF ALLEGED VIOLATION(S) OF THE CONVENTION AND/OR PROTOCOLS AND OF RELEVANT ARGUMENTS**

**A. ADMISSIBILITY**

***1. Adoption of the Right to File an Individual Petition***

15.1 The Government of the Russian Federation ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms on 5 May 1998, thereby recognizing the authority of the European Court to accept applications from individuals concerning alleged violations of the provisions of the European Convention by its agencies and authorities pursuant to Article 34 of the European Convention.

## **2. Victim Status**

15.2 The 33 applicants to the present communication suffer from violations of the European Convention and Protocol No. 1 to the European Convention and are therefore “victims” as understood by Article 34 of the Convention in that they are “directly affected” by the acts at issue. *See Dogan and Others v. Turkey*, Nos. 8803-8811/02, 8813/02 and 8815-8819/02, § 93 (29 June 2004); *Groppera Radio AG and Others v. Switzerland*, No. 10890/84, § 47 (28 March 1990).

### **B. MERITS OF THE CASE**

#### ***1. The Russian Authorities’ Violent Treatment and Eviction of the Applicants, which Endangers the Applicants’ Lives, and the Systemic Discrimination against the Roma Applicants Constitute Violations of Articles 2 and 3, as well as Article 14 in Conjunction with the Aforementioned Provisions***

##### **(a) The Russian Government’s Forced Eviction of the Applicants and the Consequent Severe Mental Anguish and Dispersion of the Applicants in Temporary and Unsafe Shelters Violates the Applicants’ Right to Life in Contravention of Article 2**

15.3 The violent manner in which the Russian Government forcibly evicted the applicants from their homes and ongoing threats to the applicants’ lives as they struggle in substandard, temporary living shelters, violates the applicants’ right to life in contravention of Article 2, which guarantees in pertinent part the following:

#### Article 2 The Right to Life

1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

15.4 As the protection of the right to life is one of the most fundamental rights of the Convention, *see McCann v. the United Kingdom*, No. 8984/91, § 147 (27 September 1995), there can be no derogation from Article 2 and this Court subjects allegations of violations of Article 2 to “the most careful scrutiny.” *See Gül v. Turkey*, no. 22676/93, § 78 (14 December 2000). Article 2 encompasses both positive and negative obligations of contracting States: a positive duty to take appropriate measures to protect and safeguard the lives of those within its State’s jurisdiction and a negative duty to refrain from the unlawful taking of life. *See, e.g., L.C.B. v. the United Kingdom*, No. 23413/94, (9 June 1998), *Calvelli and Ciglio v. Italy*, No. 32967/96, (17 January 2002).

15.5 The Russian Government’s violent expulsion of the applicants from their homes without provision for compensation or alternative housing has forced the applicant families apart, dispersing them to find and live in makeshift, temporary accommodations exposed to the elements that threaten their health and survival. This constitutes a violation of Article 2 in

accord with the jurisprudence of this Court. Even where no death has yet occurred, this Court will find a violation of Article 2 where a respondent State has failed to do “all that could have been required of it to prevent . . . life from being avoidably put at risk.” *L.C.B. v. the United Kingdom*, No. 23413/94, § 36 (9 June 1998). This Court has also found breaches of Article 2 where local authorities fail to remedy a situation in which individuals were living in proximity to environmental hazards endangering their lives. *See Öneriyildiz v. Turkey*, No. 48939/99, § 97-110 (30 November 2004).

15.6 The Russian Government not only evicted the applicants from their homes, but also intentionally continued to threaten their lives in order to expel them entirely from Kaliningrad. For example, the authorities deliberately contaminated the wells in Dorozhnoe village in tandem with their demolition campaigns in the spring of 2006, with the view to driving away the applicants from the village. Nonna Zhguleva and Nikolaj Alexandrovich attest that children drank from these tainted wells because they were so thirsty and they fell gravely ill. (Ex. 8, ¶ 15, Ex. 9, ¶ 20). After the house demolitions of the week of 29 May to 2 June 2006, when the Zhguleva and Alexandrovich families proceeded to live in makeshift tent shelters, the local special police forces continued to return to Dorozhnoe village and threatened the families physically and to burn down their tents; they would also shoot with firearms in the general direction of the applicants. This deliberate harassment and intimidation constitutes the unnecessary and excessive use of force endangering the applicants’ lives in contravention of Article 2. *See Nachova and Others v. Bulgaria*, Nos. 43577/98 and 43579/98 (6 July 2005).

15.7 All of the applicants’ lives are endangered by the destruction of their permanent houses by the Russian Government. The demolition of their homes has robbed them of adequate shelter and has created the real danger that they will die in the imminent cold of the winter months in Kaliningrad. The Zhguleva and Alexandrovich families face the gravest danger to their lives as they live in temporary tent and shed structures that lack heat and are exposed to the elements. While applicant members of the Bagdonavichus, Arlauskas, Samulajtis-Petravichute, and Kasperavichus families have found temporary accommodations in train coaches, bungalows, or living with others, in the absence of possessing their own permanent housing, they are at all times in danger of becoming homeless. As such, by robbing the applicant families of their homes, the Russian Government is responsible for an ongoing violation of Article 2 by intentionally creating a situation in which the applicants’ lives are in danger without providing for any compensation or alternative housing.

15.8 Furthermore, the systemic discrimination inflicted on the applicants as a result of their Roma ethnicity prevents them from having effective access to healthcare and medical attention. The applicants’ forced eviction has resulted in their suffering from severe mental anguish and further repercussions on their fragile health. Several applicants suffer serious illness, such as Alexandras Arlauskas who has heart problems (Ex. 5, ¶ 17), Nonna Zhguleva’s four-year old son (Ex. 8, ¶ 11), Nikolaj Alexandrovich who has chronic asthma and his wife Tamara, who suffered a heart attack from a prior police raid (Ex. 9, ¶ 15), and Vitautas Kasperavichus’s granddaughter who must receive weekly injections at a sanatorium (Ex. 11, ¶ 24). The failure to provide the applicants with adequate health care constitutes an additional violation of Article 2 in that the Russian Government is placing the applicants’ lives at risk

through the effective denial of health care which the Government otherwise makes available to the population in general. *See Cyprus v. Turkey*, No. 25781/94, § 219 (10 May 2001).

**(b) The Violent Demolition of the Applicants' Homes, Mental Anguish, Systemic Discrimination, and Collective Punishment of the Applicants Violate Article 3 of the Convention**

15.9 The Russian Government's violent forced eviction of the applicants and the ensuing suffering the applicants endure constitute breaches of the most fundamental prohibition enshrined in Article 3 of the Convention, which guarantees:

Article 3: Prohibition of Torture and Inhuman or Degrading Treatment or Punishment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

15.10 The prohibition enshrined in Article 3 is so fundamental that it has no limitations or exceptions and is not subject to derogation under Article 15 of the Convention. For treatment to constitute a breach of Article 3, it must be of a minimum level of severity. This Court assesses the level of severity according to the circumstances of each case, including elements such as the duration of the treatment, the physical or mental effects of the treatment, and also the sex, age, and state of health of the victim. *See, e.g., Soering v. the United Kingdom*, No. 14038/88, § 108-09 (7 July 1989); *Ireland v. the United Kingdom*, No. § 162 (18 January 1978). In the instant case, several aspects of the applicants' suffering as a result of invidious treatment by the Russian Government surpass the minimum threshold of severity and constitute inhuman and degrading treatment in breach of Article 3 of the Convention.

**(i) Violent and Forceful Demolitions**

15.11 As the first element of the Article 3 violation in the instant case, it is clear that the violence, force, and malice with which the authorities carried out the demolition of the applicants' houses during the week of 29 May to 2 June 2006 constitute inhuman and degrading treatment in violation of Article 3 in accord with the jurisprudence of this Court. In *Selçuk and Asker v. Turkey*, No. 12/1997/796/998-999, §§ 77-80 (24 April 1998), this Court found that the Turkish Government had violated Article 3 where its agents had destroyed and burned the Kurdish applicants' homes and the applicants were of old age (54 and 60 years old) and had lived in their homes their whole lives, and the destruction of the applicants' homes deprived them of their livelihoods and forced them to leave their village. Similarly, in *Ayder and Others v. Turkey*, No. 23656/94, §§ 109-110 (8 April 2004), this Court found the following to constitute inhuman treatment in violation of Article 3:

[T]he applicants' homes and possessions were burned before the eyes of some of the applicants as well as of members of their families. The destruction of their property deprived the applicants and their families of shelter and it also deprived two of the applicants of their livelihood. In addition, it obliged them to leave the place where they had been living and to build up new lives elsewhere.

The Court considers that the destruction of the applicants' homes and possessions, as well as the anguish and distress suffered by members of their family, must have caused them suffering of sufficient severity for the acts of the security forces to be categorized as inhuman treatment within the meaning of Article 3.

15.12 The overwhelming evidence in the instant case establishes that the applicants have endured severe suffering and mental anguish as a result of the Russian Government's violent demolition of their houses. As in the *Selçuk and Asker and Ayder* cases, a number of the applicants are of vulnerable age - - either aged, like Mr. Bagdonavichus (age 56), Magdalena Bagdonavichene (age 53), Mr. Arlauskas (age 50), Mr. Alexandrovich (age 60), Mrs. Alexandrovich (age 57), and Mr. Kasperavichus (age 57), or young, like Leonid Olegovich Alexandrovich (age 8), Nikita Olegovich Alexandrovich (age 6), Mihail Mihajlovich Arlauskas (age 11), Vanya Alexandrovich Arlauskas (age 5), Olga Alexandrovna Arlauskajte (age 4), Rustam Alexeevich Arlauskas (age 4), Dinari Arunovich Zhgulev (age 4), Lyubov' Grafovna Matulevich (age 14), Ramina Ruslanovna Arlauskajte (age 9), and Kristina Alexandrovna Kasperavichute (age 7). The Russian Government demolished and burned the applicants' homes and possessions in front of their eyes. Most of the applicants essentially lived their entire lives in Dorozhnoe village and their forced expulsion from their homes destroyed the tight-knit Roma community and separated the six applicant families as they are now forced to struggle to survive scattered in temporary shelters.

15.13 The poignant testimony of the applicants attests to the severe suffering and mental anguish they endure as a result of the demolition of their homes, their forced expulsion, separation from their families, and endangered lives they live today. In the words of Anastasiya Petravichute Silvestras:

[Watching the demolition] was so traumatic and stressful. It affected our nervous systems. My child got very sick after the demolition because it was raining while this was happening, and my daughter was outside for hours in the rain. . . My daughter was very scared. She was crying. But she was trying to calm me down, because when children see their mothers upset, they also suffer so much . . . This has caused so much pain to our souls, and we will feel it our whole lives.

(Ex. 10, ¶¶ 24-26)

15.14 Mr. Alexandrovich describes the brute force and malice of the Russian authorities in an encounter they had prior to the demolition of his house:

When they came, they said that if we do not leave our homes, we will be burned with our houses. They used to come at night time also just to scare us. Sometimes the special police (OMON) officers came in masks. They were armed and used to shoot close to our feet in the presence of our children. I tried to resist. One time, I shouted, "What are you doing? Don't scare the children. My wife is an old woman and she is not well." She had a heart attack after this incident. She was about to die.

(Ex. 9, ¶ 15)



15.15 Mr. Alexandrovich then describes the violent nature of the Russian authorities during the demolition of his house:

The authorities came in late May 2006 to actually destroy our house. They arrived in masks and were very aggressive and used force to eject us out of the home. They had bulldozers and after destroying the home, they burned it. . . . The authorities used really vulgar words when they came to demolish my home. They said that if you do not move, we will rape your wives and your small girls. And they were called us “Gypsies.” They said, “You the Gypsies, get out of our land!”

(Ex. 9, ¶¶ 16, 18)

15.16 Mr. Alexandrovich concludes his testimony to this Court by describing the suffering and mental anguish he endures as a result of the demolition of this house:

This situation could not be worse. I feel the smell of death. The winter is coming, where can we go? Who can I ask for support, and when will this help come? We need a decent life. I said that if I cannot find a way out, if I cannot get out of the tent, then I swear to God, I will not be able to remain patient and watch my family suffer so much. My wife and I will poison [] ourselves or we will pour petrol on ourselves and burn ourselves. I also have a heart and cannot bear how my family is suffering. It is just too much.

(Ex. 9, ¶ 28).

15.17 Mihail Arlauskas describes how the authorities insulted him while preparing to demolish and burn his house and possessions before his eyes:

The authorities insulted us. They called us “sons of bitches” and other vulgar terms. After coming in and yelling at us to leave, they came out of the house and formed a human ring around it so that nobody could go through the ring. They started taking everything out of the house. We tried to take some of our things like clothes, but not everything. Everything we could not take was burned. We took some chairs. My child was scared. After my home was demolished, they burned it.

(Ex. 7, ¶ 11)

15.18 Leonid Alexandrovichus, who is eight years old, exemplifies how the housing demolitions have had a severe impact on the children applicants:

I was at my home the day that people in masks came to my house. I was playing in my room with my brother at the time that they came. All of the sudden, as I was playing, many men in masks came into my house and started yelling. They were shouting something like “Get out of the house.” They were dressed in all black and had machine guns. I could not see any of their faces. I was very afraid. I was very scared. . . . They shouted “get out,” and I ran out of the house. There was a big tractor outside which

demolished our house. I saw everything. Everybody in our family that was in the house ran out and watched. I was crying a lot. . . . I still think about what happened. I cannot forget it.

(Ex. 4, ¶¶ 4-9, 12)

15.19 As the above testimony establishes, the Russian Government's violent demolition of the applicants' homes and the consequent severe suffering and mental anguish endured by the applicants constitute inhuman and degrading treatment in violation of Article 3.

### (ii) Systemic Discrimination

15.20 In addition to the suffering and anguish caused by the demolition of the applicants' homes and the consequent hardships, including the separation of the applicant families and their struggle for survival in inadequate shelter, the systemic nature of the discrimination that the applicants have suffered at the hands of the Russian Government itself constitutes the second independent claim of inhuman and degrading treatment meted by the Russian Government on the applicants in the instant case. *See East African Asians Case*, Nos. 4403/70-4419/70, 4422/70, 4434/70, 4443/70, 4476/70-4478/70, 4486/70, 4501/70 and 4526/70-4530/70 (14 December 1973) (finding of the European Commission of Human Rights that the singling out of a group of persons based on race for differential treatment constitutes a special form of affront to human dignity, that amounts to degrading treatment in violation of Article 3); *see also Cyprus v. Turkey*, No. 25781/94, §§ 302-11 (10 May 2001) (same).

15.21 The testimony of the applicants proves overwhelmingly that the Russian Government harboured animus toward the applicants on account of their Roma ethnicity before, during, and after the demolitions of their houses. Moreover, the differential treatment afforded the Roma applicants in contrast to their non-Roma Russian neighbours underscores that the applicants were singled out for especially invidious punishment as a result of their ethnicity Roma. The applicants recount the constant, degrading expression of racial animus they heard from the Russian authorities, including the following.

From Nonna Zhguleva (Ex. 8, ¶¶ 17, 20):

They used a special device that had an electric current in it. My mother is an old woman and they tried to beat her. I stood between her and the authorities and yelled at them to go away. I thought she would die. They yelled at us, "you are the Gypsies." They say that they will burn the tents to get rid of us. They come at night in masks. They make so much noise, they shoot. We escape to the field. We are afraid of our children being shot. Our children are very scared. The authorities use very vulgar words – they say, "if you do not leave, we will rape you and your small girls." They do not consider us human beings. . . .

They demolished our community because we are Gypsies. They even explained it that way themselves.

From Vitautas Kasperavichus (Ex. 11, ¶¶ 12, 21, 27):

If they come to my house and see something they consider valuable, they take it. They used to say that we are not human beings. They said that the Roma should be destroyed as a people. They said that the village should not exist. I heard an authority figure say that the village should not exist as recently as the spring of 2006. The first special police (OMON) team that came to demolish homes in the autumn of 2005 said that our village should not exist because we are Gypsies. . .

When the authorities came to demolish our homes, they said that “All of you are drug dealers and criminals. Get out of here and go to Lithuania! We are going to your homes on fire!” . . .

The local government hates my people. What kind of attitude could I have toward the local government after what they did to my family and community? I consider the local authorities enemies to my community. If they did not feel sorry for my community, if they could destroy the homes of those with newborn children, what good could I have to say about them? They treat us as though we are not human beings.

From Nikolaj Alexandrovich (Ex. 9, ¶ 18):

The authorities used really vulgar words when they came to demolish my home. They said that if you do not move, we will rape your wives and your small girls. And they were called us “Gypsies.” They said, “You the Gypsies, get out of our land!” I asked them where can we go to, we have been here all of our lives, but what they told us is that we do not care, go anywhere you like.

From Alexandras Arlauskas (Ex. 5, ¶ 15):

When I asked the special police why they were demolishing our homes, they said it was because there is criminal activity in this village. The government said we are all the same – we are all involved. They said we should go back to Lithuania. I said, terrible things take place in the city, but you do not destroy the city. They said “you the Gypsies are all the same and you must be exterminated.”

From Leonas Iono Bagdonavichus (Ex. 1, ¶ 22, 24, 25)

A television channel called Kaskad had orchestrated an aggressive anti-Roma campaign between 2005 and May of 2006, the destruction of the homes. The channel aired news reporters and journalists who were trying to persuade the public to prevent Roma families from living in the garden associations. They said that if the Roma people were allowed to live in the garden association homes, they would engage in criminal activity there and ruin the neighbourhood. They alleged that this is what happened in Dorozhnoe village.

My wife and I were crying, I cannot explain it. The house where I spent decades of my life was destroyed in one hour, and now nothing is left. It is too hard to convey how this felt, you can only experience it yourself. . . . The authorities destroyed our house and gave us nothing in return. The authorities had agreed for 40 years, since 1963, that

these homes could stand. At that time, the authorities had no complaints and nothing against the Roma people. But all of that changed in the last several years.

The authorities' attitude towards Roma people was and has been definitely negative. It is thus not that much of a surprise that they would take our homes. But they also took our dignity and broke our family apart when they did this.

From Magdalena Bagdonavichene (Ex. 2, ¶ 15):

In 2005 and 2006, we are not treated like human beings; we are treated worse than animals.

From Mihail Arlauskas (Ex. 7, ¶¶ 11, 13-14):

The authorities insulted us. They called us "sons of bitches" and other vulgar terms. . . .

The authorities destroyed our village because they say that we are all criminals. They need to justify their acts somehow. That is why they are saying that. . . .

The authorities do not treat the Roma the same way they treat other Russians. We are treated like pigs.

### **(iii) Collective Punishment**

15.22 The inhuman and degrading treatment by the Russian authorities also constitutes impermissible collective punishment as a third element of the Article 3 violation in the instant case. While the Russian authorities demolished the applicants' houses under the guise of legal orders, they openly declared to the public and the applicants that the razing of the Roma community in Dorozhnoe village was intended to prevent and deter alleged criminal activity, including drug dealing. These allegations of criminal activity regarding the applicants, however, have never been proven by the authorities. The authorities never questioned the applicants or prosecuted the applicants for any alleged individual involvement in criminal activity. Even if some members of the Roma community of Dorozhnoe village had been engaged in crime, their activity could not justify the authorities' entire destruction of the village and community. *See Ayder and Others v. Turkey*, No. 23656/94, §107 (8 April 2004) ("Even in the most difficult of circumstances, such as the fight against terrorism or organized crime, the Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment."). Nevertheless, the Russian authorities demolished homes and forcibly evicted the applicants motivated by the aim of punishing the entire Roma community of Dorozhnoe for the alleged and unproven criminality of one or more individual members. This treatment constitutes impermissible collective punishment in clear violation of Article 3.

### **(c) The Russian Authorities' Inhuman and Degrading Treatment, Violent Forced Expulsion, and Total Disregard for the Ongoing Danger to the Lives of the Applicants are Motivated by Racial Animus, Thereby Constituting a Violation of Article 14 in Conjunction with Articles 2 and 3**

15.23 As set forth above, there is no question that the Russian authorities were motivated by racial animus toward the Roma applicants as they meted out continuous abusive and violent treatment before, during, and after the demolition of the applicants' homes and destruction of their property.

15.24 The applicants testify to the constant barrage of racial insults they received from the Russian authorities who confronted them. This case is distinguishable from *Nachova and Others v. Bulgaria*, Nos. 43577/98 and 43579/98, §§ 152-59 (6 July 2005), in which this Court found no violation of Article 14 in conjunction with Article 2 where the evidence only contained an isolated incident of a racial slur and the officers' internal perceptions of the victims were subject to speculation. There is no room for speculation here as to the prejudice and hatred the Russian authorities openly proclaimed to the Roma applicants while meting out brutish treatment.

15.25 The Russian authorities' discriminatory motivation in endangering of the applicants' lives and inhuman and degrading treatment and punishment is further evidenced by their perpetual refusal to address the substandard living conditions the applicants endured over the years as part of the marginalised Roma community of Dorozhnoe village, as well as the authorities' refusal to remedy in any way their actions in demolishing and destroying the applicants' homes even when it has become clear that such mistreatment has separated the applicant families, aggravated their fragile health, and forced them to live as homeless vagrants subjected to the dangers of the elements.

15.26 No objective or reasonable justification can be proffered for the authorities' hateful expression of such animus toward the applicants and total disregard for the continuous danger to the lives of the applicants. As such, the applicants establish that the Russian authorities are liable for violating Article 14 in conjunction with Articles 2 and 3 of the Convention.

***2. The Demolition, Forced Eviction, and Separation of the Applicant Families on Account of their Roma Ethnicity Constitute Violations of Article 8, Article 1 of Protocol No. 1, and Article 14 in Conjunction with these Provisions***

15.27 This Court often addresses claims of violations of the rights to home and to private and family life under Article 8 parallel with claims of violations for the unlawful interference with peaceful enjoyment of possession under Article 1 of Protocol No. 1 to the Convention. The instant case is directly analogous to several cases in which this Court found violations of both Article 8 and Article 1 of Protocol No. 1 arising from the Turkish Government's unlawful demolition and burning of houses of ethnic Kurds. For example, in *Akdivar and Others v. Turkey*, No. 21893/93, § 88 (16 September 1993), this Court held:

The court is of the opinion that there can be no doubt that the deliberate burning of the applicants' homes and their contents constitutes at the same time a serious interference with the right to respect for their family lives and homes and with the peaceful enjoyment of their possessions. No justification for these interferences having been proffered by the

respondent Government . . . the Court must conclude that there has been a violation of both Article 8 of the Convention (art. 8) and Article 1 of Protocol No. 1 (P1-1).

This Court found similar violations of both Article 8 and Article 1 of Protocol No. 1 in the cases of *Selçuk and Asker v. Turkey*, No. 12/1997/796/998-999, § 83-87 (24 April 1998) and *Ayder and Others v. Turkey*, No. 23656/94, §§ 199-121 (8 January 2004). The Turkish Government's actions in *Akdivar*, *Selçuk*, and *Ayder* bear a strong resemblance to those carried out by the Russian authorities against the six applicant families in destroying their homes in Dorozhnoe village. The applicants set forth below the violations of their rights under Article 8, Article 1 of Protocol No. 1 and Article 14 in conjunction with these two provisions.

**(a) The Russian Government's Demolition and Forced Eviction of the Applicants Violates their Rights to Respect for their Private and Family Life and their Homes in Violation of Article 8**

15.28 The Applicants suffer ongoing violations of their rights to respect for their private and family life and their homes. This is a result of their forced eviction by the Government's demolition of their homes and expropriation of their property without providing them with alternative accommodation. Today, the six applicant families live apart, scattered in temporary, makeshift shelters, in clear breach of Article 8 of the Convention, which guarantees the following:

**Article 8 Right to Respect for Private and Family Life**

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

**(i) The Six Applicant Families Warrant Legal Title to their Homes under Russian Law**

15.29 Although this court has held that applicants need not present title deeds to their homes in order to establish ownership of houses for purposes of finding violations of Article 8, *see Ayder and Others v. Turkey*, No. 23656/94, § 120 (8 January 2004), it is useful as a preliminary matter to demonstrate how the six applicant families warrant legal title to their homes as a matter of Russian law. As the Kaliningrad Regional Court and the Gurievsk District Court denied the applicants due process of law, as will be explained in detail below, this section presents a brief explanation of how the six applicant families warranted legal title to their homes according to the relevant domestic statutory provisions and comparative domestic jurisprudence that have been presented in ¶¶14.76 through ¶ 14.81 above.

15.30 The six applicant families either built or bought individual dwellings on land parcels in Dorozhnoe village that had been allocated by the Soviet government to the Roma community for the express purpose of sedentarising the Roma. From the time they were forced to settle in Dorozhnoe village decades ago, the families living and constructing homes there were assured that the land on which they lived was theirs to inhabit. The requirements of Article 222 of the Russian Civil Code are therefore satisfied in that the land of Dorozhnoe village has been allocated for the purpose of individual dwellings of the Roma community of Kaliningrad. The Kaliningrad courts have never attested to any further action by the Kaliningrad authorities that have authorized the land for any other purpose. As a result, the acquisitive prescription rule of Article 234 of the Russian Civil Code is applicable. Because all of the six applicant families have owned and occupied in good faith, openly, and uninterruptedly their houses on their land parcels in Dorozhnoe village for over 15 years, these families are entitled to legal title to their dwellings.

15.31 The Kaliningrad Regional Court decisions finding the six applicant families' occupancy of their homes in Dorozhnoe village illegal are unsupported by law and were reached by denying the applicants due process of law. The Kaliningrad Regional Court failed to conduct an adequate legal analysis of the history of the six applicant families' claims and arrived at the following legal conclusion, identical in respect of the claims of the Bagdonavichus, Arlauskas, Zhguleva, Alexandrovich, and Kasperavichus families' cases:

As it can be perceived from the case papers, the land relations have not been formalized up to now and the municipal authority does not intend to grant the respondent the land plot for the existing building.

(Exs. 27, 30, 33, 36, 44) The Kaliningrad Regional Court also upheld the Gurievsk District Court's Judgment against the Samulajtis-Petravichute family but did not adopt the above language in that decision.

15.32 In sum, the boilerplate conclusions reached by the Kaliningrad Regional Court without proper analysis of the individual circumstances of each of the six applicant families' cases are unsupported by law. Rather, a correct analysis of the six applicant families' claims under the theory of acquisitive prescription pursuant to Article 234 demonstrates that the applicants warrant title to their homes in Dorozhnoe village as a matter of law.

#### **(ii) Article 8 § 1**

15.33 The Russian Government has interfered with the right of each applicant to their "home" pursuant to Article 8 § 1. The Bagdonavichus family lived in their house in Dorozhnoe village since 1990 (Ex. 1, ¶ 11), the Arlauskas family in the house they built in 1985 (Ex. 5, ¶ 7, Ex. 6, ¶ 8), the Zhguleva family in the house they bought around 1990 (Ex. 8), the Alexandrovich family in the house they built in 1986 (Ex. 9, ¶ 13), the Samulajtis-Petravichute family in the house they moved into in 1983 (Ex. 10, ¶ 60), and the Kasperavichus family in the house Mr. Vitautas Kasperavichus built in 1964 (Ex. 11, ¶ 11).

15.34 All of the applicant families constructed or bought their houses legally in Soviet times, on the land of Dorozhnoe village that had been allocated by the Soviet Government to their Roma ascendants by the Kaliningrad authorities pursuant to Decree No. 450 of 1956; the facts section above provides detailed descriptions of the lawful acquisition and construction of each of the houses at issue. This Court has determined that intentional permanent residency in long-term dwellings gives rise to an Article 8 right to protection of a “home.” *See Buckley v. the United Kingdom*, No. 20348/92, § 54 (25 September 1996) (finding a right to a home where applicant bought land and established permanent residency in a parked caravan on the land since 1988); *Gillow v. the United Kingdom*, No. 9063/80, § 46 (24 November 1986) (finding that the applicant’s house built in 1958 which was intended to be their permanent residence qualified as a “home” for purposes of Article 8). There is no question that the Russian Government demolished and burned the six applicant families’ “homes” for purposes of Article 8 as carried out by the special police forces (OMON), the Gurievsk administrative authorities, and the bailiff services.

15.35 Furthermore, the Russian Government’s forced eviction of the applicants has rendered them homeless, necessitating that they disperse to find temporary shelter in tents, with friends or families, or renting in private dwellings or garden association houses, often separate and apart from other members of their families. The Russian Government has therefore unlawfully interfered with their private and family life in addition to their homes pursuant to Article 8 § 1.

15.36 With regards to family life, this Court has interpreted that the relationships protected by Article 8 “encompass other de facto ‘family ties’ where parties are living together.” *See Kroon and Others v. the Netherlands*, No. 18535/91, § 30 (27 October 1994) (citing also *Keegan v. Ireland*, No. 16969/90, § 44 (26 May 1994)). In the instant case, the houses of the first (Bagdonavichus), second (Arlauskas), fourth (Alexandrovich), and sixth (Kasperavichus) were inhabited by the heads of household, their children, and their grandchildren, whereas the third (Zhguleva) and fifth (Petra vichute-Samulajtis) families comprised parents and their children only. In the cases of all six applicant families, however, the formerly tight-knit families spanning either two or three generations have been separated as a result of the demolition of their homes, constituting a violation of their right to family life under Article 8.

15.37 The applicants span three generations of residents of Dorozhnoe village, with the elder generation having lived in Dorozhnoe village the majority of their lives and the younger generations for their entire lives. Some of the applicants even obtained official residence registration proving their ties to both the land and the community of Dorozhnoe village. Other applicants were unable to obtain such official residence registration due to discrimination and unlawful refusal. In essence, Dorozhnoe village is the only place the applicants have known and the only place they are able to enjoy their family life together.

15.38 Article 8 protects the right to identity and personal development in addition to the right to relations with other individuals; mental health is a crucial element of private life associated with moral integrity. *See, e.g., Bensaid v. the United Kingdom*, No. 44599/98, § 47 (6 February 2001) (quoting *Burghartz v. Switzerland*, judgment of 22 February 1994, Series A no. 280-B, p. 28, § 24 and *Friedl v. Austria*, judgment of 31 January 1995, Series A no. 305-B, p. 20,



§ 45). Here, numerous applicants suffer mental anguish and their moral dignity has been affronted by the demolition of their houses and their separation from their families, constituting a violation of their right to private life under the jurisprudence of this Court.

**(ii) Article 8 § 2**

15.39 The Russian Government's actions constitute an unlawful and unnecessary interference with their rights to their homes and private and family life under Article 8 § 2. "An interference will be considered 'necessary in a democratic society' for a legitimate aim if it answers a 'pressing social need' and, in particular, if it is proportionate to the legitimate aim pursued." *See Chapman v. the United Kingdom*, No. 27238/95, § 90 (18 January 2001). Although the Gurievsk administration obtained legal decisions sanctioning their demolition of the six applicant families' houses, these decisions were incorrectly decided as a matter of Russian law and were only reached as a result of discriminatory denial of due process in contravention of Articles 8, 13, and 14 of the Convention.

15.40 The Russian Government has put forward no legitimate public policy goal that justifies its actions. The legal decisions in the six applicant families' cases reached the perfunctory conclusion that their houses constituted unauthorized structures on land plots that had not been formalized and for which the municipal authority does not intend to grant title to anyone. As a matter of law, therefore, the Russian Government has failed to articulate any public policy aim in demolishing the six applicant families' houses.

15.41 To the contrary, the Kaliningrad political authorities have made clear to the public that they were motivated to destroy Dorozhnoe village by the goal of eradicating alleged criminality and drug dealing which they attributed exclusively and collectively to the entire Roma community. If fighting crime and drug dealing were the real goal, the Russian Government could have pursued criminal prosecutions of individual suspects, which it did not do. Some applicants, such as Mr. Bagdonavichus, speculate that the Kaliningrad authorities intended to expel the Roma community from Dorozhnoe village simply to turn a profit on the land. (Ex. 1, ¶ 27)

15.42 Public and private interests must be balanced when evaluating whether a governmental interference is both necessary and proportionate to the aim sought by the public authority, particularly in the context of expulsions from private dwellings. *See Chapman v. the United Kingdom*, No. 27238/95, § 101-04 (18 January 2001) (considering the case of an expulsion of a Gypsy applicant from an unlawfully stationed caravan). The development of dwellings without planning permission may give rise to a conflict of interest between the right of individuals and the right of the community to environmental protection. But "[w]hen considering whether a requirement that the individual leave his or her home is proportionate to the legitimate aim pursued, it is highly relevant whether or not the home was established lawfully." *Id.* at § 102. Here, although the applicants might not have obtained or conformed with construction regulations, as noted in the Kaliningrad Regional Court's decisions, they nevertheless built or bought houses for the purposes of private residential dwellings lawfully in Soviet times, which tips the balance favouring their private interests in their homes.

15.43 This Court has emphasised that the particular concerns of the disenfranchised Roma minority of Europe merit careful attention. “The vulnerable position of gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases.” *Connors v. the United Kingdom*, No. 66746/01, § 84 (27 May 2004) (finding a violation of Article 8 where the UK Government expelled the applicant’s caravan from a site that resulted in her family’s separation and physical and mental illness). In *Connors*, this Court recalled that “Article 8 [] concerns rights of central importance to the individual’s identity, self-determination, physical and moral integrity, maintenance of relationships with others and a settled and secure place in the community.” *Id.* at § 82. As in *Connors*, the applicants’ violent expulsion from their homes and dispersion of their families constitute a severe interference with their rights necessitating that “particularly weighty reasons of public interest” be proffered by the Government to justify such actions. *See id.* at § 86. Yet the Russian Government has failed to articulate any, let alone heightened, public policy justification for its actions and as in *Connors* has clearly interfered with the applicants’ rights in contravention of Article 8.

15.44 When balancing the public and private interests involved in evictions for purposes of Article 8, this Court takes particular note of both procedural protections afforded the individuals concerned and alternative accommodations available to those who are evicted. *See, e.g., Buckley v. the United Kingdom*, No. 20348/92, § 76 (25 September 1996) (relying on the fact that the UK Government provided the applicant with sufficient procedural safeguards in finding no violation of Article 8); *Chapman v. the United Kingdom*, No. 27238/95, § 103 (18 January 2001) (“A further relevant consideration . . . is that if no alternative accommodation is available the interference is more serious than where such accommodation is available.); *Gillow v. the United Kingdom*, No. 9063/80, § 55 (24 November 1986). The absence of adequate procedural safeguards and alternative accommodation in the applicants’ case aggravates the violation of Article 8 in their case.

15.45 Having failed to articulate a legitimate policy goal underlying the demolition of the applicants’ homes and the razing of Dorozhnoe village, the Russian Government cannot establish that their actions were “necessary” in a democratic society. In sum, the applicants maintain that the Russian Government’s actions violate their rights to their homes and to private and family life as safeguarded by Article 8 of the Convention. This is in accord with jurisprudence of this Court such as *Mentes and Others v. Turkey*, No. 58/1996/677/867, §§ 70, 73 (28 November 1997) (finding violation of Article 8 where the Turkish Government destroyed three Kurdish families’ homes, thereby expelling them from their village); *Akdivar and Others v. Turkey*, No. 21893/93, § 88 (16 September 1993); *Selçuk and Asker v. Turkey*, No. 12/1997/796/998-999, § 83-87 (24 April 1998) and *Ayder and Others v. Turkey*, No. 23656/94, §§ 199-211 (8 January 2004).

**(d) The Russian Government’s Demolition and Forced Eviction of the Applicants Constitute Unlawful and Unnecessary Interferences with their Right to Peaceful Enjoyment of their Possessions in Violation of Article 1 of Protocol No. 1**

15.46 The Russian Government's destruction of the six applicant families' homes and personal belongings constitutes a violation of Article 1 of Protocol No. 1 to the European Convention, which guarantees the following:

Article 1 Protection of Property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

This Court has acknowledged that this provision encompasses three principles: first, the entitlement to peaceful enjoyment of possessions; second, the prohibition of deprivation of possessions, subject to the public interest and applicable conditions; and third, the state's right to control the use of property, subject to conditions. *See Sporrong v. Sweden*, Nos. 7151/75 and 7152/75, § 61 (23 September 1982). The applicants establish that their houses and property constitute "possessions" as protected by Article 1 of Protocol No. 1 and that the Russian Government's destruction of their possessions was not done in furtherance of the public interest or in accordance with conditions provided by law or general principles of international law. As such, they claim violations of their entitlement to peaceful enjoyment of their possessions and of the prohibition on deprivation of their possessions.

15.47 According to the general principles of this Court, Article 1 of Protocol No. 1 guarantees the right of property, *see Marckx v. Belgium*, No. 6833/74, § 63 (13 June 1979), which includes land and moveable goods. For example, this Court recognized all of the following to enter the scope of Article 1: "The Court notes that it is undisputed that the applicants all lived in Boydas village until 1994. Although they did not have registered property, they either had their own houses constructed on the lands of their ascendants or lived in the houses owned by their fathers and cultivated the land belonging to the latter. . . Accordingly, in the Court's opinion, all of these economic resources and the revenue that the applicants derived from them may qualify as 'possessions' for the purposes of Article 1." *See Dogan and Others v. Turkey*, Nos. 8803-8811/02, 8813/02 and 8815-8819/02, § 139 (29 June 2004). It is clear in the instant case that the applicants' houses and personal belongings, such as their furniture and personal items contained within their houses, constitute "possessions" for purposes of Article 1. There is also no question that the undisputed demolition and burning of the applicants' houses constitute interferences for purposes of this provision. The destruction of the applicants' homes not only prevents them from peacefully enjoying their possessions but also constitutes an unlawful deprivation of their possessions.

15.48 Having established that the Russian Government's demolition and burning of the applicants' property constitutes an interference with the applicants' possessions, the applicants contend that the Russian Government's actions do not represent a fair balance between the demands of the general interest of the community and the protection of the individual's

fundamental rights. *See Sporrang*, supra, § 69. As elaborated above with respect to Article 8 of the Convention, the Russian Government has failed to proffer any legitimate argument that the demolition of the applicants' houses in Dorozhnoe village serves the public interest. While this Court has afforded respondent Governments latitude to elaborate what it deems is in the public interest in the context of its margin of appreciation, *see, e.g., Pressos Compania Naviera SA and Others v. Belgium*, No. 17849/91 § 37 (20 November 1995), in the instant case, the Russian Government has wholly failed to articulate the public interest served by the destruction of the applicants' houses in Dorozhnoe village.

15.49 As explained below, the sham legal proceedings failed to analyze the applicants' claims to their homes and property in accordance with Russian law. Furthermore, to the extent the Russian Government contends that demolishing the applicants' houses in Dorozhnoe village was intended to stop crime and drug dealing in the community, the indiscriminate razing of the applicants' homes without any evaluation of their individual alleged involvement in criminal activity is certainly disproportional to any public good the Government would hope to achieve. In sum, the applicants bear "an individual and excessive burden which has upset the fair balance which should be struck between the requirements of the general interest and the protection of the right to the peaceful enjoyment of one's possessions." *Dogan*, supra, § 155 (finding the Turkish Government's denial of access to the applicants' village for 9 years after it had destroyed the applicants' homes to violate Article 1 of Protocol No. 1 in addition to Article 8). This conclusion is in accord with this Court's jurisprudence in analogous circumstances. *See, e.g., Mentis and Others v. Turkey*, No. 58/1996/677/867, §§ 70, 73 (28 November 1997) (finding violation of Article 1 of Protocol No. 1 in addition to Article 8 where the Turkish Government destroyed three Kurdish families' homes, thereby expelling them from their village); *Akdivar and Others v. Turkey*, No. 21893/93, § 88 (16 September 1993); *Selçuk and Asker v. Turkey*, No. 12/1997/796/998-999, § 83-87 (24 April 1998) and *Ayder and Others v. Turkey*, No. 23656/94, §§ 199-121 (8 January 2004).

**(e) The Russian Government Demolished the Applicants' Homes and Possessions, thereby Separating the Six Applicant Families, on Account of their Roma Ethnicity thereby Violating Article 14 of the Convention in Conjunction with Article 8 and Article 1 of Protocol No. 1**

15.50 The applicants establish that the Russian authorities were motivated by racial animus toward them as Roma in demolishing and burning their homes and possessions, which resulted in the dispersion and separation of the six applicant families as they struggle to survive in temporary and makeshift shelters. As such, the Russian government has violated the antidiscrimination principle of Article 14 in conjunction with their violation of the applicants' rights to their homes and private and family life and their peaceful enjoyment of their possessions as enshrined in Articles 8 and Article 1 of Protocol Number 1.

15.51 There is no doubt that the applicants here were subjected to differential treatment, particularly as they were targeted with the entire Roma community of Dorozhnoe village, for the destruction of their homes and the razing of their village because of their ethnicity. Photographic evidence before this Court that the two Russian-owned homes in Dorozhnoe village were spared demolition by the Russian authorities; it is even public knowledge that the Kaliningrad

authorities are negotiating with at least one of the Russian homeowners to compensate them to acquire title over their house and land. The differential treatment of the Roma homeowners and Russian homeowners of Dorozhnoe village could not be clearer.

15.52 As explained above, the Russian authorities have failed to articulate any objective or reasonable justification for their actions. While they claim to have destroyed the applicants' homes pursuant to the Kaliningrad Regional Court's rulings that the applicants' occupied their homes illegally, the authorities have waged a public campaign in which they have stated that their objective in razing Dorozhnoe village and expelling and dispersing its Roma inhabitants is to prevent and deter criminal activity, particularly drug dealing, that they allege have occurred there.

15.53 While the applicants stand firm that the Russian authorities have failed to articulate a legitimate aim for their brutal razing of the applicants' homes without compensation or provision for alternative accommodation, the authorities' actions were by any measure grossly disproportionate to the furtherance of any possibly objective aim. A difference of treatment is discriminatory if it "has no objective and reasonable justification", that is, if it does not pursue a 'legitimate aim' or if there is not a 'reasonable relationship of proportionality between the means employed and the aim sought to be realised.'" *Rasmussen v. Denmark*, No. 8777/79, § 38 (28 November 1984) (quoting the *Marckx* judgment of 13 June 1979).

15.54 In sum, the applicants have established that the Russian authorities have discriminated against them in depriving them of their right to their homes, family and private life, and peaceful enjoyment of their possessions, thereby violating Article 14 in conjunction with Article 8 and Article 1 of Protocol No. 1. *See, e.g., Moldovan and Others v. Romania*, Nos. 41138/98 and 64320/01, §§ 133-40 (12 July 2005) (finding a violation of Article 14 in conjunction with Article 8 where Roma houses were burned in a rampage based on evidence that the attacks were targeted at the victims because of their Roma ethnicity and the record was replete with examples of discriminatory remarks made by the authorities throughout the case).

***3. The Russian Courts Did not Afford the Applicants a Fair Trial or Effective Remedy in Contravention of Articles 6 § 1 and 13 of the Convention and Discriminate against the Applicants on Account of their Roma Ethnicity Constituting a Violation of Article 14 in Conjunction with these provisions***

**(a) The Applicants' Legal Proceedings Before the Gurievsk District Court and the Kaliningrad Regional Court Denied their Right to a Fair Trial in Contravention of Article 6 § 1 of the Convention**

15.55 A particularly invidious aspect of this case is that the Russian Government sought to sanction its discriminatory destruction of the applicants' houses in the Roma community of Dorozhnoe village by obtaining legal authorization to do so from the local courts. These court proceedings, however, were sham proceedings that denied the applicants' right to a fair trial in contravention of Article 6 § 1, which guarantees the following in pertinent part:

Article 6 Right to a Fair Trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. . . .

15.56 The legal proceedings encompassing the six applicant families' attempts to legalize title to their homes and land parcels were fundamentally flawed and unfair, due to the numerous deficiencies in the procedures detailed below. The applicants therefore establish that the Russian Government has violated their right to a fair trial under Article 6 § 1. *See Khan v. the United Kingdom*, No. 35394/9, §§ 34, 38 (12 May 2000) (maintaining that in assessing claims of violations of Article 6 § 1, this Court considers whether the legal proceedings "as a whole" were fair).

15.57 First, the Gurievsk District Court held hearings and entered default judgments in all six of the applicant families' cases in their absence after failing to properly notify them, denying their right to a fair trial. Attorney Lucia Shachnazarova confirms that the Kaliningrad Regional Court overlooked violations of Russian procedure by affirming the District Court's decisions even though they were conducted in absentia and no transcripts were made:

[Mr. Arlauskas] was not even present in the court of the first instance, so he did not know that a dispute in his name was taking place. He learned about the case only when the court issued the decision on February 7, 2006. On the same day, he was in the hospital with his wife. Under such circumstances, the court should not have made any decision since he had a reasonable excuse. Furthermore, given that he had never been notified of this case, the court should not have proceeded at all. Mr. Arlauskas did not even have a chance to protect his rights. He could not present any arguments or justify his position. He did not have a lawyer, nor did he ever have the opportunity to obtain one given that he did not know the case was taking place. All of his rights were violated. A bailiff came to his house with the decision in the case two weeks after the court made its decision, but that was already beyond the deadline to file an appeal. But I still managed to get him back into court for his appeal. There is no transcript of what occurred in the court of the first instance. All of this is documented in his appeal. By law, the decision of the court of the first instance should have been reversed under such circumstances where there were such basic violation of rights.

(Ex. 13, ¶ 16)

15.58 The bailiff service of the Gurievsk District Court did not ensure adequate notice to parties concerned in proceedings before the Court. The applicants testify that the bailiff service would come to the Roma community in Dorozhnoe village, drop off legal notices, and intimidate individuals into signing receipt of legal materials without ensuring that the proper individuals receive and sign for their materials. Nonna Zhguleva explains: "sometimes they came with papers and forced us to sign things, but I did not know what I was signing because I only read a little and was threatened. I did not know of the District Court hearing regarding my house." (Ex. 8, ¶ 13) Mr. Arlauskas (Ex. 5, ¶ 13) and Mr. Alexandrovich (Ex. 9, ¶ 15) confirm that they did not receive individual notice, only learning of the Gurievsk District Court's

decisions after the Court conducted hearings in their absence and issued these decisions. Mr. Bagdonavichus was travelling outside of Kaliningrad and only learned later that the Gurievsk District Court issued a decision on 7 February 2006 declaring his family's occupation of his house illegal. (Ex. 1, ¶ 15)

15.59 Second, once the six applicant families learned of the negative decisions of the Gurievsk District Court in their cases and secured legal representation to lodge appeals of those decisions before the Kaliningrad Regional Court, that Court failed to address the legal arguments put forward by their legal representatives, including their analysis of Russian law and international legal standards. Attorney Marina Nosova, who was present before the Kaliningrad Regional Court during the appeals of Mr. Bagdonavichus, Mr. Arlauskas, and Mr. Alexandrovich, describes these proceedings as being perfunctory and predetermined. Once attorney Vladimir Luzin explained the legal arguments on behalf of his clients, the lawyer for the Gurievsk administration provided just a few sentences of rebuttal, including, "I disagree. The administration believes that the land was taken illegally by the Roma plaintiffs." Attorney Marina Nosova describes the Court's deliberation in these cases as follows:

The Court retired for just one minute outside of the courtroom, as it has to do to meet its obligation under the law, but then one minute later, the judges announced their decision. The Court had decided not to give the clients relief. There were no reasons given for their decisions. The Court said that after the announcement, the parties could get the written decision in ten days. That was the end of the hearing.

(Ex. 12, ¶ 8-9).

15.60 Attorney Lucia Shachnazarova who represented Mr. Arlauskas before the Kaliningrad District Court also describes how that Court failed to give due consideration to her arguments on her clients' behalf:

The whole proceedings lasted only seven minutes. Usually the judges ask questions and take more time. This proceeding occurred in much less time than is normal practice. The court had basically decided the outcome before they even heard my arguments. I have never seen anything like this in my practice.

(Ex. 13, ¶ 17)

15.61 Third, the text of the Kaliningrad Regional Court's decisions in the six applicants' cases further prove that the courts denied the applicants' fair trial rights under Article 6 § 1 in that they fail to acknowledge, let alone analyze, the legal arguments and the individual circumstances of each applicant family's cases before it. Article 6 § 1 requires that national courts provide reasoned analyses for their judgments. *See Hiro Balani v. Spain*, No. 46//1993/441/520. Here, the Kaliningrad Regional Court reached the following summary conclusion employing virtually identical language in five of the six applicant families' cases, namely: "the land relations have not been formalized up to now and the municipal authority does not intend to grant the land lot for anybody." (Exs. 27, 30, 33, 36, 44) In the sixth case, the Kaliningrad Regional Court ruled against the Samulajtis-Petravichute family by default. (Ex. 52)

15.62 In sum, the applicants have established that the legal proceedings before the Kaliningrad courts as a whole violated their right to a fair trial in contravention of Article 6 § 1 by failing to provide the applicants adequate notice of the proceedings regarding their housing claims, by failing to engage in a reasoned analysis of the arguments raised by the applicants before them, and by issuing boilerplate summary conclusions as judgments in their cases.

**(b) The Applicants Have no Access to an Effective Remedy before Russian Courts in Violation of Article 13 of the Convention**

15.63 The Kaliningrad Regional Court’s rulings that the six applicant families do not have legal title to their homes paved the way for the Russian Government to demolish the applicants’ houses without offering compensation or alternative housing. With this official sanction from the courts, the Russian Government proceeded to violate the applicants’ rights through their forced eviction and violent demolition of their houses, which has resulted in the separation of the applicant families and the ongoing suffering and endangerment of the applicants’ lives. The applicants have no recourse before the national courts to challenge or remedy the ongoing violation of their rights due to their forced eviction. In other words, the doors to the legal system that fundamentally denied the applicants’ rights to a fair trial remain closed to any challenge of the ongoing rights violations it has sanctioned. As such, the Russian Government is further denying the applicants’ rights to an effective remedy in contravention of Article 13, which guarantees the following:

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

15.64 Before the Kaliningrad Regional Court, the attorneys for the Bagdonavichus, Arlauskas, and Alexandrovich families explicitly raised prospective arguments that the applicants’ rights guaranteed by the Convention would be violated if the Court proceeded to sanction the Government’s demolition of their houses without adequate review of their legal claims to their land and houses. The object of Article 13 is to allow victims access to remedies for Convention violations at the national level. *See, e.g., Kudla v. Poland*, No. 30210/96, § 152 (26 October 2000). Here, although the attorneys for the Bagdonavichus, Arlauskas, and Alexandrovich families raised Convention claims before the Kaliningrad Regional Court, that Court failed to address them in its summary decisions affirming the foregone conclusions that the applicants did not have title to their homes.

15.65 The instant case is distinguishable from others this Court has considered that involve violations of both Articles 8 and 13. Elsewhere, this Court has held that where individuals have an arguable claim that their home or possessions have been destroyed by agents of a State in violation of Article 8, the notion of an “effective remedy” for purposes of Article 13 necessitates procedures that provide for a thorough and effective investigation in addition to payment of compensation. *See Mentés and Others v. Turkey*, No. 58/1996/677/867, § 89 (28 November 1997); *Selçuk and Asker v. Turkey*, No. 12/1997/796/998-999, § 96 (24 April 1998).



15.66 This case requires no investigation into the housing demolitions, as they were carried out openly by the Kaliningrad authorities pursuant to the Kaliningrad Regional Court's sanctioned demolition orders. Rather, the applicants here are denied an effective remedy in violation of Article 13 because they the Kaliningrad Regional Court, which denied the applicants' right to a fair trial, do not "meet the requisite standards of independence needed to constitute sufficient protection against the abuse of authority and thus provide an effective remedy within the meaning of Article 13." *See Khan v. the United Kingdom*, No. 35394/97, § 47 (12 May 2000).

**(c) The Russian Courts Discriminated Against the Applicants on Account of their Roma Ethnicity, Violating Article 14 in Conjunction with Articles 6 § 1 and 13**

15.67 The Russian courts discriminated against the applicants on account of their Roma ethnicity by denying them a fair hearing and reaching the conclusion, in collusion with the Kaliningrad administration, that the applicants' were illegal inhabitants of their homes and land. As such, the Russian Government has violated Article 14 in conjunction with Articles 6 and 13 of the Convention.

15.68 Here, the evidence is clear that the applicants were subjected to differential treatment before the Gurievsk District Court and the Kaliningrad Regional Court. For example, in Mr. Arlauskas's case, the Gurievsk District Court conducted the hearing in Mr. Arlauskas's absence, reaching a decision without making any transcript of the hearing. Mr. Arlauskas's attorney, Lucia Shachnazarova attests that such violations of standard court procedures typically result in a rehearing. Such was not afforded Mr. Arlauskas. (Ex. 13, ¶ 16) Furthermore, Lucia Shachnazarova describes the predetermined nature of the legal proceedings most effectively as follows:

The whole proceedings lasted only seven minutes. Usually the judges ask questions and take more time. This proceeding occurred in much less time than is normal practice. The court had basically decided the outcome before they even heard my arguments. I have never seen anything like this in my practice.

(Ex. 13, ¶ 17)

15.69 In sum, the Kaliningrad Courts discriminated against the applicants in denying them due process on account of their Roma ethnicity, thereby violating Article 14 in conjunction with Article 6. *See, e.g., Moldovan and Others v. Romania*, Nos. 41138/98 and 64320/01, §§ 133-40 (12 July 2005) (finding a violation of Article 14 combined with Article 6 in a case where Roma were seeking compensation for their destroyed houses and the Romanian courts abruptly dismissed their claim, delayed the proceedings, and failed to provide the victims with adequate compensation). As the applicants here have been discriminatorily denied a fair trial, so too do they suffer discrimination from the absence of an adequate remedy; the Russian government is therefore liable for violating Article 14 in conjunction with Article 13.

**XII. STATEMENT RELATIVE TO ARTICLE 35 § 1 OF THE CONVENTION**

**A. EACH APPLICANT HAS EXHAUSTED ALL DOMESTIC REMEDIES AND THIS APPLICATION HAS BEEN FILED WITHIN SIX MONTHS OF THE FINAL DECISIONS**

16.1 This application is submitted in compliance with Article 35 § 1 of the Convention, which requires:

Article 35 Admissibility Criteria

1. The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognized rules of international law, and within a period of six months from the date on which the final decision was taken.

16.2 On 12 May 2006, Vladimir Luzin, one of the applicants' undersigned legal representatives, sent an initial complaint letter by mail, which he also faxed to the Court on 18 May 2006. This initial complaint letter was filed within six months of the final decisions issued by the Kaliningrad Regional Courts dispensing with the domestic legal claims of the applicants. At the time of filing the initial complaint letter, the applicants respectfully requested that this Court undertake interim measures pursuant to Rule 39 of the Rules of Court to suspend the effect of the Kaliningrad Regional Court decisions and prevent the demolitions from occurring. In a letter dated 19 May 2006, this Court informed the applicants of its decision not to indicate interim measures to the Russian Government pursuant to Rule 39. The applicants informed this Court in a letter faxed to this Court on 22 June 2006 of their intention of filing a completed application, which this application satisfies.

16.3 The applicants have exhausted domestic remedies through their appeals to the Kaliningrad Regional Court. The date and nature of national legal proceedings for each of the six applicant families are therefore listed below:

***Bagdonavichus Family***

- Final Decision in *Bagdonavichus Case*, Cassational Ruling, Case No. 33-1918/2006, Kaliningrad Regional Court, issued on 3 May 2006 (Ex. 27) (Cassational Court decision dismissing Mr. Bagdonavichus's appeal and upholding the Gurievsk District Court's judgment that Mr. Bagdonavichus does not have legal title to his home)
- Judgment of the Gurievsk District Court of 7 February 2006, *Bagdonavichus Case N 2-152/2006* (Ex. 29) (District Court decision held in absentia which found that Mr. Bagdonavichus does not have legal title to his home)

***Arlauskas Family***

- Final Decision in *Arlauskas Case*, Cassational Ruling, Case No. 33-1920/2006, Kaliningrad Regional Court, issued on 3 May 2006 (Ex. 30) (Cassational Court decision dismissing Mr. Arlauskas's appeal and upholding the Gurievsk District Court's judgment that Mr. Arlauskas does not have legal title to his home)

- Judgment of the Gurievsk District Court of 8 February 2006, *Arlauskas Case N2-143/06* (Ex. 32) (District Court decision reached after *in absentia* hearing, which found that Mr. Arlauskas does not have legal title to his home)

### ***Zhguleva Family***

- Final Decision in Zhguleva Case, Cassational Ruling, Case No. 33-1917/2006, Kaliningrad Regional Court, issued on 3 May 2006 (Ex. 33) (Cassational Court decision dismissing Nonna Zhguleva's appeal and upholding the Gurievsk District Court's judgment that Nonna Zhguleva does not have legal title to her home)
- Judgment of the Gurievsk District Court in *Zhguleva Case N 2-160/2006* of 9 February 2006 (Ex. 35) (District Court decision reached after *in absentia* hearing, which found that Nonna Zhguleva does not have legal title to her home)

### ***Alexandrovich Family***

- Final Decision in *Alexandrovich Case* No. 33-1919/2006, Kaliningrad Regional Court, issued on 3 May 2006 (Ex. 36) (Cassational Court decision dismissing Mr. Alexandrovich's appeal and upholding the Gurievsk District Court's Judgment that Mr. and Mrs. Alexandrovich do not have legal title to their home)
- Judgment of the Gurievsk District Court in *Alexandrovich Case N 2-144/2006* of 8 February 2006 (Ex. 38) (District Court decision reached after *in absentia* hearing, which found that Mr. and Mrs. Alexandrovich do not have legal title to their home)

### ***Samulajtis-Petravichute Family***

- Final Decision in *Samulajtis Case* No. 33-1119/2006, Kaliningrad Regional Court, issued on 1 March 2006 (Ex. 39) (Cassational Court decision upholding the Gurievsk District Court's Judgment that Mr. Samulajtis does not have legal title to his home)
- Decision of the Gurievsk District Court of 27 December 2005 (Ex. 41) (Gurievsk District Court decision refusing to recognize the private property title of the Samulajtis-Petravichute home reached after hearing conducted with the subjects absent)
- Decision of Kaliningrad Regional Court, issued on 24 June 2002 (Ex. 42) (Cassational Court decision overturning 20 February 2002 decision of Gurievsk District Court that recognized the right to legal title of the Samulajtis-Petravichute home)
- Judgment of the Gurievsk District Court of 20 February 2002 (Ex. 43) (Gurievsk District Court ruling recognizing the right to legal title of Mr. Samulajtis over the Samulajtis-Petravichute home)

### ***Kasperavichus Family***

- Final Decision in *Kasperavichus Case* No. 33-739/2006, Kaliningrad Regional Court, issued on 22 February 2006 (Ex. 44) (Cassational Court decision dismissing Mr. Kasperavichus's appeal and upholding the Gurievsk District Court's Judgment that Mr. Kasperavichus does not have legal title to his home)
- Judgment of the Gurievsk District Court of 20 December 2005 (Ex. 46) (Gurievsk District Court decision reached after *in absentia* hearing, which found that Mr. Kasperavichus does not have legal title to his home)
- Judgment of the Gurievsk District Court of 13 March 2002 (Ex. 47) (Gurievsk District Court decision recognizing Mr. Kasperavichus's right to private legal title over his home and land parcel)

### **B. IN ADDITION, APPLICANTS SUFFER CONTINUOUS VIOLATIONS OF THEIR CONVENTION RIGHTS AS A RESULT OF THE RUSSIAN GOVERNMENT'S DEMOLITION OF THEIR HOMES THE WEEK OF 29 MAY THROUGH 2 JUNE 2006**

16.4 The applicants have established that the Russian Government violated their rights under Articles 2, 3, 6, 8, 13, Article 1 of Protocol No. 1 and Article 14 in conjunction with the above-mentioned provisions by violently and forcibly evicting them through the demolition of their homes. The incidents, therefore, which give rise to the Convention violations in the instant case consist of the actual demolitions of the six applicant families' houses, which occurred during the week of 29 May through 2 June 2006.

16.5 As the applicants have established that the Russian Government continues to deny them an effective remedy for violating their rights under the Convention in contravention of Article 13, the violations detailed in this application constitute ongoing, continuing, and recurring violations. *See, e.g., Almeida Garrett and Others v. Portugal*, Nos. 29813/96 and 30229/96, § (11 January 2000) (holding that the deprivation of property constitutes an ongoing deprivation of a right and a continuing violation of the Convention until a remedy for the deprivation is proffered by the Government); *Cyprus v. Turkey*, No. 25781/94, §§ 136, 150, 158, 175, 189 (10 May 2001) (finding continuing violations of Articles 2, 3, 5, 8, and Article 1 of Protocol No. 1 in an application lodged in 1994 for violations arising from illegal land appropriation that occurred in 1974 in the absence of an effective remedy at the national level). Although the Russian Government's actions in demolishing and forcibly evicting the applicants triggered the ongoing violation of the applicants' rights detailed herein, the applicants foresaw the governments' intent to demolish their homes. The applicants pursued legal proceedings before the Kaliningrad courts that attempted not only to secure their title to their homes and property, but also to prospectively raise their concerns as to the potential that the Russian Government will violate their Convention rights should it proceed with demolishing and evicting them from their homes. As established above in Section III.B.3, however, the applicants were denied access to a fair trial or effective remedy before Russian courts, rendering these proceedings ineffectual for the purpose of exhausting domestic remedies.

**C. THE APPLICANTS RESPECTFULLY REQUEST THAT THIS COURT EXPEDITE REVIEW OF THEIR APPLICATION PURSUANT TO ARTICLE 40 OF THE CONVENTION**

16.6 The applicants respectfully request that this Court consider their claims in the most expeditious manner possible pursuant to Rule 40 of the Rules of the Court given the urgency of their situation and the gravity of the violations they endure. By demolishing the applicants' homes and destroying their community in Dorozhnoe village, the Russian Government has effectively rendered the applicants homeless. The six applicant families have been forcibly separated and are living in temporary, makeshift shelters. Some families, such as the Zhguleva and Alexandrovich families, are living in sheds and tents that do not have heat. The Bagdonavichus family is occupying a train coach that has no water, no gas, and no electricity. Other applicants are moving between guest accommodations dependent on the generosity of their acquaintances, friends, and family. As the winter approaches, the applicants are exposed to the elements, facing sub-freezing winter temperatures that endanger their health and lives. Given the exigencies of the applicants' deteriorating condition, the applicants respectfully urge this Court to expedite consideration of their case.

17.1 *Other Decisions* – See above.

18.1 *Is there or was there any appeal or other remedy available to you which you have not used?* No.

**XIII. STATEMENT OF THE OBJECT OF THE APPLICATION**

19.1 The object of this application is a holding by the European Court of Human Rights that the Russian Government has violated the applicants' rights under Articles 2, 3, 6, 8, 13, 14 and Article 1 of Protocol No. 1 of the Convention and in connection with Article 41 of the Convention, the applicants request just compensation for pecuniary and non-pecuniary damages. The applicants will submit detailed claims in connection with their claim for just compensation at a later date.

**XIV. STATEMENT CONCERNING OTHER INTERNATIONAL PROCEEDINGS**

20.1 The applicants affirm that they have submitted no complaint to any other international procedure of investigation or settlement concerning the incidents which have given rise to this application.

**XV. LIST OF DOCUMENTS**

21. See attached Index of Exhibits

**XVI. DECLARATION AND SIGNATURE**

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

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James A. Goldston

Place: New York

Date: 2 November 2006

## INDEX OF EXHIBITS

### Affidavits

#### **Bagdonavichus Family**

- Ex.1 Affidavit of Leonas Iono Bagdonavichus (English and Russian)  
Ex.2 Affidavit of Magdalena Bagdonavichene (English and Russian)  
Ex.3 Affidavit of Olegas Bogdanovichus (English and Russian)  
Ex.4 Affidavit of Leonid Alexandravichus (English and Russian)

#### **Arlauskas Family**

- Ex.5 Affidavit of Alexandras Arlauskas (English and Russian)  
Ex.6 Affidavit of Mariya Arlauskene (English and Russian)  
Ex.7 Affidavit of Mihail Arlauskas (English and Russian)

#### **Zhguleva Family**

- Ex.8 Affidavit of Nonna Zhguleva (English and Russian)

#### **Alexandrovich Family**

- Ex.9 Affidavit of Nikolaj Alexandrovich (English and Russian)

#### **Samulajtis-Petravichute Family**

- Ex.10 Affidavit of Petravichute Anastasiya Silvestras (English and Russian)

#### **Kasperavichus Family**

- Ex.11 Affidavit of Vitautas Kasperavichus (English and Russian)

#### **Russian Attorneys**

- Ex.12 Affidavit of Attorney Marina Nosova (English and Russian)  
Ex.13 Affidavit of Lucia Shachnazarova (English and Russian)

### Registration Papers and Other Official Documents Concerning Registration in Dorozhnoe Village

- Ex. 14 Internal Passport of Leonas Iono Bagdonavichus, showing registration in Kaliningrad (issued 06.5.2005)
- Ex.15 Internal Passport of Alexandras Andreyaus Arlauskas, showing registration since 1990 in Dorozhnoe Village (issued 27.11.2001)
- Ex.16 Internal Passport of Mariya Savel'evna Arlauskene, showing registration since 1991 in Dorozhnoe Village (issued 07.12.2001)
- Ex.17 Internal Passport of Mihail Alexandrovich Arlauskas, indicating birth in Dorozhnoe Village in 1976 but showing no registration stamp because he had lost his registration since to 2002 (internal passport issued 19.03.2002)
- Ex.18 Internal Passport of Anastasiya Alexandrovna Arlauskajte, indicating birth in Dorozhnoe Village in 1981 but showing no registration stamp because she had lost her registration since 2005 (internal passport issued 19.08.2005)
- Ex.19 Internal Passport of Nonna Zhguleva, indicating birth in 1970 in Dorozhnoe Village and showing registration in Dorozhnoe Village from 1989 (internal passport issued 16.06.2001)
- Ex.20 Internal Passport of Nikolaj Ivanovich Alexandrovich, showing no registration stamp because he had lost his registration since 2005 (internal passport issued 22.08.2005)
- Ex.21 Internal Passport of Tamara Alexeevna Alexandrovich, showing no registration stamp because she had lost her registration since 2004 (internal passport issued 19.10.2004)
- Ex.22 Internal Passport of Margarita Alexeevna Matulevich, showing her registration in Dorozhnoe Village from 1986 (date of issue illegible)
- Ex.23 Official Notice N 608 issued by the Gurievsk Administration on 03.15.2006, confirming that Tamara Alexeevna Alexandrovich, Nikolaj Ivanovich Alexandrovich have been registered in Dorozhnoe Village since 07.08.1982, and their daughter, Margarita Alexeevna Matulevich, has been registered in Dorozhnoe Village since 1986
- Ex.24 Internal Passport of Konstantin Sergeevich Samulajtis, showing registration in Dorozhnoe Village since 1986 (internal passport issued 20.06.2001)



- Ex.25 Internal Passport of Anastasiya Silvestras Petravichute, showing her registration in Dorozhnoe village since 1991 (internal passport issued 15.05.2001)
- Ex.26 Internal Passport of Vitautas Mikolo Kasperavichus, showing registration in Dorozhnoe Village since 1983 (internal passport issued 15.02.2001)

**Official Court Documents Concerning Procedural History of Families in Obtaining Title to their Houses in Dorozhnoe Village**

**Bagdonavichus Family**

- Ex.27 Final Decision in *Bagdonavichus Case*, Cassational Ruling, Case No. 33-1918/2006, Kaliningrad Regional Court, issued on 3 May 2006 (Ex. 27.a. Russian final decision and Ex. 27.b. English translation)
- Ex.28 Appeal of the Judgment of the Gurievsk District Court of 7 February 2006 filed by Attorney Vladimir Luzin on behalf of Bagdonavichus Family before Kaliningrad Regional Court on 2 May 2006 (in Russian)
- Ex.29 Judgment of the Gurievsk District Court of 7 February 2002, *Bagdonavichus Case N 2-152/2006* (in Russian)

**Arlauskas Family**

- Ex.30 Final Decision in *Arlauskas Case*, Cassational Ruling, Case No. 33-1920/2006, Kaliningrad Regional Court, issued on 3 May 2006 (in Russian and English)
- Ex.31 Appeal of the Judgment of the Gurievsk District Court of 8 February 2006 filed by Attorney Lucia Shachnazarova on behalf of Arlauskas Family before the Kaliningrad Regional Court on 2 March 2006 (in Russian)
- Ex.32 Judgment of the Gurievsk District Court of 8 February 2006, *Arlauskas Case* (in Russian)

**Zhguleva Family**

- Ex.33 Final Decision in *Zhguleva Case*, Cassational Ruling, Case No. 33-1917/2006, Kaliningrad Regional Court, issued on 3 May 2006 (in Russian and English)

- Ex.34 Appeal of the Judgment of the Gurievsk District Court of 9 February 2006 filed by Nonna Zhguleva before the Kaliningrad Regional Court on 3 March 2006 (in Russian)
- Ex.35 Judgment of the Gurievsk District Court in *Zhguleva Case N 2-160/2006* of 9 February 2006 (in Russian)

#### **Alexandrovich Family**

- Ex.36 Final Decision in *Alexandrovich Case* No. 33-1919/2006, Kaliningrad Regional Court, issued on 3 May 2006 (in Russian and English)
- Ex. 37 Appeal of the Judgment of the Gurievsk District Court of 8 February 2006 filed by Attorney Vladimir Luzin on 2 May 2006 (in Russian)
- Ex.38 Judgment of the Gurievsk District Court in *Alexandrovich Case N 2-144/2006* of 8 February 2006 (in Russian)

#### **Samulajtis-Petravichute Family**

- Ex.39 Final Decision in *Samulajtis Case* No. 33-1119/2006, Kaliningrad Regional Court, issued on 1 March 2006 (in Russian and English)
- Ex.40 Appeal of the Judgment of the Gurievsk District Court of 27 December 2005, submitted to the Kaliningrad Regional Court on 23 January 2006 (in Russian)
- Ex.41 Decision of the Gurievsk District Court of 27 December 2005 (refusing to recognize property rights of Samulajtis-Petravichute)
- Ex.42 Decision of Kaliningrad Regional Court, issued on 24 June 2002 (in Russian) (overturning 20 February 2002 decision of Gurievsk District Court)
- Ex.43 Judgment of the Gurievsk District Court of 20 February 2002 (in Russian) (recognizing property title of Samulajtis home)

#### **Kasperavichus Family**

- Ex.44 Final Decision in *Kasperavichus Case* No. 33-739/2006, Kaliningrad Regional Court, issued on 22 February 2006 (in Russian and English)

- Ex.45 Appeal of the Judgment of the Gurievsk District Court of 20 December 2004, filed by Attorney Lucia Shachnazarova on 13 January 2006
- Ex.46 Judgment of the Gurievsk District Court of 20 December 2005 (in Russian)
- Ex.47 Judgment of the Gurievsk District Court of 13 March 2002 (in Russian) (recognizing Kasperavichus ownership of house)

**Additional Official Documents Concerning Roma Entitlement to Legalize Property in Dorozhnoe Village**

- Ex. 48 Letter of Mr. Yuhtenko Yu. V., Head of the Gurievsk Administration of 5 May 2004, addressed to Roma People of Dorozhnoe Village, admitting there is a Master Development Plan, confirming that they have checked all houses developed in Dorozhnoe Village, ready to recognize the property rights of these people and give them land for that purpose (letter in Russian)
- Ex.49 Extract of a Protocol of a Special Meeting of the Kaliningrad Building Committee of 29 March 2001, confirming that the Master Development Plan for Dorozhnoe Village and that the Kaliningrad Building Committee adopted this plan to improve the services in this village; proving that in 2002/2003 the local government was ready to recognize property rights to individuals living in Dorozhnoe Village at that time
- Ex.50 Map of Dorozhnoe Master Development Plan – Proposed project for reconstruction of the village territory (dated 2001)
- Ex.51 Map of Dorozhnoe Master Development Plan – annotated with details of proposed services and facilities to develop
- Ex.52 Letter submitted by Konstantin Samulajtis on 20 March 2002 to Mr. Neretin, Head of Gurievsk Administration in response to positive Court decision allowing him to legalize his property rights; containing a stamp indicating official authorization that land can be given in the Dorozhnoe Village, House Number 1
- Ex. 53 Letter submitted by Vitautas Kasperavichus on 25 March 2002 to Mr. Neretin, Head of Gurievsk Administration upon clearance from the Gurievsk District Court of 2002 allowing him to legalize his property rights; containing a stamp indicating official authorization that land can be given in the Dorozhnoe Village, House Number 6

**Other Relevant Russian Legal Documents**

- Ex. 54 Decree of the Presidium of the Supreme Soviet of the USSR No. 21(863), “On Engaging Vagrant Gypsies in Labour”
- Ex. 55 Excerpt from the Review of Judicial Practice of the Supreme Court of the Russian Federation for the First Quarter of 2003 on acquisitive prescription
- Ex. 56 Judgment of the Oktyabrski District Court (24 January 2006)
- Ex. 57 Judgment of the Oktyabrski District Court (6 March 2006)

### **Newspaper Articles**

- Ex. 58 Article from [www.kaliningrad.ru/news/community](http://www.kaliningrad.ru/news/community), “Instead of ‘camping ground’ – a tent camp?” (31 May 2006)
- Ex. 59 Article from the Kaliningrad State TV and Radio Company, “Georgy Boos: ‘Drug Dealing Must be Eradicated,’” (20 February 2006)
- Ex. 60 Article from the Agency for Social Information, “A fight against drug-dealing will be intensified in Kaliningrad Region,” (16 January 2006)

### **Photographs**

- Ex. 61 Photograph of Arlauskas house before the demolition
- Ex. 62 Photograph of Arlauskas house after the demolition
- Ex. 63 Photograph of Tamara Alexandrovich sitting before the window of her house before the demolition
- Ex. 64 Photograph of Alexandrovich house in the process of being bulldozed
- Ex. 65 Photograph of Mr. Alexandrovich living in his makeshift tent after the demolition of his house
- Ex. 66 Photograph of Dorozhnoe village residents’ possessions burning after they had been removed from houses that had been demolished
- Ex. 67 Photograph of Mr. Bagdonavichus’s freshly demolished house
- Ex. 68 Photograph of Mr. Bagdonavichus’s freshly demolished house next to the Hristeva (Russian family) house that the Kaliningrad authorities did not demolish

- Ex. 69                      Photograph of October 2006 of ruins of demolished Bagdonavichus house
- Ex. 70                      Photograph of October 2006 of ruins of demolished Arlauskas house
- Ex. 71                      Photograph of October 2006 of ruins of demolished Zhguleva house
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- Ex. 73                      Photograph of October 2006 of demolished Kasperavichus house
- Ex. 74                      Photograph of Hrsiteva house, standing and untouched, from October 2006
- Ex. 75                      Photograph of Kotev house, standing and untouched, from October 2006