

**To the Judicial Collegium for Criminal Cases  
at the Chita Oblast Court**

Mikhail Borisovich KHODORKOVSKY and  
Platon Leonidovich LEBEDEV, defendants  
on criminal case 18/432766-07,  
defence lawyers:  
L.R. Saykin, defence lawyer for defendant  
M.B. Khodorkovsky;  
V.N. Krasnov, defence lawyer for defendant  
P.L. Lebedev

**CASSATIONAL APPEAL**

On 01.08.2008 the Ingodinsky District Court of the City of Chita (Judge V.V. Tikhonov) “returned to the applicants” the complaint by defendants M.B. Khodorkovsky, P.L. Lebedev and their defence lawyers B.B. Gruzda and A.E. Miroshnichenko against actions (the lack of action) and decisions of the investigators filed in compliance with the procedures stipulated by Article 125 of the Code of Criminal Procedure of the RF (*Annex 1*).

According to the Court, the requirements specified in the complaint “are beyond the subject matter of the judicial review pursuant to Art. 125 of the CCP RF”.

This judicial act (*Annex 2*) is illegal, unsubstantiated, which means it is unjust and, hence, subject to revocation for the following reasons.

**1. Decision by the Court on the substance of the requirements of the applicants was, in violation of the provisions of the CCP RF, made in an improper form of action.**

Pursuant to Art 5 part 25 CCP RF, any kind of decision, with the exception of the sentence, passed by a judge on his own, is a resolution.

Pursuant to Art 125 part 5 CCP RF, the judge shall only pass decision on the complaint against the action (the lack of action) or the decision of the inquirer, the investigator or the prosecutor in the form of a resolution.

In violation of the above requirements, Judge V.V. Tikhonov presented his decision in the form of a cover letter in spite of the fact, that pursuant to its contents, it was undoubtedly a decision passed by the judge on his own, *i.e.*, it was a resolution. It’s not the formatting of the appeal (presence of signatures, dates, lawyer authorizations, etc.) that is the point of this decision but rather its substance. It includes the introduction (name of the court, date, indication of the subject matter at issue), the declaration (analysis of the appeal contents and of the court’s arguments) and the resolution (decision on the return of the appeal to the applicants). Absence in the decision under appeal of such formal and not legally binding requisites as its name or the words “determined” and “decided” before the respective sections of the decision, as well as the replacement of the expression “having considered” normally used in the court decisions by a close in its meaning expression “having acquainted with” in connection with the contents of the appeal is, in the opinion of the defence, an improper trick by the judge aimed at depriving of the applicants of their right to access to justice, including at the stage of the cassational appeal, by means of artificially complicating the situation around the subject matter of the appeal (*for more details on the denial of access to justice, see paragraph 3 of this appeal*). However, the improper form of action in regard to the court decision under appeal may not be an obstacle to exercise the constitutional right to review of the judicial decision in the legally established manner.

On the contrary, pursuant to the meaning and contents of Art 381 CCP RF, stipulating grounds for the cancellation or alteration of the judicial decisions, “failure by the court to observe the requirements concerning the acceptance procedure and the form of action of the judicial act may serve an independent ground for exercising by the interested persons of such a

right” (*Decrees of the Constitutional Court of the RF of 16.10.2007 No. 696-O-O; of 19.04.2001 No. 84-O*).

In addition to that, the court is obliged to explain to the civil defendant, as well as to the other participants in the criminal court proceedings their rights, liabilities and responsibility, and to guarantee the possibility of the exercise of these rights. At the same time, the civil defendant shall be guaranteed the possibility to defend himself while resorting to all the ways and means, not prohibited by CCP RF (Art 11 part 1, Art 16 part 2 CCP RF).

In violation of the above requirements of the law, the court in its judicial act failed to explain the right of its cassational appeal, whereas the possibilities for the appeal have been deliberately impeded which has also infringed upon the constitutional rights of the applicants and has complicated access to justice for them.

## **2. The court has blatantly violated the grievance procedure and made an extralegal decision.**

Pursuant to Art 125 parts 3, 4 CCP RF, the judge shall check the legality and substantiation of the actions (the lack of action) and decisions of the investigator at a public court hearing with the participation of the applicant and of his defence lawyer, as well as of the prosecutor. The aforementioned persons shall be duly informed about the time of considering the complaint. At the court session, the applicant shall expose the ground for the complaint, after which the other persons in attendance at the court session shall be heard out. The applicant shall be granted the right to come out with a retort.

Pursuant to Art 125 part 5 of the CCP RF, by the results of considering the complaint, the judge might pass one of the following decisions: 1) on recognizing the action (the lack of action) or the decision of the corresponding official to be illegal or unsubstantiated, and on his liability to eliminate the committed violation; 2) on leaving the complaint without satisfaction.

However, even though the court referred to Art 125 CCP RF when making its decision under appeal, it actually failed to inform the applicants and their defence lawyers about the time of considering the complaint and it failed to conduct the trial, thus depriving the applicants and their defence lawyers of their right to participate in the public adversary proceeding, and, finally, it made an extralegal decision, that is it returned the appeal (complaint) to the applicants. By doing so, the court has blatantly violated the provisions of Articles 15, 123, 125 CCP RF (*See the Decision of the Panel at the Vladimir Oblast Court of 19.04.2004; Bulletin of the Supreme Court of the RF No. 2 of 28.02.2005*).

Thereby the court has deliberately evaded its responsibility on implementation of the judicial protection of the rights and legal interests of the citizens.

## **3. The court has violated the provisions of the Constitution of the RF and of the European Convention for the Protection of Human Rights and Fundamental Freedoms: the applicants were denied access to justice and to exercising their right to a fair trial by an independent and impartial tribunal. Moreover, the court has violated the fundamental principle of unity of the judicial practice.**

By guaranteeing everyone protection of his or her rights in a court of law (part 1), Article 46 of the Constitution of the RF stipulates, as one of the significant elements of this right, that the decisions and actions (or inaction) of the state authorities and officials (part 2), **including of the judicial authorities**, may be appealed against in a court of law. Art 19 part 1 CCP RF corresponds to this constitutional proposition.

The provision of this constitutional proposition stipulates that those interested shall be afforded an unimpeded opportunity to strive to correct errors made by the officials and by the courts and that, for these particular reasons, a special order shall be introduced for procedural examination by the courts of superior jurisdiction of the legality and substantiation of the decisions taken by the courts of lower degree of jurisdiction.

As has been repeatedly mentioned by the Constitutional Court of the RF:

justice may only be materially recognized as such provided it meets the requirements of fairness and ensures effective restitution of rights;

the state shall be obligated to ensure blanket exercise of this constitutional right which does not only mean the right to apply to the court for disposing of issues but also implies a guarantee against a judicial error. Since a court decision error may not be deemed just, *“the lack of opportunities for its review shall belittle and restrict the right of everyone for judicial protection which is inadmissible”*;

the aforementioned right, by implication of Articles 55 (part 3) and 56 (part 3) of the Constitution of the RF, shall not be subject to restriction since this may, under no circumstances, be stipulated by the need to achieve the goals specified by the Constitution of the RF;

deprivation of a person’s right to apply for judicial protection in order to assert his or her rights and liberties contradicts the constitutional principle of protection by the state of a person’s dignity (Art 21 of the Constitution of the RF), from which it follows that a person in his or her relationship with the state shall have the right to defend his or her rights and liberties by any means not prohibited by the law and to dispute with the state represented by any of its bodies (Art 45 part 2 of the Constitution of the RF);

in order to ensure rights and legitimate interests of such participants in the proceedings as the defendant and the complainant, they should be given the opportunity to bring to the notice of the court their positions on the merits of the case and on those arguments which they consider appropriate to substantiate their positions. This rule is embodied in Article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms, pursuant to which everyone whose rights and freedoms are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in the official capacity;

by implication of Articles 46-52, 118, 120 and 123 of the Constitution of the Russian Federation and of the corresponding Articles 6 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms, the court, as a tribunal, shall ensure observance in the trial of the requirements necessary for making a just, *i.e.*, lawful, justified and fair decision on the case and take measures to eliminate circumstances precluding from this. Otherwise, ensuring to the appropriate extent of the right to judicial protection would be impossible;

actual opportunities to bring to the notice of the court their positions concerning all the aspects of the case, provided to the parties on an equal basis, shall be the necessary guarantee of the judicial protection and of the fair trial on the case since this is the only condition ensuring realization in the court trial of the right to judicial protection which, by implication of Article 46 (parts 1 and 2) of the Constitution of the Russian Federation and Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, should be fair, comprehensive and effective;

pursuant to the general rule, the Code of Criminal Procedure of the Russian Federation, shall only exclude relevance examination of the procedural decisions in cases where the person making this decision is not obligated to give motives for such decision; but if the law requires indication of the motives of the decision, then this also stipulates an opportunity for their consequent examination (*Decrees of the Constitutional Court of the RF of 03.05.1995, No. 4-P; of 02.02.1996, No. 4-P; of 10.12.1998, No. 27-P; of 15.01.1999, No. 1-P; of 14.02.2000, No. 2-P; of 08.12.2003, No. 18-P etc. etc.*).

As the court of superior jurisdiction indicated upon reversing the judgment of the Judicial Collegium for Criminal Cases at the Samara Oblast Court, which discontinued proceeding in error on the complaint filed pursuant to Art 125 CCP RF, it was necessary “to proceed from the legal position of the Constitutional Court of the RF according to which the Constitution of the RF guaranteed everyone the right to personally apply as well as to file individual and collective applications to the state bodies and to the local authorities to protect one’s rights and liberties by any means not prohibited by the law including by means of appealing against in a court of law the actions (or inaction) of the state authorities and officials. The aforementioned rights, by implication of the Constitutions of the Russian Federation, not only stipulate the right to submit to the relevant state body or official a written application but they also stipulate the right to receive a substantiated response to this application. With regard to the criminal proceedings, it would mean the need to make a statutory procedural decision in connection with the application which, under Art 7 CCP RF, should be lawful, substantiated and properly motivated. Anything other than that would be a violation not only of the procedural rights of the participants in the criminal proceedings, but also of the specified constitutional rights” (*The Decision of the Panel at the Samara Oblast Court of 10.08.2006; Bulletin of the Supreme Court of the RF of 26.03.2007, No. 3*).

The above statements enable us to draw a sound conclusion concerning violation by the court of both the provisions of the Constitution and decisions of the Constitutional Court of the RF, and of the applicants’ rights to fair trial, stipulated by Article 6 part 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms. Pursuant to generally known axiomatic legal principle, based on this right, “not only should justice be executed but it should also be obvious that it is executed”.

Thereby, the court has undertaken an anti- constitutional attempt to deprive the applicants of their right to access to justice; their rights to fair trial by independent and impartial court have been infringed both by way of denial to consider the complaint by the court of primary jurisdiction in the established manner, and also by way of creating artificial obstacles to cassational appeal of that denial, which fact has also been mentioned in paragraph 1 of this appeal.

In addition to that, having committed violations of the law specified above in paragraphs 1, 2, 3 of this appeal, the court has thus breached the fundamental principle of unity of the judicial practice, which, with regard to the subject matter of this appeal, unconditionally invokes adjudication of the complaints pursuant to Art 125 of the CCP RF exclusively in the form of a court decision subject of cassational appeal.

The unity of the judicial practice is a guarantee for the efficiency of the constitutional principle of the legal certainty, equality of all people before the law and in the court of law (Art 19 of the Constitution of the RF).

In its Resolution of the Plenary Session of 20.12.2005 No. 26, the Supreme Court of the RF emphasized that the decisions of the courts made out of accordance with the explanations previously provided by the Supreme Court of the RF indicate that there exists a judicial error, and that such decision may not be recognized as fair, and the judicial protection may not be deemed comprehensive and effective.

By Decree of the Penal of the Supreme Court of the RF of 23.11.2005 No. 252-PVO5 the court decision made in violation of the principle of the unity of judicial practice was reversed (*Bulletin of the Supreme Court of the RF, 2006, No. 7, p. 1*). The authority of the Supreme Court of the RF on providing explanations on the judicial practice issues has been stipulated by the Constitution of the RF (Art 126). Carrying out this Constitutional authority is binding for the lower courts.

**4. The court decision in appeal is not just unlawful but it is also unsubstantiated in its essence. The conclusion of the court in regard to the absence of the subject matter for judicial review contradicts the existing legislation and does not comply with the actual circumstances.**

Pursuant to Article 2 of the Constitution of the Russian Federation, man, his rights and freedoms shall be the supreme value, and it shall be a duty of the state to recognize, respect and protect the rights and liberties of man and citizen. Under this constitutional provision, the state authorities, including the courts, shall be obligated to carry out their activities so that to ensure observance of the rights and liberties of man and citizen, and in the event of their violation, to ensure a prompt and effective remedy.

The Constitutional Court of the RF has repeatedly explained the procedure for implementation and assurance of these rights in the criminal proceedings. Particularly, in regard to the subject matter of the applicants' complaint, which has been unlawfully returned by the decision in appeal, the Constitutional Court of the RF has specifically indicated that:

the provisions of Articles 125 and 219 of the CCP of the Russian Federation, do not deprive the participants in the criminal proceedings of their rights to appeal against the decisions and the actions (the lack of action) of the inquirer, the investigator and the public prosecutor, to consider motions filed in the process of familiarization with the case file materials and to appeal against the decisions taken in connection with those motions, but those provisions will specifically vest these rights;

on the basis of the constitutional obligation of the state to ensure equal opportunities to everyone in order to uphold his or her rights in the disputes with any authorities or officials, including those conducting pre-trial examination on criminal cases, depending on the particularities of the actions (the lack of action) and decisions by the preliminary investigation authorities under appeal, the law maker may envisage a judicial review of their legality and substantiation both in the process of the pre-trial examination and after the completion of this stage and upon receiving by the court of the case file materials accompanied by the bill of particulars (bill of indictment); at the same time, both in the first and in the second case it's the court that is responsible for checking on the merits of the complaints and applications filed by the participants in the court proceedings, and - in case of revealing violations committed by the inquiry or the preliminary investigation authorities - for taking measures to remedy either by the authority (the official) who had committed the violation or by the court itself, which actually provides for, by implication of the procedural criminal law in its constitutional interpretation, the right to judicial protection stipulated by Article 46 (part 2) of the Constitution of the Russian Federation;

a significant procedural violation may be an obstacle for considering the case, which the court may be unable to eliminate on its own, and which as a cause for deprivation or restriction of the rights of the participants in the criminal proceedings, guaranteed by the law, excludes opportunity for ruling a lawful and well founded (substantiated) judgement and actually hampers the court from implementing the function of exercising justice laid upon it by the Constitution of the Russian Federation;

in case violations of the procedural criminal law provisions took place at the pre-trial stages of the criminal proceedings, neither the bill of particulars nor the bill of indictment may be deemed to have been drafted in compliance with the requirements of this (*Decrees of the Constitutional Court of the RF of 23.03.1999 No. 5-P; of 08.12.2003 No. 18-P*).

Pursuant to Articles 6, 79 of the Federal Constitutional Law "On the Constitutional Court of the RF", the constitutional implication of the provisions of the CCP RF, revealed in the statements of the Constitutional Court of the RF shall be of general effect and shall exclude any other interpretation thereof in the law enforcement practices. The rulings (decrees) of the Constitutional Court of the RF shall be of general effect, shall act directly and shall not require acknowledgement by any other authorities and officials.

In paragraph 14 of its Decree of 05.03.2004 No. 1, the plenary session of the Supreme Court of the Russian Federation stated as follows: "*...the court shall proceed from the assumption that the violation at the pre-trial stage of the defendant's rights to judicial protection guaranteed by the Constitution of the Russian federation... eliminates any possibility for ruling a lawful and grounded judgement*".

The arguments of the court decision under appeal which are used as the basis for the conclusion in regard to the absence of the subject matter for the judicial review pursuant to Art 125 of the CCP RF contradict the law and do not comply with the actual circumstances of the case. Moreover, upon stating a number of arguments of the complaint the court has committed deliberate misrepresentation of their contents, substitution of the subject matter of the appeal in order to adjust to the foregone decision.

Thus, the arguments of the court that without getting involved in the assessment of the actual circumstances of the case, of the documents in evidence, of the contents of charges and of the correctness of classification of the defendants' actions it would be unable to consider the complaint about the violations including: unlawful termination of defendant's familiarization with the materials of the case files; denial of providing explanations to the defendant concerning the substance of the charges brought against him; failure to properly notify the defendant's defence lawyers of the completion of the investigative actions and of providing the defendant with the case file materials for familiarization with them; conducting this proceeding with the defendant in the absence of his defence lawyers for whom he had requested in writing and prior to the expiration of the five-day period stipulated by the law for the arrival of the defence lawyers are known to be groundless. It is absolutely obvious that the consideration and settlement of such complaint did not require any assessment of the evidence of the defendants' guilt or innocence in the incriminated acts but then it did not require the assessment of the correctness of classification of the defendants' acts; as for the issue of the assessment, it was not raised in the complaint by the defendants.

As for the other group of unlawful actions (lack of action) and decisions by the investigators under appeal, which included: artificial and unlawful separation and removal from the case file materials of integral parts (annexes) of the motions filed by the defence and of the defendant's testimony; investigators' refusal and evasion to collect evidence that would refute the accusations; refusing the defending party to exercise its legal right to participate in the process of proving; collecting by the investigators of evidence in secret from the defending party (under the lee of "other" criminal cases) and consequent subjoining them to the materials of this criminal case, the court has deliberately substituted the subject matter in appeal and misrepresented the contents of the applicants' arguments. Hence, the applicants have not raised the issue of the assessment of the relevance, admissibility and sufficiency of the collected evidence for making decision on whether or not the applicants were guilty in this part either; as for the settlement of the complaint this kind of assessment was not requested from the court. Those were the unlawful actions (lack of action) and decisions made by the investigators which infringed the right to judicial protection as well as the other constitutional rights of the applicants and prevented access to justice for them that constituted the subject matter of the appeal in this part.

The court had every opportunity to consider and settle the complaint filed by the applicants and it had to examine and evaluate the arguments provided by the applicants, particularly those regarding unlawful and unsubstantiated nature of the actions (lack of action) and decisions by the investigators under appeal, rather than the evidence confirming or refuting the accusations and appropriateness of the classification of the defendants' actions.

Upon considering the complaint, lawfulness and substantiated nature of the actions (lack of action) and decisions by the investigator shall be reviewed. "In this case, lawfulness should mean observance of all the provisions of the Code of Criminal Procedure of the Russian Federation regulating the procedure for making decisions or executing a certain action by the investigator (inquirer), prosecutor; as for the substantiated nature or appropriate foundation of the actions, it should mean availability in the submitted materials of the data that would confirm the need of the decisions made and of the actions executed" (*Decree of the Constitutional Court of the RF of 28.06.2007 No. 8-P*).

The argument of the court that the decisions made by the investigators based on the results of considering the motions of the defending party may not be the subject matter for a judicial appeal pursuant to Art 125 CCP RF, since making such decisions has been attributed to the exclusive competence of the investigator is absolutely groundless. This faulty logic of the court dictates that it shall not be entitled to see any violation in the actions and decisions of the

investigator and request for remedy even in case such decisions and actions neglect the binding provisions of the law and/ or entail infringement of the rights of other participants in the court proceedings. Such an approach makes senseless and emasculates the idea itself of the judicial review at the stage of the pre-trial proceeding on the case. However, the substance of the judicial authority, including the preliminary judicial review consists exactly in the evaluation of those actions (lack of action) and decisions for consistency with the law and for application of the judicial powers to remedy the violated rights.

Pursuant to Art 1 part 2 CCP RF, the order for the criminal court proceedings, established by this Code, is obligatory for the courts, for the prosecutor's offices, for the preliminary investigation and the inquiry bodies, as well as for the other participants in the criminal court proceedings. Pursuant to Art 7 part 4 CCP RF, The rulings of the court, the resolutions of the judge, of the prosecutor, the investigator and the inquirer shall be lawful, substantiated and motivated.

Consequently, pursuant to Art 38 part 2 paragraph 3 of the CCP RF, the authority of the investigator to direct on his own the course of investigation, to take decisions on the performance of the investigative or of the procedural actions, is restricted by the range of his procedural rights stipulated by CCP RF, which also directly proceeds from Art 38 part 2 paragraph 6 of the CCP RF. At the same time, the powers of the investigator may not be exercised in violation of the rights and legal interests of the other participants of the criminal court proceedings.

In cases where such rights and legal interests are infringed, the discretion of the investigator may not be viewed as unlimited and not subject to the authority of the court. On the contrary, in cases like this, intervening by the court at the stage of preliminary judicial review is not just its right but also its responsibility, as well as in cases where the aforementioned violations have been committed at the stage of, or in connection with collecting evidence, as well as while resolving the motions.

Pursuant to the Ruling of 24.01.2008 No. 63-O by the Constitutional Court of the RF: *“Stipulating by Art 38 part 2 paragraph 3 of the CCP RF the authority of the investigator to direct on his own the course of investigation, to take decisions on the performance of the investigative or of the procedural actions... the law maker at the same time does not exclude the need for him to carry out in the process of the criminal prosecution the whole range of stipulated by the procedural criminal law, specifically by Articles 7, 11, 14 u 16 of the CCP of the Russian Federation, measures aimed at protection of the rights and liberties of man and citizen in the criminal court proceedings. Checking of the legality and substantiality of the investigator’s actions and decisions made based on this provision on a specific case shall be conducted by the regular courts (Article 125 CCP of the Russian Federation)”*.

### **5. Violations committed by the judge while making the decision in appeal are not just of flagrant but also of deliberate, repeated and malignant nature**

Previously, Judge V.V. Tikhonov by his decision of 25.07.2007 already refused to accept the complaint by P.L. Lebedev of 19.07.2007 about similar unlawful actions of the investigation. On 08.10.2007 the Judicial Collegium for Criminal Cases at the Chita Oblast Court reversed this decision as unlawful and sent the complaint for a new trial by a new composition of the court. Nevertheless, when making the decision under appeal upon considering a similar complaint on the same case Judge V.V. Tikhonov failed to take into account his previous errors which were revealed and corrected by the superior court authority; instead he repeated them again in an even worse and inadmissible manner, neglecting even the requirements to the procedural form of the decision he made; by doing so he evaded fulfilling his professional duties and tried to escape responsibility for the decisions made.

In addition to this, previously, while considering complaints filed by the defence of M.B. Khodorkovsky and P.L. Lebedev, the Ingodinsky District Court of the City of Chita presided by other judges have more than once recognized as unlawful the actions (the lack of action) and decisions made at the stage of familiarization with the case file materials and resolving of the motions filed by the defence including those related to refusal to subjoin to the materials of the case the following documents: copies of passports, certificates confirming the fact of crossing

the state border, etc. (Decisions of 14.02.2007, 18.05.2007, 01.08.2008). These decisions (with the exception of the last one, the period of limitation on which has not yet expired) after being verified according to the cassational procedure, became valid. Judge V.V. Tikhonov who is the Chairman of the Ingodinsky District Court could not but know of the above circumstances.

Under the circumstances, making by Judge V.V. Tikhonov of the unjust decision under appeal can not be explained by his being unaware of the law and of the unity of the stable judicial practice of its application. Gross violations of the European Convention for the Protection of Human Rights and Fundamental Freedoms, of the Constitution of the RF and of the procedural criminal law which he committed upon making this decision and which are described in this cassational appeal are of the deliberate, repeated, that is malignant, and flagrant nature.

We hereby consider that the above violations undoubtedly require reaction from a superior court authority according to the procedure stipulated by Art 29 part 4 CCP RF, and, that they may possibly be the subject for judicial review pursuant to the procedure stipulated by Art 144 CCP RF.

The aforementioned violations of the procedural criminal law and of the standards of international convention (law) committed by the court and resulting in the unjust and unsubstantiated court decision (Art 381 CCP RF), as well as inconsistency of the conclusions by the court with the actual circumstances of the case (Art 380 CCP RF), shall serve grounds for the reversal of the court decision under appeal by the reviewing authority (court) (Art 379 paragraphs 1, 2 part 1 CCP RF).

Pursuant to the Ruling of 16.05.2007 No. 6-P by the Constitutional Court of the RF: *“In the event the significant circumstances which are the subject matter for investigation on a criminal case are unduly reflected in the court decision, this court decision may not be viewed as a fair act of justice and shall be subject to remedy irrespective of the cause for its being unjust – whether it was unlawful actions of the judge, a judicial error or any other circumstances objective affecting the legality, substantiality and fairness of the judicial decision (act)”*.

Pursuant to the above, and using Articles 19, 127, 354-356, 378, 379 of the CCP RF as guidelines,

**WE HEREBY REQUEST TO:**

1. Reverse the court decision (which is actually a Resolution of the Ingodinsky District Court of the City of Chita of 01.08.2008), unlawfully presented by Judge V.V. Tikhonov in the form of a letter concerning the return to the applicants of the complaint filed in compliance with the procedure stipulated by Article 125 CCP RF.

2. Send the materials for a new trial by a different composition of the court of primary jurisdiction.

3. Adopt a particular decision in regard to V.V. Tikhonov, Judge of the Ingodinsky District Court of the City of Chita, in connection with the committed gross violations of the rights and freedoms of citizens as well as of the other violations of the law.

4. Ensure personal participation in the hearing at the reviewing authority (court) of M.B. Khodorkovsky and P.L. Lebedev, who are currently retained in custody, and make sure that the other applicants are also duly notified about the time and venue of the hearing as we all intend to participate in it.

10.08.2008.	Defendants:	(M.B. Khodorkovsky)
		(P.L. Lebedev)
	Defence lawyers:	(L.R. Saykin)
		(V.N. Krasnov)