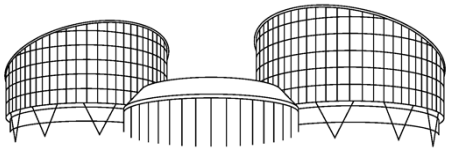

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF MAKAROVA AND OTHERS v. RUSSIA

(Applications nos. 53545/13 and 56703/13)

JUDGMENT

STRASBOURG

26 March 2019

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

In the case of Makarova and Others v. Russia,

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

Helen Keller, *President,*
Pere Pastor Vilanova,
María Elósegui, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having deliberated in private on 22 January and 5 March 2019,

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

PROCEDURE

1. The case originated in two applications (nos. 53545/13 and 56703/13) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by three Russian nationals, Ms Tatyana Andreyevna Makarova, Ms Aleksandra Yuryevna Astakhova and Ms Yelizaveta Antonovna Fokht-Babushkina ("the applicants"), on 27 July 2013 (first applicant) and 19 August 2013 (second and third applicants). The first applicant died in April 2017. On 24 January 2019 her mother, Mrs Larisa Yuryevna Makarova, expressed her wish to pursue the proceedings before the Court.

2. The first applicant was represented by Mr K. Terekhov, a lawyer practising in Moscow. The second and third applicants were represented by Mr N. Zboroshenko, a lawyer practising in Moscow. The Russian Government ("the Government") were represented by Mr M. Galperin, Representative of the Russian Federation to the European Court of Human Rights, and Mr A. Fedorov, Head of the Office of the Representative of the Russian Federation to the European Court of Human Rights.

3. On 30 June 2017 notice of the complaints under Articles 6, 10 and 11 of the Convention was given to the Government, and the remainder of the applications was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

4. The Government did not object to the examination of the applications by a Committee.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The first applicant (Ms Makarova) was born in 1989 and lived in Moscow. The second applicant (Ms Astakhova) was born in 1985 and lives in Mytishchi, Moscow Region. The third applicant (Ms Fokht-Babushkina) was born in 1994 and lives in Moscow.

6. On 14 December 2012 the State Duma, the lower house of the Federal Assembly of Russia, adopted at first reading a draft law which, in particular, prohibited the adoption of children of Russian nationality by citizens of the United States of America.

7. On 17 December 2012 the official daily newspaper *Rossiyskaya Gazeta* announced that the second reading of the draft law was scheduled for 19 December 2012.

8. According to the first applicant, she had read on various online social networks that many people intended to stage solo demonstrations (*одиночные пикеты*) on 19 December 2012 in front of the State Duma to express their opposition to the draft law. The format of solo demonstrations was chosen because there was no longer time to observe the minimum statutory three-day notification period for other types of (group) events.

9. All of the applicants decided to hold solo demonstrations on 19 December 2012. According to them, at around 9 a.m. they positioned themselves, holding banners, in the vicinity of the State Duma at some distance from other protesters (see also *Lashmankin and Others v. Russia*, nos. 57818/09 and 14 others, §§ 206-15, 7 February 2017).

10. According to the first applicant, she was arrested by the police several minutes later and taken to a police van. There were no orders from police officers to stop the demonstration and leave the area. According to the second and third applicants, after their solo demonstrations they left the area, showing their posters to journalists at their request. At that point, they were arrested by the police and taken to the Tverskoy district police station.

11. According to the Government, at 10 a.m. on 19 December 2012 all of the applicants took part in a group "picket" (*пикет*) held without prior notification of the authorities. The first applicant had a poster reading "I am looking for an American who will adopt me", the second and the third applicants had posters reading "Orphans are guilty for the death of Mr Magnitskiy? Do not disgrace yourself". The applicants did not react to the lawful demands of the police to stop participating in the event and continued "picketing", attracting the attention of passers-by. At 10.30 a.m. they were arrested and taken to the Tverskoy district police station for the purpose of compiling an administrative-offence record. At 1.20 p.m. on that day the applicants were released.

12. At the police station the applicants were charged with participating in a group public event held without prior notification, in breach of Article 20.2 § 2 of the Code of Administrative Offences (hereinafter, "the CAO"). The administrative-offence record in respect of the first applicant and the police officers' reports in respect of all the applicants indicated that the offence had been committed at 10 a.m. It was also stated that they had taken part in a non-notified group public event and had refused to end it when requested to do so by the police.

13. On 15 January 2013 the justice of the peace of circuit no. 369 of the Tverskoy District of Moscow found the first applicant guilty under Article 20.2 § 2 of the CAO and sentenced her to a fine of 20,000 Russian roubles (RUB; about 495 euros (EUR) at the time). The court found it established, on the basis of the administrative-offence record, the police officers' reports and oral testimony by a police officer who had arrested the applicant that the latter had taken part in a public event ("picket") which had involved fifty people and had been held without prior notification of the authorities. On 14 February 2013 the Tverskoy District Court of Moscow upheld the judgment on appeal. The applicant did not attend the appeal hearing, even though she had been duly summoned to it.

14. On 31 January 2013 in two separate proceedings the same justice of the peace convicted the second and the third applicants under Article 20.2 § 2 of the CAO and sentenced each of them to fines of RUB 20,000. The court relied on the administrative offence records, the police officers' reports and oral testimony by a police officer who had arrested the applicants. On 21 February and 21 March 2013 the Tverskoy District Court of Moscow upheld the judgments in respect of the third and second applicants respectively. Both applicants were absent from the appeal hearings, though the third applicant's lawyer did participate. In the third applicant's case the appellate court examined some documents and interviewed a police officer in a detailed manner before affording the defence counsel an opportunity to cross-examine him; the appeal judge then asked a number of follow-up questions. In its appeal decision the appellate court considered that the third applicant's guilt had been proved by the adverse evidence, such as the administrative-offence record, the escort procedure record and testimonies.

15. On 1 and 5 July 2013 the Moscow City Court examined supervisory review complaints lodged by the second and third applicants. The court reclassified the charges against the applicants as falling under Article 20.2 § 5 of the CAO, namely breach of the established procedure for the conduct of public events committed by a participant. Their fines were reduced to RUB 10,000 (about EUR 232 at the time) each.

II. RELEVANT DOMESTIC LAW AND PRACTICE

16. For a summary of domestic law and practice concerning regulations relating to the conduct of public events, liability for breaches committed in the course of such events and administrative escorting and arrest, see *Lashmankin and Others,* cited above, §§ 216-312, 7 February 2017, and *Novikova and Others v. Russia*, nos. 25501/07 and 4 others, §§ 47-84, 26 April 2016.

17. Until 1 January 2013 charges under Article 20.2 of the CAO were to be determined at first instance by a justice of the peace (Article 23.1 § 3 as in force until 1 January 2013). Since 1 January 2013 these charges are to be determined at first instance by a district court of general jurisdiction (Article 23.1 § 3, as in force since 1 January 2013).

18. Since 6 January 2013 Moscow City Law no. 10 of 4 April 2007 provides that the distance between solo demonstrations should be no less than fifty metres. It also specifies that simultaneous demonstrations should be treated as solo demonstrations, provided that they do not have a common goal and organisation (section 2.3).

THE LAW

I. JOINDER OF THE APPLICATIONS

19. Given their common factual and legal background, the Court decides that the two applications should be joined pursuant to Rule 42 § 1 of the Rules of Court.

II. Mrs LARISA MAKAROVA's STANDING

20. The Court notes that following the first applicant's demise in 2017, her mother expressed a wish to pursue the proceedings before the Court in relation to this application lodged by her late daughter before this Court in 2013 and raising issues under Articles 6, 10 and 11 of the Convention. The Government have made no specific comment on this aspect of the case. For its part, the Court reiterates that in determining this matter the decisive point is not whether the rights in question are transferable to the heirs wishing to pursue the procedure, but whether the heirs or the next of kin can in principle claim a legitimate interest in requesting the Court to deal with the case on the basis of the applicant's wish to exercise his or her individual and personal right to lodge an application with the Court (see *Ergezen v. Turkey*, no. 73359/10, § 29, 8 April 2014; *Barakhoyev v. Russia*, no. 8516/08, §§ 22-23, 17 January 2017; and *Ksenz and Others* v. Russia, nos. 45044/06

and 5 others, §§ 87 and 117, 12 December 2017). Also, human rights cases before the Court generally have a moral dimension and persons near to an applicant may thus have a legitimate interest in ensuring that justice be done, even after the applicant's death (ibid). The Court is satisfied that the condition of close kinship has been met and that Mrs Larisa Makarova has a legitimate interest in ensuring that the application on behalf of the applicant is pursued. The Court has no reason to doubt that the late applicant and her mother were in a sufficiently close relationship. Accordingly, the Court finds that Mrs Larisa Makarova has standing to continue the proceedings in the applicant's stead. For practical reasons, Ms Tatyana Makarova will continue to be called "the first applicant" in this judgment.

III. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

21. The applicants complained of the lack of a prosecuting party at the court hearings in the administrative proceedings against them. The first applicant also argued that the trial courts had not been "established by law" and thus had no jurisdiction in her case. The applicants relied on Article 6 § 1 of the Convention, the relevant part of which reads as follows:

> "In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law."

22. The Government submitted that the CAO did not provide for the mandatory participation of a public prosecutor in each case concerning an administrative offence. Their submissions in that respect were similar to those made in *Karelin v. Russia* (no. 926/08, §§ 46-48, 20 September 2016). The Government insisted that the domestic courts had not taken the role of the prosecution when examining the applicants' cases, and that their decisions had been well-reasoned. As regards the first applicant's additional complaint, the Government considered that the Justice of the Peace had been empowered to examine her case under Articles 23.1 § 3 and 28.7 § 1 of the CAO.

23. The applicants argued that in the absence of a prosecuting party, the trial judges had taken the role of the prosecution. In particular, they had read out the administrative-offence records, which could be considered as bills of indictment. The domestic courts had therefore not been "impartial" within the meaning of Article 6 of the Convention. The first applicant also submitted that her case should have been examined by the District Court at first instance, rather than by a justice of the peace, and that her appeal had been subject to examination by the Moscow City Court.

A. Admissibility

24. The Court reiterates at the outset that the criminal limb of Article 6 of the Convention was applicable to the proceedings against the applicants under the Russian CAO (see *Mikhaylova v. Russia*, no. 46998/08, § 69, 19 November 2015).

25. As regards the first applicant's complaint that the trial court had no jurisdiction in her case, the Court notes that the justice of the peace of circuit no. 369 of the Tverskoy District of Moscow accepted the administrative case against the applicant for examination in accordance with domestic jurisdictional rules. It is true that those rules then changed as of 1 January 2013, so that cases concerning, *inter alia*, administrative offences under Article 20.2 of the CAO were to be examined by the district courts at the first instance. However, given that the first applicant's administrative offence was committed on 19 December 2012, there is no evidence to suggest that the new rules had already become applicable to her case. The applicant raised no related argument on appeal against her conviction and made no submissions in reply to the Government's arguments. The Court concludes that the available material does not disclose a breach of any essential elements pertaining to the requirement that a tribunal must be "established by law". Accordingly, the Court finds that the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

26. The Court notes that the complaint relating to the lack of a prosecuting party at the court hearings in the administrative proceedings is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

27. The Court has previously found that the lack of a prosecuting party in the context of oral hearings resulting in the determination of administrative charges constitutes a serious shortcoming, in breach of the objective impartiality requirement of Article 6 § 1 of the Convention (see *Karelin*, cited above, §§ 69-84). It notes that the essential factual and legal elements of the present case and the case of *Karelin* (ibid., §§ 59-68) are similar as regards the first-instance trials of the first and second applicants, and the administrative proceedings as a whole against the third applicant. The parties' submissions in the present case disclose no reason for the Court to depart from its earlier judgment in that regard.

28. In addition, it is noted that the appellate court in the third applicant's case relied not only on the testimony of a witness it had questioned, but also on the administrative-offence record as a piece of evidence to which it

accorded probative value in respect of her guilt and for dismissing her appeal on points of fact and law (compare with *Karelin*, §§ 66 and 81-83, and *Butkevich v. Russia*, no. 5865/07, § 94, 13 February 2018).

29. By way of comparison, the Court further notes that the first and second applicants initiated appeal proceedings and then were absent from the appeal hearings, while not being represented by a lawyer. The Court sees no reason to hold that the applicants were not afforded an adequate opportunity to attend the hearings or to make their own arrangements for legal representation. On the contrary, it appears that the applicants validly waived such an opportunity (see *Karelin*, cited above, § 76). The appellate courts received no other appeals or observations in reply and heard no oral representations or witnesses. The appeal procedures were confined to reviewing the trial judgments by way of examination of the case files exclusively on the basis of the defendants' appeals. Assessing the above elements cumulatively, the Court finds no violation of the requirement of objective impartiality in respect of appeal proceedings conducted in that manner.

30. There has accordingly been a violation of Article 6 § 1 of the Convention on account of the objective impartiality requirement in relation to the administrative trial of the third applicant and the first-instance trial of the first and the second applicants, and no violation of this provision in respect of the appeal proceedings in respect of the first and second applicants.

VI. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

31. The applicants complained that the termination of their solo demonstrations, their escorting to a police station and their convictions for an administrative offence amounted to an unlawful and disproportionate interference with their right to freedom of peaceful assembly.

32. In view of the nature and scope of the applicants' arguments and the authorities' reliance on the Public Events Act, which relates in part to group events, the Court finds it appropriate to examine this case under both Articles 10 and 11 of the Convention (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018), which read as follows:

Article 10

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

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of

national security, territorial integrity or public safety, for the prevention of disorder or crime ..."

Article 11

"1. Everyone has the right to freedom of peaceful assembly ...

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, 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 ..."

A. Admissibility

33. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

34. The applicants argued that they had participated in a spontaneous public protest against a draft statute prohibiting the adoption of Russian children by United States nationals. The date of the examination of the draft law by the State Duma had been announced two days before. Given the minimum three-day notification period, there had been no time to notify the authorities before the protest. The applicants had therefore decided to hold solo demonstrations which did not require prior notification of the authorities under the Public Events Act. Although the protestors, including the applicants, had positioned themselves at a distance of more than fifty metres from each other, the authorities had regarded their solo demonstrations as a single public event. They had stopped it, arrested the participants and fined them for participating in a group "picket" held without prior notification. The applicants stressed that even if their events were considered to be "unlawful" they had acted peacefully and had not created any disturbance.

35. The Government contended that the applicants had acted unlawfully by holding a group public event without the authorities' approval, as established by the domestic courts. The dispersal of the event had therefore been lawful and justified. They disputed that the event held by the applicants could be qualified as genuinely spontaneous. In their view, the applicants had had sufficient time to organise a public event in accordance with the notification procedure prescribed by the Public Events Act before the draft law had been signed on 28 December 2012. Such a procedure had

been put in place so that public events could take place peacefully and safely. As the applicants had failed to comply with the rules, they had been lawfully fined for participating in a public event held without prior notification.

2. The Court's assessment

36. The parties agreed that the termination of the applicants' demonstrations and/or their participation in a group public event, their escorting to the police station and their administrative conviction had constituted an interference with their rights to freedom of peaceful assembly and freedom of expression. Such interference constitutes a breach of Articles 10 and 11 of the Convention unless it is prescribed by law, pursues one or more legitimate aims under the second paragraph of each Article and is "necessary in a democratic society". However, in this case the questions of compliance with the law and of the existence of a legitimate aim cannot be dissociated from the question of whether the interference was "necessary in a democratic society". It is therefore unnecessary to examine them separately (see, for similar reasoning, *Nemtsov v. Russia*, no. 1774/11, § 75, 31 July 2014).

(a) Solo demonstration

37. First of all, the Court has taken note of the applicants' submission that they attempted to stage solo demonstrations, the venue (the object being picketed) and timing of which happened to coincide.

38. In this connection the Court refers to the findings it made in *Novikova and Others* (cited above, §§ 193 and 197-99) in relation to the Public Events Act. Irrespective of the statutory distance requirement and compliance with it by simultaneous solo demonstrators, the Act empowered the courts to classify *post facto* a demonstration as a group event (the "reclassification rule" under section 7(1.1) of the Act) and, by implication, to punish individuals for non-compliance with the prior notification procedure applicable to such events. In the Court's view, the intended purposes of such a provision (such as affording the authorities an opportunity to take timely and adequate measures to ensure that a given civic initiative could take place in an orderly manner and to secure public safety and protect the rights of the event participants and others) would, normally, be fully attainable through the reasonable application of a distance requirement, without any "pressing social need" – relating to the pursuance of any particular legitimate aim – for applying the "reclassification rule" and for the related enforcement of the prior notification procedure.

39. It is noted that there was no specific statutory distance requirement in Moscow prior to January 2013 (see paragraph 17 above). At the same time, the Court has no reason to doubt that each applicant was merely

standing with a banner at some – apparently, non-negligible – distance from other protesters in so far as it was practicable in the vicinity of the object being picketed, the State Duma; each applicant's expressive conduct was peaceful and non-disruptive. The domestic courts considered the situation as a single group event in the form of a "picket". However, no compelling considerations relating to public safety, prevention of disorder or protection of the rights of others were at stake and relied upon when using this factual assertion for convicting each applicant specifically on account of non-observance of the notification procedure and also when attributing an active role to at least one of them (see paragraphs 12-15 above). The only relevant consideration was the need to punish them for unlawful conduct arising solely from the fact that they had not complied with the notification procedure. In the absence of any aggravating element, this was not sufficient to justify the interference with the applicants' right to freedom of expression in the circumstances of the case.

(b) Spontaneous assembly

40. Alternatively, should it be accepted as convincingly established that the applicants did indeed take part in an "assembly" (with each other and/or others), seen in the context of Article 11 of the Convention, the present case falls within the scope of matters relating to so-called "spontaneous assemblies". This specific matter was already examined by the Court in *Lashmankin and Others* (cited above, §§ 443-52) and, as it happens, in relation to the very same factual background. The Court stated, in particular, that the Public Events Act made no allowance for special circumstances, where an immediate response to a current event was warranted in the form of a spontaneous "assembly" within the meaning of Article 11 § 1 of the Convention.

41. The Court observes that the applicants wanted to protest against a draft law prohibiting the adoption of Russian children by US nationals. The date of the parliamentary examination of the draft law had been announced two days in advance, making it impossible for the protesters to comply even with a three-day notification time-limit for "pickets" (see paragraphs 6-8 above). The failure to inform the public sufficiently in advance of the date on which Parliament would examine the draft law therefore left the protesters with the option of either forgoing their right to peaceful assembly altogether, or of exercising it in defiance of the administrative requirements (see *Lashmankin and Others*, cited above, § 453).

42. In the proceedings against each applicant the courts limited their assessment to establishing that she had taken part in a "picket" held without prior notification. They omitted to examine whether there had been special circumstances calling for an immediate response to a current event in the form of a spontaneous assembly, justifying derogation from the strict application of the notification time-limits (see paragraphs 13 and 14). In the

absence of a proper judicial review of those issues in the administrative cases or in separate proceedings, the Court cannot speculate as to whether the facts of the present case disclosed such special circumstances to which the only adequate response was an immediate assembly. For their part, the Government have not given any convincing reason why it should have been "necessary in a democratic society" to make no exceptions to the application of the notification procedure, including its requirement of specific time-limits for notification, in circumstances where it is impossible to comply with such time-limits. In the Court's view, the automatic and inflexible application of the notification time-limits without any regard to the specific circumstances of the present case amounted to an interference which was not justified under Article 11 § 2 of the Convention (see *Lashmankin and Others*, cited above, §§ 473 and 475).

(c) Conclusion

43. Having regard to the findings in paragraphs 39 and 42 above, the Court considers that the respondent State breached the requirements of Article 11 § 2 of the Convention, seen in the light of Article 10.

44. There has therefore been a violation of Article 11 of the Convention in respect of each applicant.

V. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

45. As regards the first applicant, in his observations of 1 February 2018 Mr Terekhov, the late first applicant's representative before the Court, also raised a complaint under Article 5 of the Convention in relation to the deprivation of her liberty on 19 December 2012. There are no recent domestic proceedings to take into account. Accordingly, this complaint has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

46. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

47. As regards the first applicant, Mr Terekhov claimed 12,000 euros (EUR) in respect of non-pecuniary damage. The second and third applicants claimed EUR 20,000 each in respect of non-pecuniary damage.

Mr Terekhov also claimed 20,000 roubles (RUB) in respect of pecuniary damage representing the fine the first applicant had paid.

48. The Government contested the claims for non-pecuniary damage as excessive and unreasonable. As regards the claim for pecuniary damage, they submitted that the fine had been imposed lawfully on the first applicant for an administrative offence. Subsequently, as regards the late first applicant, they submitted that her mother, Mrs Larisa Makarova, was not the victim of the alleged violations of the Convention in the context of non-transferrable rights and thus could not be awarded any compensation in respect of non-pecuniary damage.

49. The Court considers that there is a direct causal link between the finding of a violation under Article 11 of the Convention and the fine the first applicant had paid (see, for similar reasoning, *Lashmankin and Others*, § 515, and *Novikova and Others*, § 232, both cited above). The Court therefore awards EUR 286 in respect of pecuniary damage, plus any tax that may be chargeable.

50. Taking into account the nature and the scope of the violations of Articles 6 and 11 of the Convention in respect of each applicant and making its assessment on an equitable basis, the Court awards each applicant EUR 9,800 in respect of non-pecuniary damage, plus any tax that may be chargeable.

51. The above sums relating to the late first applicant are to be paid to Mrs Larisa Yuryevna Makarova (see, in the same vein, *Ksenz and Others*, § 117; *Barakhoyev*, § 62, and *Ergezen*, § 73, all cited above).

B. Costs and expenses

52. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum.

53. The first applicant claimed EUR 4,300 for legal representation before the Court. The Government argued that she had submitted no documentary proof, such as a legal-services contract with her representative, payment receipts or invoices that she had a legally enforceable obligation to pay for the lawyer's services, nor any proof that she had in fact paid them. The Court agrees with the Government and dismisses the claim (see, for similar reasoning, *Novikova and Others*, cited above, § 235).

54. The second and third applicants jointly claimed EUR 46,200 for legal assistance in the domestic proceedings and in the proceedings before the Court, and EUR 50 for postal expenses. The Government contested the amounts as excessive and unnecessarily incurred. Regard being had to the documents in its possession, the above criteria and the repetitive nature of the relevant issues raised in the present case, the Court considers it

reasonable to award a lump sum of EUR 5,000 for costs and expenses, plus any taxes that may be chargeable to the applicants, payable to the bank account of Mr Zboroshenko.

C. Default interest

55. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications and that Mrs Larisa Yuryevna Makarova has standing to pursue the proceedings before the Court in Ms Tatyana Makarova's stead;

2. *Declares* the complaints raised under Article 6 § 1 as regards the lack of a prosecuting party at the court hearings in the administrative proceedings, and under Article 11 of the Convention admissible and the remainder of the applications inadmissible;

3. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the objective impartiality requirement in relation to the administrative trial of the third applicant and the first-instance trial of the first and second applicants;

4. *Holds* that there has been no violation of Article 6 § 1 of the Convention on account of the objective impartiality requirement in relation to the appeal proceedings against the first and second applicants;

5. *Holds* that there has been a violation of Article 11 of the Convention in respect of each applicant;

6. *Holds*
   (a) that the respondent State is to pay Mrs Larisa Yuryevna Makarova, within three months the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 286 (two hundred and eighty-six euros), plus any tax that may be chargeable, in respect of pecuniary damage;
      (ii) EUR 9,800 (nine thousand eight hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(b) that the respondent State is to pay the second and third applicants, within three months the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 9,800 (nine thousand eight hundred euros), plus any tax that may be chargeable, to each applicant in respect of non-pecuniary damage;

(ii) EUR 5,000 (five thousand euros), plus any tax that may be chargeable to the second and third applicants, in respect of costs and expenses, payable to the bank account of their representative Mr Zboroshenko;

(c) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 26 March 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Helen Keller
President