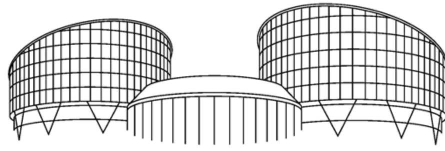

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF VELEČKA AND OTHERS v. LITHUANIA

(Applications nos. 56998/16 and 3 others)

JUDGMENT

STRASBOURG

26 March 2019

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Velečka and Others v. Lithuania,

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

Jon Fridrik Kjølbro, *President,*
Paulo Pinto de Albuquerque,
Faris Vehabović,
Egidijus Kūris,
Iulia Antoanella Motoc,
Georges Ravarani,
Marko Bošnjak, *judges,*
and Marialena Tsirli, *Section Registrar,*

Having deliberated in private on 12 February 2019,

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

PROCEDURE

1. The case originated in four applications (nos. 56998/16, 58761/16, 60072/16 and 72001/16) against the Republic of Lithuania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by four Lithuanian nationals, Mr Saulius Velečka (“the first applicant”), Mr Norbertas Tučkus (“the second applicant), Mr Audrius Petkauskas (“the third applicant”) and Mr Tadas Petrošius (“the fourth applicant”), on 24 and 29 September, 4 October, and 25 November 2016 respectively.

2. The applicants were represented by Mr K. Ašmys, Ms I. Botyrienė and Mr L. Belevičius, lawyers practising in Vilnius. The Lithuanian Government (“the Government”) were represented by their Agent, most recently Ms L. Urbaitė.

3. On 16 October 2017 complaints concerning Article 5 § 3 of the Convention regarding the length of the applicant’s detention, Article 8 § 1 of the Convention concerning the lack of conjugal visits, and Article 13 of the Convention concerning lack of an effective remedy for the Article 8 § 1 complaint, were communicated to the Government and the remaining parts of the applications were declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicants were born in 1971, 1975, 1974 and 1981 respectively and are detained in Marijampolė and Kybartai Correctional Facilities.

5. It was suspected that the first applicant, together with the other applicants, had previously agreed to carry out criminal activities, using firearms, as members of a criminal organisation. In May 2011 the pre-trial investigation opened. It was suspected that criminal activities had been planned in Lithuania, Russia, Ukraine, Latvia, the United Kingdom, the Netherlands and Spain.

6. In the context of that investigation, the applicants were arrested on 22 January 2013.

7. The first applicant was questioned and officially notified that he was suspected of being a member of and the leader of a criminal organisation that possessed and distributed large amounts of narcotic and psychotropic substances. He was also suspected of having property with a value of more than 500 times the amount of the minimum standard of living (“MSL” - *didesnį negu 500 MGL vertės turtą*) (approximately 18,825 euros (EUR)) registered in the names of other individuals, which could not have been acquired lawfully. The other applicants were questioned and officially notified that they were suspected of creating and participating in a criminal organisation that possessed and distributed large amounts of narcotic and psychotropic substances. The applicants were also suspected of having property with a value of more than 500 MSL registered in the names of other individuals, which could not have been acquired lawfully.

A. Mr Saulius Velečka

1. The applicant’s detention on remand

(a) The applicant’s detention during the pre-trial investigation

8. On 23 January 2013 the Vilnius City District Court authorised the applicant’s detention on remand for three months. The court considered that the testimony of witnesses in the case, identification reports, expert conclusions, and other data such as information from the authorities of Poland and Russia, were sufficient to hold that the applicant might have committed the criminal offences of which he was suspected. The court noted that it could only impose arrest if it was impossible to achieve the objectives of Article 119 of the Code of Criminal Procedure, namely to ensure that the suspect, the accused or the convicted person participated in the proceedings, to prevent interference with the pre-trial investigation or

with the examination of the case before the court, or with the execution of the sentence, and to prevent the commission of further criminal acts by other, less restrictive measures. The court considered that the applicant was suspected of having committed deliberate criminal offences categorised as serious and very serious, and one crime of medium severity, which could lead to imprisonment of more than one year, which was enough to justify measures being taken against the risk of absconding. Also, some of the offences the applicant was suspected of could lead to life imprisonment. The risk of absconding was strengthened by the fact that the applicant had connections in European Union countries, Russia, Ukraine, and the United States, and had planned and committed crimes outside the territory of Lithuania. Moreover, he had already been found guilty of criminal offences in Lithuania and Germany, and it was possible that he would commit new ones. Lastly, the court noted that the pre-trial investigation was still ongoing, was very complex, and the applicant's detention was necessary to ensure his attendance during the proceedings.

9. From then on, the applicant's detention was regularly extended for three months. The last decision to extend the applicant's detention for three months at the pre-trial stage was adopted by the Vilnius Regional Court on 17 April 2014.

10. The grounds relied on by the domestic courts extending the applicant's detention were repeated, additionally mentioning new procedural actions that had to be performed or other details. For example, on 18 April 2013 the Vilnius City District Court noted that even though the applicant was married and had a family and a permanent place of residence, these circumstances were not enough to ensure that the applicant would not abscond. On 17 July 2013 the Vilnius Regional Court held that the factual information, including the testimony of witnesses in the case, identification reports, restrictive measures, expert conclusions, items necessary for the investigation, and information received from the authorities of Poland, Belarus, Ukraine, the United Kingdom and Russia, were sufficient to hold that the applicant might have committed the criminal offences of which he was suspected. Also, the case was complex and wide-ranging; there were over forty suspects in the case; the offences had been committed in the territories of Lithuania, European Union member States, Ukraine, Belarus, and Russia; legal cooperation requests had been sent to Russia, Ukraine, the Netherlands and the United Kingdom. Also, numerous investigative actions had been taken since the last extension of the applicant's detention: existing suspects had been further questioned; new suspects had been arrested and questioned; restrictive measures had been either imposed or extended; expert conclusions had been received; large-scale replies had been received from the authorities of Russia, Ukraine and the United Kingdom; these replies had been translated into Lithuanian; and searches had been carried out, as well as other investigative actions. On 13 August 2013 the Court of

Appeal observed that the pre-trial investigation was intense; its length depended on the objective circumstances and complexity of the case. On 21 October 2013 the Vilnius Regional Court noted that on 16 May 2013 another pre-trial investigation had been joined to the current one. On 15 November 2013 the Court of Appeal decided to strike the ground that the applicant might abscond out of the list of grounds on which the applicant had been detained. The court added that the applicant had some health issues but that medical assistance was available for him in the Prison Hospital, which he had already received. The court also considered that in the case at hand the criminal offences had been committed over a period of at least four years by a criminal organisation, the most serious form of complicity, and had involved the territories of multiple countries. Many procedural actions had been carried out, including the sending of legal assistance requests to Russia, Belarus, Ukraine, the Netherlands and the United Kingdom. Furthermore, the suspects and witnesses had been questioned again, eyewitnesses had been identified, new suspects had been arrested and questioned, recognitions had taken place, authorities of Russia and the United Kingdom had been addressed, the Vilnius City District Court had been approached with requests for searches, tasks to examine certain items had been resourced, and expert conclusions received. On 21 January and 17 April 2017 and the Vilnius Regional Court observed that additional information had been received from Spain and several legal assistance requests had been sent to Russia, Belarus, Ukraine, Poland, the Netherlands and the United Kingdom.

11. On 30 June 2014 the bill of indictment was drawn up.

(b) The applicant's detention during his trial

12. On 2 July 2014 the bill of indictment and the case were referred to the Vilnius Regional Court for examination on the merits, but on 11 July 2014 the Court of Appeal transferred the case for examination on the merits to the Klaipėda Regional Court, because judges of the Vilnius Regional Court had participated in the investigative actions.

13. On 10 July 2014 the Vilnius Regional Court extended the applicant's detention for a further three months. From then on, the applicant's detention was extended every three months, until 22 July 2016. The courts constantly held that this measure was not too strict in the circumstances of the present case. The courts considered that bail, requested by the applicant, would not remove the threat to the criminal process or to the interests of society, the State, or to other people. They also indicated that the case file kept growing, and that by January 2016 it had reached over 130 volumes. On 16 May 2016 the Court of Appeal noted that the length of the pre-trial detention could not exceed two-thirds of the most serious sentence a person risked incurring. In the present case this requirement had not been breached.

14. On 22 July 2016 the Klaipėda Regional Court decided not to extend the applicant's detention. The court referred to the Court's practice and held that the persistence of a reasonable suspicion that the person arrested had committed an offence was a condition *sine qua non* for the lawfulness of the continued detention, but after a certain lapse of time it no longer sufficed. Formal arguments that a person might abscond, commit new offences or interfere with the execution of justice were not enough to extend detention. Prolonged detention could only be possible in exceptional cases when other less restrictive measures were not enough. In the present case, the applicant was arrested on 22 January 2013; at this time his detention had lasted for three years and six months. In 2016 for objective reasons only three hearings had taken place in the criminal case, and other hearings had been scheduled for 25 October, 29 November, and 13, 21 and 22 December 2016. A further extension of the applicant's detention could therefore be assessed as a violation of Article 5 § 3 of the Convention. The court took into account the fact that EUR 30,000 had been paid as bail. It ordered his documents to be confiscated and placed him under intense supervision by ordering him to wear an electronic ankle bracelet. The applicant was also prohibited from leaving his home for six months unless related to the court hearings. The applicant was released immediately.

15. On 5 August 2016 the Court of Appeal, following an appeal by the prosecutor, quashed the lower court's decision to release the applicant. The court observed that the lower court had not examined whether the grounds to detain the applicant had disappeared. The court held that although the applicant had a family (he married for a second time while detained), a place of residence, and sufficient income, he had been found guilty of an offence in the past, which was a negative character trait. Moreover, the nature and scale of the alleged criminal activities allowed for the conclusion that the applicant had connections abroad. There was therefore a risk that he might abscond. Taking into account the nature of the offences, there was a risk that the applicant might commit further crimes. Although the court acknowledged that the applicant had been detained for a very long time (more than three years and six months), it reiterated that the public interest outweighed the right to individual liberty. The scope of the case (thirteen accused and 139 volumes of material) and the complexity of the investigation justified the applicant's continued detention. The court noted that examination of the criminal case had not continued after the previous hearing on 29 February 2016 and that the break in proceedings was scheduled to last until 25 October 2016. However, a hearing due on 16 June 2016 had not taken place, because two of the accused had not been present, while the state of health of another two accused had caused another break. The court further observed that twenty-four hearings had taken place in 2015, and concluded that the examination of the case had been intensive.

The court ordered the applicant's detention for three months from the date of his arrest.

16. On 3 November 2016 the Klaipėda Regional Court extended the applicant's detention for a further three months. The court held that the examination of the case was speedy, but that the process had been protracted for reasons unconnected with the work of the court, such as delay in expert reports and illnesses of the accused. The court also indicated that a search for L.P., who was one of the accused, had been announced. From then on the applicant's detention was extended every three months. The last decision, by which the applicant's detention was extended for three months, was adopted on 3 November 2017 by the Klaipėda Regional Court. The courts observed the growing volume of the case material, the need to order psychiatric examinations for several of the accused, and the international element of the case. On 12 June 2017 the Court of Appeal disagreed with the arguments of the applicant's lawyer that examination of the criminal case had become protracted because of the ineffective organisation of the trial court's work. The court held that the hearings had been scheduled in advance and that examination of the case had become protracted for objective reasons (some hearings had not taken place because of the state of health of the accused, requests from the accused and their lawyers, and the additional questioning of witnesses). The court noted that none of the hearings had been cancelled or postponed because of negligence or inaction on the part of the judges. The court was of the view that the Klaipėda Regional Court had examined the criminal case with sufficient due diligence. Finally, the court held that the Court's judgment in *Lisovskij v. Lithuania* (no. 36249/14, 2 May 2017) was not final and could be changed by the Grand Chamber. On 30 August 2017 the Court of Appeal found that although for thirty-three months in total there had been no hearings, the breaks had taken place for reasons unconnected with the work of the courts, and it had not been possible to speed up the proceedings. The court observed that during the hearing of 2 December 2015 it had been announced that the next hearing would take place on 29 February 2016 because there needed to be a psychiatric examination of two of the accused. On 19 January 2016 the results of the psychiatric examination were received but it had been decided that the court's questions could not be answered, and a new psychiatric examination was ordered by a decision of the Klaipėda Regional Court of 29 February 2016. The results were received on 8 and 15 June 2016. The criminal case had not been examined in the hearings that took place on 16 June and 25 October 2016 because some of the accused and their lawyers had failed to appear. On 29 November 2016 the examination of the evidence had continued. The court considered that the breaks in the proceedings had taken place because of both justified and unjustified failure of the parties to the proceedings to appear, prior commitments of the court, or of the parties to the proceedings, and other

circumstances. Nevertheless, the court considered that the hearings had been scheduled at regular intervals and the length of the proceedings was justifiable. The court referred to *Lisovskij* (cited above) but stated that the factual circumstances of that case and the present one were different. Finally, the court held that the examination of the evidence in the criminal case was now complete, and that the case was at the stage of closing statements, however, new circumstances could be revealed at that stage and there was a necessity to further extend the applicant's detention. On 11 December 2017 the Court of Appeal indicated that a search for one of the accused, L.P. had been announced in 2016 and that he had been found and transferred from Sweden to Lithuania on 18 January 2017.

17. On 20 December 2017 the Klaipėda Regional Court found the applicant guilty of organising or leading a criminal organisation, unlawful production, acquisition, storage, transportation forwarding, selling or otherwise distributing category I precursors of narcotic and psychotropic substances, and smuggling and unlawful possession of narcotic or psychotropic substances for the purpose of distribution, and sentenced him to fourteen years and six months' imprisonment. The court noted that the issue of the length of the applicant's detention had been examined by the Court. The court further noted that because of the length of the examination of the criminal case the sentence imposed was lower than the average for such offences. The court also stated that according to the practice of the Court, a more lenient sentence could be imposed to compensate for the length of a restrictive measure, and this would deprive a person of his or her victim status. The court did not, however, further elaborate on that issue and did not refer to any cases of the Court.

18. On 18 January 2018 the criminal case was referred for examination at the Court of Appeal. It appears that at the date of the latest information available to the Court (24 August 2018) those proceedings were still pending.

19. The applicant is currently serving his sentence in Marijampolė Correctional Facility.

2. The applicant's visits

20. On 23 July 2015 the applicant asked the Lukiškės Remand Prison authorities to grant him a visit with his future spouse on the day of their wedding in August 2015, without supervision and with physical contact. On 2 September 2015 Lukiškės Remand Prison replied that visits to remand detainees took place without physical contact. Lukiškės Remand Prison indicated that the applicant could appeal to the director of the Prison Department. It appears that the applicant did not appeal against the decision.

21. On 8 May 2017 the applicant lodged a claim before the Vilnius Regional Administrative Court, raising, among other issues, the complaint that he could not have long-stay visits while detained in Lukiškės Remand

Prison between 1 January 2016 and 26 September 2016. On 13 November 2017 the Vilnius Regional Administrative Court held that remand detainees could receive an unlimited number of visits from their relatives and other people, but that visits had to be approved in writing by the prosecutor of the court carrying out the pre-trial investigation. One visit could not exceed two hours. In the present case there was no information that the applicant had applied for a visit or that he had been refused such visits. The court therefore dismissed this complaint as unfounded. The proceedings before the Supreme Administrative Court are still ongoing.

22. It appears from the information provided by the Government that during the applicant's detention in Lukiškės Remand Prison the applicant was granted twenty-seven short visits in 2014, ninety-nine short visits in 2015, and sixty-four short visits in 2016. During the applicant's detention in Šiauliai Remand Prison, between 9 August 2016 and 1 January 2017 he was granted seventy-six short visits. After the change of domestic law on 1 January 2017 (see *Čiapas v. Lithuania* (dec.), no. 62564/13, § 11, 4 July 2017), the applicant was granted ten long-stay visits with physical contact.

B. Mr Norbertas Tučkus

1. *The applicant's detention*

(a) The applicant's detention during the pre-trial investigation

23. On 23 January 2013 the Vilnius District Court authorised the applicant's detention for three months. The court relied on very similar reasons as for the first applicant (see paragraph 8 above). The court added that the fact of the applicant's being married and having children was not sufficient to establish that his ties to society minimised the risk of absconding. Moreover, the applicant was unemployed, thus there was a risk that he might commit new crimes.

24. From then on the applicant's detention was regularly extended for three months. The last decision to extend the applicant's detention at the pre-trial stage was taken on 17 April 2014. The courts when extending the applicant's detention relied on various reasons. They noted that although the applicant had a permanent place of residence, children, and a family, these circumstances did not render it unnecessary to keep him in detention. And the applicant had previous convictions: this was a negative character trait and showed that he was not keen on following the laws and general ethical norms. The courts also relied on the complexity of the case and the investigative actions that needed to be performed. On 13 August 2013 the Court of Appeal decided to remove the ground that the applicant might interfere with the proceedings if released. On 21 October 2013 the Vilnius Regional Court noted that the offences had been well planned and had been committed not only in Lithuania but also in other countries. On

19 November 2013 the Court of Appeal observed that on 16 May 2013 another pre-trial investigation was joined to the present one. On 20 January 2014 the Vilnius Regional Court held that there were over fifty suspects in the case, and that legal cooperation requests had been sent to Russia, Belarus, Ukraine, Poland, the Netherlands, Spain and the United Kingdom. The circle of suspects and the offences were continuing to increase. Also, numerous investigative actions had been taken since the applicant's detention had last been extended: suspects had been further questioned, new suspects had been arrested and questioned, witnesses had been questioned, searches of several suspects had been announced and carried out, restrictive measures had been imposed or extended, searches had been performed, items necessary for the investigation had been taken, tasks for experts had been appointed, some expert conclusions had been received, and wide-ranging replies on some of the issues had been received from the authorities of Russia and Spain.

25. On 30 June 2014 the bill of indictment was drawn up.

(b) The applicant's detention during his trial

26. On 10 July 2014 the Vilnius Regional Court extended the applicant's detention for a further three months. From then on, the applicant's detention was regularly extended for three months, until 22 July 2016. The courts observed that the case file kept increasing in volume: there was a huge number of witnesses. The applicant's requests to be released on bail were dismissed.

27. On 22 July 2016 the Klaipėda Regional Court decided not to extend the applicant's detention. The court relied on identical arguments to those made in the case of the first applicant, and ordered the same restrictive measures (see paragraph 14 above).

28. On 5 August 2016 the Court of Appeal, following an appeal by the prosecutor, quashed the lower court's decision to release the applicant. The court relied on very similar arguments to those made in the first applicant's case (see paragraph 15 above). The court added that although the applicant had a family and a place of residence, he was unemployed before his arrest, thus he had no strong ties with Lithuania and might abscond. The court ordered the applicant's detention for three months from the date of his arrest.

29. From then on the applicant's detention was regularly extended every three months. The last decision to extend the applicant's detention was adopted on 3 November 2017 by the Klaipėda Regional Court. The courts constantly underlined the complexity of the case and its international element. On 12 June 2017 the Court of Appeal dismissed the applicant's appeal. The court held that *Lisovskij* (cited above), referred to by the applicant, was not final and could still be changed. The court stated that the criminal case was extremely complex, had 147 volumes, and the offences

had been committed in Lithuania, other European Union member States, and also third States. Hearings had been scheduled on 11, 12, and 25 November and 9 December 2014; 19 and 20 January, 24 February, 16, 18, 30, and 31 March, 1 and 13 April, 3, 4, 5, and 19 May, 1 and 2 June, 13 and 14 July, 16 and 19 October, 10 and 11 November, and 1 and 2 December 2015; 29 February, 16 June, 25 October and 29 November 2016; 17 February, 17 March, 3 and 11 April, and 3 and 16 May 2017; and had also been scheduled on 30 June and 3, 11 and 12 July 2017. The court held that some of the hearings had been adjourned for reasons unconnected with its work: on 16 March 2015 the victim, A.P., had failed to appear, and had subsequently been placed under arrest for one month in order to ensure his attendance. On 2 April 2015 the court had ordered that seven witnesses be brought to the hearing, while an adjournment had taken place on 14 and 15 April 2015 because of the state of health of one of the accused. On 3 June 2015 the court had ordered one witness to pay a fine and ordered the authorities to bring him to the hearing. A hearing due on 16 October 2015 had not taken place because the applicant was ill. During a hearing on 19 October 2015 one of the accused had been questioned but it had been found that he had experienced a head injury the month before. Another accused's health was also questionable, thus an expert opinion had been ordered by the court on 20 October 2015. Another expert report had been ordered on 29 February 2016. The hearing set for 25 October 2016 was postponed because one of the accused, L.P., had breached the requirements of his restrictive measure and had been arrested in Sweden, while two other accused had health issues. The other hearings had taken place in accordance with the schedule. On 30 August 2017 the Court of Appeal dismissed the applicant's appeal. The court dismissed the arguments of the applicant's lawyer that the applicant's detention had been extended on identical grounds to those given by the courts. The court stated that the mere fact that the arguments given by the courts had been similar or identical did not mean that the reasons to extend the detention had been arbitrary. The court considered that the first-instance court had complied with the requirement of requisite diligence, and made a reasoned conclusion. Moreover, the case was extremely complex, and had 150 volumes of material at that time. The examination of the accused had been protracted for reasons unconnected with the work of the court: the necessity to carry out certain investigative actions; failure of the parties to the proceedings to appear, for both justified and unjustified reasons; and prior commitments on the part of the parties to the proceedings and the court. The regional court had taken the necessary measures (fines, summons, and other measures) to ensure that the proceedings were not protracted. The court referred to the case-law of the Court, and observed that the exceptional circumstances could justify the length of the pre-trial detention. Such circumstances in the present case were: the danger

presented by the applicant, his supposed role in the offences of which he was accused, and the nature of the offences. As mentioned by the other courts, the applicant was accused of setting up a criminal organisation using firearms that had committed offences designated as both very serious and serious within the territories of several States. The applicant's detention was thus justified. On 22 November 2017 the Court of Appeal dismissed the applicant's appeal. The court observed that the argument of the applicant's lawyer, that the applicant was never the cause of cancellation or adjournment of the hearings, was not justified, because on 16 October 2015 the hearing did not take place because the applicant refused to attend because of the conditions of detention in custody. Also, the court noted that the next hearing was scheduled for 7 December 2017 and the closing statements would be pronounced at that hearing, which meant that the case would be determined soon.

30. On 20 December 2017 the Klaipėda Regional Court found the applicant guilty of involvement in the criminal activities of a criminal organisation, unlawful production, acquisition, storage, transportation forwarding, selling or otherwise distributing category I precursors of narcotic and psychotropic substances, smuggling, and unlawful possession of narcotic or psychotropic substances for the purpose of distribution, and sentenced him to thirteen years' imprisonment. The court gave the same reasoning as regards the length of the examination of the criminal case as in the first applicant's case (see paragraph 17 above).

31. On 18 January 2018 the criminal case was referred for examination at the Court of Appeal. It appears that at the date of the latest information available to the Court (24 August 2018) those proceedings were still pending.

32. The applicant is currently serving his sentence in Marijampolė Correctional Facility.

2. The applicant's visits

33. It appears from the information provided by the Government that between 24 January 2013 and 22 July 2016 the applicant was detained in Lukiškės Remand Prison, and between 9 August 2016 and 1 December 2017 he was detained in Šiauliai Remand Prison.

34. On 25 May 2015 the applicant asked the Lukiškės Remand Prison to allow him to have long-stay visits without supervision. On 23 June 2015 the prison authorities replied that long-stay visits were not available for remand detainees, and that the applicant could have short visits of up to two hours, without physical contact.

35. The applicant lodged a claim, complaining about, among other issues, the lack of long-stay visits between 31 October and 5 November 2008 and between 24 January 2013 and 17 August 2015. On 6 February 2017 the Panevėžys Regional Administrative Court dismissed the part of the

applicant's complaint covering the period between 31 October and 5 November 2008 because he had missed a three-year limitation period. The court held that no long-stay visits were allowed for remand detainees under domestic law but that the applicant had received forty-three short visits between 24 January 2013 and 17 August 2015. However, in compensation for inadequate conditions of detention the applicant had received EUR 5,800 for 671 days of insufficient personal space at his disposal and other material conditions of detention. On 14 March 2018 the Supreme Administrative Court referred to the case of *Varnas v. Lithuania* (no. 42615/06, 9 July 2013) and held that the applicant's rights had been breached with regard to the authorities' refusal to allow him long-stay visits. The court increased the compensation to EUR 7,300.

36. The applicant lodged another claim, complaining about the lack of both long and short visits between 17 August 2015 and 22 July 2016. On 25 July 2017 the Vilnius Regional Administrative Court held that the applicant had not provided any evidence that he had asked the prison administration for a visit. As a result, this part of the claim was dismissed. The applicant submitted an appeal, which is still pending before the Supreme Administrative Court.

37. It appears that the applicant received thirteen short visits in 2014, eighteen short visits in 2015 and eleven short visits in 2016. Between 9 August 2016 and 1 January 2017 the applicant had fifteen short visits. After the entry into force of the new regulation on 1 January 2017, the applicant was granted ten long-stay visits with physical contact. It appears that the applicant did not ask for more short visits, nor did he argue that he had been refused them.

C. Mr Audrius Petkauskas

1. *The applicant's detention*

(a) The applicant's detention during the pre-trial investigation

38. On 24 January 2013 the Vilnius District Court authorised the applicant's detention for three months. The court considered essentially the same arguments as those in the cases of the first and the second applicants (see paragraphs 8 and 23 above). The applicant's having a family, children, a permanent place of residence and employment was not sufficient to establish that his ties to society minimised the risk of absconding.

39. From then on, the applicant's detention was regularly extended for three months. The last decision to extend the applicant's detention at the pre-trial stage was taken on 17 April 2014. The courts relied on the necessity to carry out additional investigative measures, the complexity of the case, and the international element. On 13 August 2013 the Court of Appeal removed the risk of absconding from the list of grounds on which

the applicant had been detained. On 23 October 2013 the Vilnius Regional Court added that on 16 May 2013 another pre-trial investigation was joined to the current one. In further decisions extending the applicant's detention on remand the courts took into account that the offences had been committed over a period of at least four years by the criminal organisation, and had involved the territories of multiple countries. The courts identified the investigative actions that had been carried out and indicated that more investigative actions would have to be carried out.

40. On 30 June 2014 a bill of indictment was drawn up.

(b) The applicant's detention during his trial

41. On 2 July 2014 the bill of indictment and the case were referred to the Vilnius Regional Court for examination on the merits, but on 11 July 2014 the Court of Appeal transferred the case for examination on the merits to the Klaipėda Regional Court, because the judges of the Vilnius Regional Court had taken part in the investigative actions.

42. On 10 July 2014 the Vilnius Regional Court extended the applicant's detention for a further three months. From then on, the applicant's detention was constantly extended for three months until 22 July 2016. The courts relied on the complexity of the case, the applicant's character, and the nature of the offences.

43. On 22 July 2016 the Klaipėda Regional Court approved an application by the applicant for a variation in the restrictive measure regime. The court found that for reasons unconnected with the work of the courts only three hearings in the criminal case against the applicant had taken place, further hearings were not scheduled until October-December, and a further extension of the applicant's detention could be assessed as a violation of Article 5 § 3 of the Convention. The other arguments were very similar to those pronounced in the cases of the first and second applicants, and the restrictive measures were the same (see paragraphs 14 and 27 above)

44. On 5 August 2016 the Court of Appeal, following an appeal by the prosecutor, quashed the lower court's decision to release the applicant. The court relied on the same arguments as in the cases of the first and second applicants (see paragraphs 15 and 28 above). The court ordered the applicant's detention for three months from the date of his arrest.

45. On 3 November 2016 the Klaipėda Regional Court extended the applicant's detention for a further three months. From then on, the applicant's detention was regularly extended for three months. The last decision to extend the applicant's detention was adopted on 3 November 2017 by the Klaipėda Regional Court. The courts relied on the complexity of the case and the international element, and noted that the court examining the criminal case on the merits had put maximum efforts into ensuring that the examination of the case was speedy; despite this the process had been

protracted for unconnected reasons. On 12 June 2017 the Court of Appeal held that there was no unjustified delay in the proceedings. It reiterated the reasons given by the Court of Appeal on 12 June 2017 in the second applicant's case (see paragraph 29 above). It added that the Court's judgment in *Lisovskij* (cited above), referred to by the applicant, was not final and that the factual circumstances of that case were different. On 30 August 2017 the Court of Appeal held that the length of the applicant's detention was justified by the applicant's character, the seriousness of the offences, the extreme complexity of the case (thirteen accused, many witnesses, many episodes of criminal activity, 150 volumes of evidence) as well as by the public interest, which was justified under the Court's case-law. The court did not agree that the proceedings in the criminal case had been conducted passively: the hearings had been scheduled in advance and the schedule had been intense. The breaks in the proceedings had been announced because of failure of the parties to the proceedings to appear, because of absconding, and because of the necessity to carry out special investigations.

46. On 20 December 2017 the Klaipėda Regional Court found the applicant guilty of unlawful deprivation of liberty, robbery, organising or leading a criminal organisation, unlawful production, acquisition, storage, transportation, forwarding, selling or otherwise distributing category I precursors of narcotic and psychotropic substances, seizure of a seal, stamp or document or use of a stolen seal, stamp or document, and sentenced him to thirteen years' imprisonment. The court gave the same reasoning as regards the length of the examination of the criminal case as in the first applicant's case (see paragraph 17 above).

47. On 18 January 2018 the criminal case was referred for examination at the Court of Appeal. It appears that at the date of the latest information available to the Court (24 August 2018) those proceedings were still pending.

48. By a decision of 8 February 2018 the Court of Appeal granted the applicant's request to allow him to start serving the sentence imposed on him by the judgment of the Klaipėda Regional Court of 20 December 2017.

49. The applicant started serving his sentence in Kybartai Correctional Facility on 22 February 2018.

2. The applicant's visits

50. It appears from the information provided by the Government that between 4 February 2013 and 22 July 2016 the applicant was detained in Lukiškės Remand Prison and between 9 August 2016 and 1 December 2017 in Šiauliai Remand Prison.

51. In May 2016 the applicant submitted a complaint to the Vilnius Regional Administrative Court concerning, among other, the fact that he could not receive long-stay visits. On 3 August 2016 the Vilnius Regional

Administrative Court stated that the applicant's complaint was abstract: it was not clear whether he had asked the prison authorities for a long-stay visit or named a person from who he wanted to receive such a visit.

52. The applicant lodged an appeal, but on 24 March 2017 informed the Supreme Administrative Court that he did not want his appeal to be examined, and asked for the appellate proceedings to be terminated. On 26 April 2017 the Supreme Administrative Court allowed the applicant's claim.

53. On 29 August 2016 the applicant asked the Šiauliai Remand Prison authorities to allow him to receive a long-stay visit from his wife. On 30 August 2016 the prison authorities replied that the domestic law did not allow remand prisoners long-stay visits. The applicant did not appeal against this decision.

54. It appears from the information provided by the Government that while detained in Lukiškės Remand Prison in 2014 the applicant had sixteen short visits, in 2015 he had twenty short visits and in 2016 he had ten short visits. It appears that in while detained in Šiauliai Remand Prison 2016 the applicant had four short visits and in 2017 he had eight short visits. On 24 June and 9 August 2017 the applicant was allowed to receive visits without physical separation. On 11 January, 25 February, 13 April, 18 May, 18 July and 17 October 2017 the applicant was allowed to receive long-stay visits from his wife.

D. Mr Tadas Petrošius

1. The applicant's detention

(a) The applicant's detention during the pre-trial investigation

55. On 23 January 2013 the Vilnius City District Court authorised the applicant's detention for two months from 22 January 2013. The court relied on essentially the same arguments as in the cases of the first three applicants (see paragraphs 8, 23 and 38 above). The court further stated that the applicant had a family, a five-month-old child, and a permanent place of residence. He had also been diagnosed with Hepatitis C, but none of these circumstances meant that he could not be detained.

56. On 19 March 2013 and 15 May 2013 the Vilnius City District Court extended the applicant's detention for a further two months. The court held that it was possible that realising the severity of the penalty the applicant might make use of his connections outside the territory of Lithuania and abscond. The fact that the applicant had a child was not sufficient to hold that the applicant would not abscond; nor were the applicant's health issues. If medical treatment was necessary, the applicant would have to approach the prison authorities, who were obliged to ensure the proper provision of medical services. Also, the applicant was suspected of committing

well-organised crimes that had an international element. He was suspected of being one of the leaders of a criminal organisation. It was also suspected that the applicant had been receiving income from his criminal activities, because although he had several business certificates he had not been engaging in any activity in that respect, and had not received income from them.

57. From then on, the applicant's detention was regularly extended for three months. The last decision to extend the applicant's detention for three months at the pre-trial stage was adopted by the Vilnius Regional Court on 18 April 2014. The courts relied on the international element, the complexity of the case, and the need to carry out investigative actions.

58. The applicant's lawyer asked the Prosecutor General's Office to release the applicant from detention and to impose a less restrictive measure on him. The prosecutor refused, because the applicant was facing a sentence of life imprisonment. The prosecutor also stated that the grounds for keeping the applicant in detention persisted. Also, in the context of the present case, another suspect was released from detention twice: he committed further offences and had to be detained again.

59. On 30 June 2014 the bill of indictment was drawn up.

(b) The applicant's detention during his trial

60. On 2 July 2014 the bill of indictment and the case were referred to the Vilnius Regional Court for examination on the merits, but on 11 July 2014 the Court of Appeal transferred the case for examination on the merits to the Klaipėda Regional Court, because the judges of the Vilnius Regional Court had taken part in the investigative actions.

61. On 10 July 2014 the Vilnius Regional Court extended the applicant's detention for a further three months; from then on the applicant's detention was extended every three months until 22 July 2016. The courts relied on the complexity of the case, the applicant's character, the nature of the offences, and the international element of the case.

62. On 22 July 2016 the Klaipėda Regional Court decided to release the applicant on bail and to place him under intense supervision. It relied on the same reasons as in the cases of the first three applicants and applied the same restrictive measures (see paragraphs 14, 27 and 43 above).

63. On 5 August 2016 the Court of Appeal, following an appeal by the prosecutor, quashed the lower court's decision to release the applicant on essentially the same grounds as in the case of the first three applicants (see paragraphs 15, 28 and 44 above). The court ordered the applicant's detention for three months from the date of his arrest.

64. On 3 November 2016 the Klaipėda Regional Court extended the applicant's detention for a further three months. From then on, the applicant's detention was regularly extended every three months. The last decision on that matter was adopted by the Klaipėda Regional Court on

3 November 2017. On 12 June 2017 the Court of Appeal dismissed an appeal by the applicant. The court analysed the requisite diligence criteria established in *Lisovskij* (cited above), which was referred to by the applicant's lawyer. The court held that while very long periods of detention did not automatically violate Article 5 § 3, exceptional circumstances were usually required to justify them. In the case at hand, those special circumstances were the dangerousness of the applicant's character, the nature and extent of the criminal offences, the fact that the offences had been committed by a criminal organisation that possessed firearms, and the fact that the offences had an international element. The court examining the criminal case had taken all the necessary measures to ensure that there were no unjustified delays in the criminal proceedings. Although no hearings had taken place from 2 December 2015 to 29 November 2016 there had been objective reasons for this: it had been announced during the hearing on 20 October 2015 that no hearing would take place on 19 January 2016 because one of the judges had a hearing in another case; on 2 December 2015 the court had announced that there would be a break until 29 February 2016 because there was to be a psychiatric examination of two of the accused on 19 January 2016; an additional expert report was commissioned for the same two accused on 29 February 2016; and there was a further adjournment (the results of the expert report were received on 8 and 17 June 2016); the hearing on 16 June 2016 did not take place because one of the accused was sick and another had been arrested in Sweden; and there was no hearing on 25 November 2016 because three of the accused had failed to appear (one of them had been arrested in Sweden and his transfer to Lithuania was to take place on 18 January 2017). Further hearings had been scheduled for 30 June 2017, while the questioning of two witnesses and closing speeches had been scheduled for 3, 11 and 12 July 2017. The court concluded that the examination of the criminal case had not been unreasonably protracted. On 30 August 2017 the Court of Appeal held that the absence of close social ties, the number of offences committed, their international element, their severity, their nature, and the fact that the applicant risked a very severe sentence, all increased the risk of absconding. It was also probable that the applicant would commit new crimes if released. Also, the court held that the closing speeches had already commenced in the criminal case, and the court examining the case was obliged to make sure that the case was examined as quickly as possible.

65. On 20 December 2017 the Klaipėda Regional Court found the applicant guilty of organising or leading a criminal organisation, unlawful production, acquisition, storage, transportation or forwarding, selling or otherwise distributing category I precursors of narcotic and psychotropic substances, and smuggling, and sentenced him to thirteen years' imprisonment. The court gave the same reasoning as regards the length of

the examination of the criminal case as in the first applicant's case (see paragraph 17 above).

66. On 18 January 2018 the criminal case was referred for examination at the Court of Appeal. It appears that at the date of the latest information available to the Court (24 August 2018) those proceedings were still pending.

67. By a decision of 30 January 2018 the Court of Appeal granted the applicant's request to be allowed to start serving the sentence imposed on him by the judgment of the Klaipėda Regional Court of 20 December 2017.

68. The applicant started serving his sentence in Kybartai Correctional Facility on 22 February 2018.

2. The applicant's visits

69. The applicant received ten short-term visits while detained in Lukiškės Remand Prison between 4 February 2013 and 18 August 2014. The applicant received 122 short visits while detained in Kaunas Remand Prison between 18 August 2014 and 22 July 2016. The applicant received forty-four short visits while detained in Šiauliai Remand Prison between 9 August 2016 and 1 December 2017. It appears that neither the applicant nor his partner applied to the relevant prisons for a long-stay visit.

70. Between January and August 2017 the applicant received six long-stay visits from his partner; from January 2017 the applicant was allowed seven visits with physical contact.

E. Conduct of the criminal proceedings during the applicants' detention

71. From the applicants' arrest on 22 January 2013 until the completion of the pre-trial investigation on 30 June 2014 (see paragraphs 6, 11, 25, 40 and 59 above) the authorities carried out a number of investigative actions, such as: personal searches of all the applicants and other suspects as well as various home searches; questioning all the applicants, other suspects and witnesses; sending legal cooperation requests to Spain, Russia, the Netherlands, Ukraine, and Belarus; crime scenes were visited several times; items taken during the searches examined; a number of chemical, biological, dactyloscopic and ballistic investigations set up; items necessary for the investigation taken; a number of recognitions from pictures were achieved; a detailed description of the characteristics of the accused were received; numerous decisions on limitations of property taken; a criminal conduct simulation model and secret surveillance were set up and carried out; one search was announced, and several eyewitness identifications conducted.

72. According to the information in the Court's possession, between the transfer of the case to the court for examination on the merits on 2 July 2014 (on 11 July 2014 the Court Appeal solved a jurisdictional issue and decided

that the case had to be examined by the Klaipėda Regional Court, so the case was transferred to that court on 21 July 2014) and the first-instance judgment on 20 December 2017, a total of fifty-one hearings were coordinated in advance and scheduled; ten of those hearings were either cancelled or adjourned:

(a) In 2014 four hearings were scheduled and held: on 11, 12 and 25 November and on 9 December;

(b) In 2015 twenty-five hearings were scheduled, two of them were adjourned (on 14 April the hearing was adjourned because of the health state of one of the accused, R.V., and on 16 October the hearing was adjourned because the second applicant refused to be taken to the hearing from custody) and one was cancelled (on 15 April because of the health of R.V.). Hearings were held on 19 and 20 January; 24 February; 16, 18, 30 and 31 March; 1 and 13 April; 4, 5 and 19 May; 1, 2 and 3 June; 13 and 14 July; 19 October; 10 and 11 November; and 1 and 2 December;

(c) In 2016 four hearings were scheduled; three of them were adjourned (on 29 February because of requests for psychiatric examinations of two of the co-accused, R.V. and K.L.; on 16 June because the co-accused R.V. and K.L. failed to appear; and on 25 October because the co-accused R.V., K.L., L.P. and two defence lawyers failed to appear). The only hearing in 2016 was held on 29 November 2016;

(d) In 2017 eighteen hearings were scheduled; four of them were cancelled (on 3 July because one of the accused was being treated in a psychiatric hospital and failed to appear together with his lawyer; on 3 August because the applicants' defence lawyers and two other lawyers were not ready to present their closing statements; on 17 October because one lawyer requested that the hearing not be held; and on 13 November because the chairman decided that the hearing would not be held). Hearings were held on 17 February; 17 March; 3 and 11 April; 3 and 16 May; 30 June; 11 and 12 July; 6, 9 and 27 October; 10 November; and 7 December.

73. During the forty-one hearings which were held, the court examined the evidence, heard testimony from the witnesses and the accused, played audio and video recordings, ordered psychiatric examinations, and heard the closing statements.

II. RELEVANT DOMESTIC LAW AND PRACTICE

74. For relevant domestic law regarding detention, house arrest and the conduct of criminal proceedings, see *Lisovskij v. Lithuania*, (no. 36249/14, §§ 45-54, 2 May 2017).

75. For relevant domestic law regarding prison visits, see *Varnas v. Lithuania* (no. 42615/06, §§ 58-61, 9 July 2013), and *Čiapas v. Lithuania*, ((dec.), no. 62564/13, §§ 10-14, 4 July 2017).

76. Article 131^1 § 1 of the Code of Criminal Procedure provides that intense supervision is a suspect's control by electronic supervision measures. Article 131^1 § 3 provides that the authority imposing the intense supervision decides on the conditions of that measure.

77. At the material time, Article 22 of the Law on Pre-trial Detention (*Suėmimo vykdymo įstatymas*) provided that remand detainees could have an unlimited number of visits from relatives and other people. However, the administration of the facility allowed such visits only with the written consent of a prosecutor or a court. If consent was not given, the detainee had to be provided with a reasoned decision. Visits could not exceed two hours in length.

78. Article 2 § 2 of the Law on Enforcement of Detention provides that when certain investigative actions or actions concerning the examination of a case have to be performed, remand detainees can be relocated from a remand prison to a police detention facility for up to fifteen days.

79. In cases unrelated to those of the applicants, the Supreme Administrative Court has held that direct application of the Convention means that its provisions can be relied on directly before the courts of the Republic of Lithuania, and that the Convention has priority if domestic law conflicts with it (decisions of 14 April 2008, no. A-575-164/08 and of 18 April 2008, no. A-248-58/08).

80. In a case unrelated to that of the applicants, the Supreme Administrative Court relied on the Court's interpretation in the case of *Varnas* (cited above) and awarded a detainee compensation of EUR 2,000 for both his conditions of detention and the lack of long-stay visits since 2009 (decision of 19 April 2016, no. A-618-552/2016). In another case unrelated to that of the applicant, the Supreme Administrative Court also relied on the Court's interpretation in the case of *Varnas* (cited above) and held that the public authorities should apply Article 8 of the Convention. The Supreme Administrative Court acknowledged that the refusal on the basis of domestic law to grant long-stay visits to remand detainees was not justified by objective and reasonable grounds for treating remand detainees and convicted inmates differently. As a result, the Supreme Administrative Court awarded the detainee in that case compensation of EUR 1,000 for the period between July 2013 and April 2015 (decision of 8 September 2016, no. A-850-662/2016).

THE LAW

I. JOINDER OF THE APPLICATIONS

81. Having regard to the similar subject matter of the applications, the Court finds it appropriate to order their joinder (Rule 42 § 1 of the Rules of Court).

II. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

82. The applicants complained of excessive length of their detention. They relied on Article 5 § 3 of the Convention, the relevant parts of which read:

> "Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

A. Admissibility

83. The Government submitted that the applicants had failed to exhaust domestic remedies as regards the duration of their detention. The Government referred to the case of *Ščensnovičius v. Lithuania* (no. 62663/13, 10 July 2018), and claimed that in their complaints to the appellate court in the criminal case against them the applicants had failed to raise the issue of length of detention. In the Government's opinion, this precluded the domestic courts from acknowledging the alleged infringement of the Convention.

84. The Government also submitted that the applicants could still raise the issue of the length of their detention because in the criminal case against them only the first-instance judgment had been adopted. The Government thus considered that to consider the applicants' complaints at this stage would be premature.

85. The Court observes at the outset that the Government only raised their objections in their comments on the applicants' observations and claims for just satisfaction. It reiterates that, under Rule 55 of the Rules of Court, any plea of inadmissibility must, in so far as its character and the circumstances permit, be raised by the respondent Contracting Party in its written or oral observations on the admissibility of the application (see *Khlaifia and Others v. Italy* [GC], no. 16483/12, § 52, 15 December 2016). The Government did not refer to any circumstances which might have precluded them from raising the objection in a timely manner. They made reference only to the case of *Ščensnovičius* (cited above), but the reference was made to the general circumstances determining the person's victim

status. Moreover, the Court cannot discern any exceptional circumstances that could have released the Government from their obligation to raise their preliminary objection in their observations on the admissibility and merits of the case of 30 March 2018. Consequently, the Government are estopped from raising their preliminary objection of non-exhaustion of domestic remedies or alleged prematurity of the examination of the applicants' complaint, which objection must therefore be dismissed (see *Khlaifia and Others*, cited above, §§ 53-54).

86. 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*

(a) The applicants

87. The applicants submitted that their continued detention had been excessively long and unsubstantiated. They stated that the domestic courts had extended their detention quasi-automatically, repeating almost identical grounds in all their decisions. The applicants referred to the judgment in *Lisovskij v. Lithuania* (no. 36249/14, 2 May 2017), and stated that the complexity of the case the nature of the offences, or the number of suspects could not justify the length of their detention. The applicants also stated their belief that the international element of the offences could not constitute grounds to keep them detained, because all the necessary investigative actions requiring international legal assistance had taken place during the pre-trial investigation.

88. The applicants also argued that the authorities had failed to show due diligence when hearing their case. The first three applicants stated that at first they had been placed in Lukiškės Remand Prison and later in Šiauliai Remand Prison; they had had to be transferred to the Klaipėda Regional Prison every time there was a hearing. As for the fourth applicant, he had been placed in Kaunas Remand Prison and later in Šiauliai Remand Prison, and had had to be transferred to Klaipėda. Because Klaipėda only has a police station, and because of the rule that detainees cannot be held in a police station for more than five days, the hearing schedule was not efficient. The applicants were not satisfied with the hearing schedule in general, and stated their belief that there were significant periods of inaction on the part of the domestic courts. They were particularly concerned with the period between 2 December 2015 and 29 November 2016, when no hearings took place. According to the applicants, there were thirty-seven months in total when no actions were taken by the courts. The applicants

also stated their belief that because they had been acquitted of certain charges this automatically meant that their detention had not been justified.

(b) The Government

89. The Government submitted that the criminal case at issue concerned organised crime, and that activities were carried out on the territories of multiple States, including European Union member States, as well as Ukraine, Belarus, and Russia. This was an important factor for the substantiation of the finding that a longer period of detention was justifiable. The Government noted the broad scope of the case: it had involved fifty suspects, thirteen of whom were charged, eighty-five witnesses, six victims, and a large number of investigative actions. As regards the decisions on detention, they had not been adopted automatically but had been based on careful consideration of each individual case and were well reasoned. More specifically, the decisions had been based on the strong likelihood that the applicants had committed the offences at issue. The decisions had also been based on relevant and sufficient reasons – the risk they would abscond, the risk they would reoffend, and the risk they would obstruct the course of the proceedings. The courts referred to the specific facts of the case and the circumstances related to the applicants' personalities, and did not use arguments that were general and abstract. Also, when deciding whether to extend the applicants' detention, the courts carried out checks as to whether the grounds were still present.

90. The Government submitted that the authorities had acted with due diligence, and provided a timeline of the court hearings scheduled in the criminal proceedings. They argued that the hearings before the Klaipėda Regional Court were held regularly and with short intervals, as there were at least two or three hearings scheduled per month. The only longer breaks were those between 14 July and 16 October 2015; between 2 December 2015 and 16 June 2016; between 16 June and 29 November 2016; and between 29 November 2016 and 17 February 2017. However, these breaks were because of the refusal of some of the co-accused to give statements; the need to obtain an expert opinion on the mental state of two of the co-accused; the medical examination needed for one of the accused; and the absence of the accused L.P., who had had to be brought back to Lithuania under the European Arrest Warrant. The Government submitted that only eleven out of fifty scheduled court hearings in the criminal case had not taken place, for reasons attributable to the court or national authorities. It was the Government's view that the court had taken all the necessary measures to speed up the proceedings: for example, the case against L.P., who had fled to Sweden, was separated from the applicants' case. Also, the remand measures for the co-accused who had failed to appear at hearings had been replaced with more severe ones; one witness was questioned using audio and visual measures; and fines or attendance at a court hearing were

imposed on the witnesses who had failed to appear. Finally, after all the co-accused, witnesses and victims had given their testimony, the judgment had been adopted in less than six months, which could be considered a short period of time considering the complexity of the case. The Government referred to the case of *Lisovskij* (cited above) and argued that unlike that case, in the applicant's case the authorities had taken appropriate measures to schedule the hearings more efficiently and to ensure shorter intervals between them.

91. The Government also stated that, contrary to the applicants' allegations that no international dimension existed during the examination of the criminal case, numerous replies were received from foreign authorities; legal-aid requests were sent to the foreign authorities. Also, the court had to examine the information received from the foreign authorities and to decide whether to grant that information the status of evidence.

92. Finally, the Government referred to the applicants' submission that the time period when remand detainees could be relocated from a remand prison to a territorial police station in order for certain investigative actions to be taken or to ensure their attendance at court was five days. The Government referred to the provisions of domestic law, and stated that this time period was in fact fifteen days (see paragraph 78 above).

2. *The Court's assessment*

(a) General principles

93. The applicable general principles regarding the right to be tried within a reasonable time have been summarised in *Buzadji v. the Republic of Moldova* ([GC], no. 23755/07, §§ 84-91, ECHR 2016 (extracts)).

(b) Application of the general principles to the present case

(i) Period to be taken into consideration

94. The Court firstly notes that the applicants were all detained in the context of one criminal process and they were all co-accused. The applicants' alleged criminal activities were considered by the domestic courts in one set of proceedings.

95. The Court notes that the applicants' detention started on 22 January 2013 when they were arrested (see paragraph 6 above). They were detained for the purposes of Article 5 § 3 of the Convention until their conviction by the Klaipėda Regional Court on 20 December 2017 (see paragraphs 17, 30, 46 and 65 above). Although to date that conviction has not become final, the Court reiterates that the period to be taken into consideration for the purposes of Article 5 § 3 ends on the day when the criminal charge is determined, even if only by a court of first instance. From 20 December 2017 the applicants were detained "after conviction by a competent court",

within the meaning of Article 5 § 1 (a), and therefore that period of their detention falls outside the scope of Article 5 § 3 (*Lisovskij*, cited above, § 69 and the references therein).

96. The Court further notes that during the period from 22 July to 5 August 2016 the applicants' detention was replaced by bail, seizure of documents and close supervision for six months, which meant that the applicants could not leave their homes unless for a purpose related to the court proceedings (see paragraphs 14, 27, 43 and 62 above). In this connection the Court reiterates that where detention is broken into several non-consecutive periods and applicants are free to lodge complaints about detention while they are at liberty, those non-consecutive periods should be assessed separately (see *Lisovskij*, cited above, § 70, and the references therein).

97. The Court has already stated that conditions of house arrest under Lithuanian law differ rather significantly from those which it has previously assessed (ibid., § 71). However, taking into account the particularly restrictive conditions of the intense supervision in the present case (compare and contrast *Lisovskij*, cited above, § 71) and in view of the fact that the applicants were again arrested in two weeks, the Court considers that the applicants' detention from 22 January 2013 to 20 December 2017 should be viewed as a single period and that the period from 22 July to 5 August 2016 should be considered as deprivation of liberty (see *Buzadji*, cited above, §§ 103-05).

98. Accordingly, the period of the applicants' detention to be considered in the present case was four years, ten months and twenty-eight days (from 22 January 2013 to 20 December 2017).

(ii) Reasonableness of the length of detention

99. At the outset the Court observes that such inordinate length of detention on remand is already a matter of grave concern and requires the domestic authorities to put forward very weighty reasons in order for it to be justified (see *Dragin v. Croatia*, no. 75068/12, § 112, 24 July 2014 and the cases cited therein).

100. The Court sees no reason to doubt the findings of the domestic courts that during the entire period under consideration there was a reasonable suspicion that the applicants had committed the offences with which they had been charged (see paragraphs 8, 23, 38 and 55 above). Although the applicants argued to the contrary, the Court reiterates that "reasonable suspicion" requires the presence of facts or information which would satisfy an objective observer that the person concerned may have committed the offence (see *Gusinskiy v. Russia*, no. 70276/01, § 53, ECHR 2004-IV, and the cases cited therein) and the facts which raise a suspicion justifying arrest under Article 5 of the Convention do not need to be of the same level as those necessary to bring charges or secure a conviction (see

Murray v. the United Kingdom, 28 October 1994, § 55, Series A no. 300-A, and *Şahin Alpay v. Turkey*, no. 16538/17, § 104, 20 March 2018). The Court considers that that level was reached in the applicants' case. It must therefore examine whether the other grounds given by the judicial authorities justified the applicants' deprivation of liberty.

101. In this connection the Court notes that after the arrest, the first three applicants' detention was authorised for three months and then extended for three months every time, and that the fourth applicant's detention was at first authorised for two months, was extended twice for two months, and then extended for three months every time (see paragraphs 8-10, 13, 15-16, 23-24, 26, 28-29, 38-39, 42, 44-45, 55-56, 57, 61, 63 and 64 above). The courts extending the applicants' detention relied on:

(1) the risk of the applicants' absconding, based on the nature and the severity of the crime they were suspected of committing and their connections abroad for the first and the fourth applicants (see *Lisovskij*, cited above, § 76 and the references therein; *Gábor Nagy v. Hungary (no. 2)*, no. 73999/14, § 70, 11 April 2017; and *Podeschi v. San Marino*, no. 66357/14, § 151, 13 April 2017)

(2) the risk of the applicants' reoffending, based on the seriousness of the charges against the applicants; some of the applicants' prior convictions; the facts that some of the applicants were unemployed, and the fourth applicant was not married (see *Lisovskij*, cited above, § 76; *Gábor Nagy*, cited above, § 74; and *Podeschi*, cited above, § 150);

(3) the particular complexity and large, constantly increasing volume of the case file, resulting from the large number of charges, defendants and witnesses (see *Lisovskij*, cited above, § 76);

(4) the need to request international legal assistance in the case (see paragraph 71 above, compare and contrast *Lisovskij*, cited above, § 80).

102. The Court considers that the Lithuanian courts thoroughly assessed all the relevant factors and based their decisions on the particular circumstances of the applicants' case, their personal and financial situation, their criminal histories, and their connections abroad. The reasons relied upon by the domestic courts cannot be said to have been stated *in abstracto*. They included some of the reasons which, according to the Court's case-law, may justify pre-trial detention (see *Buzadji*, cited above, § 88) as well as other reasons which are relevant for the assessment of the duration of the period in detention (see *Lisovskij*, cited above, § 80, and the references therein). It cannot be said that they ordered or extended the applicants' detention on identical or stereotypical grounds, using a pre-existing template or formalistic and abstract language (see *Lisovskij*, cited above, § 77, and the references therein; compare and contrast *Trifković v. Croatia*, no. 36653/09, § 125, 6 November 2012, and *Baksza v. Hungary*, no. 59196/08, § 38, 23 April 2013); moreover, there was no blind or automatic decision to extend the applicants' detention, and a thorough

review of the relevant circumstances was carried out. Thus, the Court is satisfied that the domestic courts did not use "general and abstract" arguments for the applicants' continued detention, and that their reasons were relevant and sufficient. However, the assessment of the "relevant and sufficient" reasons cannot be detached from the actual length of pre-trial detention. Accordingly, it remains to be ascertained whether the judicial authorities displayed requisite diligence in the conduct of the proceedings (see *Gábor Nagy*, cited above, § 77).

103. The Court reiterates that the applicants were held in pre-trial detention for almost five years (see paragraph 98 above). The length of this period raises a concern in itself. It is true that during the pre-trial investigation, which lasted for almost a year and six months after the applicants' arrest (see paragraph 71 above), the authorities carried out a number of investigative measures, including multiple requests for legal assistance from foreign countries (see paragraph 71 above). During that period, in their decisions to extend the applicants' detention on remand the domestic courts also relied on the need to carry out additional investigative actions (see paragraphs 10, 24, 39 and 57 above). In that connection, the Court notes that the applicants did not elaborate on the issue of the length of their detention on remand during the pre-trial investigation. Having regard to that and the fact that the pre-trial investigation concerned multiple criminal offences allegedly committed by a criminal organisation, and was thus of considerable complexity and involved an international element, the Court is of the view that the actions of the domestic authorities during that period could be considered as falling within the standard of requisite diligence under Article 5 § 3 of the Convention. Accordingly, it remains to be ascertained whether the judicial authorities exercised requisite diligence in the conduct of the criminal proceedings against the applicants and whether the domestic courts duly assessed the course of these proceedings.

104. After the case was transferred to the first-instance court for examination on the merits, the applicants remained in detention for another three years, five months and nineteen days (from 2 July 2014 to 20 December 2017 – see paragraph 72 above), during which period fifty-one hearings were scheduled in advance. The hearings were scheduled on a monthly (or nearly monthly) basis, or even more frequently (see paragraph 72 above). However, bearing in mind that at the start of the court proceedings the applicants had already been detained for one and a half years, the Court is not convinced that the scheduling of hearings displayed sufficient diligence on the part of the authorities (see *Lisovskij*, cited above, § 79, and the references therein).

The Court furthermore notes that ten of those hearings were cancelled or adjourned mainly for different procedural reasons, only two of which were imputable to the applicants: on 16 October 2015 the hearing was adjourned because the second applicant refused to be taken to the hearing from

custody and on 3 August 2017 because the applicants' defence lawyers were not ready to present their closing statements (see paragraph 72 above). As a result of repeated adjournments or cancellations, there were several long periods when no hearings were held: although the case was transferred for examination on the merits on 2 July 2014, the first hearing only took place on 11 November 2014; there was a break between 14 July and 19 October 2015; between 2 December 2015 and 29 November 2016; between 29 November 2016 and 17 February 2017; and between 12 July and 6 October 2017. In that connection, the Court notes that the Government's submissions on the breaks in the proceedings are not accurate and contradict the information in the Court's possession (see paragraphs 72 and 90 above). The Court further observes that although some of the shorter breaks in the proceedings could be justified by various procedural reasons (see paragraph 72 above), the period between 2 December 2015 and 29 November 2016, when no hearings took place, raises particular concern and the Government have hardly provided any reasons to justify the absence of the hearings during that period.

105. While the Court accepts the Government's submission that the criminal proceedings against the applicants were complex and wide-ranging, it nonetheless considers that neither their complexity nor the fact that they concerned organised crime can justify detention of such length as in the present case. The Court also accepts that the investigation was additionally complicated by the need to obtain evidence from abroad, since the criminal organisation had operated in a number of countries (see *Łaszkiewicz v. Poland*, no. 28481/03, § 61, 15 January 2008; *Ereren v. Germany*, no. 67522/09, § 62, 6 November 2014; *Merčep v. Croatia*, no. 12301/12, § 110, 26 April 2016). However, it does not appear that any measures were taken to speed up the proceedings, considering the gaps between the hearings (see paragraph 72 above). The Court observes that hearings were adjourned or cancelled mainly because of the need to carry out investigations of the state of health of several of the co-accused or because of the absences of some of the co-accused, their lawyers, or sometimes the applicants themselves. The Court acknowledges that in certain circumstances this could be justified; however, in the present case the Government have not provided any information of the attempts on the part of the domestic authorities to fix a tighter and more efficient hearing schedule in order to avoid repeated adjournments or cancellations (see *Lisovskij*, cited above, § 80). In such circumstances, the Court considers that the domestic authorities did not display requisite diligence in the conduct of the criminal proceedings against the applicants during the lengthy period of their detention.

106. Accordingly, there has been a violation of Article 5 § 3 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

107. The applicants complained under Article 8 that not being allowed long-stay visits had caused them intolerable mental and physical suffering. Article 8 provides as follows:

> “1. Everyone has the right to respect for his private and family life ...
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is 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.”

Admissibility

1. Mr Saulius Velečka

(a) The parties’ submissions

108. The Government separated two periods as regards the applicant’s long-stay visits: between 2 February 2013 and 1 January 2016, and between 1 January and 26 September 2016. They considered that as regards the second period the case was still being examined by the domestic courts, and thus the applicant’s complaint regarding that period was premature. As regards the first period, the Government submitted that on 23 July 2015 the applicant asked the Lukiškės Remand Prison authorities for a long-stay visit from his wife. On 2 September 2015 he received a reply that remand detainees could only receive visits without physical contact. It was the Government’s view that the applicant should have appealed against this decision, which he failed to do.

109. The Government also submitted that after the judgment in *Varnas v. Lithuania* (no. 42615/06, 9 July 2013) the provisions of the Convention and domestic law conflicted with each other. According to the Government, in accordance with the practice of the Supreme Administrative Court the applicant had been able to rely on the provisions of the Convention directly before the domestic courts (see paragraph 79 above).

110. The Government also argued that the domestic courts had established an effective domestic compensatory remedy, specifically that the Supreme Administrative Court had taken account of differences in treatment between remand detainees and convicted people when it came to long-stay visits, and had found violations and awarded compensation (see paragraph 80 above). Had the applicant formulated his complaints properly, he could have received compensation as well, as did the second applicant (see paragraph 35 above). The Government stated that the judgment in *Varnas* (cited above) had been in effect for two years when the applicant had submitted his application to the Court, and thus it had been clear that

new domestic remedies would be incorporated into the State's judicial system.

111. The applicant referred to different periods: between 6 February 2013 and 26 September 2016 and between 9 August 2016 and 1 December 2017. He argued that there were no facilities in Lukiškės Remand Prison for long-term visits. He thus submitted that a complaint to the domestic courts would not have been successful.

(b) The Court's assessment

112. The Court will examine the applicant's complaint about the lack of long-stay visits between 2 February 2013 (the date he had indicated) and 1 January 2016.

(i) The period between 1 January 2016 and 26 September 2016

113. The Court observes that on 8 May 2017 the applicant lodged a claim before the Vilnius Regional Administrative Court, raising, among other issues, the complaint that he could not have long-term visits while detained in Lukiškės Remand Prison between 1 January and 26 September 2016. His claim was examined by the first-instance court on 13 November 2017. The proceedings before the Supreme Administrative Court are still pending (see paragraph 21 above). In these circumstances, the Court is satisfied that the complaint is premature and must be rejected, pursuant to Article 35 §§ 1 and 4 of the Convention.

(ii) The period between 2 February 2013 and 1 January 2016

114. The Court notes that the applicant only asked for a long-stay visit once (see paragraph 20 above) and never appealed against the refusal of the prison administration to grant him such a visit. His complaint to the domestic courts was submitted in 2017, and was abstract: he did not indicate whether he had asked for a visit at any time between 1 January and 26 September 2016, the period he had complained about. The applicant had twenty-seven short visits in 2014, ninety-nine short visits in 2015 and sixty-four short visits in 2016. During the applicant's detention in Šiauliai Remand Prison, between 9 August 2016 and 1 January 2017 he was granted seventy-six short visits (see paragraph 22 above). It appears that the applicant did not ask for more short visits or argue that he had been refused them.

115. The applicant therefore cannot be said to have suffered from a lack of long-stay visits. It follows that the applicant cannot claim to be a victim of an alleged violation of Article 8 of the Convention in so far as he complained about the lack of long-stay visits from his wife (for the principles concerning victim status, see *Vallianatos and Others v. Greece* [GC], nos. 29381/09 and 32684/09, § 47, ECHR 2013 (extracts)).

116. Having regard to the above, the Court finds this part of the application is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) of the Convention. It must therefore be rejected pursuant to Article 35 § 4.

2. *Mr Norbertas Tučkus*

(a) The parties' submissions

117. The Government separated three periods as regards the applicant's long-stay visits: between 31 October and 5 November 2008 and between 24 January 2013 and 17 August 2015; between 17 August 2015 and 22 August 2016; and between 9 August 2016 and 1 January 2017. The Government submitted that for the first period the applicant could no longer claim to be a victim of a violation of the Convention because the violation of Article 8 of the Convention had been expressly acknowledged by the domestic courts and the applicant had received compensation (see paragraph 35 above). For the second period, the Government submitted that the case was still being examined by the domestic courts, and thus the applicant's complaint regarding that period was premature. Lastly, as regards the third period, the Government argued that the applicant had not asked for long-stay visits during that period.

118. The applicant submitted that that there were no facilities in Lukiškės Remand Prison for long-term visits. He thus submitted that a complaint to the domestic courts would not have been successful. He also submitted that the compensation he had received for the period between 31 October 2008 and 17 August 2015 had not been sufficient.

(b) The Court's assessment

119. The Court finds that it is not necessary to address all the issues raised by the parties, because the complaint is in any event inadmissible for the following reasons.

(i) The period between 31 October and 5 November 2008

120. The Court notes that the period between 31 October and 5 November 2008 appeared for the first time in the Government's submissions before the Court. The applicant did not raise this complaint in his initial application. Consequently, the Court will not examine the alleged lack of long-stay visits during that period.

(ii) The period between 24 January 2013 and 17 August 2015

121. The Court reiterates that an applicant's status as a "victim", within the meaning of Article 34 of the Convention, depends on whether the domestic authorities have acknowledged, either expressly or in substance, the alleged infringement of the Convention and, if necessary, provided

appropriate redress. Only when these conditions are satisfied does the subsidiary nature of the protective mechanism of the Convention preclude examination of an application (see *Cocchiarella v. Italy* [GC], no. 64886/01, § 71, ECHR 2006-V, and *Michalák v. Slovakia*, no. 30157/03, § 127, 8 February 2011).

122. The Court observes that in the present case the Supreme Administrative Court expressly acknowledged the violation of Article 8 and awarded him compensation for the lack of long-stay visits (see paragraph 35 above).

123. The Court therefore concludes that the applicant can no longer claim to be a "victim" within the meaning of Article 34 of the Convention of the alleged violation of his rights under Article 8 of the Convention for the period between 24 January 2013 and 17 August 2015.

124. It follows that this complaint is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) of the Convention. It must therefore be rejected pursuant to Article 35 § 4.

(iii) The period between 17 August 2015 and 22 August 2016

125. The Court refers to its conclusions regarding the first applicant (see paragraph 113 above) and holds that the complaint regarding the period between 17 August 2015 and 22 August 2016 is premature and must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention.

(iv) The period between 9 August 2016 and 1 January 2017

126. The Court notes that between 9 August 2016 and 1 January 2017 the applicant had fifteen short visits. The Court further notes that he never complained about the lack of long-stay visits before the domestic courts and never asked for more short visits or argued that he had been refused them.

127. In these circumstances, the Court refers to its conclusion above (see paragraph 115 above), and holds that this part of the application is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) of the Convention. It must therefore be rejected pursuant to Article 35 § 4.

3. *Mr Audrius Petkauskas*

(a) The parties' submissions

128. The Government distinguished two periods as regards the applicant's long-stay visits: between 4 February 2013 and 22 July 2016, when the applicant was detained in Lukiškės Remand Prison, and between 29 August 2016 and 1 January 2017, when the applicant was detained in Šiauliai Remand Prison. The Government submitted that for the first period the applicant had not applied to the prison authorities for a long-stay visit. Although he had complained to the domestic courts about the lack of

long-stay visits, the first-instance court found that the complaint was too abstract; he then asked the Supreme Administrative Court not to examine his appeal. It was the Government's view that the applicant had failed to exhaust domestic remedies for this part of his complaint. As regards the second period, the Government observed that although the applicant had asked the Šiauliai Remand Prison authorities for a long-stay visit from his wife, he had failed to appeal against the response of the prison authorities. In that connection, the Government reiterated their arguments above (see paragraphs 109 and 110 above).

129. The applicant argued that there were no facilities in Lukiškės Remand Prison for long-stay visits. He withdrew his appeal because he was convinced that a complaint to the domestic courts would not have been successful.

(b) The Court's assessment

130. The Court will examine the two periods referred to by the Government together, and finds that it is not necessary to address all the issues raised by the parties, because the complaint is in any event inadmissible, for the following reasons.

131. The Court notes that as regards the first period, the applicant had failed to properly formulate his complaints before the first-instance court and had then withdrawn his appeal. As regards the second period, he had only asked for a long-stay visit once, and had never complained before the domestic courts about being refused it. During the period he complains about, he had had fifty-eight short visits in total. It appears that the applicant never asked for more short visits or argued that he had been refused them.

132. The Court reiterates its conclusion above (see paragraph 115 above) and holds that this part of the application is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) of the Convention. It must therefore be rejected pursuant to Article 35 § 4.

4. *Mr Tadas Petrošius*

(a) The parties' submissions

133. The Government submitted that the applicant had never asked the prison authorities for long-stay visits, nor did he complain about the lack of long-stay visits before the domestic courts. The Government noted that the exercise of a person's right to a long-stay visit depended on his or her wishes. In the absence of such wishes, the prison authorities could not be obliged to arrange a long-stay visit.

134. The applicant argued that there were no facilities in Lukiškės Remand Prison for long-stay visits. He thus submitted that a complaint to the domestic courts would not have been successful.

(b) The Court's assessment

135. The Court notes that the applicant received 176 short visits in total during the period which he complains about. It appears that the applicant neither asked for more short visits nor argued that he had been refused them: he also did not request long-stay visits.

136. The Court refers to its conclusion above (see paragraph 115 above) and holds that this part of the application is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) of the Convention. It must therefore be rejected pursuant to Article 35 § 4.

IV. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

137. The applicants further complained that they had not had an effective remedy for complaining about the violation of their rights to respect for their family life, that is, a remedy that would grant them long-stay visits. They relied on Article 13 of the Convention. Article 13 reads:

> "Everyone whose rights and freedoms as set forth in [the] 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."

138. The Government repeated their above arguments that the applicants had had at their disposal an effective remedy for redressing the alleged violation of their right to respect for their family life (see paragraphs 108-110, 117, 128 and 133 above).

139. The applicants also repeated their arguments above that the remedy would not have been successful (see paragraphs 111, 118, 129 and 134 above).

140. The Court reiterates that in accordance with its case-law, Article 13 applies only where an individual has an "arguable claim" to be the victim of a violation of a Convention right. However, given its above findings, according to which the applicants' main complaint under Article 8 of the Convention is inadmissible (see paragraphs 115-116,126-127, 131-132 and 135-136 above), the Court considers that their related complaint under Article 13 of the Convention cannot be considered "arguable" within the meaning of the Court's case-law. It follows that this complaint is incompatible *ratione materiae* and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

141. 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

142. The applicants claimed 40,000 euros (EUR) each in respect of non-pecuniary damage.

143. The Government considered the amount excessive, unreasoned and unsubstantiated.

144. The Court considers that the applicants undoubtedly suffered distress and frustration in view of their prolonged detention. However, it considers the amounts claimed by them excessive. Making its assessment on an equitable basis, the Court awards the each of the applicants EUR 6,600 in respect of non-pecuniary damage.

B. Costs and expenses

145. The applicants did not submit any claim in respect of costs and expenses. The Court therefore makes no award under this head.

C. Default interest

146. 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;

2. *Declares* the complaints concerning Article 5 § 3 admissible and the remainder of the applications inadmissible;

3. *Holds* that there has been a violation of Article 5 § 3 of the Convention;

4. *Holds*

   (a) that the respondent State is to pay each of the applicants, within three months, EUR 6,600 (six thousand six hundred euros), plus any tax that may be chargeable to the applicants, in respect of non-pecuniary damage;

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

5. *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.

Marialena Tsirli	Jon Fridrik Kjølbro
Registrar	President