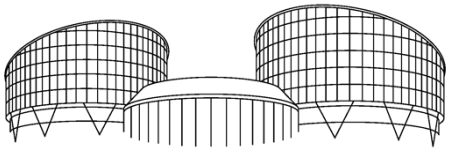

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF ZAKHAROVA AND OTHERS v. RUSSIA

(Application no. 12736/10)

JUDGMENT

Art 14 (+ Art 11) • Failure to fulfil positive obligations to ensure effective and clear judicial protection against discrimination on grounds of trade union membership, through dismissal of employees • Applicants' claim dismissed by domestic court as unsubstantiated, despite demonstration of a prima facie case of discrimination and shifting of burden of proof onto employer

STRASBOURG

8 March 2022

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

In the case of Zakharova and Others v. Russia,

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

Georges Ravarani, *President,*
María Elósegui,
Darian Pavli,
Peeter Roosma,
Andreas Zünd,
Frédéric Krenc,
Mikhail Lobov, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 12736/10) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by three Russian nationals, Ms Yekaterina Vasilyevna Zakharova ("the first applicant"), Ms Lina Ivanovna Krauze ("the second applicant") and Ms Svetlana Ivanovna Andreyeva ("the third applicant", together "the applicants"), on 5 January 2010;

the decision to give notice to the Russian Government ("the Government") of the complaints under Article 14 of the Convention read in conjunction with Article 11 concerning alleged discrimination in the enjoyment of the applicants' Convention rights on account of their trade union membership, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 8 February 2022,

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

INTRODUCTION

1. The present case concerns alleged discrimination against the applicants on the grounds of their trade union membership and activities and the failure of the domestic courts to address their complaint in that regard.

THE FACTS

2. The applicants were born in 1966, 1963 and 1966 respectively and live in Ostrov, Pskov Region.

3. The Government were initially represented by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights, and most recently by Mr M. Vinogradov, his successor in that office.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

I. BACKGROUND INFORMATION AND DISCRIMINATORY PRACTICES

5. The applicants worked at a municipal educational institution, the Youth Creativity Centre (*Дом детского творчества им. К. И. Назаровой* – "the Centre"), in Ostrov, Pskov Region.

6. In June 2006 the second applicant was elected chair of the primary trade union active at the above-mentioned institution (*первичная профсоюзная организация работников образования и науки Дома детского творчества им. К. И. Назаровой*). The first and third applicants were elected members of the union's executive committee.

7. The primary trade union formed part of the Ostrovskiy District Education and Science Employees' Trade Union (*Островская районная организация профсоюза работников образования и науки России* – "the district trade union"), which, in its turn, was a structural element of the Pskov Regional Education and Science Employees' Trade Union (*Псковская областная организация профсоюза работников образования и науки России* – "the regional trade union").

8. From January 2008 the applicants were allegedly subjected to harassment and discriminatory practices by their employer on account of their trade union activity.

9. According to the applicants, as a result of a conflict between the district and regional trade unions on account of the former's active position in protecting the social and labour rights of its members, by a mutual arrangement between the Ostrovskiy District Department of Education and the regional trade union, on 29 January 2008 it was decided that the district trade union would be liquidated. The primary trade union was allegedly pushed to join (directly) the regional trade union.

10. On 1 March 2008 the applicants, acting on behalf of the primary trade union, chose to join an alternative regional trade union – the Pskov Regional Organisation of the Russian Trade Union of Culture Employees (*Псковская областная организация Российского профсоюза работников культуры*). However, on 13 March 2008 the latter union cancelled its decision to accept the primary trade union as its member, on the grounds that the employees concerned were from the sphere of education but not culture, and their former district trade union had not been consulted.

11. On 21 March 2008, in response to the above-mentioned changes, an independent trade union was created at the Centre (*Независимая профсоюзная организация Дома детского творчества им. К. И. Назаровой* – "the independent trade union"). The second applicant was elected chair of the independent trade union; the first and third applicants were elected deputy chairs.

12. With reference to underfunding, by orders of 19 March 2008 (later revoked) and 17 April 2008, the Centre changed its staff schedule, as a result

of which the applicants' working hours, and, consequently, their salaries, were to be reduced.

13. On 30 April 2008 the independent trade union joined the All-Russia Trade Unions' Association (*Общероссийский объединенный профсоюз работников здравоохранения, образования, культуры, городского транспорта, энергетики, государственных и муниципальных организаций, сферы обслуживания Объединения профсоюзов России СОЦПРОФ*).

14. The first and second applicants submitted that on 26 May 2008 they had met the head of the Ostrovskiy District Department of Education, who had suggested that they either resign from their jobs or secede from the All-Russia Trade Unions' Association and join the regional trade union.

15. On 28 May 2008 the independent trade union complained to the local prosecutor's office, alleging that the liquidation of the former district trade union had been unlawful; that the members of the independent trade union had suffered discrimination and violations of their labour rights, including as a result of the Centre's order of 17 April 2008; and that financial offences had been committed by the director of the Centre.

16. As the first and second applicants had refused to work on the conditions set out by the order of 17 April 2008 (see paragraph 12 above), on 25 June 2008 they were dismissed from their jobs. There is no evidence that the Centre dismissed any other employee. Following an objection by the prosecutor's office which had found "a breach of the applicable legislation concerning the [applicants'] dismissal procedure", the Centre's orders of 17 April 2008 and, consequently, of 25 June 2008, were set aside.

17. On 1 September 2008 the Centre again reduced the applicants' working hours and, accordingly, their salaries. On the same day the Centre informed the applicants that their positions would be abolished on 6 November 2008. On 18 September 2008 the independent trade union requested that the Centre set aside the order of 1 September 2008.

18. On 5 November 2008 the applicants were dismissed with reference to the need to make staff redundant. The dismissal took place during the collective agreement negotiations between the Centre and its employees' trade unions, in which the applicants participated on behalf of the independent trade union. There is no evidence that the Centre dismissed any other employee.

II. COURT PROCEEDINGS

19. On 2 December 2008 the applicants instituted civil proceedings against the Centre, challenging their dismissal of 5 November 2008 and seeking to be reinstated and awarded compensation for lost earnings and non-pecuniary damage. They further asked the court to acknowledge that the

employer's actions had discriminated against them on the grounds of their involvement in trade union activities.

20. On 26 March 2009 the Ostrov Town Court of the Pskov Region ("the Town Court") granted the applicants' claims against the Centre. The applicants' dismissal was found unlawful because in breach of the applicable procedure the applicants' independent trade union had not been consulted on account of their dismissal. Regarding the issue of discrimination against the applicants by their employer, the court held as follows:

> "The plaintiffs submitted documents to the court [confirming] their dismissal from their jobs on three occasions in the course of 2008 on the initiative of the employer, two of which [decisions] were quashed by a prosecutor and one by a court, thus enabling [this] court to acknowledge that the actions [by the employer] against [the applicants] had been discriminatory, including on the grounds of their membership of a public association.
>
> As the Plenum of the Supreme Court of the Russian Federation has explained, when a court examines a reinstatement claim by an employee who has been dismissed at the initiative of the employer, the obligation to prove the existence of lawful [grounds] for the dismissal and compliance with the prescribed procedure for dismissal lies with the employer (Ruling no. 2 of the Plenum of the Supreme Court of the Russian Federation of 17 March 2004, § 23).
>
> The respondent and its representative have not submitted convincing evidence to [this] court that the termination of the [employment] contract on the initiative of the [employer] to reduce staff was based on law."

The Town Court awarded the applicants their unpaid salaries for the period between their dismissal and reinstatement – 26,626 Russian roubles (RUB), RUB 26,864 and RUB 39,421, respectively (about 600 euros (EUR), EUR 600 and EUR 900, respectively, at the time). The court also awarded each of the applicants RUB 10,000 (about EUR 220 at the time) in respect of non-pecuniary damage caused by their unlawful dismissal.

21. On 7 July 2009 the Pskov Regional Court ("the Regional Court") partly upheld the above-mentioned judgment. In particular, it agreed that the applicants' dismissal had been unlawful because, in breach of the applicable procedure, the applicants' trade union had not been consulted prior to their dismissal. The Regional Court also upheld the first-instance court's awards in respect of pecuniary and non-pecuniary damage (fully enforced by that time). It, however, set aside the Town Court's reasoning regarding discriminatory actions against the applicants, holding as follows:

> "[The Regional Court] cannot agree with the finding of [the Town Court] that the actions of the director of [the Centre] discriminated against [the applicants], because the material in the case file does not contain evidence to the effect that [the applicants'] membership of the trade union was the reason for their dismissals."

22. After the applicants' reinstatement on 26 March 2009, they continued working for the Centre. Since 23 August 2010 the first applicant has become the director of the Centre, with the third applicant working as her deputy. The second applicant is the president of the independent trade union (which

includes about thirty Centre employees among its members), while the first and third applicants are her deputies.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. RELEVANT DOMESTIC LAW AND PRACTICE

23. The Constitution of the Russian Federation (Articles 19 and 30), the Labour Code of the Russian Federation (Law no. 197-FZ of 30 December 2001, Article 3) and the Trade Union Act (Law no. 10-FZ of 12 January 1996, section 9) guarantee equality of rights, prohibition of discrimination (including on the grounds of (non-)membership of trade unions), freedom of public association and the judicial protection of rights.

24. Article 56 § 1 of the Code of Civil Procedure of the Russian Federation provides that, unless a federal law states otherwise, each party is to prove the circumstances on which it relies to justify its claims and objections.

25. In its Ruling no. 2 of 17 March 2004, the Plenum of the Supreme Court of the Russian Federation (§ 23) held as follows:

> "In the examination of a reinstatement claim by a person whose employment contract has been terminated at the initiative of the employer, an obligation to prove the existence of legitimate grounds for the dismissal and compliance with the prescribed procedure for dismissal is imposed on the employer."

II. RELEVANT INTERNATIONAL MATERIALS

26. In its Digest of decisions and principles (fifth (revised) edition, 2006) the Committee of Freedom of Association of the International Labour Organisation stated as follows:

> "Anti-union discrimination is one of the most serious violations of freedom of association, as it may jeopardize the very existence of trade unions (para. 769). ... No person should be dismissed ... by reason of trade union membership or legitimate trade union activities (para. 771), even if that trade union is not recognized by the employer as representing the majority of workers concerned (para. 776). ... [A]dditional measures should be taken to ensure fuller protection for leaders of all organizations, and delegates and members of trade unions, against any discriminatory acts (para. 773). ... [O]ne way of ensuring the protection of trade union officials is to provide that these officials may not be dismissed, either during their period of office or for a certain time thereafter except, of course, for serious misconduct (para. 804). Acts of anti-trade union discrimination should not be authorized under the pretext of dismissals based on economic necessity (para. 795)."
>
> The State has to "lay down explicitly remedies and penalties against acts of anti-union discrimination" (para. 813) and "ensure that complaints of anti-union discrimination are examined in the framework of national procedures" (para. 817).
>
> "It may often be difficult, if not impossible, for workers to furnish proof of an act of anti-union discrimination of which they have been the victim (para. 819). ... [O]ne of

the measures that should be taken to ensure the effective protection of workers' representatives, the adoption of provision for laying upon the employer, in the case of any alleged discriminatory dismissal or unfavourable change in the conditions of employment of a workers' representative, the burden of proving that such action was in fact justified (para. 830)."

27. The European Committee of Social Rights of the Council of Europe, which is the supervisory body of the European Social Charter, has held that domestic law should provide for an alleviation of the burden of proof in favour of the plaintiff in discrimination cases (see Conclusions 2002, France, p. 24). It later reiterated that, in the case of discrimination, the burden of proof must not rest entirely on the requesting party and must be the subject of an appropriate adjustment (see Digest of the case law of the European Committee of Social Rights, December 2018, p. 232).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION TAKEN TOGETHER WITH ARTICLE 11

28. The applicants complained under Article 14 of the Convention in conjunction with Article 11 that they had been discriminated against on the grounds of their membership of a trade union. The relevant provisions read as follows:

Article 14

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

Article 11

"1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

A. Admissibility

29. The Court notes that these complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. In particular, the Court observes that, even though the applicants

were eventually reinstated, the national authorities have not acknowledged, either expressly or in substance, a breach of the applicants' rights under Article 14 in conjunction with Article 11 of the Convention, and have not afforded any redress (see, for instance, *Konstantin Markin v. Russia* [GC], no. 30078/06, §§ 82-83, ECHR 2012 (extracts)). Therefore, they may claim to be the victims of the alleged discriminatory treatment for the purposes of Article 34 of the Convention. Accordingly, the applicants' complaints must be declared admissible.

B. Merits

1. Submissions of the parties

(a) The applicants

30. The applicants submitted that during 2008 the Centre had changed the staff schedule five times. Aside from the applicants, no other employees of the Centre had actually been dismissed. The need to reduce staff and working hours due to limited budgetary funds had only been a pretext for the applicants' dismissal, because on 1 November 2008 the Centre had simultaneously hired two new employees and on 1 and 17 November 2008 it had increased the working hours of fifteen employees (in support of their claims, the applicants provided copies of relevant documents from the Centre). Also, after the applicants' reinstatement, no changes in the staff schedule and no dismissals had taken place, which also confirmed that the alleged need to reduce staff and working hours due to underfunding had in fact not existed. Moreover, in breach of the relevant laws, the applicants had been dismissed during the period of negotiation of a collective employment agreement in which they had been participating as representatives of their trade union, having thirty Centre employees among its members. The applicants recounted instances when their working hours had been reduced with resultant pay decreases; when their trade union activities had been interfered with; and various attempts to dismiss them in breach of the domestic law (such as by not observing the order of priority for employees who had had the right to preserve their jobs in the event of redundancies (for instance, single mothers of minors, as had been the case for the first and second applicants, or people working on a full-time basis, in contrast to part-time, as had been the case for all three applicants) and failing to obtain the mandatory consent of the applicants' trade union to their dismissal).

31. On the basis of the above, the applicants contended that their discrimination complaints had been well founded and, therefore, they had fully satisfied the burden of proof. On the basis of their submissions, the Town Court had found in their favour. However, the Regional Court had wrongly set aside the conclusion concerning their discrimination as unsubstantiated.

(b) The Government

32. The Government submitted that on 29 August 2008 the Centre had modified its staff structure and that on 1 September 2008 it had assigned the number of working hours for twenty-seven employees, including the applicants. In accordance with the relevant labour laws, it had been proposed that the applicants be transferred to other positions. As they had refused the proposals made to them, they had been dismissed on 5 November 2008. Therefore, the applicants' dismissal had been lawful. Furthermore, the law also required the consent of the trade union of the person concerned prior to a dismissal. However, the consent of the applicants' trade union had not been sought. On the basis of that breach of procedure, the decision of 5 November 2008 on the applicants' dismissal had been quashed.

33. The Government further submitted that, in accordance with the principle *affirmanti incumbit probatio*, incorporated in Article 56 § 1 of the Code of Civil Procedure (see paragraph 24 above), the applicants had borne the burden of proving their discrimination claims. However, they had failed to do so. The Government also submitted that the Education Department of the Ostrovskiy District, by a letter of 14 March 2008, had requested the Centre to readjust the staff structure taking into account the budgetary limits. Therefore, the staff reduction and changes of working hours had been objectively justified by the insufficient funding of the Centre. Furthermore, the decisions to reduce the number of staff and to redistribute working hours had concerned more than twenty employees, including some who had not been members of the applicants' trade union. Therefore, the Regional Court, as a national court better suited to determine issues of the application of domestic law, had rightly dismissed the applicants' allegations of discrimination as unsubstantiated.

34. The Government also submitted that Russian legislation (see paragraph 23 above) prohibited discrimination based on trade union membership and that people who considered that they had been discriminated against were entitled to seek the restoration of the rights that had allegedly been breached, as well as compensation for pecuniary and non-pecuniary damage. The applicants had been able to use the above-mentioned remedy, even though the Regional Court had dismissed their allegation of discrimination as unsubstantiated. Therefore, the State had complied with its obligations under Articles 11 and 14 of the Convention.

2. The Court's assessment

35. The Court reiterates that it is crucially important that individuals affected by discriminatory treatment should be provided with an opportunity to challenge it and should have the right to take legal action to obtain damages and other relief. Therefore, States are required under Articles 11 and 14 of the Convention to set up a judicial system that ensures real and effective

protection against anti-union discrimination (see *Danilenkov and Others v. Russia*, no. 67336/01, § 124, ECHR 2009 (extracts)). The same obligation is recognised by the International Labour Organisation (see paragraph 26 above).

36. As to the burden of proof in this sphere, the Court has established that once the applicant has shown a difference in treatment, it is for the Government to show that it was justified (see, for instance, *D.H. and Others v. the Czech Republic* [GC], no. 57325/00, § 177, ECHR 2007-IV). This corresponds to the position of the European Committee of Social Rights of the Council of Europe regarding the need to alleviate the burden of proof for plaintiffs in discrimination cases (see paragraph 27 above), and of the International Labour Organisation (see paragraph 26 above) regarding the need to shift the burden of proof to the respondent.

37. As regards the question of what constitutes prima facie evidence capable of shifting the burden of proof to the respondent State, the Court will rely on the general principles emerging from its case-law on the assessment of evidence as reiterated in *Baka v. Hungary* [GC] (no. 20261/12, § 143, 23 June 2016, with further references). In particular, the Court adopts conclusions that are, in its view, supported by the free evaluation of all evidence, including such inferences as may flow from the facts and the parties' submissions. Proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (ibid.).

38. The Court takes into account the sequence of events in the present case (see paragraphs 12-18 above).

39. The applicants were leading members of the primary trade union of the Centre. In January 2008 the district trade union to which the primary trade union had been affiliated was liquidated. Later, as was claimed by the applicants and not disputed by the Government, their primary trade union was pushed to join the regional trade union, favoured by the Centre and the Ostrovskiy District Department of Education. The primary trade union's attempt to join an alternative trade union was unsuccessful. At the same time, the Centre undertook a number of steps adversely affecting the applicants' working conditions and monthly salaries. In March 2008 the applicants created an independent trade union, which in April 2008 joined, instead of the regional trade union, an alternative one.

40. On 17 April 2008 the working hours of the applicants, and thus their salaries, were reduced. In May 2008, as was submitted by the applicants and not disputed by the Government, the head of the Ostrovskiy District Department of Education suggested to the first and second applicants that the independent trade union should join the regional trade union under the threat of their dismissal.

41. On 25 June 2008 the applicants were dismissed. In June 2008, after an objection from the prosecutor's office, the Centre's orders of

17 April 2008 and 25 June 2008 were set aside. In September 2008 the applicants' working hours and salaries were reduced. On 5 November 2008 the applicants were dismissed again. Before the national courts the applicants challenged their dismissal as unlawful and discriminatory. The applicants' dismissal was indeed found unlawful due to a procedural breach, they were reinstated and awarded compensation in respect of pecuniary and non-pecuniary damage. However, their complaint about discrimination was only granted by the Town Court but rejected on appeal by the Regional Court without substantial reasoning (see paragraphs 20-21 above).

42. Based on the above, the Court finds that the applicants belonged to a protected group (members and leaders of a trade union) and suffered adverse actions on the part of their employer (reduction of working hours and repeated attempts to dismiss them). Furthermore, the facts concerning, on one hand, the course of events involving the local administration, the applicants' employer and the trade unions (one of which was led by the applicants), and, on the other hand, the concurrent adverse actions against the applicants, when taken as a whole, are sufficient so that an independent observer could reasonably draw an inference that the applicants' trade unionism could have played a principal role in the way they had been treated by their employer. The Court therefore concludes that there was a prima facie case of discrimination against the applicants on the grounds of their trade union membership and related activities. The State authorities should have therefore addressed the applicants' discrimination complaint with proper attention in order to ensure real and effective protection of the applicants from anti-union actions.

43. The Court is of the opinion, which appears to be in line with the position of the European Committee of Social Rights of the Council of Europe and the International Labour Organisation (see paragraphs 26-27 above), that once the applicants had demonstrated a prima facie case of discrimination, the burden of proof was to be shifted to the respondent, and the employer, usually having control over relevant evidence, had to demonstrate the existence of legitimate grounds for the applicants' dismissal. In the present case the Town Court, with reference to the Russian Supreme Court's ruling (see paragraph 26 above), equally required the applicant's employer to show legitimate grounds for the applicants' dismissal (see paragraph 20 above). According to the Town Court's judgment, the employer had failed to do so, and, therefore, the Town Court found for the applicants. By contrast, although nothing new on the matter of legitimate grounds for the applicants' dismissal can be found in the Regional Court's decision, whether in the facts or in the reasoning, it nevertheless dismissed their discrimination claim as unsubstantiated (see paragraph 21 above).

44. However, a general statement that the applicants' allegations of discrimination were unsubstantiated is insufficient to discharge the State authorities from the obligation requiring the rebuttal of an arguable allegation

of discrimination (see, *mutatis mutandis*, *Makhashevy v. Russia*, no. 20546/07, § 179, 31 July 2012, and *Begheluri v. Georgia*, no. 28490/02, § 179, 7 October 2014).

45. The Government submitted that a legitimate ground for the applicants' dismissal had been the need to reduce the number of the Centre's staff owing to insufficient funding.

46. Given that two new people were hired at the same time as the applicants were dismissed (see paragraph 30 above), the Court doubts that their dismissal was indeed caused by the need to reduce staff as a result of underfunding. Furthermore, the need to reduce staff alone does not explain why it was the three applicants who had been (repeatedly) dismissed, by contrast to other employees, especially, as claimed by the applicants (see paragraph 30 above) in view of the special protection provided by the national law, for instance, to single parents of underage children, full-time employees and trade union members involved in ongoing collective negotiations with their employer.

47. In any event, it was for the domestic authorities to examine such arguments. However, the Regional Court dismissed the applicants' prima facie case of discrimination as simply unsubstantiated.

48. The Court concludes that the State failed to fulfil its positive obligations to ensure effective and clear judicial protection against discrimination on the grounds of trade union membership. It follows that there has been a violation of Article 14 of the Convention taken together with Article 11.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

49. Lastly, the applicants complained under Articles 6 and 13 of the Convention that the local prosecutor's office and the Regional Court had not protected their rights. However, having regard to all the material in its possession, and in so far as these complaints fall within the Court's competence, it finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. This part of the application must therefore be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

50. 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

51. Each of the applicants claimed 18,000 euros (EUR) in respect of non-pecuniary damage.

52. The Government submitted that the applicants' claim was excessive and that the existence of non-pecuniary damage was not substantiated.

53. The Court awards each of the applicants EUR 7,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

54. Each of the applicants also claimed EUR 300 for the costs and expenses incurred before the domestic courts. They supported their claims with copies of legal services agreements and payment receipts from their representative involved in the dismissal proceedings.

55. The Government submitted that the costs and expenses claimed had been incurred in the domestic proceedings and, therefore, had been unrelated to the present application before the Court.

56. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award each of the applicants the sum of EUR 300 covering costs and expenses in the domestic proceedings, plus any tax that may be chargeable to the applicants.

C. Default interest

57. 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

1. *Declares*, unanimously, the complaints concerning the alleged discrimination against the applicants admissible and the remainder of the application inadmissible;

2. *Holds*, unanimously, that there has been a violation of Article 14 in conjunction with Article 11 of the Convention;

3. *Holds*, by four votes to three,
   (a) that the respondent State is to pay each applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 300 (three hundred euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
   (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;

4. *Dismisses*, unanimously, the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 8 March 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Georges Ravarani President

APPENDIX

List of applicants:

Application no. 12736/10

No.	Applicant's Name	Year of birth	Nationality	Place of residence
1.	Yekaterina Vasilyevna ZAKHAROVA	1966	Russian	Ostrov, Pskov Region
2.	Lina Ivanovna KRAUZE	1963	Russian	Ostrov, Pskov Region
3.	Svetlana Ivanovna ANDREYEVA	1966	Russian	Ostrov, Pskov Region