



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

FIRST SECTION

Application no. 12736/10  
by Yekaterina Vasilyevna ZAKHAROVA and Others  
against Russia  
lodged on 5 January 2010

**STATEMENT OF FACTS**

THE FACTS

The applicants, Ms Yekaterina Vasilyevna Zakharova, Ms Lina Ivanovna Krauze and Ms Svetlana Ivanovna Andreeva, are Russian nationals who were born in 1966, 1963 and 1966 respectively and live in Ostrov, the Pskov Region.

**A. The circumstances of the case**

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

*1. Background information*

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

In June 2006 the second applicant was elected chair of the Primary Trade Union active at the above 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.

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").

As a result of the conflict between the District and the Regional Trade Unions on account of the former's active position in protecting the social and labour rights of its members, by mutual arrangement between the Ostrovskiy District Department of Education and the Regional Trade Union on 29 January 2008 it was decided to liquidate the District Trade Union.

Another District Trade Union, favoured by the Ostrovskiy District Department of Education and the Regional Trade Union, was set up.

On 21 March 2008, in response to the unwelcome change, an Independent Trade Union was created at the Centre (*Независимая профсоюзная организация Дома детского творчества им. К. И. Назаровой*). The second applicant was elected chair of the Independent Trade Union; the first and third applicants were elected deputy chairs.

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*).

## 2. Discriminatory practices

Since January 2008 the applicants have allegedly been subjected to harassment and discriminatory practices by their employer on account of their trade union activity.

On 26 May 2008 the applicants were called by the head of the Department of Education and it was suggested that they either resign from their jobs or secede from the All-Russia Trade Unions' Association and rejoin the Education Employees' Trade Union.

On three occasions in the course of 2008 the employer took decisions to dismiss the applicants owing to an alleged staff reduction (decisions of 17 April, 25 June and 5 November 2008). Contrary to the requirements of the domestic law the employer did not seek prior consent to the dismissals by the applicants' trade union. The first two dismissals were annulled by the public prosecutor following the applicants' complaints.

## 3. Court proceedings

On 2 December 2008 the applicants brought civil proceedings against the Centre challenging their most recent dismissal of 5 November 2008 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 ground of their involvement in trade union.

On 26 March 2009 the Ostrov Town Court of the Pskov Region granted the applicants' claims against the Centre. Regarding the issue of discrimination against the applicants by their employer, the court held as follows:

“The plaintiffs submitted to the court documents [confirming] their dismissal from work on three occasions in the course of 2008 on the initiative of the employer, two of which were quashed by the prosecutor and one by the court, thus enabling the court to acknowledge that the actions [by the employer] against [the applicants] had been discriminatory, including on the ground of their membership of a public association.”

On 7 July 2009 the Pskov Regional Court quashed the above judgment in so far as it concerned the applicants' reinstatement. It further deleted the reference to discriminatory actions against the applicants:

“[The Regional Court] cannot agree with the conclusion of [the Town Court] acknowledging the actions of the director of [the Centre] to have been discriminatory 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 had been the reason for their dismissals.”

## **B. Relevant domestic law**

### *1. Constitution of the Russian Federation*

#### **Article 19.**

“1. Everyone shall be equal before the law and the courts.

2. The State shall guarantee equality in the rights and freedoms of the person and the citizen, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion, beliefs, membership of public associations and other circumstances. All forms of restrictions on citizens' rights on social, racial, national, language or religious grounds shall be prohibited.

3. ...”

#### **Article 30.**

“1. Everyone shall have the right of association, including the right to create trade unions for the protection of his or her interests. The freedom of activity of public association shall be guaranteed.

2. ...”

### *2. Labour Code of the Russian Federation*

#### **Article 3. Prohibition of discrimination in the sphere of labour**

“Everyone shall have equal opportunities for fulfilment of his or her labour rights.

No one shall be restricted in labour rights and freedoms or benefit from any advantages, regardless of sex, race, colour, nationality, language, origin, property, family, social or official status, age, place of residence, attitude to religion, political convictions, membership or non-membership of public associations, and any other circumstances not connected with worker's qualifications.

... Those who consider that they have been subjected to discrimination in the sphere of labour shall be entitled to apply to a court for restoration of their rights, and compensation for pecuniary and non-pecuniary damage.”

3. *Trade Union Act (Law no. 10-FZ of 12 January 1996)*

**Section 9. Prohibition of discrimination against citizens on grounds of their membership or non-membership of trade unions**

“1. Membership or non-membership of trade unions shall not entail any restriction of citizens’ social, labour, political or other rights and freedoms guaranteed by the Constitution, Federal laws and Laws of the subjects of the Russian Federation.

2. It shall be prohibited to make the recruitment, promotion or dismissal of an employee conditional on his or her membership or non-membership of a trade union.”

## COMPLAINTS

The applicants complain under Articles 6, 11, 13 and 14 of the Convention about a violation of their right to association and freedom from discrimination, as well as about the lack of effective remedies in respect of their discrimination complaint.

## QUESTIONS TO THE PARTIES

1. Have the applicants suffered discrimination in the enjoyment of their Convention rights on account of their trade union membership, contrary to Article 14 of the Convention read in conjunction with Article 11 (see *Danilenkov and Others v. Russia*, no. 67336/01, ECHR 2009-... )?

2. Besides the applicants, have any other employees of the municipal educational institution “The Youth Creativity Centre” in Ostrov, the Pskov Region, members or non-members of the independent trade union, been affected by staff reduction policy in the course of 2008?

3. Is the independent trade union of the municipal educational institution “The Youth Creativity Centre” in Ostrov, the Pskov Region, still active?