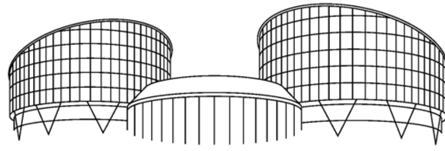

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF DANILENKO v. RUSSIA

(Applications nos. 7000/17 and 81319/17)

JUDGMENT

Art 5 § 4 • Review of lawfulness of detention • Domestic courts' failure to consider substance of first applicant's appeals against decisions rejecting his release applications contrary to Constitutional Court's position
Art 8 • Family life • Ratione personae • Applicants not directly affected by statutory restrictions on family visits due to failure to use right as frequently as was permitted under domestic law

STRASBOURG

7 December 2021

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 Danilenko v. Russia,

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

Georges Ravarani, *President,*
Georgios A. Serghides,
Dmitry Dedov,
María Elósegui,
Anja Seibert-Fohr,
Andreas Zünd,
Frédéric Krenc, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the applications (nos. 7000/17 and 81319/17) 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 two Russian nationals, Mr Sergey Vasilyevich Danilenko ("the first applicant") and Mrs Leyla Davudovna Danilenko ("the second applicant"), on 9 January 2017 and 15 November 2017 respectively;

the decision to give notice to the Russian Government ("the Government") of the complaints concerning the allegedly excessive length of the pre-trial detention of the first applicant, the alleged lack of speediness of the review of the detention orders in his regard, the discontinuation of appeals against the decisions rejecting his applications for release and the frequency and manner of family visits and to declare inadmissible the remainder of the applications;

the parties' observations;

Having deliberated in private on 16 November 2021,

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

INTRODUCTION

1. The case concerns the allegedly excessive length of the pre-trial detention of the first applicant, the alleged lack of speediness of the review of the detention orders in his regard, the discontinuation of appeals against the decisions rejecting his applications for release and the frequency and manner of family visits from which the applicants benefited.

THE FACTS

2. The first and the second applicants, who were born in 1968 and 1987 respectively and live in Novocherkassk, are husband and wife. The applicants were represented by Ms I.V. Gak, a lawyer practising in Rostov-on-Don.

3. The Government were represented by Mr M. Galperin, the then Representative of the Russian Federation to the European Court of Human Rights, and lately 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. THE FIRST APPLICANT'S PRE-TRIAL DETENTION, CONVICTION AND COMPENSATION PROCEEDINGS

A. Detention orders, applications for release and the first applicant's conviction

5. On 15 November 2012, the first applicant was arrested on suspicion of fraud and was placed in pre-trial detention which was extended at regular intervals.

6. On 17 July 2016 the Novocherkassk Town Court extended the applicant's detention pending trial from 8 September until 8 December 2016. On 21 September 2016, the applicant's appeal against this decision was rejected.

7. The first applicant lodged application no. 43335/14 with the Court complaining of the allegedly excessive length of his pre-trial detention. In the case of *Klepikov and Others v. Russia* ([Committee], nos. 3400/06 and 12 others, §§ 7-11, 24 November 2016), the Court found a violation of Article 5 § 3 of the Convention in respect of his detention in the period from 15 November 2012 to 24 November 2016 and awarded him 4,100 euros (EUR). The first applicant remained in detention after the delivery of the judgment.

8. In particular, on 7 December 2016 and 1 March 2017 the Novocherkassk Town Court extended the first applicant's pre-trial detention until 8 March and 8 June 2017 respectively. The applicant's appeals against these orders were rejected by the Rostov Regional Court on 28 December 2016 and 29 March 2017 respectively.

9. In the meantime, on 15 August, 2 and 30 November 2016 the first applicant submitted applications for release. In his first and second applications for release the applicant referred to the terms of the unilateral declaration in case no. 43335/14 in which the Government had acknowledged a violation of Article 5 § 3 of the Convention on account of the length of the applicant's detention having submitted a unilateral declaration in the framework of the proceeding before the Court. His second request also included a personal guarantee of a third person aimed at securing the applicant's presence at court if released pending trial. In his third application for release, the applicant referred to the Court's finding of a violation of that provision in the above cited case of *Klepikov and Others*. He requested an alternative preventive measure pending trial.

10. By decisions of 5 October, 2 November and 7 December 2016 respectively, the Novocherkassk Town Court rejected the first applicant's applications for release. The first applicant appealed. However, by letters of 12 October, 7 November and 23 December 2016, the Novocherkassk Town Court refused to pass his appeals on to the appellate instance. Relying on Article 389.2 § 2 of the Code of Criminal Procedure (CCrP) (see paragraph 23 below), the court held that the refusal of an application for release was not amenable to a separate appeal before the final decision in the criminal case.

11. On 15 May 2017, the Novocherkassk Town Court convicted the applicant of fraud and sentenced him to four years and six months' imprisonment.

12. On 19 January 2018 the Supreme Court of Russia upheld the judgment on appeal, having reduced the sentence to four years and five months' imprisonment.

B. Annulment of the detention orders and compensation proceedings

13. On 17 May 2017 the Presidium of the Supreme Court of Russia set aside all the detention orders by which the applicant's pre-trial detention had been extended between 15 November 2012 and 15 May 2017 and also the appeal decisions of 28 December 2016 and 29 March 2017. It referred to the Court's judgment in *Klepikov and Others*, according to which the first applicant's pre-trial detention had breached Article 5 § 3 of the Convention.

14. On that ground the applicant brought a civil claim for compensation in respect of non-pecuniary damage caused by his pre-trial detention.

15. On 19 October 2017 the Novocherkassk Town Court partially granted the applicant's claim and awarded him 70,000[1] Russian roubles (RUB) in respect of non-pecuniary damage and RUB 20,000 for costs and expenses. With reference to the decision of 17 May 2017 of the Presidium of the Supreme Court, it held that the length of the first applicant's pre-trial detention had been excessive and that his moral suffering on that account should be compensated for. The amount of compensation took into account the sum already awarded by the Court for the period of the first applicant's detention between 15 November 2012 and 24 November 2016.

16. On 29 May 2018 the Rostov Regional Court upheld the decision of 19 October 2017 on appeal.

II. FAMILY VISITS

17. During the first applicant's pre-trial detention, he received visits from the second applicant on 10 December 2012, 10 and 31 January,

[1] Approximately 1,036 euros at the material time

22 February, and 15 March 2013. On 17 December 2012 and 25 February 2013 the first applicant received visits from his children. During the visits, the applicant was separated from the visitors by a glass partition.

18. On 13 October 2014, the second applicant was granted “lay defender” status in the criminal case against the first applicant in accordance with Article 49 § 2 of the Code of Criminal Procedure (see paragraph 20 below).

19. It follows from the case file that from 13 October 2014 onwards the second applicant did not ask to visit her husband in the remand prison.

RELEVANT LEGAL FRAMEWORK

20. Article 49 § 2 of the CCrP provides that a court may authorise a person’s next-of-kin to act as “lay defender”, in addition to a lawyer.

21. Article 47 § 4 of the CCrP provides that pending investigation and trial, a detainee has the right to receive visits from defenders without any limitation of frequency or duration.

22. Section 18 of the Custody Act (Federal Law no. 103-FZ of 15 July 1995) provides that meetings with advocates and lay defenders are not limited in their number and duration. The same section also provides that the officer or authority dealing with the criminal case may authorise a suspect or accused person to receive up to two visits (of up to three hours each) per month from their next-of-kin or other individuals.

23. Article 389.2 § 2 of the CCrP provides that procedural rulings rendered by a court in the course of a trial, in response to requests lodged by a party to the trial proceedings, are not amenable to separate appeal until the final decision in the criminal case. This provision is in substance similar to Article 355 § 5 (2) which was in force until 1 January 2013 (see, for the description of this provision, *Chuprikov v. Russia*, no. 17504/07, § 42, 12 June 2014).

24. In its ruling no. 4-P of 22 March 2005, the Constitutional Court held as follows:

> “1.2. In his complaint [the complainant] also challenges the constitutionality of Article 355 §§ 5 and 6 of the Code of Criminal Procedure of the Russian Federation in so far as [the relevant provisions] exclude, in the applicant’s opinion, the possibility to appeal against the decisions taken by a first-instance court to reject a request for release ... and thereby restrict without reason the right to judicial protection.
>
> The Constitutional Court of the Russian Federation, in its ruling of 2 July 1998 regarding the constitutionality of Articles 331 and 464 of the Code of Criminal Procedure of the Russian Soviet Federal Socialist Republic ... governing the procedure for appeal against first-instance court decisions, held that the above provisions had been in violation of the Constitution of the Russian Federation in so far as they excluded the possibility, prior to delivery of the judgment [on the merits of the criminal case], to challenge on appeal court decisions authorising or extending preventive measures in respect of the accused ...

The above ruling remains in force, and the judicial opinion expressed in it is applicable to determining the question of the possibility of challenging a court's decision rejecting a request for release until delivery of a judgment [on the merits of the criminal case].

Taking into account this judicial opinion, the provisions of Article 355 §§ 5 and 6 of the Code of Criminal Procedure of the Russian Federation cannot be viewed as violating an individual's constitutional rights and liberties. Moreover, upon discovery of circumstances showing the existence of grounds for termination of the custodial measure, the affected person is entitled to lodge a further request for release."

THE LAW

I. JOINDER OF THE APPLICATIONS

25. The Court finds it appropriate to examine the applications jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION IN RESPECT OF THE FIRST APPLICANT

26. The applicant complained of the excessive length of his pre-trial detention. He relied on Article 5 § 3 of the Convention, which reads as follows:

"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. The parties' submissions

27. The Government submitted that the first applicant had lost victim status as the domestic courts had acknowledged a violation of his rights and had awarded him compensation (see paragraphs 13-15 above).

28. The applicant argued that the civil courts had limited the award of non-pecuniary damages to the period of his detention after 24 November 2016, while he had sought compensation for the whole period of his pre-trial detention.

B. The Court's assessment

29. The Court is competent to examine the reasonableness of the length of the first applicant's pre-trial detention for the period which was not covered by the judgment in *Klepikov and Others v. Russia* ([Committee], nos. 3400/06 and 12 others, §§ 7-11, 24 November 2016), that is, for the period between 24 November 2016 and 15 May 2017 (see, for a similar

approach, *Vasilyev and Others v. Russia* [Committee], nos. 51329/08 and 17 others, §§ 7-14, 24 June 2021).

30. The Court reiterates that a decision or measure favourable to the applicant is not, in principle, sufficient to deprive him or her of his or her status as a "victim" for the purposes of Article 34 of the Convention unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for the breach of the Convention (see, among many other authorities, *O'Keeffe v. Ireland* [GC], no. 35810/09, § 115, ECHR 2014 (extracts)).

31. The Court further notes that the Supreme Court of Russia acknowledged a violation of Article 5 § 3 of the Convention on account of the excessive length of the first applicant's pre-trial detention between 24 November 2016 and 15 May 2017. The Court considers that the amount of RUB 70,000 awarded to the first applicant for a total of 5 months and 20 days of his pre-trial detention was not manifestly unreasonable in comparison to what the Court would have awarded in a similar case (see, for instance, *Voronov and Others v. Russia* [Committee], nos. 66754/13 and 10 others, 19 December 2010, award of 1,300 euros (EUR) for 7 months and 24 days of detention in application no. 55885/17). In the circumstances of the case, the Court considers that such redress was sufficient and adequate, leading to the loss by the first applicant of his status as a "victim" of the alleged violation of Article 5 § 3 of the Convention.

32. It follows that the complaint is inadmissible *ratione personae* and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION IN RESPECT OF THE FIRST APPLICANT

33. The first applicant complained that the domestic courts refused to examine his appeals against the decisions of 5 October, 2 November and 7 December 2016 rejecting his applications for release. He further complained that his appeals against the detention orders of 7 December 2016 and 1 March 2017 had not been decided upon "speedily". He relied on Article 5 § 4 of the Convention, which reads as follows:

> "Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful."

A. Admissibility

34. The Government submitted that the first applicant has lost his victim status in so far as the detention orders of 7 December 2016 and 1 March 2017 and the relevant appeal decisions were set aside by the Supreme Court

on 17 May 2017. Moreover, he had not lodged a claim for compensation in this respect and had not complied with the exhaustion requirement under Article 35 § 1 of the Convention.

35. The first applicant argued that, in the context of the civil proceedings, he had not asked for compensation in respect of an alleged violation of Article 5 § 4 of the Convention as he believed that domestic courts were not empowered to establish a violation of this provision.

36. The Court observes that the Presidium of the Supreme Court, in reaction to the Court's judgment in *Klepikov and Others*, set aside the detention orders concerning the first applicant and acknowledged a violation of Article 5 § 3 of the Convention (see paragraph 13 above). However, in that context the Presidium was not called upon to examine the issues which the applicant raises now before the Court under Article 5 § 4 of the Convention. In the absence of an explicit and formal acknowledgement by the domestic court of a breach of that provision, the Court considers that claiming compensation in that regard in civil proceedings had no prospects of success. The applicant has thus not lost the status as a victim of the alleged violation, and he was not required to exhaust the remedy invoked by the Government (see, *mutatis mutandis*, *Chuprikov v. Russia*, no. 17504/07, § 98, 12 June 2014).

37. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

38. The Court observes that by letters of 12 October, 7 November and 23 December 2016 the Novocherkassk Town Court refused to pass on to the appellate instance the first applicant's appeals against the decisions of 5 October, 2 November and 7 December 2016. It held that the refusal of an application for release was not amenable to a separate appeal before the final decision in the criminal case (see paragraph 10 above).

39. The Court has already found a violation of Article 5 § 4 of the Convention on account of the refusal to examine an appeal against the court decision rejecting the applicant's application for release (see *Makarenko v. Russia*, no. 5962/03, §§ 122-25, 22 December 2009; *Chuprikov*, cited above, §§ 82-87; and *Manerov v. Russia*, no. 49848/10, §§ 35-38, 5 January 2016). In those cases, the domestic courts' refusals were adopted on the basis of Article 355 § 5 (2) of the CCrP which had been in force until 1 January 2013. The Court observes that in the present case, the Novocherkassk Town Court referred to Article 389.2 § 2 of the CCrP which is in force since 1 January 2013 (see paragraph 13 above). The Court also observes that Article 389.2 § 2 of the CCrP is in substance similar to Article 355 § 5 (2) in so far as it concerns decisions granting or refusing

procedural requests of the parties (see paragraph 23 above). The Court notes that the Constitutional Court expressly indicated that judicial decisions pertaining to examination of parties' requests for a change of a preventive measure, including those adopted on the basis of Article 355 § 5 of the CCrP, were amenable to appeal and that the merits of such an appeal should be examined by an appeal court (see paragraph 24 above). In the above-cited cases *Makarenko*, *Chuprikov* and *Manerov*, the Government relied on the Constitutional Court's interpretation of the domestic law and asserted that the domestic court's refusals to examine the applicants' appeals against refusals of their applications for release were in violation of the domestic legal norms (*Makarenko*, § 123; *Chuprikov*, §§ 84-85; and *Manerov*, § 37, all cited above). In the present case, the Government did not argue that the Constitutional Court's position as regards the right to appeal against judicial decisions pertaining to the examination of the parties' requests for a change of preventive measure did not apply to Article 389.2 § 2 of the CCrP.

40. The Court reiterates that Article 5 § 4 of the Convention does not compel the Contracting States to set up a second level of jurisdiction for the examination of the lawfulness of detention and for hearing applications for release. Nevertheless, a State which institutes such a system must in principle accord to the detainees the same guarantees on appeal as at first instance (*Navarra v. France*, 23 November 1993, § 28, Series A no. 273-B, with further references). In view of the foregoing, the Court considers that the letters of 12 October, 7 November and 23 December 2016 did not constitute, for the purposes of Article 5 § 4 of the Convention, an adequate judicial response to the first applicant's complaints against the decisions of 5 October, 2 November and 7 December 2016 rejecting his applications for release. They infringed the first applicant's right to institute proceedings by which the lawfulness of his detention could have been decided.

41. It follows that there has been a violation of Article 5 § 4 of the Convention on account of the domestic courts' failure to consider the substance of the applicant's appeals against the decisions of 5 October, 2 November and 7 December 2016.

42. In view of this finding the Court considers that it is not necessary to examine the remainder of the complaint under Article 5 § 4 of the Convention concerning the review of the detention orders of 7 December 2016 and 1 March 2017.

IV. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

43. Lastly, the applicants complained of a violation of Article 8 of the Convention on account of the limitations on the frequency of family visits throughout the first applicant's detention and their separation by a glass partition during their visits. Article 8 reads as follows:

> “1. Everyone has the right to respect for his ... 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.”

A. The parties’ submissions

44. The Government submitted that the applicants obtained family visits in 2012-13 and did not request any additional visits during the remaining period of the first applicant’s pre-trial detention. They invited the Court to reject the complaint as manifestly ill-founded.

45. The second applicant submitted that she had not requested visits to her husband in the remand prison starting from 2014, fearing that she would be falsely accused of passing prohibited items to the first applicant and that it would adversely affect him.

B. The Court’s assessment

1. Limitation on the frequency of family visits

46. The Court notes that the limitation on the frequency of prison visits stems directly from section 18 of the Pre-trial Detention Act (see paragraph 22 above). In so far as there is no remedy against the state of domestic law (see *Titarenko v. Ukraine*, no. 31720/02, § 110, 20 September 2012), the applicants should have brought their complaint to the Court at a time when the impugned limitation was still affecting them or at the latest within six months of its cessation.

47. The Court has also found, in the context of lifelong imprisonment, that where an applicant alleges a breach of the right to respect for private and family life on account of statutory restrictions on visits from family members or other persons, he should demonstrate at least: (1) that he has relatives or other persons with whom he genuinely wishes and attempts to maintain contact in detention (the applicant should specify them and provide an account of their attempted or actual visits), and (2) that he has used his right to visits as frequently as was permitted under domestic law (at least in the period immediately preceding the application) (see *Chernenko and Others v. Russia* (dec.), nos. 4246/14 and 4 others, § 45, 5 February 2019). The Court finds that this approach may be applied to the instant case.

48. There is no doubt that the first and the second applicants, being husband and wife, attempted to have family visits, and that the first applicant had used his statutory right to two family visits per month in December 2012, January and February 2013 (see paragraph 17 above). The Court considers that, while the applicants can claim to be the victims of the

limitation on the frequency of family visits for the period running from December 2012 to February 2013, their complaint in this regard was introduced more than six months from the end of this period. It follows that this part of the application is belated and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

49. The Court further notes that there is no evidence that the applicants tried to obtain any family visit after 15 March 2013 and that the domestic authorities refused it. Thus, the applicants cannot be said to have been directly affected by the measure complained of, that is, the limitation on the frequency of family visits, as they did not use the right to visits as frequently as was permitted under domestic law. Moreover, starting from 13 October 2014, when the second applicant obtained "lay defendant" status in the criminal proceedings against her husband, until the end of the first applicant's pre-trial detention, the applicants had the right to visits which were not limited in their number and duration (see paragraphs 21-22 above). The Court is not persuaded by the second applicant's explanations about the reasons for not requesting visits to her husband in 2014 and afterwards (see paragraph 45 above) and finds that they are not substantiated. Thus, the applicants cannot claim to be victims of the limitation on the frequency of family visits for the period running from 15 March 2013 until the end of the first applicant's pre-trial detention.

50. It follows 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 and must therefore be rejected pursuant to Article 35 § 4.

2. Separation with a glass partition

51. The Court notes that the restrictions on family visits and special security arrangements during such visits were set out in the applicable laws and regulations which governed the first applicant's situation throughout his detention in the remand prison for as long as he was a defendant in criminal proceedings. In the absence of any effective remedy to complain about separation with a glass partition during family visits, the applicants should have brought their complaint to the Court at a time when such restrictions were still affecting them or at the latest within six months of their cessation (see *Chaldayev v. Russia*, no. 33172/16, §§ 54-56, 28 May 2019).

52. The Court has already found that the applicants obtained their last family visit on 15 March 2013 and that they did not request other family visits after that date (see paragraph 49 above). The Court considers therefore that the situation complained of ceased to exist on 15 March 2013 and that the applicants should have introduced their complaint within six months after that date. Having introduced their applications on 9 January 2017 and 15 November 2017 respectively, they did not comply with the Convention time-limit for lodging the complaint.

53. It follows that this part of the application is belated and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

54. 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

55. The first and the second applicants claimed 37,000 euros (EUR) and EUR 25,000 respectively in respect of non-pecuniary damage.

56. The Government stated that Article 41 should be applied in accordance with the Court's case-law.

57. The Court notes that it has rejected the second applicant's complaint under Article 8 as inadmissible, thus no award is due to her under this head. The Court considers that the first applicant has suffered non-pecuniary damage as a result of the violation of Article 5 § 4 of the Convention found in his respect. The Court awards the first applicant EUR 1,250 in that regard, plus any tax that may be chargeable to him.

B. Costs and expenses

58. The first and the second applicants claimed 100,000 Russian roubles (RUB) and RUB 90,000 respectively for costs and expenses.

59. According to the Court's case-law, an applicant is entitled to the reimbursement of his costs and expenses in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum (see *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, § 130, ECHR 2016).

60. In the present case, regard being had to the documents in its possession and the above criteria, and bearing in mind that several complaints were declared inadmissible, the Court considers it reasonable to award the sum of EUR 850 covering costs under all heads, plus any tax that may be chargeable to the first applicant, to be paid into the first applicant's representative's bank account.

C. Default interest

61. 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 first applicant's complaints under Article 5 § 4 of the Convention admissible and the remainder of the applications inadmissible;

3. *Holds* that there has been a violation of Article 5 § 4 of the Convention in respect of the first applicant on account of the domestic court's failure to consider the substance of his appeals against the decisions of 5 October, 2 November and 7 December 2016;

4. *Holds* that there is no need to examine the remainder of the complaint under Article 5 § 4 of the Convention;

5. *Holds*
   (a) that the respondent State is to pay the first 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 1,250 (one thousand two hundred and fifty euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 850 (eight hundred and fifty euros), plus any tax that may be chargeable to the first applicant, in respect of costs and expenses, to be paid into the first applicant's representative's bank account;
   (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;

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

Done in English, and notified in writing on 7 December 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova — Georges Ravarani
Deputy Registrar — President