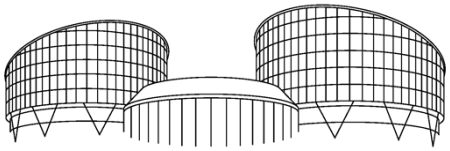

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF ANNENKOV AND OTHERS v. RUSSIA

(Application no. 31475/10)

JUDGMENT

STRASBOURG

25 July 2017

FINAL

25/10/2017

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Annenkov and Others v. Russia,

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

Helena Jäderblom, *President,*
Branko Lubarda,
Helen Keller,
Dmitry Dedov,
Pere Pastor Vilanova,
Georgios A. Serghides,
Jolien Schukking, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having deliberated in private on 4 July 2017,

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

PROCEDURE

1. The case originated in an application (no. 31475/10) 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 fourteen Russian nationals who live in Voronezh or the Voronezh Region ("the applicants") (see the appended list), on 2 May 2010.

2. The applicants were represented by Ms Olga Anatolyevna Gnezdilova, a lawyer practising in Voronezh. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

3. The applicants alleged, in particular, that their right to freedom of peaceful assembly had been violated, and that some of them had been the victims of excessive use of force by the police.

4. On 30 August 2012 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants either owned businesses at Voronezh municipal market and rented the market pitches for their businesses, or worked as vendors for these businesses.

6. It appears that in August 2007 the title to the plot of land on which the market was located was transferred from the town to a municipal enterprise and then to a private company, which intended to demolish the market and build a shopping centre. It appears that in 2008 and 2009 court proceedings were ongoing between the prosecutor's office and the municipal enterprise in relation to the land in question.

7. Disagreeing with this course of action, which would adversely affect their businesses and employment, the applicants and some other people (several dozen in total) decided to remain on the market premises permanently, doing "night shifts".

8. According to the applicants, on an unspecified date and in a specified manner, the entrepreneurs notified the town administration of their intention to "constantly do night shifts at the market until the matters relating to the legality of the land's transfer and the demolition of the market [were] settled". They started their "night shifts" on an unspecified date.

A. Events on 7 August 2009 and related proceedings

9. On 6 August 2009 the police told the entrepreneurs who had gathered at the market to leave the premises. Some refused to comply in the absence of any court order, and argued that, under their rent contracts, they had a right to remain at the market.

10. On 7 August 2009 some of the applicants (Mr Annenkov, Mr Khripunov, Mr Khavantsev, Mr Finskiy, Ms Suprunova, Ms Zakharova and Ms Guseva) were arrested (see also paragraphs 41-51 below).

1. Proceedings in respect of Mr Finskiy, Mr Khavantsev and Mr Khripunov

11. These applicants were accused of an offence under Article 19.3 of the Federal Code of Administrative Offences ("the CAO"), which punished disobeying or resisting the lawful order of a public official (see paragraph 61 below). The applicants, who were assisted by counsel before the trial court, pleaded not guilty and denied that they had disobeyed or resisted any specific lawful orders from the police, or that they had otherwise breached the public order or endangered public safety.

12. By a judgment of 7 August 2009 a justice of peace convicted Mr Finskiy of the offence and sentenced him to five days' administrative detention. The court held as follows:

> "[The defendant] violated the procedure for organising and managing a gathering (*собрание*); he disobeyed a lawful order issued by police officers in relation to their duties to ensure public order and safety, he also obstructed their exercise of the above duties ...

> [The defendant's] guilt is confirmed by the following documents: the record of the administrative offence, a complaint and written statements issued by the market director, written reports by police officers, and statements from witnesses ..."

13. On the same day Mr Khripunov was sentenced to five days' detention. The court held as follows:

> "[The defendant] violated the procedure for organising and managing a gathering; he disobeyed a lawful order issued by police officers in relation to their duties to ensure public order and safety, he also obstructed their exercise of the above duties ...
>
> N., a witness, made the following statement before this court, 'on 7 August 2009 a group of entrepreneurs were doing night shifts to prevent the demolition of the market building. Suddenly, police officers arrived and started to grab people and take them to the police station. [The defendant] was also grabbed by the police; he did not show any resistance during this procedure ...'
>
> The court adopts a critical stance in relation to the testimony of this witness, who is the [defendant's] acquaintance and colleague, because this testimony is refuted by the bulk of the other evidence, namely the officers' written reports made in their official capacity ..."

14. A judgment, apparently in similar terms, was issued in respect of Mr Khavantsev, who was sentenced to ten days' detention.

15. As required under the CAO, the applicants started to serve their sentences of administrative detention immediately following the trial judgments in their cases.

16. At the same time, the applicants appealed to the Sovetskiy District Court of Voronezh (hereafter "the District Court"). Mr Khripunov argued that the trial court had not made a proper assessment of the testimonies of eyewitnesses. He and Mr Finskiy argued, *inter alia*, that they had taken part in a "gathering", and the Public Events Act did not require that prior notice be given to the competent public authority for this type of public event (see paragraph 66 below). Moreover, in breach of the Act, no written requirement to cease any unlawful conduct had been issued to them or the other entrepreneurs, and the penalty of administrative detention had been disproportionate.

17. Mr Finskiy argued before the appeal court that he had been present on the market premises in the early morning of 7 August 2009, because he had been performing a "duty". Having heard some noise, he had gone out of the building and had seen other entrepreneurs being arrested; he had started to film the events on his camera but had then been ordered to delete the video and had been arrested.

18. The appeal court examined a written statement from M., the new executive director of the market. He had arrived at the marketplace, but could not get into the office building because a number of entrepreneurs were blocking the entrance by holding hands or linking their arms. Following a request by him for assistance, the police had ordered the

entrepreneurs to stop their activity. The entrepreneurs, including Mr Finskiy, had not complied with that order.

19. The appeal court also examined written statements from B., Ma. and L., who provided testimony in the following terms. While passing through the marketplace on the morning of 7 August 2009, they had seen a group of some fifty people. These people had been shouting slogans and calling for people in the town and regional administrations to be dismissed, as well as calling for the violation of public order. The police had told them to stop, but they had not complied with that order. Thereafter, the police had repeated the warning to the most active participant. After he had failed to comply, he had been taken to a police car, while grabbing the officers' uniforms and trying to run away.

20. Officers S., Y. and F. submitted written reports in the following terms. On 6 August 2009, noting the blocking of the entrance to the office building, they had ordered the people present to disperse. The same thing had happened on 7 August 2009. Approaching one of the most active participants, Mr Finskiy, they had ordered him to stop. After he had refused, they had taken him to the police station.

21. The appeal court heard Ms D., who stated that Mr Finskiy had been trying to film the ongoing events when the police had taken him away; he had not shown any resistance.

22. On 13 August 2009 the District Court upheld the judgment in respect of Mr Finskiy, stating as follows:

> "The court has no reason to doubt the testimonies of police officers and L., B. and Ma., because they were not previously acquainted with the defendant or other entrepreneurs, and have no reason to give false testimony against him ... The court dismisses the argument that L., B. and Ma. could not be eyewitnesses since the market was surrounded by a wall. Their testimonies indicate that they effectively passed through the marketplace ... The court dismisses the argument that the police acted unlawfully in relation to the entrepreneurs' presence at a gathering requiring no prior authorisation. As the material in the file and testimonies indicate, the police acted lawfully with the aim of ensuring public order and public safety, because the entrepreneurs were blocking access to the market for employees and had not reacted to lawful orders from the police to stop these actions ... The court adopts a critical attitude in respect of the testimony of D., who tried to help her colleague avoid responsibility for the offence, because this testimony is refuted by the other evidence ..."

23. By a decision of 13 August 2009, in respect of Mr Khripunov, the District Court held:

> "P., a witness, stated before the appeal court 'on 7 August 2009 ... people in plain clothes and the police arrived at the market and, following orders from the chief officer of the Sovetskiy police station, started to arrest entrepreneurs without explaining the reasons for such arrests. [The defendant] was also arrested, while showing no resistance or disobedience to any specific orders ...'
>
> The fact that [the defendant] committed the offence is confirmed by:

– the record of the administrative offence stating 'after his violation of the procedure for organising and managing public events, while being arrested, he disobeyed the lawful order of a police officer, grabbed his uniform and tried to escape ...';

– written statements from [three passers-by] who, while passing through the market area, saw some fifty people chanting slogans and calling for the dismissal of the mayor and the governor and for violations of the public order. Despite the police's order to stop what they were doing, the entrepreneurs refused; thereafter the police approached [the defendant], who appeared particularly active, and again ordered him to stop what he was doing, but he did not respond to this order. While being placed in the police car, he resisted, and threated the officers with violence and prosecution;

– [the officers' written statements in similar terms]: ... Having approached one of the most active men (subsequently identified as the defendant), they warned him against committing offences, but he did not react and refused [to stop]; Finskiy [*sic*] was thus arrested and taken to the police station.

The court dismisses the defence's argument that [the defendant] lawfully participated in a gathering requiring no prior authorisation, because the police's actions were lawful and aimed to secure public order and public safety, since the entrepreneurs were blocking the market employees' access to the building ... The court adopts a critical attitude in respect of the testimony of P., who is the defendant's colleague and wants to help him, because this testimony is refuted by the bulk of the other evidence."

24. An appeal decision in similar terms was issued in respect of Mr Khavantsev.

25. Thereafter, learning in late September 2009 that the court decisions in respect of certain other participants in the same events had been quashed on appeal in September 2009 (see paragraph 27 below), on 8 October 2009 Mr Finskiy, Mr Khavantsev and Mr Khripunov lodged applications under Article 30.12 of the CAO for review of the final judgments in respect of them. On 20 November 2009 the Deputy President of the Voronezh Regional Court upheld the lower courts' decisions. In respect of each defendant, the reviewing judge stated as follows:

"I dismiss the defence's argument that the lower courts' judges omitted to specify the type of public event in which the defendant had participated, the relevant regulations on such public events, and the specific details concerning the police's orders to the defendant. It was established by the justice of the peace that the impugned event was a 'gathering' ..."

2. Other applicants

26. By judgments of 7 August 2009 the female defendants in the proceedings and Mr Annenkov were fined.

27. On 2, 8 and 10 September 2009 the District Court set aside the judgments in respect of the female defendants and Mr Annenkov.

As regards Mr Annenkov, the appeal court held as follows:

"Neither the record of the administrative offence nor the judgment contains references to specific circumstances or actions relating to the *corpus delicti* of the imputed offence (disobeying the lawful order of a police officer). In particular, neither

of the two documents specifies what order was given to the defendant which was then not complied with. Moreover, the judgment does not indicate that the defendant did disobey a lawful order issued by a police officer."

In respect of Ms Guseva, the appeal court held as follows:

"It is indicated in the record of the administrative offence that the defendant violated the procedure relating to the organisation and management of demonstrations, meetings and gatherings, and that during her arrest she disobeyed the lawful order of a police officer in relation to his work to ensure public order. The record does not specify what type of public event was being held, which above-mentioned procedure was violated, or what orders relating to maintaining public order during a public event were not complied with by the defendant."

In respect of Ms Suprunova, the appeal court held as follows:

"The record of the administrative offence indicates that on 7 August 2009 the defendant violated the procedure relating to the organisation and management of demonstrations, meetings and gatherings, [and that] during her arrest she resisted the lawful order of a police officer and grabbed his uniform and tried to escape ... The record does not indicate what type of public event was being held, which applicable procedure the defendant allegedly violated, what orders relating to maintaining public order during such an event were issued to the defendant by the police, or which of those orders was not complied with."

In respect of Ms Zakharova, the appeal court held as follows:

"Neither the record of the administrative offence nor the first-instance judgment refers to specific facts and actions forming part of the offence imputed to the defendant, namely disobeying the lawful order of a police officer ... or the specific order given to her which she failed to comply with. Moreover, it does not follow that what the defendant disobeyed was a lawful order given by a police officer. The record does not specify what the defendant's violation of the procedure concerning the organisation and management of demonstrations, meetings and gatherings was, or what type of event was being held."

28. The appeal court ordered the return of the case files to the relevant justice of the peace. Thereafter, the justice of the peace returned the files to the police station, apparently for the documents to be amended or the administrative-offence records to be redrafted. The files were not resubmitted for a retrial.

B. Events on 10 August 2009 and related proceedings

29. At 5.30 a.m. on 10 August 2009 the police arrested some twenty people at the market, including certain applicants such as Mr Buzov, Ms Garkavets, Ms Zuravleva, Ms Khavantseva and Ms Suprunova.

1. Mr Buzov

30. On 10 August 2009 a justice of the peace examined a case against Mr Buzov. The court heard Ms Khr., who stated that a group of people had impeded security guards as they tried to re-establish access to the market

building. The police had then arrived and had taken some people to the police station.

31. It appears that during the hearing the applicant, who was assisted by counsel, first sought to have some other witnesses and police officers examined in open court. However, according to the Government, he then withdrew his application.

32. By a judgment of 10 August 2009 Mr Buzov was convicted of an offence under Article 19.3 of the CAO and was sentenced to ten days' administrative detention. The justice of the peace found as follows:

> "[The defendant] disobeyed the police officers and did not comply with lawful orders to stop violating public order ...
>
> The defendant's guilt is confirmed by: the administrative-offence record, the police officers' reports and the written testimonies of witnesses ..."

33. According to the Government, Mr Buzov did not serve his sentence, as he was taken to the cardiology unit of a local hospital on the evening of 10 August 2009.

34. Mr Buzov appealed to the District Court, which held a hearing on 13 August 2009. It heard his lawyer and Ms Yef., who stated that she had seen the applicant making a video recording while he was surrounded by security guards who had torn his clothes. Colleagues had managed to "get him of the security guards' grasp", then the police had arrived and had started to push certain entrepreneurs aside. One of the security guards "had given an order to arrest [Mr Buzov]". Mr Buzov had not disobeyed any orders and had not resisted arrest (see also paragraph 50 below).

35. By a decision of 13 August 2009 the appeal court upheld the judgment of 10 August 2009 in respect of the applicant.

36. Learning in late September 2009 that the court decisions in respect of certain other participants in the events on 10 August 2009 (and 7 August 2009) had been quashed on appeal (see paragraphs 27-28 above and paragraphs 38-39 below), the applicant and his counsel, Ms Gnezdilova, thought that they had a reasonable prospect of success in seeking a further review of the court decisions of 10 and 13 August 2009. In early October 2009 they lodged an application for review of those court decisions. They argued, *inter alia*, that: the lower courts had not specified what specific order the applicant had disobeyed or whether such an order was lawful under Russian law; the courts had not heard any officers or eyewitnesses who had witnessed the impugned reprehensible conduct on the part of the applicant; and the courts had not specified any particular actions on his part which constituted a breach of public order.

37. On 20 November 2009 the Deputy President of the Voronezh Regional Court upheld the lower courts' decisions. The judge held as follows:

> "[The applicant] was part of the group of people who impeded market officials as they tried to gain access to their office building. The guards from a private security company intervened and a fight ensued between them and some participants. These participants did not respond to orders from police officers. The officers required [the applicant], who was one of the most active participants, to cease his unlawful conduct, but he did not respond to this order. Thereafter, he was taken to the police station."

2. Other applicants

38. On 10 August 2009 a justice of the peace sentenced several female defendants to a fine. However, on 8 September 2009 the District Court heard appeals from them and set aside the judgments against them.

39. In respect of Ms Zhuravleva, it held as follows:

> "Article 28.2 of the CAO requires that a record of an administrative offence must describe, among other things, the factual elements relating to the offence and the circumstances in which it was committed. The record concerning the defendant specifies that ... she disobeyed the police officers, did not respond to their lawful requests to stop unlawfully violating the public order, and grabbed the officers' uniforms while being escorted to the police vehicle, trying to push them away and run away.
>
> The record of the administrative offence does not specify which requests relating to public order were addressed to the defendant and were not complied with, or which actions of the applicant such requests related to. The deficiencies of the record make it impossible to establish the defendant's liability for an administrative offence, and the record must be returned to the [police]."

In respect of Ms Khavantseva and Ms Garkavets, the appeal court held as follows:

> "Neither the record of the administrative offence nor the justice of the peace's judgment specifies how the defendant violated public order, or which specific order was given by the police in this connection but not complied with by her."

40. It appears that the files were then returned to the police for the documents to be amended. The files were not resubmitted to the relevant justice of the peace for a retrial.

C. Alleged excessive use of force on 7 August 2009 and the related proceedings

41. On 10 August 2009 Mr Annenkov's wife (Ms Shatalova, also an applicant in the present case) lodged a criminal complaint with the Sovetskiy Investigations Unit.

42. Ms Shatalova alleged that Officer Ku., a senior officer at the Sovetskiy police station, had subjected her elderly husband to ill-treatment on 7 August 2009. She sought the institution of criminal proceedings against this officer. She stated as follows: at her request, her husband had arrived at the market in the early morning of 7 August 2009, where she had been doing "night shifts" with others, in order to bring her some warm

clothes; Officer Ku. had struck a blow to his chest, causing the man to fall to the ground and sustain a head injury as he hit his head against the corner of a table.

43. Mr Annenkov was examined on 7 August 2009 by a neurosurgeon, a traumatology specialist and a therapist, who concluded that he had a contused wound on his head measuring 6 cm by 0.3 cm by 0.5 cm, some swelling on his upper right arm, and some other injuries (this part of the certificate is not legible). In her submissions before the Court the applicant's lawyer alleged that Mr Annenkov had sustained a rib fracture. She maintained this assertion following communication of the case to the Government; the latter did not comment on this matter.

44. Unspecified officials carried out an inquiry between 10 and 18 August 2009, looking into whether any police officers had committed the offence of abuse of power (defined at the time as "actions manifestly outside the scope of official duties, causing a significant violation of one's rights or legitimate interests"), an offence under Article 286 of the Criminal Code.

45. Three other applicants (Ms Guseva, Ms Suprunova and Ms Zakharova) also sought medical assistance on 8 August 2009. Ms Suprunova was diagnosed with concussion and soft-tissue bruises on her head and right arm. Ms Zakharova was diagnosed with soft-tissue bruises on her head and right shoulder. Ms Guseva was examined by a forensic expert, who concluded that she had bruises on the front upper part of her right arm (measuring 2.5 cm by 2 cm, and 2.4 cm by 1.9 cm) and a smaller one on the inner part of her right arm, abrasions on her right and left hip measuring 9 cm by 8.5 cm and 8 cm by 7.5 cm respectively, and abrasions on her right and left ankle joints measuring 6 cm by 3 cm and 2 cm by 1.3 cm respectively.

46. It appears that on an unspecified date Ms Suprunova, Ms Zakharova and Ms Guseva were heard in the context of the pre-investigation inquiry regarding Mr Annenkov.

47. Ms Zakharova stated that she had arrived at the market early on the morning of 7 August 2009 and had seen a police officer dragging Ms Guseva. She had protested to Officer Ku., who had then pushed her. She had fallen to the ground, hitting her shoulder and the back of her head against wooden objects on the ground.

48. Ms Suprunova stated that Officer Ku. had ordered "Take this one" and had started to pull her hair and hands, but other entrepreneurs had tried to shield her.

49. Ms Guseva stated that she had tried to shield Ms Suprunova from Officer Ku., who was pulling her hair. Officer Ku. and Officer Kh. had pushed Ms Guseva against a wall, causing her to fall to the ground and lose consciousness. She had then been dragged along the ground by her hands,

and had been kicked in the back by one of the officers as she was placed in the police car.

50. Ms Yef., the applicants' colleague, made a written statement that in the early morning of 7 August 2009 some thirty people had been at the market. Upon being alerted to the arrival of the police, she had gone out and seen some sixteen police officers, including Officer Ku., a senior officer, who was giving orders and indicating that the officers should "Take this one" or something similar. She had seen an officer twisting Ms Suprunova's arms and Ms Guseva being dragged along the ground. Then she had seen Mr Annenkov ask Officer Ku. "What are you doing?", and Officer Ku. had suddenly hit him in the chest, causing Mr Annenkov to fall to the ground and hit against the top of a table. Mr Annenkov had fainted. Officer Ku. had then kicked him on the leg and ordered "Take this one".

51. Officer Ku. made the following written statement during the inquiry:

> "On 6 August 2009 the police station received information that in the early morning of 7 August a group of three hundred people might take violent action in order to take possession of the market. At 5.45 a.m. some thirty officers under my supervision arrived at the market to prevent disorder and unlawful actions. We saw some twenty people outside the building who were holding a meeting, chanting slogans and shouting about the regional prosecutor and the governor. The entrepreneurs had previously been issued with warnings against unlawful actions on their part. Suddenly, some five women started to shout and call for help, grabbing our uniforms. We arrested some thirteen people, including the most active perpetrators; all of them resisted during the arrest ... We did use physical force against some people, namely sambo fighting techniques such as twisting hands behind backs. None of the officers, including myself, inflicted any blows ..."

52. On 19 August 2009 an investigator issued a decision refusing to institute criminal proceedings, referring to the statements of several officers, including Officer Ku., and the testimonies of Mr Annenkov, Ms Shatalova, Ms Zakharova and Ms Suprunova.

53. It appears that the refusal of 19 August 2009 was then overruled for unspecified reasons and the inquiry was resumed. Written statements were obtained from some other participants in the gathering. Officer Kh. was also heard and he confirmed Officer Ku.'s earlier statement.

54. On 7 September 2009 the investigator issued a new refusal to institute criminal proceedings against Officer Ku., Officer Kh. or other officers. Having summarised the above testimonies, he concluded as follows:

> "No sufficient and objective data could be gathered during the inquiry to show that any police officers had committed any criminal offence ... The grievances presented in the complaints are refuted by the testimonies from the officers ... Injuries could have been sustained during the arrest procedure owing to the resistance displayed to the police officers (such resistance later being confirmed by the prosecution for the administrative offences). Furthermore, in view of the important and irremediable inconsistencies in various testimonies, there is no possibility of drawing a truthful conclusion regarding the commission of a criminal offence by Ku., Kh. or others ..."

55. For unspecified reasons, a new refusal to prosecute was issued on 1 October 2009. It was then overruled on 7 October 2009 by the deputy director of the District Investigations Department. He indicated that it was necessary to: assess the available court decisions regarding administrative offences concerning the events on 7 August 2009; identify and interview people who had been kept with the arrested people at the police station; identify and interview all police officers who had been present at the station and had compiled administrative-offence files against the arrested entrepreneurs; and identify and interview all the officers who had been on duty on that date and had been present at the market.

56. Four applicants (Mr Annenkov, Ms Suprunova, Ms Guseva and Ms Zakharova) sought judicial review in respect of the refusal dated 1 October 2009. They learnt at a hearing on 19 October 2009 that the refusal had already been overruled. The case was therefore discontinued.

57. A new refusal was issued on 9 November 2009.

58. On 22 December 2009 the Regional Investigations Department set aside the refusal of 9 November 2009 because it contained an insufficient assessment of the factual circumstances, no plausible explanation for the applicants' injuries, and no assessment of the legality of the police's actions.

59. Being unaware of the above decision, one of the applicants sought judicial review of the refusal to prosecute dated 9 November 2009. On 9 November 2010 the District Court discontinued the proceedings because the supervising authority had overruled the impugned refusal decision.

60. According to the Government, a new refusal to prosecute was issued on 19 June 2012. It was overruled on 5 October 2012 by the district prosecutor's office. Thereafter, a criminal case was opened under Article 286 of the Criminal Code. Apparently, Mr Annenkov and Ms Suprunova at least were interviewed again by an investigator. Mr Annenkov also had a formal confrontation procedure with an unspecified witness who had allegedly seen the applicant stumble and fall to the ground by himself on 7 August 2009.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Prosecution of administrative offences

61. At the material time, Article 19.3 § 1 of the CAO punished the following behaviour with a fine or administrative detention: disobeying the lawful order of a police officer, a military officer or a detention facility staff member in relation to the fulfilment of their official duties aimed at securing public order and public safety; and resisting the fulfilment of such duties by these public officials.

62. Pursuant to Article 3.9 of the CAO, the penalty of administrative detention cannot be imposed for an administrative offence committed by a

pregnant woman, a woman with children, a person below the age of majority, a person with a Category 1 or Category 2 disability, military personnel, or individuals in some other categories. In its decision no. 195-O of 13 June 2006 the Constitutional Court considered that the legislator was empowered to provide for different types of penalty depending on whether the same administrative offence was committed by a man or a woman. The aim of such differentiation was to protect the health and social well-being of a woman who was a mother. In any event, the penalty of administrative detention could only be imposed by a court and only in exceptional circumstances, when a less intrusive penalty (such as a fine) would not be appropriate. In a case involving a male defendant, a judge should take into consideration whether the defendant was the sole parent taking care of his child or children.

63. For a summary of the domestic law and practice in relation to the review of final judgments issued by courts of general jurisdiction under the CAO prior to and after certain legislative changes in December 2008 and August 2014, see *Smadikov v. Russia* (dec.), no 10810/15, §§ 8-30, 31 January 2017, and *Orlovskaya Iskra v. Russia,* no. 42911/08, §§ 29-32, 21 February 2017.

B. Regulation of public events

64. The Federal Law on Gatherings, Meetings, Demonstrations, Processions and Pickets, no. FZ-54 of 19 June 2004 ("the Public Events Act"), provides that a public event is an open, peaceful event accessible to all, organised at the initiative of citizens of the Russian Federation, political parties, other public associations, or religious associations. The aims of a public event are to express or develop opinions freely and to voice demands on issues related to political, economic, social or cultural life in the country, as well as issues related to foreign policy (section 2(1) of the Public Events Act).

65. The Public Events Act provides for the following types of public events: a gathering (*собрание*), an assembly of citizens in a specially designated or arranged location for the purpose of the collective discussion of socially important issues; a meeting (*митинг*), a mass assembly of citizens at a certain location with the aim of publicly expressing an opinion on topical, mainly social or political issues; a demonstration (*демонстрация*), an organised expression of public opinion by a group of citizens with the use, while advancing, of placards, banners and other means of visual expression; a march (*шествие*), a procession of citizens along a predetermined route with the aim of attracting attention to certain problems; a "picket" (*пикетирование*), a form of public expression of opinion which does not involve movement or the use of loudspeaker equipment, where one or more citizens with placards, banners and other means of visual

expression station themselves near the target object of the "picket" (section 2(2)-(6)).

66. An organiser of a public event (except for "a gathering and a picket which is held by one person") must notify the competent authority (section 7(1)).

67. It appears that only a solo picket was not subject to the requirement of prior notification (see, for instance, decisions nos. 4a-4310/2015 and 7-14096/2015 of the Moscow City Court dated 11 November and 22 December 2015), while certain courts considered that both a gathering and a solo picket were not subject to this requirement (see, for instance, decision no. 4a-427/2015 of the Samara Regional Court dated 4 June 2015).

C. Use of force by the police

68. The Police Act 1991 (Federal Law no. 1026-I of 18 April 1991) authorised police officers to use physical force, including combat fighting techniques, to stop crimes being committed, apprehend offenders, and overcome resistance to lawful orders, if less intrusive means had not allowed the officers to fulfil their functions (section 13 of the Act).

69. Everyone was to comply with the lawful order of a police officer. Failure to comply with such an order, or obstruction in relation to such an order, would result in the person concerned incurring legal liability. Police officers could not be held responsible for pecuniary or non-pecuniary damage or damage to health caused by the use of physical force if the damage was proportionate to the resistance of the person concerned (section 23 of the Act). When using physical force, a police officer was required to: (i) strive to limit any damage caused to the person concerned, bearing in mind the nature and degree of the danger posed by the offence and the danger posed by the person concerned, as well as his or her resistance; (ii) ensure an injured person's access to medical assistance (section 12 of the Act). The use of force in the context of exceeding authority (constituting abuse of power) could entail legal liability (ibid.).

70. A police officer could rely on the provisions of the Criminal Code relating to self-defence, causing damage during the arrest of a person who had committed a crime, and extreme necessity (section 24 of the Act).

71. Article 39 of the Criminal Code reads as follows:

> "1. The harming of legally protected interests in a state of extreme necessity, that is, for the purpose of removing a direct danger to a person or his rights, to the rights of other persons, or to the legally protected interests of society or the State, shall not be deemed to be a crime if this danger could not be removed by other means and if there was no exceeding the limits of extreme necessity.
>
> 2. The infliction of harm that clearly does not correspond to the nature and the degree of danger threatened, nor to the circumstances under which the danger was removed, when equal or more considerable harm was caused to [the

above-mentioned] interests than the harm averted, shall be deemed to exceed extreme necessity. Such exceeding authority shall involve criminal liability only in cases of intended infliction of harm."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION IN RESPECT OF Mr ANNENKOV, Ms SUPRUNOVA, Ms GUSEVA AND Ms ZAKHAROVA

72. The four applicants complained that they had been ill-treated by the police and that no effective investigation had been carried out, in breach of Article 3 of the Convention, which reads as follows:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

73. Referring to the decisions of 13 August and 20 November 2009, the Government argued that this complaint was belated. However, the Court observes that those decisions did not concern Ms Suprunova, Ms Guseva, Ms Zakharova or Mr Annenkov. In any event, the Court notes that they lodged a criminal complaint alleging the excessive use of force against them, and that complaint resulted in a refusal to institute criminal proceedings (see paragraphs 41-59 above). The applicants lodged the present complaint before the Court on 2 May 2010, that is within six months of the overruling of the second refusal to institute criminal proceedings dated 9 November 2009 (see paragraph 58 above). The Court has no reason to doubt that the applicants have thus complied with the six-month rule. The Government did not argue otherwise.

74. The Government also stated that a criminal case had been opened in June 2012. The complaint was premature and thus inadmissible for one of the reasons under Article 35 of the Convention. The Court notes that the Government have not informed it of the course of the preliminary investigation or its outcome. In any event, between August 2009 and the date of lodging the present complaint before the Court, the national authorities were afforded ample opportunity to deal with the complaint relating to the use of force and to carry out an effective investigation in this respect. As noted above, the present complaint was lodged in time. The resumption of the investigation in 2012 does not make the complaint inadmissible under Article 35 of the Convention.

75. 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

76. The applicants argued that they had lodged a criminal complaint without delay. The authorities had been aware of the use of physical force, and it had been incumbent on them to assess whether it had been justified in the specific circumstances, and whether the methods used had corresponded to the injuries sustained by the applicants. The applicants had received medical assistance only after the trial proceedings. The pre-investigation inquiry in 2009 could not be independent and impartial, since the investigators had had to rely on police officers in carrying out their assignments relating to the inquiry. The investigating authorities had been restricted in proceeding with the institution of criminal cases, and thus had had only a limited capacity to collect evidence. The institution of criminal proceedings in 2012 had followed the communication of the present case to the respondent Government, and had not resulted in an effective investigation of the complaint regarding the excessive use of force.

77. The Government made no submissions relating to the substance of the applicants' complaints under the substantive and procedural limbs of Article 3 of the Convention.

2. The Court's assessment

(a) The use of force against four applicants

(i) General principles

78. The Court reiterates that Article 3 of the Convention prohibits in absolute terms torture and inhuman or degrading treatment or punishment. In order to fall within the scope of Article 3, the ill-treatment must attain a minimum level of severity, the assessment of which depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim (see, among other authorities, *Ireland v. the United Kingdom*, 18 January 1978, § 162, Series A no. 25).

79. In respect of a person deprived of his liberty, recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is an infringement of the right set out in Article 3 of the Convention (see, among others, *Labita v. Italy* [GC], no. 26772/95, § 120, ECHR 2000-IV, and *Ribitsch v. Austria*, 4 December

1995, § 38, Series A no. 336, concerning allegations of ill-treatment in police custody or detention facilities). In respect of recourse to physical force during an arrest, the Court has previously stated that Article 3 of the Convention does not prohibit the use of force for effecting a lawful arrest, that such force must not be excessive (see, among others, *Polyakov v. Russia*, no. 77018/01, § 25, 29 January 2009, and *Davitidze v. Russia*, no. 8810/05, § 80, 30 May 2013), and that "such force may be used only if it is indispensable and must not be excessive" (see, for instance, *Şakir Kaçmaz v. Turkey*, no. 8077/08, § 80, 10 November 2015). Recently, the Court stated that, in respect of a person deprived of his liberty, or, more generally, confronted with law-enforcement officers, any recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is an infringement of the right set out in Article 3 (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 88 and 100-01, ECHR 2015).

80. The Court reiterates that, in view of the subsidiary nature of its role, it must be cautious in taking on the role of a first-instance tribunal of fact where this is not rendered unavoidable by the circumstances of a particular case. The Court has held in various contexts that, where domestic proceedings have taken place, it is not the Court's task to substitute its own assessment of the facts for that of the domestic courts and, as a general rule, it is for those courts to assess the evidence before them (see, among other authorities, *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, §§ 179 and 180, 24 March 2011). Although the Court is not bound by the findings of domestic courts, in normal circumstances it requires cogent elements to lead it to depart from the findings of fact reached by those courts (ibid.).

81. At the same time, in accordance with Article 19 of the Convention, the Court's duty is to ensure the observance of the engagements undertaken by the Contracting Parties to the Convention. Where allegations are made under Article 3 of the Convention, the Court must apply particularly thorough scrutiny.

82. In assessing evidence in cases concerning Article 3 of the Convention, the Court has generally applied the standard of proof "beyond reasonable doubt". However, borrowing the approach of the national legal systems which use that standard has never been its purpose. Its role is not to rule on criminal guilt or civil liability, but on Contracting States' responsibility under the Convention. The specificity of its task under Article 19 of the Convention – to ensure the observance by the Contracting States of their engagement to secure the fundamental rights enshrined in the Convention – conditions its approach to the issues of evidence and proof. In proceedings before the Court, there are no procedural barriers to the admissibility of evidence or pre-determined formulae for its assessment. It adopts the 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. According to its established case-law, proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or similar unrebutted presumptions of fact. Moreover, the level of persuasion necessary for reaching a particular conclusion and, in this connection, the distribution of the burden of proof, are intrinsically linked to the specificity of the facts, the nature of the allegation made and the Convention right at stake. The Court is also attentive to the seriousness that attaches to a ruling that a Contracting State has violated fundamental rights (see *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 147, ECHR 2005-VII).

83. Convention proceedings do not lend themselves to a strict application of the principle *affirmanti incumbit probatio* in all cases. The Court reiterates its case-law under Articles 2 and 3 of the Convention to the effect that, where the events in issue lie within the exclusive knowledge of the authorities, as in the case of persons under their control in custody, strong presumptions of fact will arise in respect of injuries and death occurring during that detention. The burden of proof in such a case may be regarded as resting on the authorities to provide a satisfactory and convincing explanation (see *Salman v. Turkey* [GC], no. 21986/93, § 100, ECHR 2000-VII; *Çakıcı v. Turkey* [GC], no. 23657/94, § 85, ECHR 1999-IV; and *Creangă v. Romania* [GC], no. 29226/03, § 90, 23 February 2012).

(ii) Application of the principles to the present case

84. It is not in dispute between the parties that the applicants sustained injuries on 7 August 2009. There also appears to be common ground between the parties that such injuries were inflicted during the arrests, and that police officers were implicated in one way or another in this situation.

85. It should be determined under the substantive limb of Article 3 of the Convention whether the use of physical force was "strictly necessary", having regard to each applicant's conduct.

86. The Court notes that, in the present case, the police acted in the context of a situation of conflict between a relatively large group of entrepreneurs and the market administration, a situation involving some form of "occupation" of the market area by the former.

87. The applicants' injuries were sustained during this police operation, which was carried out to address the matter of the applicants' continuing presence at the marketplace. The Court has at its disposal little verifiable information regarding the circumstances in which the police acted on the morning of 7 August 2009. Nothing in the circumstances of the present case disclosed any particular urgency. Thus, the authorities should have been able to plan their operation (see *Balçık and Others v. Turkey*, no. 25/02, § 32, 29 November 2007, and *Rehbock v. Slovenia*, no. 29462/95, § 72, ECHR 2000-XII). While it is uncertain whether the authorities received

prior notification of the "gathering", or whether such notification was required (see paragraphs 8 and 66-67 above) at all, it is clear that the police were aware of the situation at the market well in advance of their intervention on 7 August 2009 (see paragraphs 9 and 51 above).

88. When dealing with the administrative-offence cases against the applicants, the trial courts considered that they had disobeyed orders from the police. However, those court decisions were then overturned on appeal for, *inter alia*, lack of precision as to the circumstances in which the orders had been given or disobeyed, the circumstances relating to the use of force and the taking of the applicants to the police station (see paragraph 26-28 above).

89. The available decisions, in particular the refusal to prosecute dated 9 November 2009, do not specify whether and how the applicants resisted their arrests. Nor do they state any alternative plausible, satisfactory or convincing explanation for their injuries.

90. In view of the foregoing considerations and the defects in the domestic investigation (see paragraphs 97-100 below), the Court concludes that it has not been convincingly shown that the officers' recourse to physical force, which resulted in relatively significant injuries, was not excessive. The consequence of such use of force was injuries which caused suffering to the applicants of a nature amounting to inhuman treatment (see *Rehbock*, § 77, and *Davitidze*, § 96, both cited above).

91. Therefore, the Court concludes that the circumstances of the case disclose a breach of Article 3 of the Convention on account of the use of force against Mr Annenkov, Ms Suprunova, Ms Guseva and Ms Zakharova.

(b) Alleged lack of an effective investigation

(i) General principles

92. The Court reiterates that, where an individual raises an arguable claim that he has been seriously ill-treated by agents of the State in breach of Article 3 of the Convention, there should be a thorough and effective investigation (see, among others, *Assenov and Others v. Bulgaria*, 28 October 1998, § 102, *Reports of Judgments and Decisions* 1998-VIII, and *Gäfgen v. Germany* [GC], no. 22978/05, § 117, 1 June 2010).

93. While not every investigation should necessarily come to a conclusion which coincides with a claimant's account of events, any investigation should in principle be capable of leading to the establishment of the facts of the case and, if the allegations prove to be true, to the identification and punishment of those responsible (see *Mahmut Kaya v. Turkey*, no. 22535/93, § 124, ECHR 2000-III, and *Paul and Audrey Edwards v. the United Kingdom*, no. 46477/99, § 71, ECHR 2002-II).

94. The investigation into credible allegations of ill-treatment must be thorough. This means that the authorities must make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation or as the basis for their decisions (see *Assenov and Others*, cited above, § 103 et seq.). They must take all reasonable steps available to them to secure evidence concerning the incident, including eyewitness testimony and forensic evidence (see *Tanrıkulu v. Turkey* [GC], no. 23763/94, § 104 et seq., ECHR 1999-IV, and *Gül v. Turkey*, no. 22676/93, § 89, 14 December 2000). In addition, the Court has often assessed whether authorities reacted promptly to complaints at the relevant time, consideration being given to the date investigations began, delays in taking statements, and the length of time taken to complete the investigation (see *Labita*, cited above, § 133 et seq., and *Indelicato v. Italy*, no. 31143/96, § 37, 18 October 2001). Any deficiency in an investigation which undermines its ability to establish the cause of injuries or the identity of the persons responsible will risk falling foul of the applicable standard.

(ii) Application of the principles to the present case

95. Turning to the present case, the Court reiterates that the applicants' injuries and their related allegations (including those concerning degrading treatment) against the police officers were sufficiently serious to reach the "minimum level of severity" required under Article 3 of the Convention. Furthermore, the applicants' allegations were "arguable" and thus required there to be an investigation on the part of the national authorities.

96. It should be accepted that some investigation was carried out. Efforts were made to detect and correct certain shortcomings in the initial inquiry in the course of the additional inquiries.

97. However, the material before the Court does not indicate that the inquiring authority made any effort to assess the medical evidence made available by the applicants or to seek any further separate medical assessment. Nor did the inquiring authority proceed to a comparative assessment of the applicants' accounts of the events, or each account and the available evidence, such as medical evidence and other testimonies. No assessment was made in respect of any applicant's arrest as to the correlation between the injuries sustained and the nature and intensity of the resistance shown, if any.

98. In fact, in the present case, no fair attempt was made by the inquiring authority to ascertain exactly what the disobedience or rather resistance (attempts to run away, use of coarse language, use of force, or some other form of resistance) had consisted of, or to determine the exact scope of the officers' perception of the situation, their actual reaction to it, and the proportionality of such a reaction. Despite the applicants' sufficiently specific allegations, the national authorities provided no plausible

explanation as to the circumstances in which the applicants sustained their injuries.

99. Lastly, the Court notes that, in relation to one of the applicants, it was alleged that the arrest had been carried out in a manner that arguably might be classified as degrading treatment within the meaning of Article 3 of the Convention (see paragraphs 48-49 above). This aspect of the case received no adequate assessment at national level.

100. The domestic inquiry cannot be said to have followed the approach required under Article 3 of the Convention to establish whether the officers' recourse to physical force against the applicants was excessive, or whether any of the applicants were subjected to a degrading manner of arrest (for instance, being grabbed by a police officer or having their hair pulled and being dragged along the ground, as alleged by some applicants) (compare *Bouyid*, cited above, §§ 100-13).

101. Having regard to the above shortcomings, the Court concludes that the investigation concerning Mr Annenkov, Ms Guseva, Ms Zakharova and Ms Suprunova fell short of the requirements of Article 3 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

102. All applicants complained of a violation of their right to freedom of peaceful assembly. They relied on Article 11 of the Convention, the relevant parts of which read as follows:

> "1. Everyone has the right to freedom of peaceful assembly ...
>
> 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. ..."

A. Admissibility

1. The parties' submissions

103. The respondent Government argued that, in so far as the administrative-offence procedure was pertinent, the decisions of 20 November 2009 taken by the Voronezh Regional Court could not be taken into consideration for the purposes of applying the six-month rule. The review procedure under Article 30.12 of the CAO was not subject to any time-limit; moreover, it was not obligatory to exhaust the ordinary appeal procedure prior to lodging a review application.

104. Four applicants (Mr Khavantsev, Mr Khripunov, Mr Finskiy and Mr Buzov) argued that the records of their administrative offences and the trial judgments in respect of them were identical to the documents relating

to the applicants in respect of whom the District Court (sitting as an appeal court) had acknowledged violations of the CAO. Thus, these four applicants submitted that they had prospects of success in relation to seeking a review of the court decisions against them, because the reviewing court would be able to remedy the inconsistent approaches adopted by the judges of the District Court in respect of the different applicants, namely those offences punished by a fine and those punished by administrative detention. Referring to *Kovaleva and Others v. Russia* ((dec.), no. 6025/09, 25 June 2009), the applicants argued that this was a reasonable attempt to afford the respondent State the opportunity to remedy the violations. Lastly, the four applicants also referred to the results of the pre-investigation inquiry in late 2009 as being indirectly relevant to their personal situations, in so far as the respondent State had refused to investigate abusive conduct on the part of the police in respect of the gathering in which they had participated.

2. The Court's assessment

105. The Court observes at the outset that the proceedings in respect of certain applicants were eventually abandoned following the quashing of the judgments against them on appeal and the return of the files to the police in early September 2009. These applicants have not specified the date(s) on which they realised or should have realised that the proceedings had been finally abandoned, constituting the "final decision" in their cases. In these circumstances, it has not been shown that the complaints relating to the prosecution of the administrative offences were lodged in time in respect of those applicants in May 2010. Accordingly, the complaints were lodged out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention as regards Ms Khavanteva, Ms Shatalova, Ms Pukhova, Ms Korchagina, Ms Garkavets and Ms Zhuravleva.

106. In so far as the criminal-complaint procedure was relevant to the determination of the issues relating to the manner in which some applicants' participation in the demonstration was terminated, and the way in which they were handled by the police, the Court notes that the present application was lodged within six months of the relevant applicants (Ms Suprunova, Ms Guseva, Ms Zakharova and Mr Annenkov) or their representative(s) in those proceedings receiving the refusal to prosecute dated 9 November 2009. The respondent Government had not argued that this procedure should be disregarded in respect of the issues relating to freedom of assembly, for instance, being manifestly devoid of purpose in the context of the specific issues relating to Article 11 of the Convention (see, by way of comparioson, *Leonid Petrov v. Russia*, no. 52783/08, §§ 49-50, 11 October 2016; *Aleksandr Sokolov v. Russia*, no. 20364/05, § 66, 4 November 2010; and *Smirnova v. Russia* (dec.), no. 37267/04, 8 July 2014 where this procedure was taken into account under Article 35 § 1 of the Convention in respect of complaints relating to Article 5 § 1). For its part, the Court notes

that the Russian Criminal Code contained Article 149 making it a criminal offence for a public official to obstruct a public assembly, in particular with recourse to physical force; Article 286 punishing abuse of power by a public official (a statutory provision frequently used, for instance, in relation to complaints arising in the context of use of force by the police, with or without a related issue concerning deprivation of liberty, see *Aleksandr Andreyev v. Russia,* no. 2281/06, §§ 34-45 and 47-51, 23 February 2016); Articles 127 and 301 of the Criminal Code punishing unlawful deprivation of liberty and the manifestly unlawful recourse to the arrest procedure or the procedure for detention on remand. The Court observes that the thrust of the applicants' related complaint concerns the use of force during the public event and injuries sustained at the hands of public officials (see, *inter alia*, *Mostipan v. Russia*, no. 12042/09, § 38, 16 October 2014 concerning recourse to the criminal-complaint procedure for ill-treatment complaints). The Court has been given no reason to rule out this procedure, thus it should be taken into account for the purposes of the six-month rule in the present case (see also paragraph 73 above).

107. As to Mr Buzov, Mr Khavantsev, Mr Khripunov and Mr Finskiy, it is noted that the relevant complaints were lodged within six months of the decisions dated 20 November 2009 being taken and, *a fortiori*, received – the decisions by which their applications for review under the CAO were dismissed.

108. The Court notes that, while the CAO itself did not contain a time-limit for seeking review of the final judgments issued by courts of general jurisdiction, in 2006 the Constitutional Court had issued a decision indicating that until there was a legislative amendment of the CAO (in particular, its Article 30.11), courts of general jurisdiction were to refer to the similar provisions contained in the Code of Commercial Procedure ("the CComP") in relation to the supervisory-review procedure for commercial cases, including administrative offence cases against legal entities and entrepreneurs. Under the CComP, an application for supervisory review was to be lodged within three months of the date of the last impugned judgment being issued. In this connection, it is noted that the Court agreed in 2009 that the supervisory-review procedure under the CComP (which remained in force until August 2014) had the status of a remedy in commercial cases (see *Kovaleva and Others*, cited above).

109. The Court observes that the 2006 decision by the Constitutional Court was published and was thus accessible to all concerned, including parties to CAO proceedings and the courts, who were to rely on it as the applicable law. Following the legislative reform in December 2008, entailing the deletion of Article 30.11 which was at the heart of the 2006 constitutional decision, it is questionable whether that decision could continue to serve as a legal basis under Russian law for characterising the amended review procedure as based on the new Article 30.12 of the CAO.

Be that as it may, it is noted that the review procedure remained essentially similar to the previous supervisory-review procedure under Article 30.11 of the CAO. The Court accepts that it was not immediately obvious to the applicants in 2009 that it might no longer be appropriate to rely on the 2006 constitutional ruling and the rules of the CComP (compare *Smadikov*, cited above). As a matter of fact, having used the "ordinary" appeal procedure, the applicants did not then procrastinate, and promptly lodged their applications for review within the three-month time-limit mentioned in the CComP. Importantly, the Court notes the applicants' argument that their application for review was justified by the apparent divergent interpretation and application of the CAO in what seemed to be the same factual circumstances relating to the events on 7 and 10 August 2009. In view of the nearly identical trial judgments in respect of all applicants, and following the quashing of the judgments in respect of ten applicants by the District Court, the Court accepts that the remaining four applicants (who had already served their penalties of administrative detention, which were enforceable immediately following the trial judgment) could reasonably have considered that they had prospects of success in further challenging the final decisions in their own cases, including the appeal decisions issued by the same District Court.

110. Therefore, in the particular circumstances of the case, for the purposes of applying the six-month rule, the Court will take into account the review decisions taken by the Voronezh Regional Court on 20 November 2009, and concludes that four applicants (Mr Buzov, Mr Khavantsev, Mr Khripunov and Mr Finskiy) have thus complied with the six-month rule under Article 35 § 1 of the Convention.

111. The material made available to the Court does not indicate that Mr Buzov was prosecuted in relation to the events on 7 August 2009, or that there was another "interference" under Article 11 of the Convention as regards his alleged participation in the gathering on that date. Accordingly, this complaint is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a), and must be rejected in accordance with Article 35 § 4.

112. The Court will therefore examine the merits of the following grievances:

– those of Mr Annenkov, Ms Suprunova, Ms Guseva, Ms Zakharova, Mr Khavantsev, Mr Khripunov and Mr Finskiy in relation to the events on 7 August 2009;

– those of Mr Buzov in relation to the events on 10 August 2009.

113. 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

114. The applicants argued that the first-instance judgments convicting them of the administrative offences had been worded in similar if not identical terms. Ten of those judgments had then been quashed on appeal, while four judgments had been upheld. The judgments had not contained a clear presentation of the facts and actions alleged against them in relation to the alleged disobedience shown to the police. In particular, it had not been sufficiently specified what police order they had been given and had disobeyed, and whether this order had been lawful; or what the specific violation of the "established regulations concerning the organisation and management" of a public assembly was, and how the police order was related to this violation. While the appeal court had found no violation of the regulations in respect of ten applicants, it had appeared to hold otherwise in respect of the remaining four in relation to the same event, without specifying why.

115. There had been no material difference between the deficient judgments in respect of ten applicants and those in respect of the remaining four applicants, the only difference being that the latter had been given and already served (or had been serving) sentences of administrative detention by the time of the appeal proceedings.

116. The applicants argued that they had not carried out any protest action *stricto sensu*, and their actions had constituted a permanent presence at the marketplace on a rotation basis in order to oppose the transfer of the land to another user and the destruction of the market. As the lawful users of the market pitches, they had had a legitimate right to stay on the premises.

117. The courts' findings against the four applicants were based on the administrative-offence record which had been compiled by the police and could not be properly treated as evidence. The judgments also referred to eyewitness statements of passers-by, and the applicants had had no opportunity to examine these people in court and challenge their testimonies. Moreover, the four applicants had not been taken to the appeal hearing and thus had been restricted in their ability to put forward a viable defence.

(b) The Government

118. The Government argued that on 7 August 2009 the protesters had blocked the entrance to the administrative building of the market and had uttered slogans against the town administration. They had not reacted to either "the lawful orders of the police to cease violating public order", or the

suggestions that they terminate the unlawful public event in the form of a "meeting" (*митинг*).

119. On 10 August 2009 there had been a fight between protesters who were impeding the market officials' access to the building and the security guards of a private company who were trying to clear the access way, which had been barred with metal tables.

120. The Government submitted that, as established by the domestic courts, "certain participants" in the events on 7 August 2009 (possibly meaning the applicants sentenced to detention: Mr Khavantsev, Mr Finskiy and Mr Khripunov) during the unlawful meeting had posed a threat to public order.

121. As regards events on both 7 and 10 August 2009, the police officers' actions had aimed to prevent disorder and crimes and protect the "rights of others". The arrest of the most active participants had aimed to correctly and promptly examine the administrative-offence cases, as required under Article 27.3 of the CAO.

2. The Court's assessment

(a) Applicability of Article 11 of the Convention and the existence of "interference" under this Article

122. The Court reiterates that the right to freedom of assembly is a fundamental right in a democratic society and, like the right to freedom of expression, is one of the foundations of such a society. Thus, it should not be interpreted restrictively (see *Taranenko v. Russia*, no. 19554/05, § 65, 15 May 2014). As such, this right covers both private "assemblies" and "assemblies" in public places, whether static or in the form of a procession; in addition, it can be exercised by individual participants and by persons organising a gathering (see *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, § 91, ECHR 2015). Article 11 of the Convention only protects the right to freedom of "peaceful" assembly, a notion which does not cover a demonstration where the organisers and participants have violent intentions. The guarantees of Article 11 therefore apply to all gatherings except those where the organisers and participants have such intentions, incite violence or otherwise reject the foundations of a democratic society (ibid., § 92).

123. In the present case, it is not contested that each applicant did exercise his right to freedom of assembly on the relevant date. Furthermore, the Court has no reason to doubt that the events on 7 and 10 August 2009 amounted to an "assembly" within the meaning of Article 11 § 1 of the Convention. It is noted that the applicants' conduct, in substance, consisted of taking possession of land and premises which appeared to be privately owned at the time, notably during the night. The applicants called their actions collective "night shifts" or a "gathering". In fact, in respect of some

applicants, the domestic courts did mention that the event on 7 August 2009 was a "gathering".

124. It is also noted that, at least as regards the events on 10 August 2009, it appears that the protesters behaved in a manner which impeded market officials' access to the building, and they fought with the security guards of a private company who were present at the site along with the police. These circumstances were not subjected to any adequate scrutiny during the administrative-offence proceedings or the criminal inquiry. Nor did the parties make any specific submissions before the Court on the above matters. It cannot be said that the applicants were reproached by the domestic authorities for any specific act of violence or for having any violent intentions. In this connection, the Court reiterates that an individual does not cease to enjoy the right to freedom of peaceful assembly as a result of sporadic violence or other punishable acts committed by others in the course of a demonstration if the individual in question remains peaceful in his or her own intentions or behaviour (see *Ziliberberg v. Moldova* (dec.), no. 61821/00, 4 May 2004). The possibility of persons with violent intentions, not members of the organising association, joining a demonstration cannot as such take away that right (see *Primov and Others v. Russia*, no. 17391/06, § 155, 12 June 2014). Even if there is a real risk that a public demonstration might result in disorder as a result of developments outside the control of those organising it, such a demonstration does not as such fall outside the scope of Article 11 § 1, and any restriction placed thereon must be in conformity with the terms of paragraph 2 of that provision (see *Taranenko*, cited above, § 66).

125. While the events on 7 and 10 August 2009 happened in a situation of tension and conflict with recourse to the use of force, the applicants' conduct was not established to have been of violent character. In particular, while there are some indications of a fight on 10 August 2009 between certain protesters and security guards employed by a private company (see paragraphs 34 above), there is nothing to suggest that Mr Buzov himself participated in this fight or otherwise behaved violently. The appeal decision in respect of Mr Khripunov mentions that he "grabbed an [officer's] uniform and tried to escape" (see paragraph 23 above). However, that decision contains no particular assessment of the factual allegation *vis-à-vis* the charge of disobeying the lawful order of a public official. In the Court's view, this element is not sufficient for declaring Article 11 of the Convention inapplicable. Thus, forcefully terminating participation in the gathering (in respect of four applicants), and prosecuting and convicting (four other applicants) in relation to the events amounted to an interference with their right to freedom of peaceful assembly.

126. The Court does not consider that the impugned conduct of the "assembly", for which some of the applicants were held responsible, was of such a nature and degree as to remove their participation in the

demonstration from the scope of protection of the right to freedom of peaceful assembly under Article 11 of the Convention.

127. Lastly, as regards the obstructive course of action (namely overnight sit-ins on market premises by persons who rented space at the market or were employed by businesses located there), although not an uncommon occurrence in the context of the exercise of freedom of assembly in modern societies, the Court observes that physical conduct purposely obstructing traffic and the ordinary course of life in order to seriously disrupt the activities carried out by others is not at the core of that freedom as protected by Article 11 of the Convention. Such a state of affairs might have implications when considering whether the interference was "necessary in a democratic society" within the meaning of the second paragraph of Article 11 (see *Kudrevičius and Others*, cited above, § 97).

128. The above considerations are sufficient for the Court to arrive at the conclusion that the applicants are entitled to rely on the guarantees of Article 11, and that there was "interference" with their freedom of peaceful assembly.

129. Such interference will constitute a breach of Article 11 unless it is "prescribed by law", pursues one or more legitimate aims under paragraph 2, and is "necessary in a democratic society" for the achievement of the aim or aims in question (see, among others, *Vyerentsov v. Ukraine*, no. 20372/11, § 51, 11 April 2013, and *Nemtsov v. Russia*, no. 1774/11, § 72, 31 July 2014).

(b) Justification of the interference

(i) Lawfulness and legitimate aim(s)

130. Given the nature and scope of the applicants' grievances, and in view of its findings below regarding the proportionality of the impugned "interference", the Court does not need to delve into matters relating to the legality of the "interference" and the pursuance of a legitimate aim.

(ii) Whether the interference was "necessary in a democratic society"

(α) General principles

131. The following general principles (as summarised by the Court in *Kudrevičius and Others*, cited above, §§ 142-57, with further references) are relevant to the present case:

(a) The right to freedom of assembly, one of the foundations of a democratic society, is subject to a number of exceptions which must be narrowly interpreted, and the necessity for any restrictions must be convincingly established. When examining whether restrictions on the rights and freedoms guaranteed by the Convention can be considered

"necessary in a democratic society", the Contracting States enjoy a certain but not unlimited margin of appreciation.

(b) When the Court carries out its own assessment, its task is not to substitute its own view for that of the relevant national authorities, but rather to review under Article 11 the decisions taken by them. This does not mean that it has to confine itself to ascertaining whether the State exercised its discretion reasonably, carefully and in good faith; it must look at the interference complained of in the light of the case as a whole and determine, after having established that it pursued a "legitimate aim", whether it answered a "pressing social need" and, in particular, whether it was proportionate to that aim, and whether the reasons adduced by the national authorities to justify it were "relevant and sufficient". In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 11 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts.

(c) Freedom of assembly as enshrined in Article 11 of the Convention protects a demonstration that may annoy or cause offence to persons opposed to the ideas or claims that it is seeking to promote. Any measures interfering with freedom of assembly and expression other than in cases of incitement to violence or rejection of democratic principles – however shocking and unacceptable certain views or words used may appear to the authorities – do a disservice to democracy and often even endanger it. The nature and severity of the penalties imposed are also factors to be taken into account when assessing the proportionality of an interference in relation to the aim pursued. Where the sanctions imposed on demonstrators are criminal in nature, they require particular justification. A peaceful demonstration should not, in principle, be rendered subject to the threat of a criminal sanction, and notably to deprivation of liberty. Thus, the Court must examine with particular scrutiny cases where sanctions imposed by the national authorities for non-violent conduct involve a prison sentence (ibid., §§ 144-46, with further references).

(d) An unlawful situation, such as the staging of a demonstration without prior authorisation or notification, does not necessarily (by itself) justify an interference with a person's right to freedom of assembly. While rules governing public assemblies, such as the system of prior notification, are essential for the smooth conduct of public demonstrations, since they allow the authorities to minimise disruption to traffic and take other safety measures, their enforcement cannot become an end in itself. In particular, where demonstrators do not engage in acts of violence, it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance.

(e) The absence of prior authorisation or notification and the ensuing "unlawfulness" of an action do not give *carte blanche* to the authorities; they are still restricted by the proportionality requirement of Article 11. Thus, it should be established why a demonstration was not authorised in the first place, what the public interest at stake was, and what risks were represented by the demonstration. The method used by the police to discourage protesters – containing them in a particular place or dispersing the demonstration – is also an important factor in assessing the proportionality of the interference.

(f) Any demonstration in a public place may cause a certain level of disruption to ordinary life, for instance disruption of traffic. This fact in itself does not justify an interference with the right to freedom of assembly, as it is important for the public authorities to show a certain degree of tolerance. The appropriate "degree of tolerance" cannot be defined *in abstracto*: one must look at the particular circumstances of the case and particularly at the extent of the "disruption to ordinary life". This being so, it is important for associations and others organising demonstrations, as actors in the democratic process, to abide by the rules governing that process by complying with the regulations in force.

(β) Application of the principles to the present case

132. As regards Mr Annenkov, Ms Suprunova, Ms Guseva and Ms Zakharova, the above findings concerning the unjustified use of force against them (paragraphs 87-91 above) suffice for the Court to conclude that there was also a disproportionate "interference" under Article 11 of the Convention, in particular in so far as it entailed termination of their participation in the gathering (compare *Oya Ataman v. Turkey*, no. 74552/01, §§ 38-44, ECHR 2006-XIV, where the Court found that the use by the police of pepper spray to disperse a non-authorised demonstration had been disproportionate, even though it was acknowledged that the event could have disrupted the flow of traffic).

133. As regards Mr Khripunov, it appears that the appeal court based his conviction on the fact that certain entrepreneurs had impeded the market officials from entering the building and had refused to stop doing this. The court did not clearly assert, with reference to evidence, that the applicant had been personally involved in this particular action. Nor did it sufficiently specify how his manner of protest had endangered public safety or public order. Even assuming that the applicant did indeed "grab an officer's uniform", as first mentioned in the appeal decision, this mere fact by itself was not shown to be sufficient to justify the penalty of detention of five days in the context of the applicant's exercise of his freedom of assembly.

134. The applicants called their actions collective "night shifts" or a "gathering" (within the meaning of the Public Events Act), and denied that it was a protest action *stricto sensu* (for instance, a "picket" by a group of

people or a "meeting" thus requiring prior notification under the Public Events Act). The police assessed the situation as a "meeting" (see paragraph 51 above). While accepting that on 7 August 2009 Mr Khripunov had taken part in a "gathering" within the meaning of the Act, the domestic courts did not specify what specific legal requirement incumbent on a public event's organisers and/or participants had been violated. For instance, it was not specified whether the prior notification requirement was applicable in the case and, if yes, whether it had been (complied) with.

135. Furthermore, the courts dismissed eyewitness statements that were favourable to the applicants, merely indicating that such witnesses were colleagues of the applicants and the applicants' guilt was confirmed by other evidence, such as written reports from police officers. At the same time, the transcripts of the court decisions disclose no attempt to proceed to establish the relevant facts on the basis of comparative assessment of conflicting testimonies and/or examination of adverse testimonies in open court by way of questioning the relevant persons.

136. The majority of the above considerations relating to the deficient establishment of the relevant factual and legal elements, and the deficient reasoning, also apply to the cases in respect of Mr Finskiy and Mr Khavantsev.

137. As regards Mr Buzov, the Court does not overlook that Mr Buzov's arguments before the courts in relation to his freedom of peaceful assembly were rather cursory, and that at trial he did not insist on hearing witnesses (such as the arresting officers or senior officers who supervised the police officers), except for one person who testified against him and then, on appeal, one person who testified in his favour. However, this did not absolve the national authorities from justifying his conviction and sentence, or from adducing sufficient reasons for the "interference" under Article 11 of the Convention.

138. In this connection, the Court observes that the court decisions in respect of Mr Buzov do not specify the pertinent factual and legal elements, in particular how he behaved in a disorderly manner or "disobeyed" a lawful order by a police officer, or why the courts considered him to be "among the active participants". The decisions also do not specify what the order given by an officer was about or whether it was lawful, in particular under the Public Events Act and the Police Act. While there are some indications of a fight between certain entrepreneurs and security guards employed by a private company, there is nothing to suggest that the applicant himself participated in this fight or otherwise behaved violently. Nor did the domestic authorities assess whether his allegedly obstructing the market officials from entering the building constituted a legitimate exercise of his right to "peaceful assembly" (compare *Steel and Others v. the United Kingdom*, 23 September 1998, §§ 102-11, *Reports of Judgments and Decisions* 1998-VII; *Barraco v. France*, no. 31684/05, §§ 36-39, 5 March

2009; *Lucas v. the United Kingdom* (dec.), no. 39013/02, 18 March 2003; and *Drieman and Others v. Norway* (dec.), no. 33678/96, 4 May 2000), or whether the factual circumstances showed the existence of a "public event" which would be subject to the prior notification requirement under the Public Events Act. In fact, had this been a public event in the form of a "gathering" (that is, an assembly of citizens in a specially designated or arranged location for the purpose of the collective discussion of socially important issues), it appears that Russian law would not have required prior notification to the authorities (see paragraphs 65-67 above). This was a relevant factual and legal aspect of the case, which did not receive adequate examination at domestic level.

(c) Conclusion

139. The applicants placed particular emphasis on the deficiencies of the reasoning adduced by the domestic authorities. Both sides asked the Court to re-examine the proportionality of the "interference", while raising a disagreement about certain circumstances having significance for such an assessment. The Court, for its part, is not satisfied that the reasons adduced by the national authorities to justify the "interference" under Article 11 of the Convention were sufficient for then sentencing four applicants to detention. Faced with the domestic courts' failure to give reasons that would be both relevant and sufficient to justify the interference, the Court finds that the domestic courts cannot be said to have "applied standards which were in conformity with the principles embodied in Article 11" or to have "based themselves on an acceptable assessment of the relevant facts" (see paragraph 131 above; see also *Novikova and Others v. Russia*, nos. 25501/07 and 4 others, § 152, 26 April 2016, and *Terentyev v. Russia*, no. 25147/09, § 24, 26 January 2017).

140. The Government's submissions in the present case do not persuade the Court to reach a different conclusion.

141. There has therefore been a violation of Article 11 of the Convention:

(a) in respect of Mr Annenkov, Ms Guseva, Ms Zakharova and Ms Suprunova, on account of the forcible termination of their participation in the gathering on 7 August 2009;

(b) in respect of Mr Khavantsev, Mr Finskiy and Mr Khripunov, on account of the termination of their participation in the gathering on 7 August 2009 and their conviction for an administrative offence; and

(c) in respect of Mr Buzov, on account of the termination of his participation in the gathering on 10 August 2009 and his conviction for an administrative offence.

III. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION, IN CONJUNCTION WITH ARTICLES 5 AND 6

142. Four applicants (Mr Buzov, Mr Khavantsev, Mr Finskiy and Mr Khripunov) also complained that female defendants had been given the penalty of a fine, while all male defendants (except for one seriously injured man) had been given the penalty of administrative detention. In the applicants' view, this was evidence of discrimination in breach of Article 14 of the Convention, which reads as follows:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, ... or other status."

143. The applicants submitted that, despite the identical circumstances and the wording of the record of administrative offence and trial judgments, the female defendants had only received a fine, while they had been given the penalty of administrative detention for the same offence. The appeal courts had upheld that penalty since it had already been served; and quashing it would have meant that the State would become liable under Article 1070 of the Civil Code for unlawful deprivation of liberty. More generally, as a matter of judicial practice, female defendants were normally unlikely to receive the penalty of administrative detention.

144. The Government submitted that, in view of the principle of equality, the courts did not give preference to any category of defendants. Given this and the fact that the cases against the female defendants had been discontinued, there was no foundation for finding any difference in treatment on grounds of sex.

145. The Court observes that, under Article 3.9 of the CAO, the penalty of detention was not applicable in the case of a guilty female defendant on the basis of her gender/sex in two specific situations: when a female defendant was pregnant, or when she had a child below the age of fourteen. In addition, this penalty was not applicable to male and female defendants under the age of eighteen, those with with a Category 1 or Category 2 disability, military personnel, and individuals in some other categories.

146. However, having regard to the parties' submissions, the nature and scope of the Court's findings under Article 11 of the Convention in respect of Mr Buzov, Mr Khavantsev, Mr Finskiy and Mr Khripunov (in particular, in relation to the domestic courts' reasoning for finding them guilty and for imposing the impugned penalty of detention, which is also at the heart of the present complaint), in the circumstances of the present case it is not necessary to give a separate ruling on the admissibility and merits of the complaint under Article 14 of the Convention, in conjunction with Articles 5 or 6.

IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

147. The Court has examined the rest of the applicants' complaints as submitted by them. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. Accordingly, this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

148. 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

149. As regards non-pecuniary damage, Mr Annenkov claimed 50,000 euros (EUR); Ms Suprunova, Ms Guseva and Ms Zakharova claimed EUR 20,000 each; Mr Buzov (with reference to both events on 7 and 10 August 2009) claimed EUR 15,000; and Mr Finskiy, Mr Khavantsev and Mr Khripunov claimed EUR 10,000 each.

150. The Government contested the claims as excessive.

151. It is noted that the Court has found a violation of the Convention in respect of Mr Buzov only in relation to the events on 10 August 2009. Having regard to the nature and scope of the Court's findings concerning the violation(s) of the Convention in respect of this and the other seven applicants, the Court awards the following sums in respect of non-pecuniary damage, plus any tax that may be chargeable:

Mr Annenkov – EUR 12,000;

Ms Suprunova, Ms Guseva and Ms Zakharova – EUR 8,500 each;

Mr Finskiy, Mr Khavantsev and Mr Khripunov – EUR 7,500 each;

Mr Buzov – EUR 4,000.

B. Costs and expenses

152. The applicants also claimed EUR 4,845 for costs and expenses incurred before the domestic courts and the Court, of which EUR 3,250 was to be paid directly to their representative.

153. The Government contested the claims relating to domestic proceedings as partly unsubstantiated.

154. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, and in so far as the claims are related to the applicants in respect of whom the Court has found violations of the Convention, the Court considers it reasonable to make an award on account of expenses incurred at domestic level and before the Court:

– EUR 60 to each of the following applicants: Mr Annenkov, Ms Guseva, Mr Khripunov, Mr Khavantsev, Mr Finskiy and Ms Zakharova;

– EUR 460 to Ms Suprunova;

– EUR 2,250 to be paid directly to the applicants' representative, O. Gnezdilova, as requested.

C. Default interest

155. 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. *Declares* the complaints concerning Article 3 of the Convention as regards Mr Annenkov, Ms Suprunova, Ms Guseva and Ms Zakharova admissible;

2. *Declares* the complaints concerning Article 11 of the Convention as regards Mr Annenkov, Ms Suprunova, Ms Guseva, Ms Zakharova, Mr Finskiy, Mr Khavantsev, Mr Khripunov and Mr Buzov admissible;

3. *Holds* that it is not necessary to examine separately the admissibility and merits of the complaint under Article 14 of the Convention;

4. *Declares* the remainder of the application inadmissible;

5. *Holds* that there has been a violation of Article 3 of the Convention under its substantive and procedural limbs in respect of Mr Annenkov, Ms Suprunova, Ms Guseva and Ms Zakharova;

6. *Holds* that there has been a violation of Article 11 of the Convention in respect of Mr Annenkov, Ms Suprunova, Ms Guseva, Ms Zakharova, Mr Finskiy, Mr Khavantsev, Mr Khripunov and Mr Buzov;

7. *Holds*

(a) that the respondent State is to pay, 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) the following amounts, plus any tax that may be chargeable, in respect of non-pecuniary damage:
Mr Annenkov – EUR 12,000 (twelve thousand euros);
Ms Suprunova, Ms Guseva and Ms Zakharova – EUR 8,500 (eight thousand five hundred euros) each;
Mr Finskiy, Mr Khavantsev and Mr Khripunov – EUR 7,500 (seven thousand five hundred euros) each;
Mr Buzov – EUR 4,000 (four thousand euros);

(ii) the following amounts, plus any tax that may be chargeable to the applicants, in respect of costs and expenses:
– EUR 60 (sixty euros) to each of the following applicants: Mr Annenkov, Ms Guseva, Mr Khripunov, Mr Khavantsev, Mr Finskiy, Ms Zakharova;
– EUR 460 (four hundred and sixty euros) to Ms Suprunova;
– EUR 2,250 (two thousand two hundred and fifty euros) to be paid directly to O. Gnezdilova;

(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;

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

Done in English, and notified in writing on 25 July 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Helena Jäderblom
President

APPENDIX

1. Mikhail Georgiyevich ANNENKOV born on 14/07/1938 and lives in Voronezh
2. Gennadiy Nikolayevich BUZOV born on 23/05/1964 and lives in Voronezh
3. Mikhail Valentinovich FINSKIY born on 21/11/1974 and lives in Voronezh
4. Alla Andreyevna GARKAVETS born on 12/10/1971 and lives in Voronezh
5. Yelena Yevgenyevna GUSEVA born on 07/01/1962 and lives in Mikhaylovka
6. Nikolay Vasilyevich KHAVANTSEV born on 01/01/1968 and lives in Voronezh
7. Maya Yuryevna KHAVANTSEVA born on 26/05/1965 and lives in Voronezh
8. Igor Aleksandrovich KHRIPUNOV born on 22/06/1961 and lives in Voronezh
9. Svetlana Viktorovna KORCHAGINA born on 23/01/1965 and lives in Voronezh
10. Lyudmila Petrovna PUKHOVA born on 10/05/1965 and lives in Devitsa
11. Nina Petrovna SHATALOVA born on 28/10/1956 and lives in Voronezh
12. Yelena Vladimirovna SUPRUNOVA born on 17/08/1965 and lives in Voronezh
13. Olga Mitrofanovna ZAKHAROVA born on 22/09/1955 and lives in Ystye
14. Svetlana Vladimirovna ZHURAVLEVA born on 05/11/1969 and lives in Voronezh