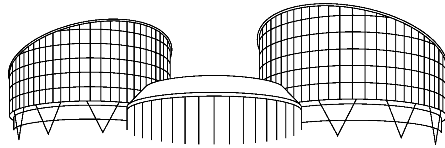

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF ALPEYEVA AND DZHALAGONIYA v. RUSSIA

(Applications nos. 7549/09 and 33330/11)

JUDGMENT

STRASBOURG

12 June 2018

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Alpeyeva and Dzhalagoniya 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,
Georgios A. Serghides,
Jolien Schukking,
María Elósegui, *judges,*
and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 22 May 2018,

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

PROCEDURE

1. The case originated in two applications (nos. 7549/09 and 33330/11) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Russian nationals, Ms Lyubov Trofimovna Alpeyeva and Mr Datuna Vladimirovich Dzhalagoniya ("the applicants"), on 30 December 2008 and 27 April 2011 respectively. The second applicant was represented by Mr A. Vinogradov, a lawyer practising in Kostroma.

2. 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 respective applicants alleged that the seizure of the first applicant's passport and the refusal to exchange the second applicant's passport on the grounds that Russian citizenship had been granted to them in an irregular manner had amounted to a violation of their rights guaranteed by Article 8 of the Convention.

4. On 19 December 2013 application no. 33330/11 was communicated to the Government. On the same date the President decided to grant the case priority under Rule 41 of the Rules of Court. On 12 May 2016 application no. 7549/09 was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Application no. 7549/09

1. Background

5. The first applicant is a Russian national who was born in 1951 and lives in Volzhskiy, in the Volgograd Region.

6. At the relevant time she was a Soviet national and lived in Kyrgyzstan.

7. In 1994 the first applicant applied to the Russian embassy in Bishkek for Russian citizenship.

8. In March 1994 she was granted Russian citizenship and the Russian embassy in Bishkek put a stamp in her Soviet passport to this effect.

9. Thereafter the first applicant moved to Russia.

10. On 14 July 2001 she obtained a new Russian "internal passport" (a citizen's identity document for use inside Russia).

2. Seizure of the Russian passport

11. In 2006 the first applicant applied to the Federal Migration Service (FMS) for an "international passport" required for foreign travel.

12. On 11 April 2006 an official from the FMS seized her Russian passport, which was later destroyed. The FMS referred to a report of 26 January 2006 on a check carried out by the agencies of the interior, according to which the first applicant had never properly acquired Russian citizenship and therefore had no right to be in possession of a Russian passport. The report stated, in particular, that whereas the first applicant had been issued with a Russian passport on 14 July 2001, she was not registered in the database of the Ministry of Foreign Affairs as a person who had acquired Russian citizenship. Furthermore, according to a letter of 18 October 2015 from the Russian embassy in Kyrgyzstan, it had no records on her obtaining Russian citizenship either. Accordingly, she had been issued with a Russian passport erroneously in 2001.

3. Complaints to the prosecuting authorities

13. The first applicant complained to the prosecuting authorities.

14. On 15 June 2006 the Volzhskiy prosecutor's office rejected the complaint.

15. In a response of 27 October 2006 the Volgograd Region prosecutor's office stated that the FMS was not competent to seize passports, something which only the agencies of the interior could do; that the first applicant's

passport had been seized in breach of the law; and that the prosecutor's office recommended that the FMS rectify the situation.

4. Check carried out by the FMS

16. On 20 March 2007 the FMS issued report no. 37 to the effect that the first applicant had never properly acquired Russian citizenship, and that a Russian passport had been issued to her unlawfully.

5. Court proceedings

17. The first applicant appealed to a court against the findings of the report of 26 January 2006.

18. On 28 May 2007 the Volzhskiy Town Court found in favour of the first applicant and held that the check which had been carried out by the agencies of the interior had been unlawful.

19. The decision was subsequently quashed by means of supervisory review and the case was remitted for fresh examination.

20. On 28 February 2008 the Volzhskiy Town Court again held that the check had been unlawful.

21. However, the FMS did not set aside the decision to seize the first applicant's passport, and a new passport was not issued to her either.

22. The first applicant again instituted court proceedings, this time for a finding that the seizure of her passport had been unlawful.

23. On 4 April 2008 the Volzhskiy Town Court dismissed the first applicant's complaint. It accepted the FMS's arguments that she had never acquired Russian citizenship, although it also found that the FMS officials' actions of 11 April 2006 had been procedurally incorrect, as the FMS did not have competence to seize passports.

24. On 3 July 2008 the Volgograd Regional Court upheld the decision on appeal.

25. A request by the first applicant for supervisory review was dismissed on 30 January 2009.

26. The first applicant then instituted another set of court proceedings against the FMS concerning its inaction in relation to issuing her with an identity document. She also contested the FMS report no. 37 of 20 March 2007.

27. On 25 March 2009 the Volzhskiy Town Court dismissed the complaint.

28. On 7 August 2009 the Volgograd Regional Court upheld the decision on appeal.

6. Another application for Russian citizenship

29. The first applicant reapplied for Russian citizenship.

30. On 14 April 2009 she was granted Russian citizenship under a simplified procedure on the basis of a FMS decision of 16 March 2009 to this effect.

31. On 27 March 2010 the first applicant was issued with a Russian passport.

B. Application no. 33330/11

1. Background

32. The second applicant was born in 1965 and lives in Kostroma.

33. According to the second applicant, between 1987 and 2010 he lived in the Rostov Region. Initially, he had a Soviet Union passport issued on 21 December 1981 by the Chkhorozkuskiy Department of the Interior of the Republic of Georgia.

34. On 23 December 1998, in accordance with the procedure then in force, the second applicant was issued with an insert for his passport (*вкладыш*) specifying that he was a citizen of the Russian Federation.

35. On 19 February 2002 the Passport and Visa Directorate of Police Office no. 1 of Taganrog, in the Rostov Region, issued the second applicant with a Russian passport.

36. In 2010 the second applicant moved to Kostroma.

2. FMS checks

37. On 18 January 2010 the second applicant applied to the FMS of the Centralniy District of Kostroma to register his place of residence.

38. According to the Government, owing to doubts as to whether the second applicant had been issued with a Russian passport in accordance with the established procedure, the FMS of the Centralniy District of Kostroma sent a request to the FMS of the Rostov Region.

39. On 30 June 2010 the FMS of the Rostov Region issued a certificate which reads, in so far as relevant:

> "On 19 February 2002 [the second applicant] was issued with [a Russian passport] following the exchange of [his passport] issued on 21 December 1981 by the Chkhorozkuskiy Department of the Interior of the Republic of Georgia.
>
> In section 8 of the application for issue (exchange) of [the second applicant's] passport it is noted 'RF citizen according to section 13(1)'.
>
> According to the information [available to the FMS of the Rostov Region], [the second applicant] has not been registered at the address [in Taganrog] since 17 February 2010, as he has moved to Kostroma.
>
> In the database of [the Ministry of Foreign Affairs], available to the FMS of the Rostov Region, there is no information as to whether [the second applicant] has obtained Russian citizenship.

A copy of [the second applicant's] passport issued on 21 December 1981 by the Chkhorozkuskiy Department of the Interior of the Republic of Georgia contains a [glued] insert issued by the Department of the Interior of the Leninskiy District of Rostov-on-Don on 21 December [year illegible] to the effect that [the second applicant] is a citizen of the Russian Federation in accordance with section 13(1) of the Russian Citizenship Act of 28 November 1991.

On 29 January 2010 ... a request was sent to [the FMS of the Rostov Region] to confirm that [the second applicant] had Russian citizenship.

According [to the information received], the issue of the above insert to [the second applicant] and its lawfulness or otherwise is [not] [section illegible] confirmed ...

The decision to issue [the second applicant] with [a Russian] passport was made ... by [V.], former head of the Passport and Visa Directorate of Police Office no. 1 of Taganrog, in the Rostov Region, who on 26 April 2004 was ... dismissed from service because she had reached retirement age.

It appears to be impossible to question [V.] concerning the circumstances of the issue of the Russian passport [to the second applicant], since she is absent from her place of residence.

Accordingly, [V.] ... issued [the second applicant] with a Russian passport in the absence of documents confirming that he was a Russian citizen, and without checking the documents presented for the issue (exchange) of the passport, in breach [of the rules] then in force.

The above circumstances allow the supposition that [V.] might have had an interest in issuing [the second applicant] with a Russian passport in breach of the established rules, which constitutes an offence punishable under Article 286 of the Criminal Code. Furthermore, it may be conjectured that [the second applicant] presented a passport [issued in 1981] which contained wrong information to the effect that he had Russian citizenship.

On the basis of the foregoing, [it is proposed] ... to consider that [the second applicant's passport] was issued in breach of the established rules ..."

3. Refusal to exchange the Russian passport

40. On 22 July 2010, when the second applicant turned 45, in accordance with the applicable procedure, he applied to the FMS to exchange his passport.

41. The second applicant received a verbal refusal to issue him with a new passport. According to the official who notified him of the refusal, the second applicant had failed to prove that he had had a permanent place of residence in Russia on 6 February 1992 (see paragraph 57 below), and he had only had a registered place of residence in Russia since February 2002.

42. On 28 July 2010 the second applicant provided the Kostroma Region FMS with a written explanation to the effect that between 1989 and 2002 his place of residence had been registered in Rostov-on-Don, although he had actually been living with his partner, M., in the Krasnodar Region.

43. On 13 August 2010 the Residential Registration Department of the Leninskiy District of Rostov-on-Don provided the second applicant with a

certificate confirming that he was not registered in the Leninskiy District and there was no information about him in the archives either.

44. On 23 September 2010 the Krasnodar Region FMS informed the Kostroma Region FMS that its archives contained no information about the second applicant, and that it appeared to be impossible to question M. because she was absent from her place of residence.

45. On 27 September 2010 the Kostroma Region FMS issued a decision to the effect that the second applicant was not a Russian citizen. With reference to the certificate of 30 June 2010 issued by the FMS of the Rostov Region, the decision stated, in particular, that according to the enquiries carried out, the second applicant's Russian passport had been issued in breach of the applicable rules. It further stated that it had proved impossible to obtain documentary evidence that the second applicant had been living in Russia on 6 February 1992, and the stamp in his passport only confirmed that he had been registered as resident in the Rostov Region from 15 February 2002 to 17 February 2010. The decision also noted that the database of the Ministry of Foreign Affairs contained no information as to whether the second applicant had obtained Russian citizenship. Accordingly, the enquiries made had obtained no evidence that the second applicant had acquired Russian citizenship or that he had been living in Russia on 6 February 1992.

4. *Court proceedings*

46. The second applicant appealed to the Sverdlovskiy District Court of Kostroma against the refusal to exchange his passport.

47. At a hearing on 20 October 2010 a representative from the FMS of the Centralniy District of Kostroma stated, in particular:

> "On the basis of the written instructions from the FMS that there should be an urgent check on all passports previously issued to individuals not born in the territory of the Russian Federation, we sent a request for information to the FMS of the Rostov Region. The FMS of the Rostov Region sent a certificate confirming that the [second applicant's] passport should be considered as having been issued in breach of the applicable rules. I sent a report stating that it was necessary to obtain corroboration that [the second applicant] either had or did not have Russian citizenship. The head of the FMS ... issued a decision to the effect that [the second applicant] was not a Russian citizen. [The second applicant] was invited to familiarise himself with that decision. [I]t was suggested that he apply for a residence permit and subsequently Russian citizenship, under a simplified procedure.
>
> In 2004 the FMS issued instructions for checks to be carried out only in respect of individuals who had applied to exchange their passports. [The second applicant] applied [to exchange his passport], and I discovered that he had not been born in the territory of the Russian Federation, and sent the request. [His] passport was not seized: the FMS did not issue instructions to this effect, so that people would not be left without [an identity] document."

48. On 21 October 2010 the Sverdlovskiy District Court of Kostroma upheld the decision of the FMS. It noted that, as a result of a check carried out pursuant to sections 51 and 52 of the 2002 Regulation on the Examination of Issues Related to Citizenship of the Russian Federation, the FMS had found that the second applicant had been issued with a Russian passport in breach of the applicable rules, and was not entitled to Russian citizenship. In particular, it had not been confirmed that he had been living in Russia on 6 February 1992. This justified the refusal to exchange his passport. The court also noted that the reports of the checks carried out by the FMS had not been appealed against or set aside in accordance with the established procedure, and that they were not the subject of the court's examination in those proceedings.

49. The court further dismissed the second applicant's argument that the fact that he had been using the previously issued Russian passport for eight years constituted a valid reason to exchange the passport. The court likewise dismissed his argument that he had not violated any laws or regulations in 2002, when he had been issued with the Russian passport. The court found that his passport was invalid regardless.

50. The second applicant appealed.

51. On 6 December 2010 the Kostroma Regional Court upheld the decision. The appeal court noted, in particular, that the certificate issued by the Rostov Region FMS on 30 June 2010 showed that a Russian passport had been issued to the second applicant on the basis of a certificate of 23 December 1998 issued by the Department of the Interior of the Leninskiy District of Rostov-on-Don confirming that he was a Russian citizen in accordance with section 13(1) of the 1991 Law on Citizenship of the Russian Federation. However, the legal validity of that certificate had not been confirmed. It further noted that, according to the results of the enquiries carried out in the places indicated by the applicant as his places of residence in Russia between 1989 and 2002, no confirmation of his registration and residence as of 6 February 1992 had been received with respect to any of the addresses indicated.

52. The appeal court also noted that the second applicant's argument that he had not been informed about the report issued following the check carried out by the FMS, and that therefore he could not have appealed against it, had not affected the lower court's conclusions.

5. Another application for Russian citizenship

53. On 25 March 2013, following the entry into force of Law no. 182-FZ on Amendments to the Russian Citizenship Act of 12 November 2012, the second applicant applied for Russian citizenship.

54. On 23 April 2013 the FMS of the Kostroma Region decided to grant the second applicant Russian citizenship.

55. On 30 April 2013 the second applicant received a Russian passport.

II. RELEVANT DOMESTIC AND INTERNATIONAL LAW AND PRACTICE

A. Domestic law and practice

1. Legislation

(a) The 1991 Russian Citizenship Act

56. Under section 12(1) of Law no. 1948-1 on Citizenship of the Russian Federation of 28 November 1991, in force between 6 February 1992 and 1 July 2002 ("the 1991 Russian Citizenship Act"), Russian citizenship could be acquired by:

a) recognition of citizenship,

b) birth,

c) registration of citizenship,

d) granting of citizenship,

e) restoration of citizenship,

f) choice of citizenship, where a territory changed its nationality, and on other grounds provided for by international treaties to which the Russian Federation was party.

57. Under section 13(1), all citizens of the USSR permanently residing in Russia on the date the Act entered into force (6 February 1992) were recognised as citizens of the Russian Federation unless they stated within a year of that date that they did not wish to have Russian citizenship.

(b) The 1992 Decree on Temporary Identity Documents

58. Government Decree no. 950 on Temporary Documents Certifying Citizenship of the Russian Federation of 9 December 1992, in force until 6 February 2003, introduced "inserts" to Soviet passports, temporary documents attesting to the passport holder's Russian citizenship.

(c) The 1997 Regulation on Passports

59. Section 1 of the Regulation on Passports of Citizens of the Russian Federation, adopted by Government Decree no. 828 of 8 July 1997 ("the 1997 Passport Regulation"), provides that a passport is the main document that attests to the identity of a citizen of the Russian Federation.

60. Under section 7, the passport should be exchanged twice, when its holder turns 20 and when he or she turns 45. Otherwise, it becomes invalid.

61. Under section 10, it is for the territorial agencies of the FMS to issue and exchange passports.

(d) The 2002 Russian Citizenship Act

62. Under section 5 of Law no. 62-FZ on Citizenship of the Russian Federation of 31 May 1995, in force since 1 July 2002 ("the 2002 Russian Citizenship Act"), Russian citizens are:

> "a) persons who had Russian citizenship on the date this Act entered into force;
>
> b) persons who have acquired Russian citizenship in accordance with this Act."

63. Under section 10, a passport constitutes a document that confirms citizenship.

64. Under section 30(a), a federal executive agency exercising control and supervision in the field of migration is competent to determine whether individuals living in the Russian Federation have Russian citizenship.

65. On 12 November 2012 the 2002 Russian Citizenship Act was amended. Under section 41.2(1) of the amended Act, former Soviet nationals who arrived in Russia before 1 November 2002 and who either did not acquire Russian citizenship or received Russian passports before 1 July 2002, and whose Russian citizenship was subsequently not confirmed by the competent State bodies, can apply for and should be granted Russian citizenship, provided they do not fall into the categories listed in Article 41.2 § 4 (a), (b) and (c).

66. Under section 41.2(4) of the amended Act, a person cannot be recognised as a Russian citizen if: (a) a Russian passport has been issued to him or her on the grounds of false information which he or she provided; (b) a Russian passport has been issued by using a stolen blank passport template, provided that the person was aware of this; and (c) the person has been extradited as a foreign national or a stateless person at the request of a foreign State.

(e) The 2002 Regulation on the Examination of Issues Related to Citizenship of the Russian Federation

67. Under section 51 of the Regulation on the Examination of Issues Related to Citizenship of the Russian Federation, adopted by Presidential Decree no. 1325 of 14 November 2002, if a person does not have a document confirming citizenship (for instance, owing to loss, theft, or damage), or if there are doubts concerning the authenticity or validity of such a document, or if there are circumstances leading to doubt as to whether the person has Russian citizenship, the competent agency carries out a check as to whether the documents were issued lawfully. The check is carried out upon an application by an individual or at the initiative of the competent agency or another State authority.

68. Under section 52, upon receipt of the necessary information, the competent agency draws up a reasoned report on the results of the check, stating the evidence indicating that the person either has or does not have Russian citizenship. Either the applicant or the agency which initiated the

check must be informed of the results of the check. A person whose Russian citizenship is confirmed is then issued with the relevant document.

(f) The 2004 Regulation on the FMS

69. Section 1 of the Regulation on the Federal Migration Service, adopted by Presidential Decree no. 928 of 19 July 2004 ("the 2004 Regulation on the FMS") and in force until 15 January 2013, provided that the FMS exercised control and supervision in the field of migration. Under section 7.13.2, the FMS was competent to determine whether individuals residing in Russia had Russian citizenship. Under section 7.13.11, it was competent to issue and exchange identity documents.

(g) The 2001 Code of Administrative Offences

70. Under Article 19.15 § 1 of the Code, failure to possess a valid identity document is punishable by a fine.

2. *Judicial practice*

71. In decision no. GKPI 06-337 of 6 June 2006 the Supreme Court stated "a passport confirms citizenship of the Russian Federation, which does not arise out of this document, but on the basis of and in accordance with the procedure provided for by the federal law and other [applicable] laws and regulations".

72. In decision no. KAS 06-300 of 17 August 2006 the Appeals Division of the Supreme Court stated "[a] passport constitutes a document confirming citizenship of the Russian Federation only if it is issued by a competent State agency in the official form in accordance with the [applicable] procedure. A passport that does not meet these requirements may not be considered a [valid] document, nor will it confirm the [holder's] citizenship of the Russian Federation". It also noted that "the rules on the seizure of unduly issued passports that do not constitute a document confirming citizenship of the Russian Federation do not affect the rights and freedoms of citizens guaranteed by the Constitution and laws of the Russian Federation".

3. *The Ombudsman's reports*

(a) The Ombudsman's Special Report 2007

73. On 6 December 2007 the Ombudsman issued a "Special Report on the practice of seizing Russian passports from former citizens of the USSR who had moved to the Russian Federation from CIS countries", which was published in the *Rossiyskaya Gazeta* on 26 January 2008. In that report, he criticised the administrative practice of seizing Russian passports from former citizens of the Soviet Union born outside Russia who had received

Russian passports and applied to exchange them. Their old passports were seized and the issue of new ones was refused on the grounds that the previous passports had been issued to them "in error" through no fault of their own. Thousands of people were affected by this practice, and in most cases there were no judicial decisions. Many regional ombudsmen also issued special reports on the practice of seizing passports.

74. The Ombudsman pointed out that for several years following the disintegration of the Soviet Union, there had been neither a streamlined procedure in Russia on the acquisition or recognition of Russian citizenship nor a standard document evidencing such citizenship. In such circumstances, between 1997 and 2007 Russian passports had been issued to 162.4 million people. Over 126 million passports had been issued before 2004. When people born in other republics of the former Soviet Union obtained Russian passports, they simultaneously acquired the rights and obligations of Russian citizenship: they voted, paid taxes, received education, served in the army, and obtained other documents, including the international passport required for travelling abroad. As in all cases, the issue of a passport followed a check on whether the person was a Russian citizen; all holders of a Russian passport were supposed to have undergone such a check at least once. Those who subsequently applied for an international passport or to exchange their Russian passport had to have successfully undergone the check a number of times. Hence, there could be no fault or bad faith on the part of those persons, by virtue of the fact that they had been granted Russian passports. And yet, several thousand Russian passports had been seized on the grounds that they had been "erroneously issued", whereas, according to the Ombudsman, breaches of the procedure for issuing passports, if any, were due to the negligence of the staff of the competent State agencies and the fact that they were not appropriately qualified, or even due to crimes committed by them for pecuniary gain.

75. The Ombudsman further referred to a claim submitted by the Saratov Region prosecutor's office to the Fedorovskiy District Court, whereby the prosecutor's office had sought to have declared unlawful the local FSM branch's practice of seizing Russian passports on the grounds of "doubts that they had been lawfully issued to persons born outside the Russian Federation". According to the prosecutor's office, since a Russian passport attested to Russian citizenship, it might only be seized where citizenship was revoked on the basis of a court decision establishing that the person in question had submitted false information or documents in order to acquire it. However, the Fedorovskiy District Court had dismissed the application, having found that issues concerning citizenship were in the sole competence of the President and his competent executive agencies. The Ombudsman pointed out in this respect that the courts were not precluded from establishing facts which had served as the basis for a decision to issue a passport.

76. The Ombudsman further criticised Supreme Court decision no. KAS 06-300, which took the view that a passport merely attested to Russian citizenship, and that its seizure had no bearing on constitutional rights. He believed this approach contradicted the Court's findings in *Smirnova v. Russia* (nos. 46133/99 and 48183/99, § 97, ECHR 2003-IX (extracts)) to the effect that "in their everyday life Russian citizens have to prove their identity unusually often, even when performing such mundane tasks as exchanging currency or buying train tickets. The internal passport is also required for more crucial needs, for example, finding employment or receiving medical care. The deprivation of the passport therefore represented a continuing interference with the applicant's private life".

77. In the Ombudsman's view, without a passport, a person could not fully enjoy constitutional rights and freedoms, because the realisation of such rights was directly linked to documents confirming his or her identity. The seizure of such a document entailed the loss of both employment and the opportunity to find new employment or receive a pension, and the loss of medical and other types of social security and the opportunity to obtain travel documents and register a marriage. It limited property rights and also deprived the person in question of judicial remedies, even that of an appeal against decisions of the FMS. Therefore, a person whose Russian passport had been seized would find himself or herself in a worse situation than a foreign national or a stateless person living in Russia on the basis of a foreign passport or a residence permit.

78. According to the Ombudsman's conclusions, where a Russian passport had been wrongfully issued owing to an error on the part of a State agency or agencies, the error should be rectified without detriment to the passport holder. The latter should be unconditionally recognised as a Russian citizen, at least until it was established that he or she had been granted Russian citizenship and a passport unlawfully through his or her own fault.

(b) The Ombudsman's Annual Report 2009

79. Referring again to the practice of seizing Russian passports on the grounds that they had been erroneously issued, the Ombudsman reiterated that, unless the person was found to be responsible for the alleged irregularities, all those affected by such actions should be recognised as Russian citizens, regardless of errors that may have been committed by State agencies when issuing their passports.

80. The Ombudsman further noted that the practice of seizing such passports had been discontinued. Despite this, it was scarcely possible to use those passports, since they were all registered with the Ministry of Internal Affairs as "wanted". It was usually suggested to the holder of an "unlawful passport" to apply for a residence permit as a stateless person first

and then to apply for Russian citizenship. Those affected would thus only surrender their passports to the FMS when applying for a residence permit.

(c) The Ombudsman's Annual Report 2011

81. On another occasion, referring to the practice of seizing Russian passports on the grounds that they had been erroneously issued, the Ombudsman noted that the problem had originated from the fact that, in the first decade after the disintegration of the USSR, former Soviet nationals who had found themselves in CIS countries had applied for Russian citizenship through Russian consulate agencies. At the time, this might not have been registered in the relevant databases, and additionally there had been no single database. As a consequence, many people who had been permanently living in Russia for a long time and were *de facto* Russian citizens were unable to prove that they had properly acquired Russian citizenship, and were thus deprived of any legal status in the country.

82. The Ombudsman further noted that at the end of 2010 a draft law had been presented to the State Duma, proposing a solution to the existing problem. Under this draft law, everyone who had been irregularly issued with Russian passports prior to 1 July 2002 should be considered Russian citizens from the moment their passports had been issued.

(d) The Ombudsman's Annual Report 2012

83. The Ombudsman pointed out that the draft law mentioned in the Annual Report 2011 had subsequently disappeared from the agenda of the State Duma. By this time, the overall number of Russian passports deemed invalid had reached 80,000. Approximately 8,000 passports were being declared invalid each year.

84. The Ombudsman further noted that amendments to the 2002 Russian Citizenship Act had been adopted on 12 November 2012. In accordance with the amended Act, holders of Russian passports who could not provide other evidence that they held Russian citizenship should be recognised as Russian citizens if they made an application to this effect to the FMS.

B. International materials

1. United Nations

85. Russia is not a party to the 1954 United Nations Convention relating to the Status of Stateless Persons, nor is it a party to the 1961 United Nations Convention on the Reduction of Statelessness.

2. Relevant Council of Europe instruments

86. Desiring to promote the progressive development of legal principles concerning nationality, as well as their adoption in internal law, and desiring

to avoid, as far as possible, cases of statelessness, the Council of Europe drew up the 1997 European Convention on Nationality. One of its principles, provided for in Article 4, is that "statelessness shall be avoided". Article 6 provides that each State Party must facilitate in its internal law the acquisition of its nationality for stateless persons. Article 7, however, specifies that a State Party may not provide in its internal law for the loss of its nationality if the person concerned would thereby become stateless, with the exception of cases of acquisition of the nationality of the State Party by means of fraudulent conduct, false information or concealment of any relevant fact attributable to that person.

87. This Convention was signed by Russia on 6 November 1997 but has not been ratified.

88. On 15 September 1999 the Committee of Ministers of the Council of Europe adopted Recommendation No. R (99) 18 on the avoidance and reduction of statelessness. In particular, concerning the avoidance of statelessness as a consequence of loss of nationality, it recommends, in so far as relevant, the following:

> **"C. Avoiding statelessness as a consequence of loss of nationality**
>
> ...
>
> c. In order to avoid, as far as possible, situations of statelessness, a State should not necessarily deprive of its nationality persons who have acquired its nationality by fraudulent conduct, false information or concealment of any relevant fact. To this effect, the gravity of the facts, as well as other relevant circumstances, such as the genuine and effective link of these persons with the state concerned, should be taken into account;
>
> ..."

THE LAW

I. JOINDER OF THE APPLICATIONS

89. The Court considers that, pursuant to Rule 42 § 1 of the Rules of Court, the applications should be joined, given their common factual and legal background.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

90. The respective applicants complained under Article 8 of the Convention that the seizure of the first applicant's Russian passport and the refusal to exchange the second applicant's Russian passport had *de facto* deprived them of their constitutional rights. In particular, without a valid

passport, they could not find employment or receive medical assistance, pensions or social benefits. Article 8 reads as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. The Government's submissions

91. The Government argued firstly that the applicants had abused the right of individual petition, having failed to inform the Court that they had been granted Russian citizenship on 14 April 2009 and 23 April 2013 respectively, in breach of their duty under Rule 47 § 7 (formerly Rule 47 § 6) of the Rules of Court to keep the Court informed of all circumstances relevant to the application. In the Government's view, this constituted an essential element in the examination of the applicants' complaints, complaints which should thus be declared inadmissible under Article 35 §§ 3 (a) and 4.

92. As regards application no. 7549/09, the Government conceded that the seizure of the first applicant's Russian passport had constituted an interference with her rights under Article 8 of the Convention. However, they argued that even though the procedure relating to the seizure of her Russian passport had been found to be unlawful, this did not apply to the fact of the seizure as such. That decision had been well-founded and based on the fact that the first applicant had not properly acquired Russian citizenship. The interference had thus been lawful and necessary in a democratic society. Furthermore, the first applicant had eventually been granted Russian citizenship under a simplified procedure.

93. As regards application no. 33330/11, in the Government's view, there had been no interference with the second applicant's rights for the purposes of Article 8 § 1 of the Convention. In contrast to *Smirnova v. Russia* (nos. 46133/99 and 48183/99, ECHR 2003-IX (extracts)), his passport had not been seized, so he had retained an identity document, and he had failed to show how the refusal to exchange his passport had affected his rights and freedoms. Furthermore, the second applicant had at all times been provided with appropriate advice from State agencies concerning his situation, and had eventually applied for and been granted Russian citizenship in 2013, and a new Russian passport had been issued to him.

94. The Government further argued that the two cases at hand were substantially different from the case of *Smirnova*. In the latter case, the applicant had been a Russian citizen, whereas in the present case the

applicants had been deemed as never having acquired Russian citizenship. In particular, the competent authorities had found that their Russian passports had been issued in breach of the applicable rules. Furthermore, in *Smirnova*, cited above, the applicant had referred to particular circumstances to corroborate the practical problems in her everyday life caused by the lack of a passport. However, in the cases at hand, the applicants' allegations were of a general and hypothetical nature.

B. The applicants' submissions

95. The first applicant contested the Government's argument concerning the abuse of the right of individual petition. She emphasised that she had complained under Article 8 of the interference to her private life caused by the seizure of her Russian passport. In her view, the eventual issue of the new passport was of no relevance to her complaint. Furthermore, in the applicant's view, the "simplified procedure" under which her new passport had been issued was not in accordance with the domestic law, and therefore she ran the risk of that passport being seized in the same manner as the old one.

96. The first applicant argued that the interference had not been "in accordance with the law", which the respondent State had implicitly recognised by adopting amendments to the 2002 Russian Citizenship Act on 12 November 2012 (see paragraph 65 above). She further argued that it had not been "necessary in a democratic society" either. Having regard to the Government's assertion that the applicants had failed to corroborate the impact of the lack of a valid passport on their everyday life, the first applicant submitted that a requirement to provide proof of such an impact would be excessive, as it stemmed directly from the domestic law. In particular, under Russian law, a person needed proof of identity in order to obtain employment, receive medical assistance, buy plane or train tickets, or receive a pension and other social benefits. A person also needed such proof in relation to bank transactions. Furthermore, without a valid identity document, a person ran the risk of being apprehended by the police.

97. The second applicant pointed out that he had eventually been granted Russian citizenship on the basis of Law no. 182 of 12 November 2012, which had introduced a number of amendments to the 2002 Russian Citizenship Act (see paragraph 65 above) and which had been adopted after his application had come before the Court. The second applicant maintained that the law had been adopted because there had been a large number of complaints, and also because of the Ombudsman's efforts to highlight those complaints.

98. The second applicant further contested the Government's argument that there had been no interference with his rights under Article 8. He pointed out that, although his passport had not been seized and he had not

been deported, the lack of a valid passport had effectively deprived him of the opportunity to exercise his rights and freedoms. In particular, with an expired passport, he could not buy train or plane tickets or obtain a loan from a bank. The second applicant therefore maintained that there had been a violation of Article 8.

C. Admissibility

1. The Government's allegation of an abuse of the right of individual petition

99. The Court reiterates that an application may be rejected as an abuse of the right of individual application within the meaning of Article 35 § 3 (a) of the Convention if, among other reasons, it was knowingly based on untrue facts (see, among others, *Akdivar and Others v. Turkey* [GC], 16 September 1996, §§ 53-54, *Reports of Judgments and Decisions* 1996-IV; *Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], no. 38433/09, § 97, ECHR 2012; and, with further references, *Gross v. Switzerland* [GC], no. 67810/10, §§ 27-37, ECHR 2014). The submission of incomplete and thus misleading information may also amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation has been provided for the failure to disclose that information (see *Bencheref v. Sweden* (dec.), no. 9602/15, § 37, 5 December 2017; *Hüttner v. Germany* (dec.), no. 23130/04, 9 June 2006; and *Kowal v. Poland* (dec.), no. 2912/11, 18 September 2012). The same applies if new, important developments have occurred during the proceedings before the Court and where, despite being expressly required to do so by Rule 47 § 7 (former Rule 47 § 6) of the Rules of Court, the applicant has failed to disclose that information to the Court, thereby preventing it from ruling on the case in full knowledge of the facts (see *Centro Europa 7 S.r.l. and Di Stefano*, ibid., and *Gross*, ibid.). However, even in such cases, the applicant's intention to mislead the Court must always be established with sufficient certainty (see *Al-Nashif v. Bulgaria*, no. 50963/99, § 9, 20 June 2002; *Melnik v. Ukraine*, no. 72286/01, §§ 58-60, 28 March 2006; *Nold v. Germany*, no. 27250/02, § 87, 29 June 2006; *Centro Europa 7 S.r.l. and Di Stefano*, ibid.; and *Gross*, ibid.).

100. The Court takes note of the applicants' observations to the effect that the issue of a new passport was irrelevant to the essence of their complaints. The Court considers that the fact that the applicants were eventually granted Russian citizenship is undoubtedly relevant for the examination of the present cases. However, in the Court's view it does not affect the substance of the applicants' complaints under the Convention. Furthermore, the Court does not have sufficient elements in its possession to

establish with certainty the applicants' intention to mislead it (see, by contrast, *Gross*, cited above, § 36).

101. In view of the above, the Court does not consider that the applicants' conduct amounted to an abuse of the right of petition. Accordingly, the Government's objection is dismissed.

2. *Victim status*

102. The Court must first ascertain whether the applicants remain victims of an alleged violation of Article 8, when account is taken of the fact that on 14 April 2009 and 23 April 2013 respectively they were granted Russian citizenship.

103. The Court reiterates that a decision or measure favourable to the applicant is not in principle sufficient to deprive him of his status as a "victim" unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention (see *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 180, ECHR 2006-V).

104. In the cases at hand, there is no evidence that the authorities have acknowledged a breach of the applicants' rights in connection with the seizure of the first applicant's Russian passport in 2006 and the refusal to exchange the second applicant's Russian passport in 2010. Furthermore, the Court notes that the applicants' complaints concern not just the very fact of the seizure of the passport or the refusal to exchange it, but the whole scope of the ensuing practical difficulties they encountered in their everyday life on account of the lack of a valid identity document. In the Court's view, the fact that the applicants were eventually granted Russian citizenship could not in itself be considered to constitute sufficient redress for the fact that, over the course of several years, each of the applicants had been a stateless person without a valid passport. The Court has no information in respect of any other type of redress which may have been afforded to them.

105. The Court therefore concludes that the applicants can still be considered victims.

3. *Conclusion*

106. 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.

D. Merits

1. *General principles*

107. The Court reiterates that the notion of "private life" within the meaning of Article 8 of the Convention is a broad concept which

encompasses, *inter alia*, the right to establish and develop relationships with other human beings (see *Niemietz v. Germany*, 16 December 1992, § 29, Series A no. 251-B), the right to "personal development" (see *Bensaid v. the United Kingdom*, no. 44599/98, § 47, ECHR 2001-I) and the right to self-determination (see *Pretty v. the United Kingdom*, no. 2346/02, § 61, ECHR 2002-III).

108. The Court has accepted that an arbitrary denial of citizenship might, in certain circumstances, raise an issue under Article 8 of the Convention because of its impact on the private life of the individual (see *Karassev v. Finland (dec.)*, no. 31414/96, ECHR 1999-II, and *Genovese v. Malta*, no. 53124/09, § 30, 11 October 2011). Recently, the Court has accepted that the same principles must apply to the revocation of citizenship already obtained, since this might lead to a similar – if not greater – interference with the individual's right to respect for family and private life (see *Ramadan v. Malta*, no. 76136/12, § 85, ECHR 2016 (extracts), and *K2 v. the United Kingdom* (dec.), no. 42387/13, 7 February 2017). In determining whether a revocation of citizenship is in breach of Article 8, the Court has addressed two separate issues: whether the revocation was arbitrary, and what the consequences of revocation were for the applicant.

109. In determining arbitrariness, the Court has had regard to whether the revocation was in accordance with the law; whether it was accompanied by the necessary procedural safeguards, including whether the person deprived of citizenship was allowed the opportunity to challenge the decision before courts affording the relevant guarantees; and whether the authorities acted diligently and swiftly (see *Ramadan*, cited above, §§ 86-89 and *K2*, cited above, § 50).

2. *Application to the present case*

110. The Court notes that, in the present case, the domestic procedure applied to the applicants was not that of revocation of citizenship. Rather, the domestic authorities found that the applicants had never properly acquired Russian citizenship, due to certain irregularities in the relevant proceedings in 1994 and 1998 respectively. However, the Court does not find that the qualification of the procedure under domestic law is of crucial importance in the present case, and considers that the principles referred to above in paragraphs 107 and 109 are applicable.

(a) Consequences for the applicants

111. The Court will first examine the consequences of the seizure of the first applicant's Russian passport and the refusal to exchange the second applicant's Russian passport.

112. In the first place, the decisions to the effect that the applicants had never acquired Russian citizenship deprived them of any legal status in

Russia and effectively rendered them stateless persons (cf. *K2*, cited above, § 62).

113. Furthermore, not only were the applicants deemed not to have acquired Russian citizenship, but they were left without any valid identity documents. The Court reiterates that, in *Smirnova*, cited above, § 97, it found it established that Russian citizens had to prove their identity unusually often in their everyday life, even when performing such mundane tasks as exchanging currency or buying train tickets, and that the internal passport was also required for more crucial needs, such as finding employment or receiving medical care. The Court therefore found that the deprivation of a passport in that case had constituted a continuing interference with the applicant's private life.

114. In the cases at hand, the FMS seized the first applicant's passport and refused to exchange the second applicant's passport upon his turning 45, an exchange which is compulsory under domestic law (see paragraph 60 above). A failure to have the passport exchanged invalidates it, which not only prevents it from serving as an identity document, but is considered to be an administrative offence (see paragraph 70 above). Accordingly, for the purposes of Article 8, the effects of the refusal to exchange the second applicant's passport in the present case are similar to those of the seizure of the passport in the case of *Smirnova*, cited above.

115. The Court therefore finds that the decision to the effect that the applicants had not properly acquired Russian citizenship, which left them with no valid identity documents, entailed considerable consequences for their everyday life and amounted to an interference with their right to respect for private life under Article 8.

(b) Whether the measure was arbitrary

116. The Court must further examine whether the decisions to seize the first applicant's passport and not exchange the second applicant's passport on the grounds that they had never properly acquired Russian citizenship were arbitrary.

(i) Was the measure in accordance with the law?

117. The Court observes that the FMS is competent to determine whether individuals residing in Russia have Russian citizenship, and is responsible for the issue and exchange of identity documents (see paragraph 69 above). It also notes that, under the 2002 Regulation on the Examination of Issues Related to Citizenship of the Russian Federation, in the event of doubt as to the authenticity or validity of a document attesting to citizenship or as to whether a person has Russian citizenship, the competent agency has to carry out a check as to whether the documents were issued lawfully (see paragraph 67 above). The Court is therefore

satisfied that the decisions may thus be regarded as being “in accordance with the law”.

(ii) Procedural safeguards

118. The Court further notes that the applicants availed themselves of the possibility to contest the decisions of the FMS before the domestic courts, which examined their claims at two levels of jurisdiction. After several sets of proceedings, by a final decision of 7 August 2009, the Volgograd Regional Court dismissed the first applicant’s claim concerning the FMS’s inaction in relation to issuing her with a new passport. On 6 December 2010, by way of a final decision, the Kostroma Regional Court dismissed the second applicant’s appeal concerning the refusal to exchange his passport. Although the applicants were dissatisfied with the outcome of those proceedings, they did not allege any procedural shortcomings (cf. *K2*, cited above, § 56). Accordingly, the Court is satisfied that the applicants were afforded the procedural safeguards required by Article 8 of the Convention.

(iii) Whether the authorities acted diligently and swiftly

119. The Court observes that the first applicant moved to Russia after the Russian embassy in Bishkek put a stamp in her Soviet passport confirming that she had obtained Russian citizenship in March 1994 and has been living there since then. The second applicant has been living in Russia since the disintegration of the Soviet Union. The applicants considered themselves Russian citizens, exercised the rights and duties of such citizens, and were provided with documents to this effect. An internal Russian passport was issued to the first applicant on 14 July 2001, and an insert for the second applicant’s Soviet passport certifying his Russian citizenship was issued on 23 December 1998, and subsequently a Russian passport was issued to him on 19 February 2002.

120. However, when in 2006 the first applicant applied to the FMS for an international passport, an FMS official seized her Russian passport on the grounds of a report of 26 January 2006 on a check carried out by the agencies of the interior. The report concluded that she had never properly acquired Russian citizenship, as no records to this effect had been found in the database of the Ministry of Foreign Affairs or in the Russian embassy in Kyrgyzstan, and therefore she had no right to be in possession of a Russian passport.

121. As regards the second applicant, when, in compliance with the requirements of the domestic law, he applied to exchange his passport, as he had turned 45, this was refused on the following grounds: (i) although the applicant could have obtained Russian citizenship if he had been living in Russia on 6 February 1992, the date the 1991 Russian Citizenship Act had entered into force, no proof of this had been obtained by the check carried

out by the FMS in 2010; (ii) no relevant entries indicating that Russian citizenship had been granted to the applicant had been found in the databases.

122. The Court notes that the report of 26 January 2006 on a check carried out by the agencies of the interior (see paragraph 12 above) concluded that in 2002 a Russian passport had been issued to the first applicant in an irregular manner. Likewise, the FMS report of 30 June 2010 and the FMS decision of 27 September 2010 (see paragraphs 39 and 45 above) concluded that in 2001 a Russian passport had been irregularly issued to the second applicant. However, none of the reports established that this was the applicants' fault. On the contrary, the report of 30 June 2010 alleged negligence on the part of the competent State authorities.

123. The Court observes that defining the conditions and procedures for granting citizenship and overseeing compliance with those conditions is within the State's exclusive competence. In this respect, the Court refers to the Ombudsman's "Special Report on the practice of seizing Russian passports from former citizens of the USSR who had moved to the Russian Federation from CIS countries", issued on 6 December 2007. The Ombudsman criticised the practice in question, as a result of which several thousand Russian passports had been seized on the grounds that they had been "erroneously issued", despite no fault having been detected on the part of the passport holders. In the Ombudsman's view, any irregularities related to the issue of the passports were due to negligence on the part of the staff of the competent State agencies and the fact that they were not appropriately qualified (see paragraph 74 above). In his Annual Report for 2011, the Ombudsman again addressed the ongoing practice. He stated, in particular, that at the time when former Soviet nationals who had found themselves in CIS countries had applied for Russian citizenship through Russian consulate agencies, the fact that they had done so might not have been registered in the corresponding databases, and in addition there was no single database (see paragraph 81 above). In the Ombudsman's Annual Report for 2012 it was stated that the overall number of Russian passports deemed to be invalid had reached 80,000, with approximately 8,000 being declared invalid each year (see paragraph 83 above).

124. Having regard to the foregoing, the Court concludes that the applicants' identity documents confirming their Russian citizenship might have been irregularly issued in 1994 and 2001 with respect to the first applicant and in 1998 and 2002 with respect to the second applicant. However, this was not through any fault of their own, but due to the lack of streamlined procedures and a unified database, and also because of errors committed by State officials.

125. Therefore, owing to the authorities' mishandling of procedures related to the granting of citizenship, the first applicant, having had her passport seized in 2006, and the second applicant, having been denied a

valid passport in 2010, found themselves not only in a situation comparable to that in *Smirnova*, cited above, but also having to face consequences affecting their social identity far more fundamentally. As a result of the FMS's decision to the effect that they had never properly acquired Russian citizenship, the applicants were deprived of any legal status in Russia (see paragraph 81 above). They became stateless persons, and remained so until 2010 and 2013 respectively, when Russian citizenship was granted to each of them under a new procedure.

126. Therefore, even though the authorities may be considered to have acted appropriately, once the scale and importance of the problem were recognised, in the Court's view, it remains the case that it took from 2007, when the Ombudsman drew attention to the issue, until 2013 for the general problem to be resolved. The fact that an oversight on the part of the authorities resulted in consequences for the applicants so severely affecting their private life amounts to an interference which was arbitrary. Hence the authorities failed to act diligently.

(c) Conclusion

127. There has accordingly been a violation of Article 8 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

128. The second applicant complained under Article 6 of the Convention that the proceedings he had instituted to challenge the refusal to exchange his passport had been unfair. In so far as relevant, Article 6 reads:

> "In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

129. The Court reiterates that the right to a passport is not a civil right for the purposes of Article 6 of the Convention (see *Peltonen v. Finland,* no. 19583/92, Commission decision of 20 February 1995; *Karassev and family v. Finland*, no. 31414/96, Commission decision of 14 April 1998; *Šoć v. Croatia* (dec.), no. 47863/99, 29 June 2000; *Sergey Smirnov v. Russia* (dec.), no. 14085/04, 6 July 2006; and *Lolova and Popova v. Bulgaria* (dec.), no. 68053/10, § 57, 20 January 2015).

130. It follows that this complaint is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3, and that this part of the application must be rejected in accordance with Article 35 § 4.

IV. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

131. The second applicant further complained that he had no effective remedy in respect of his complaints. He relied on Article 13 of the Convention, which reads as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

132. The Court reiterates that Article 13 guarantees the availability at national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they might happen to be secured in the domestic legal order. The effect of this Article is thus to require the provision of a domestic remedy allowing the competent national authority both to deal with the substance of an "arguable" complaint under the Convention and to grant appropriate relief (see, among other authorities, *Aksoy v. Turkey*, 18 December 1996, § 95, *Reports,* 1996-VI).

133. The Court notes that the second applicant's complaint about the refusal to exchange his Russian passport was examined by domestic courts at two levels of jurisdiction. The courts were competent to set aside the decision of the FMS, had they found for the applicant. The fact that the proceedings resulted in an unfavourable outcome does not mean *per se* that the remedy was ineffective.

134. It follows that this part of the application is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

135. 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

136. The first applicant claimed 5,000 euros (EUR) and the second applicant claimed EUR 10,000 in respect of non-pecuniary damage caused by the suffering and feeling of helplessness they had endured as a result of not being recognised as Russian citizens and not having a valid identity document for several years.

137. The Government submitted that the claim was excessive and unfounded.

138. The Court considers that the applicants must have suffered non-pecuniary damage that cannot be sufficiently compensated for by the

mere finding of a violation of Article 8 of the Convention. Making its assessment on an equitable basis, it awards each applicant EUR 5,000 in respect of non-pecuniary damage.

B. Costs and expenses

139. The first applicant claimed 776 roubles (RUB) for costs and expenses incurred before the Court. She enclosed postal receipts to corroborate the amount.

140. The Government did not object to the first applicant being reimbursed for the expenses claimed.

141. 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, the Court considers it reasonable to award the first applicant the amount claimed for the proceedings before the Court.

C. Default interest

142. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the complaint under Article 8 of the Court admissible and the remainder of the applications inadmissible;

3. *Holds* that there has been a violation of Article 8 of the Convention;

4. *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:
(i) EUR 5,000 (five thousand euros), to be converted into the currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable, to each applicant in respect of non-pecuniary damage;

(ii) RUB 776 (seven hundred and seventy-six roubles), plus any tax that may be chargeable, to the first applicant in respect of costs and expenses;

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

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

Done in English, and notified in writing on 12 June 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips
Registrar

Helena Jäderblom
President