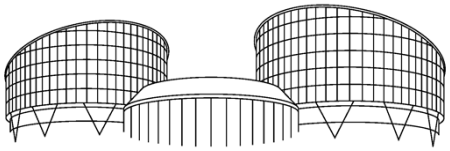

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF SERGEY DENISOV AND OTHERS v. RUSSIA

(Applications nos. 1985/05, 18579/07, 21748/07, 21954/07 and 20922/08)

JUDGMENT

STRASBOURG

19 April 2016

FINAL

12/09/2016

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

In the case of Sergey Denisov and Others v. Russia,

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

Luis López Guerra, *President,*
Helena Jäderblom,
George Nicolaou,
Johannes Silvis,
Dmitry Dedov,
Branko Lubarda,
Alena Poláčková, *judges,*
and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 22 March 2016,

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

PROCEDURE

1. The case originated in five applications (nos. 1985/05, 18579/07, 21748/07, 21954/07 and 20922/08) 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 five Russian nationals, Mr Sergey Aleksandrovich Denisov (no. 1985/05), Mr Ayrat Kavyyevich Gimranov (no. 18579/07), Mr Dmitriy Vladimirovich Filimonov (no. 21748/07), Mr Aleksey Valeryevich Dodonov (no. 21954/07) and Mr Yuriy Titovich Shutov (no. 20922/08) ("the applicants"), on 1 December 2004 and 31 January, 1 April, 11 April and 19 April 2007 respectively.

2. The applicants were represented by Mr M. Gafarov, Mr K. Kuzminykh, Ms E. Liptser and Ms K. Moskalenko, lawyers practising in St Petersburg and Moscow. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights.

3. The applicants alleged, in particular, that they had been convicted by a "tribunal" not established by law, that their trial had not been in public, that their right to a fair trial had been violated when they had been removed from the courtroom, and that the criminal proceedings against them had been unreasonably long. Mr Denisov also complained that the conditions of his pre-trial detention had been inhuman and degrading, that that detention had been unreasonably long and that his rights to have adequate time to prepare his defence and to defend himself through legal assistance of his own choosing had been violated. Mr Gimranov also complained that he had not been provided with the free assistance of an interpreter throughout the

proceedings. Mr Shutov also complained that his right to defend himself through legal assistance of his own choosing had been violated.

4. On 14 September 2010 the above complaints were communicated to the Government.

5. On 12 December 2014 one of the applicants, Mr Shutov, died. In a letter of 16 July 2015 the applicant's widow, Ms Shutova, expressed her wish to pursue the application on her late husband's behalf.

6. In a letter of 2 September 2015 the Government disagreed, stating that the proceedings before the Court in respect of Mr Shutov should be discontinued because of his death, and that his wife did not have a sufficient legitimate interest to justify further examination of his case.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicants were born in 1957, 1961, 1966, 1970 and 1946 respectively and lived until their arrest in St Petersburg.

A. Background of the case

8. At the end of the 1990-s a criminal gang was operating in St Petersburg. It was named after one of the applicants as "Shutov's Gang". Its members were involved in multiple serious and violent crimes including aggravated murders, kidnappings, armed robberies and extortion. At the time, Mr Shutov was serving as a member of the St Petersburg Legislative Assembly. He was later accused and convicted of orchestrating the gang's activities.

B. The applicants' arrest and pre-trial detention

9. On 20 January 1999 a criminal investigation into the gang's activities was opened.

10. The applicants were arrested on the following dates:

- Mr Gimranov and Mr Dodonov on 26 January 1999;
- Mr Denisov on 13 February 1999;
- Mr Shutov on 16 February 1999; and
- Mr Filimonov on 7 March 2001.

11. They were placed in pre-trial detention on suspicion of participating in a number of serious crimes as members of a criminal group allegedly led by Mr Shutov.

12. The St Petersburg City Court (hereinafter "the City Court") extended the period of the applicants' pre-trial detention several times.

13. It transpires from the wording of the decisions that the City Court relied solely on the seriousness of the charges as grounds for the continuing detention and rejected a complaint made by the applicants concerning the composition of the bench. The City Court did not examine in detail the need or grounds for continuing detention and extended the applicants' pre-trial detention by repeating the contents of earlier orders. In the last extension order, made on 6 December 2005, the City Court relied in addition on the need "to secure execution of a conviction". All of the extensions were upheld on appeal.

C. Trial

14. On 26 January 2001 the preliminary investigation was completed. Mr Denisov, Mr Gimranov, Mr Dodonov, Mr Shutov and twelve other individuals implicated in the gang's activities were charged with multiple counts of aggravated murder, kidnapping, armed robbery and extortion. The bill of indictment and material from the applicants' case (no. 7806) were transmitted to the City Court, where it reached on 29 January 2001.

15. On 13 April 2001 Mr Filimonov was indicted in separate proceedings for similar offences and his criminal case was transmitted to the City Court and consolidated with case no. 7806.

1. Adjournments

16. The first hearing was scheduled for 1 October 2001, but the City Court adjourned it at least eighty-eight times between that date and 27 September 2004 for the reasons summarised as follows: (i) some lawyers failed to appear for no reason; (ii) some of the lawyers excused their absence for health, professional or personal reasons; (iii) the applicants were not escorted to the court on the days they were ill; or (iv) the applicants and/or their lawyers were removed from the courtroom for interrupting the presiding judge and court clerk, addressing the City Court using obscene language and engaging in other unruly behaviour.

17. On 28 September 2004 the City Court began to examine the case on the merits by inviting the prosecution to read out the bill of indictment. The trial continued, with few interruptions, until 15 February 2006.

2. Challenges to the bench

18. The City Court was composed of a professional judge and two lay judges, Ms I. and Ms M., who in 1990 and 1991 respectively had been elected by St Petersburg (then Leningrad) City Council of People's

Deputies (City Council) to serve as lay judges at the City Court. Their terms of service were extended by three presidential Decrees.

19. On 15 May 2002 and 27 March 2003 the defence unsuccessfully challenged the professional judge, alleging that he was biased against the applicants.

20. On 12 February 2004 the applicants applied to have their case examined by a jury. Their request was not considered by the court because Mr Shutov was not present in court.

21. On 27 May and 23 August 2004 the defence unsuccessfully challenged the lay judges Ms I. and Ms M., on the grounds that they lacked the requisite credentials. In particular, they submitted that Ms I. had never been selected as a lay judge, and that Ms M.'s term of office had expired in 1996. They further alleged that subsequent extensions of Ms M.'s term of office by Presidential Decree had been unlawful, and that in any event she could no longer serve in her office following the adoption in January 2000 of a law governing the selection and service of lay judges and the entry into force in July 2002 of the new Code of Criminal Procedure, which had abolished lay judges in the Russian judicial system. In support of their argument, they submitted a letter from the president of the St Petersburg Legislative Assembly stating that their archives contained no decisions by City Council dated 22 June 1990, the date Ms I. had allegedly been selected.

22. On 24 September 2004 the applicants unsuccessfully challenged the professional judge and applied for an examination of their case by a jury.

23. The applicants challenged the bench up to forty-seven times in total during the proceedings.

3. Presence in the courtroom during the proceedings

24. Mr Denisov was excluded from the courtroom for misconduct from 17 September 2003 to 17 March 2004, 16 April to 24 September 2004, 27 September 2004 to 19 July 2005 and 21 July to 9 December 2005 after repeatedly challenging the bench and requesting to be tried by jury and engaging in unruly behaviour.

25. On 27 September 2004 the other four applicants were removed from the courtroom prior to the start of examination of the case on the merits until the end of the submissions, on the same grounds as Mr Denisov.

26. Mr Gimranov submitted that after the prosecution had finished presenting its evidence, he had been called to the courtroom and invited to testify. He had been removed again after asking about the witnesses' testimonies or for access to the hearing transcript and an interpreter.

4. Location of the hearings

27. On 26 August 2004 the prosecutor requested the City Court to have the trial moved from the City Court to Kresty remand prison IZ-47/1 in

St Petersburg ("IZ-47/1"). The prosecutor explained to the court that Mr Shutov suffered from different health ailments and constantly required medical supervision which was not possible in the courtroom as there was no on-site medical stuff present in the court building, unlike in the remand prison which had a permanent medical post. The prosecutor further submitted that the removal of the trial to IZ-47/1 was also aimed at ensuring the safety of the presiding judge, lay judges and three co-defendants of the applicants who started receiving physical threats in connection with the proceedings and asked for state protection.

28. On the same day the City Court granted the prosecutor's request despite protests by the defence, who complained that there would be no access to the public.

29. According to the documents in the case-file, the members of the general public could attend the hearings in IZ-47/1 after they presented their identity document to the security personnel and obtained a security pass. Between 27 August 2004 and 17 February 2006 thirty-seven individuals were admitted to attend the hearings taking place in IZ-47/1. The City Court allowed video and audio recording during the trial in the remand prison. The journalists were allowed to observe the trial on a television screen in the press-room organised specifically for them in IZ-47/1.

30. On 28 September 2004 and 2 November 2005 the defence applied to have the trial moved back to the City Court, alleging poor working conditions. Both requests were rejected.

31. On 16 and 17 February 2006 the representatives of four television channels and six newspapers were present during the trial.

5. Review of the case documents by Mr Denisov and his lawyer K. during the proceedings

32. On 15 June 2000 Mr Denisov and G., the lawyer representing him at the time, signed a form acknowledging that they had received sixty-five files of the criminal case for review.

33. On 16 August 2000 the head of the criminal investigation unit gave Mr Denisov a formal warning for delaying the review of the case documents for no valid reason and notified him that the time allocated to him for studying the case material might be reduced. Mr Denisov signed the warning and explained in writing that he had regularly reviewed the case documents and had done so as quickly as he could.

34. On 6 September 2000 the head of the criminal investigation unit reported that because Mr Denisov had intentionally delayed the review of the case documents and had refused to review them on several occasions, he and his lawyer had been given eighty days to finish the review, and by 15 January 2001 at the latest.

35. According to the trial transcript of 28 September 2004, the City Court refused a request by Mr Denisov's new lawyer, K., to adjourn the

hearing in order to review the case documents. The court explained that since Mr Denisov's lawyer G. remained on the case and was familiar with the material, K.'s request for adjournment was not justified.

36. On 29 September 2004 the City Court informed the applicants' lawyers, including K., that they could study the case documents every afternoon after the hearings and during working hours on Fridays.

37. On 10 November 2004 the City Court ruled that Mr Denisov would be allowed to review the transcript of the hearings from which he had been removed at the end of the deliberations.

38. On 2 December 2004 Mr Denisov's lawyer K. informed the City Court that he had reviewed the case documents and had digital copies of them.

6. Conditions of Mr Denisov's detention in the remand prison

39. From 24 February 1999 to 17 March 2006 Mr Denisov was detained in IZ-47/1.

40. On 21 May 2007 he complained to the Court that the conditions of his detention there had been inadequate. In particular, he stated that each detainee in his cell had only been allocated 1.5 square metres of space. The cell had not been heated in winter or properly ventilated in summer, and there had been no privacy in the toilet area.

7. Mr Denisov's submissions regarding the trial

41. The applicant submitted that on 4 March 2002 and 20 July 2003 the court had refused his request to study certain case material even though he had only studied thirty-two of the sixty-eight files produced by the end of the preliminary investigation.

42. On 28 September 2004 the City Court had refused to allow his second legal counsel K., who had entered the proceedings that day, time to study the case file.

43. On 30 September 2004 his counsel had requested that he be allowed time to study the case material and the trial transcript. The City Court had refused, noting that he had had ample opportunity to study the case in advance, and that the trial transcript would be distributed at the end of the proceedings.

44. On 2 December 2004 and 27 June 2005 his remaining legal counsel K. had requested access to certain evidence and procedural documents. The request had been granted only in part.

45. On 20 July 2005 his counsel had unsuccessfully asked to be allowed time to study the statements certain witnesses, victims and co-accused had made during the preliminary investigation, and to familiarise himself with transcripts of the hearings held while the applicant had been excluded from the courtroom.

8. Mr Gimranov's submissions regarding the trial

46. The applicant submitted that even though his native language was Tatar and he was not completely fluent in Russian, he had not been provided with an interpreter despite his requests both during the pre-trial and trial stages of the proceedings. On several occasions the City Court had refused his requests for translations and to allow his partner, Ms. Ch., to act as his non-legal representative in the proceedings, on the grounds that she was not fluent in Tatar. He had also been unable to lodge an appeal against his conviction, as the appellate court had refused to consider his statement of appeal written in Tatar.

9. Mr Shutov's submissions regarding the trial

47. The applicant submitted that on 3 November 2005 he had terminated his agreement for legal assistance with his two counsels Z. and Sh. He had informed the City Court that he wished to retain new counsel, but it had refused his request on the grounds that he had not given sufficient reasons why he no longer wished to be represented by Z. and Sh. They had continued to represent him, but according to the applicant, they had not effectively participated in the defence.

10. Conviction and appeal proceedings

48. On 15 February 2006 the City Court convicted the applicants and twelve other defendants of multiple counts of organising a criminal group, murder and assault, preparing explosive devices and unlawfully storing and carrying firearms. Mr Denisov, Mr Gimranov and Mr Shutov were sentenced to life imprisonment, while Mr Filimonov and Mr Dodonov received sentences of nine and eighteen years respectively.

49. According to the judgment, the applicants could request to participate in person in the appeal hearing of their case. The applicants appealed.

(a) Mr Shutov's request to participate in appeal proceedings

50. On 27 February 2006 Mr Shutov filed a statement of appeal against his conviction. He did not request to be present during the hearing. On 30 August 2006 he was informed that the hearing of his case on appeal would start on 16 November 2006 in the Supreme Court of Russia (hereinafter "the appellate court"). On the day of the hearing Mr Shutov's lawyer, S., lodged a request for him to personally participate in the hearing but it was refused. In addition to S., Mr Shutov was represented by two other lawyers at the hearing.

(b) Mr Dodonov's request to participate in appeal proceedings

51. On 29 June 2006 the appellate court granted Mr Dodonov's request to participate in the appeal hearing of his case.

(c) Appeal judgment

52. On 21 November 2006 the Supreme Court of Russia upheld the applicants' conviction on appeal. Mr Denisov, Mr Dodonov, Mr Gimranov and their lawyers participated in the hearing, as did Mr Shutov's three lawyers and Mr Filimonov's lawyer.

II. RELEVANT DOMESTIC LAW

A. Conditions of detention

53. The relevant domestic law and international material regarding the conditions of pre-trial detention in Russian custodial facilities are summarised in the case of *Ananyev and Others v. Russia* (nos. 42525/07 and 60800/08, §§ 25-60, 10 January 2012).

B. Pre-trial detention

54. For a comprehensive summary of the domestic provisions on pre-trial detention and time-limits for trial in Russia, see *Avdeyev and Veryayev v. Russia* (no. 2737/04, §§ 22-34, 9 July 2009).

C. Composition of courts in criminal proceedings

1. Code of Criminal Procedure of the RSFSR of 27 October 1960 (in force up to 1 July 2002)

55. Article 15 provided that hearings in first-instance courts dealing with criminal cases were to be conducted, subject to certain exceptions, by a single professional judge or by one professional and two lay judges. In their judicial capacity, lay judges enjoyed the same rights as professional judges.

56. Article 241 provided that every case must be examined by one and the same composition. If one of the judges is no longer able to take part in the proceedings he must be replaced by another judge, and the court proceedings must restart from the beginning, expect in cases described in Article 242.

2. Law on the Judicial System of the RSFSR of 8 July 1981

57. Section 29 provided that lay judges at the regional courts were to be elected by the relevant council of people's deputies for a term of five

years (the relevant provisions remained in force until 10 January 2000, date of the official publication of the Federal Law on lay judges at the federal courts of general jurisdiction in the Russian Federation).

3. Law on the Status of Judges in the USSR of 4 August 1989

58. Section 10 (5) provided that lay judges were elected for a term of five years.

4. Federal Law of 31 December 1996 on the Judicial System of Russia

59. Section 1 provided that judicial authority in the Russian Federation was vested exclusively in courts comprising professional judges, jurors, lay judges and arbitration judges appointed or elected in accordance with the procedure laid down by federal law.

60. Section 37 established that lay judges elected to serve in the courts before 1 January 1997 should remain in office until the expiry of the term of office for which they had been elected.

5. Code of Criminal Procedure of Russia of 18 December 2001

61. Article 242 provided that the composition of the court that started examining the case had to remain unchanged throughout the trial.

D. Lay judges

1. Federal Law of 2 January 2000 on Lay Judges of the Federal Courts of General Jurisdiction in the Russian Federation ("the Lay Judges Act"- in force between 10 January 2000 and 1 January 2004)

62. Section 1 provided that Russian citizens were entitled to participate in the administration of justice as lay judges. Lay judges were persons entitled by law to hear civil and criminal cases as part of the court bench and carry out their judicial duties on a non-professional basis.

63. Section 2 provided that local self-government bodies selected lay judges for a given district court from the electoral roll of the district located within that court's jurisdiction. Regional legislative bodies then approved the lists of lay judges and distributed them to the relevant district court.

64. Section 5 set out the procedure for selecting lay judges for the examination of cases in the district courts. It provided that the president of a district court had to draw at random from the list a certain number of lay judges to be called to that district court. The reserve number of lay judges assigned to every professional judge had to be at least three times the number of persons needed for a hearing.

65. Section 6 provided that lay judges for a regional court or other court at the same level had to be drawn by lot from the lists for all the district courts in the area.

2. Decrees issued by the President of the Russian Federation

(a) Presidential Decree no. 2289 of 25 December 1993 (the 1993 Decree)

66. This decree extended the term of service of lay judges (elected under the "old" procedure) until such time as the law governing the judicial system was enacted (see paragraphs 59-60 above).

(b) Presidential Decree no. 41 of 23 January 1997 (the 1997 Decree)

67. This decree extended the term of service of lay judges (elected under the "old" procedure) until such time as the law concerning lay judges was enacted.

(c) Presidential Decree no. 103 of 25 January 2000 (the 2000 Decree)

68. This decree extended the term of service of lay judges (elected under the "old" procedure) until such time as the relevant federal courts received the lists of lay judges ratified by the regional legislative body in accordance with the Lay Judges Act.

(d) Presidential Decree no. 855 of 5 August 2002 (the 2002 Decree)

69. This decree set aside the 2000 Presidential Decree.

3. Regulation on the appointment of lay judges

70. On 14 January 2000 the Presidium of the Supreme Court of Russia, on the basis of section 5 of the Lay Judges Act, issued a regulation on the procedure for selecting lay judges. It provided that for each judge, the president of a district court had to draw 156 names at random from the general list of lay judges. The lay judges for a particular case were to be drawn by lot by the judge to whom the case had been assigned.

4. Federal Law of 18 December 2001 (No. 177-FZ) on the Introduction of the Code of the Criminal Procedure of Russia

71. Section 2(1) (as in force from 29 May 2002) provided that the Lay Judges Act (cited above), in so far as it applied to criminal proceedings, would no longer be in force from 1 January 2004 onwards.

E. Personal participation in the appeal proceedings

72. Article 375 § 2 of the Code of Criminal Procedure of Russia as in force at the material time provided that a convicted person wishing to participate in the appeal proceedings had to indicate it in his statement of appeal.

THE LAW

I. *LOCUS STANDI* OF MS SHUTOVA

73. The Court takes note of Mr Shutov's death and of the wish of Ms Shutova, his widow, to pursue the proceedings he initiated.

74. The Court reiterates that where an applicant dies during the examination of a case, his or her heirs may in principle pursue the application on his or her behalf (see *Jėčius v. Lithuania*, no. 34578/97, § 41, ECHR 2000-IX). It further reiterates that in a number of cases in which applicants have died in the course of the proceedings, it has taken into account the statements of their heirs or close family members expressing their wish to pursue the proceedings before the Court (see *Latif Fuat Öztürk v. Turkey*, no. 54673/00, § 27, 2 February 2006, and *Hanbayat v. Turkey*, no. 18378/02, § 20, 17 July 2007). In the present case, the Court considers that apart from explicitly expressing her wish to do so, the applicant's widow has a sufficient legitimate interest in pursuing the proceedings on his behalf, given the nature of the complaints brought by Mr Shutov.

75. The Court therefore considers that the applicant's widow has standing to continue the present proceedings in the applicant's stead. Consequently, it rejects the Government's objection that the proceedings should be discontinued.

II. JOINDER OF THE APPLICATIONS

76. In accordance with Rule 42 § 1 of the Rules of Court, the Court decides to join the applications, given their similar factual and legal background.

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION – CONDITIONS OF MR DENISOV'S DETENTION IN THE REMAND PRISON

77. Mr Denisov complained that the conditions of his detention in the remand prison IZ-47/1 in St Petersburg had been 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."

78. The Government claimed that Mr Denisov had not exhausted domestic remedies, because he had not sought compensation in the civil courts for the allegedly inadequate conditions of his detention in IZ-47/1. They further submitted that the conditions from 24 February 1999 to

17 March 2006 had been compatible with the requirements of Article 3 of the Convention.

1. Exhaustion of domestic remedies

79. The Court reiterates its well-established position that in the Russian legal system, a civil claim for compensation for inadequate conditions of detention is not considered an effective remedy (see *Norkin v. Russia* (dec.), no. 21056/11, §§ 17 and 19, 5 February 2013, with further references).

80. It therefore considers that the applicant could not have been expected to lodge a civil claim for compensation with the domestic courts and rejects the Government's objection as to non-exhaustion of domestic remedies.

2. Compliance with the six-month limit

81. The Court further observes that the Government did not submit any arguments concerning whether or not the applicant complied with the six-month limitation period for lodging his complaint.

82. In this regard, the Court refers to the case of *Ananyev and Others* (cited above, §§ 71-72) and notes that, in contrast to an objection as to non-exhaustion of domestic remedies, which must be raised by the respondent Government, it cannot set aside the application of the six-month rule solely because a government have not made a preliminary objection to that effect. As a rule, the six-month period runs from the date of the final decision in the process of exhaustion of domestic remedies. Where no effective remedy is available to the applicant, the period runs from the date of the acts or measures complained of or from the date of the knowledge of that act or its effect on or prejudice to the applicant. In cases featuring a continuing situation, the six-month period runs from the cessation of that situation.

83. The Court observes that according to the case material, the applicant was held in IZ-47/1 from 24 February 1999 to 17 March 2006. Given the fact that no effective remedy was available to him, he should have lodged his complaint on 17 September 2006 by the latest. However, he only brought his complaint to the Court for the first time on 21 May 2007 (see paragraph 40 above), more than a year after his detention in the remand prison ended.

84. It therefore follows that this complaint is inadmissible for non-compliance with the six-month rule set out in Article 35 § 1 of the Convention, and must be rejected pursuant to Article 35 § 4.

IV. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION IN RESPECT OF MR DENISOV

85. Mr Denisov further complained that his detention from 13 February 1999 to 15 February 2006 pending investigation and trial had not been justified and had been in breach of the "reasonable time" requirement. He relied on Article 5 § 3 of the Convention, which reads as follows in the relevant part:

> "3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

A. Admissibility

86. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

87. The Government claimed that every time the court had extended the term of Mr Denisov's detention on remand, it had referred to the seriousness of the charges against him as well as other "material and sufficient" factors. Its arguments had not been abstract because they had been based on the relevant criminal case material.

88. Mr Denisov submitted that during his seven years in the remand prison, the court had extended his time in detention relying only on the seriousness of the pending charges and without considering any other circumstances that might have warranted his release pending trial.

2. The Court's assessment

(a) General principles

89. In determining the length of detention pending trial under Article 5 § 3 of the Convention, the period to be taken into consideration begins on the day the accused is taken into custody and ends on the day the charge is determined, even if only by a court of first instance (see *Wemhoff v. Germany*, 27 June 1968, § 9, Series A no. 7, and *Labita v. Italy* [GC], no. 26772/95, §§ 145 and 147, ECHR 2000-IV).

90. The presumption is in favour of release. The second limb of Article 5 § 3 of the Convention does not give judicial authorities the choice between either bringing an accused to trial within a reasonable time or granting him provisional release pending trial. Until conviction, he must be presumed innocent, and the purpose of the provision under consideration is essentially to require his provisional release once his continuing detention ceases to be reasonable (see *McKay v. the United Kingdom* [GC], no. 543/03, § 41, ECHR 2006-X).

91. The question whether a period of time spent in pre-trial detention is reasonable cannot be assessed in the abstract. Whether it is reasonable for an accused to remain in detention must be assessed on the facts of each case and according to its specific features. Continued detention can be justified in a given case only if there are actual indications of a genuine requirement of public interest which, notwithstanding the presumption of innocence, outweighs the rule of respect for individual liberty laid down in Article 5 of the Convention (see, among other authorities, *Kudła v. Poland* [GC], no. 30210/96, §§ 110 et seq., ECHR 2000-XI).

92. The existence and persistence of a reasonable suspicion that the person arrested has committed an offence is a condition *sine qua non* for the lawfulness of the continued detention. However, after a certain lapse of time it no longer suffices. In such cases, the Court must establish whether the other grounds given by the judicial authorities continued to justify the deprivation of liberty. Where such grounds are "relevant" and "sufficient", the Court must also ascertain whether the competent national authorities displayed "special diligence" in the conduct of the proceedings (see *Labita*, cited above, §§ 152-53).

93. The responsibility falls in the first place to the national judicial authorities to ensure that, in a given case, the pre-trial detention of an accused person does not exceed a reasonable time. To this end they must, paying due regard to the principle of the presumption of innocence, examine all the facts arguing for or against the existence of the public interest which justifies a departure from the rule in Article 5 and must set them out in their decisions on the applications for release (see, for example, *McKay*, cited above, § 43).

94. Article 5 § 3 of the Convention cannot be seen as unconditionally authorising detention provided that it lasts no longer than a certain period. Justification for any period of detention, no matter how short, must be convincingly demonstrated by the authorities (see *Shishkov v. Bulgaria*, no. 38822/97, § 66, ECHR 2003-I). When deciding whether a person should be released or detained, the authorities are obliged to consider alternative measures of ensuring his appearance at trial (see *Jabłoński v. Poland*, no. 33492/96, § 83, 21 December 2000).

(b) Application of the above principles to the present case

(i) Period to be taken into consideration

95. The Court notes that Mr Denisov was in custody within the meaning of Article 5 § 3 of the Convention from 13 February 1999 (the day of his arrest) to 15 February 2006 (the day of his conviction), that is, seven years and four days. This period appears to be rather long; however, given the principles reiterated above, the Court will need to assess whether there were relevant and sufficient reasons to justify Mr Denisov's continuing detention on remand.

(ii) Whether there were relevant and sufficient reasons to justify Mr Denisov's detention

96. The Court notes that the City Court detained Mr Denisov based on a reasonable suspicion that he had committed serious criminal offences and relied solely on the seriousness of the charges as the main factor for his continuing detention (see paragraph 13 above). In this regard, the Court notes that it has repeatedly held that the seriousness of charges cannot by itself serve to justify long periods of detention (see *Avdeyev and Veryayev*, cited above, § 64). However, the City Court did not provide any additional reasons in its extension orders, evaluate the specific facts of Mr Denisov's case or assess the risks associated with his possible release pending trial. The wording of the extension orders throughout the seven years of Mr Denisov's pre-trial detention were strikingly identical and contained no analysis of the pertinent facts (see paragraph 13 above).

97. The Court also notes that the domestic authorities, using the same formula, simultaneously extended Mr Denisov and his co-defendants' detention (see paragraph 13 above). It reiterates its view that this approach is incompatible, in itself, with the guarantees enshrined in Article 5 § 3 of the Convention in so far as it permits the continued detention of a group of persons without a case-by-case assessment of the grounds for holding them or compliance with the reasonable time requirement in respect of each individual member of the group (see *Kovaleva v. Russia*, no. 7782/04, § 79, 2 December 2010).

98. The Court further notes that during the entire period under consideration, the City Court did not consider the possibility of ensuring Mr Denisov's attendance by the use of other "preventive measures" such as a written undertaking or bail, which are expressly provided for by Russian law to secure the proper conduct of criminal proceedings, or, at the very least, by seeking to and explaining in its decisions why such alternatives would not have ensured that the trial would follow its proper course.

99. Having regard to the above, the Court considers that by relying on the seriousness of charges, repeatedly failing to provide additional and proper grounds for Mr Denisov's continuing detention, extending his

detention in summary fashion together with his co-defendants', and not considering alternative preventative measures, the City Court cannot be said to have relied on "relevant" and "sufficient" reasons when extending the pre-trial detention. In those circumstances, it is not necessary to examine whether the proceedings were conducted with "special diligence".

100. The Court therefore finds that there has been a violation of Article 5 § 3 of the Convention on account of the length of Mr Denisov's pre-trial detention.

V. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION ON ACCOUNT OF THE COMPOSITION OF THE TRIAL COURT

101. The applicants complained that the St Petersburg City Court, which had convicted them on 15 February 2006, had not been composed in accordance with the law and had not had power to deal with their case after 1 January 2004. They relied on Article 6 § 1 of the Convention, the relevant part of which reads as follows:

> "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

A. Admissibility

102. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

(a) The Government

103. The Government submitted that on 22 June 1990 and 10 October 1991 respectively, in accordance with the Soviet Constitution and the Soviet Law on Judges as in force at the material time, Ms I. and Ms M. had been approved by the City Council to serve as lay judges at the City Court. In support of their claim, they submitted, *inter alia*, the following documents:

(a) a draft decision of the City Council dated 22 June 1990 on the election of lay judges, including Ms. I., to the City Court;

(b) a transcript of a meeting of the City Council on 22 June 1990 containing the agenda and details of a discussion concerning the election of lay judges on that day;
(c) a decision of the City Council dated 10 October 1991 on the election of lay judges to the City Court;
(d) affidavits produced by Ms I. and Ms M., confirming that they had been elected as lay judges on 22 June 1990 and 10 October 1991 respectively.

104. The Government further submitted that the term of service of Ms I. and Ms M. had been extended by three Presidential Decrees on 25 December 1993, 23 January 1997 and 25 January 2000 and until such time as the regional legislative body ratified the general list of lay judges in accordance with the Lay Judges Act of 2 January 2001. However, the list had never been ratified in St Petersburg.

105. The Government also alleged that all the lay judges elected from 1990 to 1993 had retained their powers until 5 August 2002, when the 2002 Decree abolished the extension of lay judges' terms of service.

106. They further noted that the City Court had started examining the applicants' case on 1 October 2001, when the provisions on lay judges and their powers had still been in force. The examination of the applicants' case by lay judges continued after 1 January 2004 in accordance with Article 242 of the Code of Criminal Procedure, which provided that the composition of the court examining the case had to remain unchanged throughout the trial.

(b) The applicants

107. The applicants claimed that Ms I. had not been selected to serve as a lay judge in the City Court on 22 June 1990. In support of their claim they submitted an extract of an archive record from the St Petersburg Central National Archive stating that the minutes and the transcript of the City Council meeting of 22 June 1990 did not contain a decision on the election of Ms I.

108. They further alleged that Ms M. could not have served as a lay judge in their case. In particular, they submitted that the Law on the Judicial System, which had been enacted on 31 December 1996, could not possibly extend Ms M.'s powers as a lay judge because her five-year term of service had already expired in October 1996, five years after her original election on 10 October 1991.

109. In the alternative, the applicants claimed that even if Ms I. and Ms M. had been duly elected as lay judges in the 1990-s and their term of service had been extended three times by Presidential Decrees, they, nevertheless, had not had the power to examine the applicants' case. In particular, the 2000 Decree had extended their term of service until such time as the lists of lay judges were ratified by the regional legislature and assigned to the relevant federal courts. However, Ms I. and Ms M. took part

in the examination of the applicants' case even though the lists of lay judges in which Ms I. and Ms M.'s names had been included had never been ratified by the St Petersburg Legislative Assembly or distributed to the City Court.

110. Lastly, the applicants argued that after 1 January 2004, the participation of lay judges Ms I. and Ms M. in their trial had been unlawful, since from that date there had been no basis in domestic law for the further involvement of lay judges in the proceedings.

2. The Court's assessment

111. The Court notes at the outset that the applicants' complaint is twofold. Firstly, they challenged the lawfulness of the appointment of the lay judges who sat on the bench in their case and the extension of their term of office; and secondly, they questioned their judicial powers after 1 January 2004.

112. The Court reiterates that the phrase "established by law" covers not only the legal basis for the very existence of a "tribunal" but also the composition of the bench in each case (see *Buscarini v. San Marino* (dec.), no. 31657/96, 4 May 2000).

113. The Court is therefore requested to examine allegations such as those made in the present case concerning an alleged breach of the internal rules for the appointment of judicial officers. The fact that the complaint in the present case concerns lay judges does not make it any less important as, under Article 15 of the Code of Criminal Procedure, in their judicial capacity lay judges enjoy the same rights as a professional judge (see *Posokhov v. Russia*, no. 63486/00, § 39, ECHR 2003-IV, and paragraph 55 above).

114. The Court notes that in this regard, it is necessary to carry out a three-step analysis of the composition of the court in the applicants' case before lay judges were abolished on 1 January 2004. The Court will first determine whether Ms I. and Ms M. were duly elected to their office and whether their term of office was duly extended. The Court will then turn to examine whether Ms I. and Ms M. were empowered to serve as lay judges in the applicants' case following the adoption of the Lay Judges Act.

(a) Selection and appointment of Ms I. and Ms M. as lay judges under the Law on the Status of Judges in the USSR

115. The Court observes that from 1990 to 1991 the City Council selected a pool of lay judges (see paragraphs 18, 57 and 103 above). Having examined the documents submitted by the parties, the Court accepts that Ms I. and Ms M. were duly elected as lay judges on 22 June 1990 and 10 October 1991 respectively, for a term of five years.

(b) Extension of Ms I. and Ms M.'s term of service

116. The Court further observes that in 1993 the term of service of lay judges in Russia was extended by the 1993 Decree until such time as the law governing the judicial system in Russia was enacted (see paragraphs 18 and 66 above). On 31 December 1996 the Law on the Judicial System of Russia was adopted, which provided that lay judges retained their powers until their term of service expired (see paragraph 60 above).

117. In this regard, it appears that Ms I. and Ms M.'s term of service, originally extended by the 1993 Decree, should have expired on 31 December 1996 when the Law on the Judicial System in Russia was adopted. However, twenty-three days later, the 1997 Decree extended the term of service of lay judges in Russia until such time as the law concerning lay judges was enacted (see paragraph 67 above). The Court cannot but accept that the 1997 Decree was enacted to avoid the systemic problem with the legitimacy of status of lay judges elected in the early 1990-s to examine new cases.

118. In the Court's opinion, a brief delay in the renewal of powers of lay judges Ms I. and Ms M., who were in office between the early 1990-s and 2006, was a minor irregularity and did not overall undermine the legitimacy of status of Ms I. and Ms M. or any other lay judge in a similar situation. In particular, Ms I and Ms M. had been elected in accordance with the law and their term of office was otherwise duly and regularly extended in good faith by the authorities in the 1993 and 1997 Decrees which were aimed at safeguarding the status of lay judges in office pending the adoption of the respective law. Moreover, lay judges, including Ms I. and Ms M., formed an integral part of the Russian judicial system and were essential for the proper and uninterrupted administration of justice during its major reform at that time (see paragraphs 59 and 62-65 above). The Court therefore concludes that Ms I. and Ms M. lawfully remained in their office as lay judges when the Lay Judges Act was enacted on 2 January 2000.

119. Accordingly, the Court will turn to examine whether the participation of Ms I. and Ms M. in the examination of the applicants' case was lawful after 2 January 2000.

(c) Selection and appointment of Ms I. and Ms M. as lay judges under the Lay Judges Act

120. The Lay Judges Act governed the procedure for electing lay judges (see paragraphs 62-65 above). On 25 January 2000 the term of service of appointed lay judges was extended by the 2000 Decree until such time as the lists of lay judges were ratified by the regional legislature and distributed to the relevant federal court in accordance with the Lay Judges Act (see paragraph 68 above).

121. The Court notes that when Ms I. and Ms M. started examining the applicants' case on 1 October 2001, the list of lay judges including their

names had not yet been ratified by the St Petersburg Legislative Assembly or distributed to the City Court in accordance with section 2 of the Lay Judges Act. Pending the ratification of the lists of lay judges by the regional legislatures, the participation of Ms I. and Ms M. in the applicants' trial was governed by the 2000 Decree, which extended the term of office of appointed lay judges (see paragraph 68 above). This Decree was set aside on 5 August 2002 (see paragraph 69 above) and the lists of lay judges had still not been ratified at that time (see paragraph 104 above).

122. The Court notes, however, that on 5 August 2002 the applicants' trial was under way and Ms I. and Ms M. had been serving as lay judges in it since 1 October 2001. In accordance with the applicable provisions of the Criminal Procedure Code, the composition of the court examining the case had to remain unchanged throughout the judicial proceedings (see paragraphs 56 and 61 above). In the Court's opinion, the requirement of a permanent composition of the court enshrined in the Criminal Procedure Code of the RSFSR and later Russia ensured continuous and timely examination of the applicants' case and superseded the failure of the authorities to ratify and distribute the lists of lay judges.

123. The Court reiterates that it has found violations of Article 6 § 1 of the Convention in a number of cases against Russia in which it was established that the selection of lay judges had been conducted contrary to the requirements of the Lay Judges Act (see *Petr Sevastyanov v. Russia*, no. 75911/01, §§ 35-39, 14 June 2011; *Kuptsov and Kuptsova v. Russia*, no. 6110/03, §§ 111-18, 3 March 2011; *Zakharkin v. Russia*, no. 1555/04, §§ 146-51, 10 June 2010; *Ilatovskiy v. Russia*, no. 6945/04, §§ 36-42, 9 July 2009; *Moskovets v. Russia*, no. 14370/03, § 99, 23 April 2009; *Shabanov and Tren v. Russia*, no. 5433/02, § 30, 14 December 2006; and *Posokhov,* cited above, §§ 40-44).

124. The Court observes, however, that those cases distinctly contrast with the present case, because, unlike in the situation at hand, the Court found in them serious defects in the initial selection of lay judges which irreversibly undermined the fairness of the criminal proceedings against the applicants.

125. In the light of the above considerations, the Court concludes that Ms I. and Ms M. had the power to examine the applicants' case before and after 5 August 2002 and also after 1 January 2004, when the provisions on lay judges were permanently abolished. Accordingly, the Court holds that the composition of the court in the applicants' case was lawful and that there has been no violation of Article 6 § 1 of the Convention on that account.

VI. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION (LENGTH OF PROCEEDINGS)

126. The applicants complained that the length of the proceedings against them had been incompatible with the "reasonable time" requirement laid down in Article 6 § 1 of the Convention, which reads as follows:

> "In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

A. Admissibility

127. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention, and that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

128. The Government submitted that the case had been complicated as it had combined fourteen criminal cases, involved a large number of victims, witnesses and seventeen accused, and had required a large number of investigative activities conducted in different locations. They claimed that the delays had been attributable to the applicants. In particular, delays during the pre-trial investigation had been caused by the applicants reviewing the case file. Furthermore, they submitted a document detailing the reasons for every hearing adjournment. According to this, between October 2001 and September 2004 the trial was delayed at least eighty-eight times owing to the applicants or their lawyers' ill health, repeated failure of the applicants' lawyers to appear and the applicants or their lawyers being removed from the courtroom because of improper behaviour.

129. The applicants disagreed and claimed in general terms that the Government's allegations were not substantiated or convincing.

2. The Court's assessment

130. The Court reiterates that according to its case-law, the period to be taken into consideration under Article 6 § 1 of the Convention must be determined autonomously. It begins at the time when formal charges are brought against a person or when that person has otherwise been substantially affected by actions taken by the prosecuting authorities as a result of a suspicion against him (see *G.O. v. Russia*, no. 39249/03, § 106, 18 October 2011). The Court observes that the period to be taken into consideration began for each of the applicants the day they were arrested (see paragraph 10 above) and ended on 21 November 2006, when the

Supreme Court of Russia issued the final judgment. The proceedings, at three levels of jurisdiction including the pre-trial investigation, lasted approximately seven years and nine months for Mr Denisov, Mr Gimranov, Mr Dodonov and Mr Shutov, and five years and eight months for Mr Filimonov.

131. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case and the conduct of the applicant and the relevant authorities (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II). In addition, only delays attributable to the State may justify the finding of a failure to comply with the "reasonable time" requirement (see *Pedersen and Baadsgaard v. Denmark*, no. 49017/99, § 44, 19 June 2003).

132. The Court notes that the pre-trial investigation of the applicants' case ran from 10 January 1999 to 26 January 2001 (two years and seventeen days), the proceedings before the City Court ran from 29 January 2001 to 15 February 2006 (five years and eighteen days), and the appeal proceedings before the Supreme Court ran from 16 February to 21 November 2006 (nine months and four days).

133. The Court finds from the material before it that the length of the pre-trial investigation and appeal proceedings do not appear to have been unreasonable given the complexity of the case and the applicants' need to review the case material and prepare for the hearings.

134. The Court considers that the largest gap in the proceedings occurred between 3 October 2001 and 27 September 2004 when the City Court adjourned the hearing at least eighty-eight times because the applicants were ill, lawyers failed to appear for health, personal or professional reasons or for no reason or because the applicants and their lawyers were removed from the courtroom for engaging in disruptive behaviour (see paragraphs 16 and 128 above).

135. In view of the above, the Court will therefore examine whether the adjournments and ensuing delays unnecessarily extended the proceedings and were attributable to the State.

(a) Complexity of the case

136. The Court considers that the proceedings at issue were complex given the seventeen defendants and the number and substance of charges against them (see paragraphs 14, 15 and 48 above). However, it cannot accept that the complexity of the case, taken on its own, was such as to justify the overall length of the proceedings.

(b) Conduct of the applicants

(i) The applicants' illness

137. The Court accepts that the applicants cannot be blamed for taking advantage of the procedural rights available to them and is satisfied that illness constitutes an objective factor responsible for delays. At the same time, it is of the opinion that the State cannot bear responsibility for this either (see *Petr Korolev v. Russia*, no. 38112/04, § 61, 21 October 2010).

(ii) Lawyers' absence

138. The Court considers that the presence of lawyers during the trial was indispensable for the applicants' effective defence, and the City Court duly rescheduled hearings on the days lawyers did not appear for various reasons (see paragraph 134 above). However, it finds that the repeated failure of counsel to attend the trial significantly delayed the proceedings and that this was not attributable to the State (see, by contrast, *Bakhmutskiy v. Russia*, no. 36932/02, § 157, 25 June 2009).

(iii) Disruptive behaviour

139. The Court also takes note of the applicants and their lawyers' improper conduct (see paragraph 16 above) and finds that it did not serve the interests of justice and contributed to further and unjustified delays in the proceedings which were not caused by the State authorities.

(c) The conduct of the authorities

140. As regards the conduct of the authorities, the Court observes from the case material before it that the City Court promptly and systematically rescheduled hearings for reasons outside the control of the domestic authorities. In the absence of any significant periods of inactivity on the part of the State authorities, the Court considers that the length of the proceedings cannot be considered unreasonable (see *Petukhov v. Ukraine*, no. 43374/02, § 141, 21 October 2010).

(d) Conclusion

141. Having examined all the material before it, and given that the factors affecting the overall length of the proceedings were not attributable to the State, the Court considers that the length of the criminal proceedings in the present case cannot be considered unreasonable. There has, accordingly, been no violation of Article 6 § 1 of the Convention on that account.

VII. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

142. The applicants also complained under Article 6 § 1 of the Convention that they had been removed from the courtroom several times, and that the hearing of their case in the remand prison between 26 August 2004 and 17 February 2006 had not been in public. Furthermore, Mr Denisov complained under Article 6 §§ 1 and 3 (b) and (c) that he had not had full access to the case material and that the City Court had refused the request of his newly appointed lawyer K. to adjourn the hearing to review the case documents. Mr Shutov complained that he had not been present during the appeal hearing of his case and that the City Court had refused his request to have another lawyer appointed, contrary to Article 6 §§ 1 and 3 (c) of the Convention. Mr Gimranov complained that he had not been provided with the free assistance of an interpreter, in breach of Article 6 §§ 1 and 3 (e) of the Convention. The Government disagreed with these arguments and submitted detailed documents to refute them.

A. Removal from the courtroom

143. Regarding the removal of the applicants from the courtroom, the Court has established that the applicants and/or some of their lawyers were removed on multiple occasions for interrupting the presiding judge and court clerk, addressing the City Court using obscene language and engaging in other unruly behaviour (see paragraphs 16, 134 and 139 above). Under these circumstances, the removal of the applicants from the courtroom was necessary for maintaining order in the court and it cannot be considered to have curtailed the overall fairness of the proceedings against the applicants, who were represented by lawyers in their absence. The Court therefore rejects this complaint as manifestly ill-founded in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. Public hearing

144. As regards the alleged lack of a public hearing in remand prison IZ-47/1 between 26 August 2004 and 17 February 2006, the case documents before the Court convincingly demonstrate that even though the trial was transferred to the remand prison, it was not closed to the public (see paragraphs 29 and 31 above). It follows that 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.

C. Mr Denisov's complaint concerning access to the case material

145. Regarding Mr Denisov's complaint under Article 6 §§ 1 and 3 (b) and (c) of the Convention of having limited access to the case material, the Court notes from the documents before it and contrary to the applicant's submissions, that both Mr Denisov and his lawyer K. reviewed and studied the case documents in full and that their access to the file was not restricted (see paragraphs 32-38 above). Accordingly, it rejects this complaint as manifestly ill-founded under Article 35 §§ 3 (a) and 4 of the Convention.

D. Mr Shutov's complaints concerning absence from appeal hearing and access to lawyer

146. As regards Mr Shutov's complaint about his absence from the appeal hearing, the Court notes that in accordance with the Code of Criminal Procedure of Russia, he should have indicated in his statement of appeal that he wished to participate in the appeal hearing of his case (see paragraph 72 above). However, he neither filed such a request nor explained why he had failed to do so. Furthermore, the Court notes that even though Mr Shutov was notified promptly in advance of the upcoming hearing and had ample opportunity to submit his request already after filing the statement of appeal, his lawyer lodged his request on the day when the appellate court started examining the applicants' case and provided no reasons as to why it was belated (see paragraph 50 above). In this regard, the Court also notes that unlike Mr Shutov, Mr Dodonov, for example, filed his request for participation in the appeal hearing well in advance of the hearing and that the appellate court granted it (see paragraph 51 above). In these circumstances, and given that Mr Shutov was also represented by three lawyers on appeal (see paragraph 50 above), the Court considers that Mr Shutov's complaint about his absence from the appeal hearing is manifestly ill-founded and rejects it under Article 35 §§ 3 (a) and 4 of the Convention.

147. Furthermore, regarding Mr Shutov's complaint about the refusal of the City Court to dismiss his lawyers Sh. and Z. and have them replaced with different legal counsel, the Court observes that the applicant did not put forward any convincing arguments either before it or the City Court as to how exactly, in his opinion, the services rendered by Sh. and Z. had been ineffective. Moreover, it appears from the case documents that the applicant was not prevented from retaining additional legal counsel if he so wished. It follows that 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.

E. Mr Gimranov's complaint concerning access to interpreter

148. Lastly, regarding Mr Gimranov's complaint of a lack of free assistance from an interpreter, the documents before the Court demonstrate that he completed his secondary education in a school in Russia and graduated from three military institutions in Russia, and excelled at two of them academically. Russian was the only language of instruction during his studies. Furthermore, Mr Gimranov had a professional long-term career in the Russian army and drafted various procedural documents in Russian in the course of the criminal proceedings against him. The Court therefore concludes that Mr Gimranov was fluent in Russian and did not require the assistance of an interpreter during the examination of his case. Accordingly, the Court rejects his complaint under Article 6 §§ 1 and 3 (e) of the Convention as manifestly ill-founded, in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

F. Other complaints

149. Lastly, the applicants raised certain additional complaints, relying on other Articles of the Convention. However, having regard to all the material in its possession, and in so far as it has jurisdiction to examine these allegations, the Court has not found any appearance of a breach of the rights and freedoms guaranteed by the Convention or its Protocols regarding that part of their applications. It follows that it must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

VIII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

150. 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

1. Pecuniary damage

151. Mr Denisov claimed 100,000 euros (EUR) in respect of pecuniary damage.

152. The Government contended that the applicant had failed to substantiate his claim for pecuniary damage with documentary evidence.

153. The Court observes that Mr Denisov did not submit any documents to substantiate his claim for pecuniary damage. It therefore rejects that claim.

2. Non-pecuniary damage

154. Mr Denisov claimed EUR 150,000 in respect of non-pecuniary damage for the unreasonable length of his detention on remand.

155. The Government submitted that the applicant's rights had not been violated and that the finding of a violation, if any, would constitute sufficient just satisfaction in the present case. In any event, any assessment of the amount awarded should be made on equitable basis.

156. The Court considers that an award of just satisfaction must, in the present case, be based on the fact that the length of Mr Denisov's detention on remand was unreasonably long in violation of Article 5 of the Convention. He undeniably sustained non-pecuniary damage as a result of the violation of his rights. However, the sum claimed by him appear to be excessive. Making its assessment on an equitable basis, the Court awards in respect of non-pecuniary damage EUR 7,000 to Mr Denisov, plus any tax that may be chargeable on those amounts.

B. Costs and expenses

157. Mr Denisov claimed EUR 250,000 in legal costs and expenses.

158. The Government claimed that the applicant had not substantiated his claim for legal costs and expenses. They also claimed that the expenditure had not been incurred necessarily and was unreasonable as to quantum.

159. The Court notes that Mr Denisov was represented by Mr Kuzminykh and Ms Liptser. Under the power of attorney given to Ms Liptser by Mr Denisov, she was authorised to receive property and money for his legal representation in the proceedings before the Court. In support of Mr Denisov's claim for legal costs and expenses, Ms Liptser submitted a copy of the legal services agreement between her and Mr Kuzminykh. According to the agreement, Mr Kuzminykh authorised Ms Liptser to file the application form on Mr Denisov's behalf with the Court and paid her approximately 229,400 Russian roubles (RUB) (about EUR 2,900).

160. 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.

161. The Court notes that the amount claimed by Mr Denisov significantly exceeds the amount indicated in the legal representation agreement submitted by Ms Liptser and appears to be excessive.

Mr Denisov did not furnish additional documentation in support of the sum he claimed. The Court further observes that the agreement submitted by Ms Liptser covers only the filing of the application form with the Court and contains no detailed information on the specific services rendered to Mr Denisov during the proceedings before the Court. In this regard, the Court reiterates that pursuant to Rule 60 §§ 2 and 3 of the Rules of Court, itemised particulars of any claim made under Article 41 of the Convention must be submitted, together with the relevant supporting documents or vouchers, failing which the Court may reject the claim in whole or in part (see *Buscarini and Others v. San Marino* [GC], no. 24645/94, § 48, ECHR 1999-I, and *Wilson, National Union of Journalists and Others v. the United Kingdom*, nos. 30668/96, 30671/96 and 30678/96, § 68, ECHR 2002-V).

162. Accordingly, as neither Mr Denisov nor his lawyers furnished details of the work done or the hourly rates charged, it is not possible for the Court to determine whether the costs were necessarily incurred and reasonable as to quantum. In these circumstances, the Court is prepared to award only a total of EUR 1,450 in respect of Mr Denisov's claim for legal costs and expenses, plus any tax which may be chargeable.

C. Default interest

163. 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. *Holds* that Ms Shutova has standing to pursue the present proceedings in Mr Shutov's stead;

3. *Declares* Mr Denisov's complaint concerning the length of his pre-trial detention and the applicants' complaints concerning the composition of the court and the length of proceedings admissible, and the remainder of the applications inadmissible;

4. *Holds* that there has been a violation of Article 5 § 3 of the Convention in respect of Mr Denisov on account of unreasonable length of his pre-trial detention;

5. *Holds* that there has been no violation of Article 6 § 1 of the Convention in respect of all five applicants on account of the composition of the court;

6. *Holds* that there has been no violation of Article 6 § 1 of the Convention in respect of all five applicants on account of the length of proceedings in their case;

7. *Holds*
(a) that the respondent State is to pay to Mr Denisov, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
(i) EUR 7,000 (seven thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
(ii) EUR 1,450 (one thousand four hundred and fifty euros), plus any tax that may be chargeable, 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;

8. *Dismisses* the remainder of the Mr Denisov's claim for just satisfaction.

Done in English, and notified in writing on 19 April 2016, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips
Registrar

Luis Lopez Guerra
President