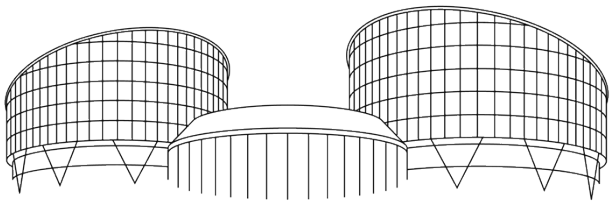

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

Application no. 19329/09
Stanislav Mikhaylovich DMITRIYEVSKIY and OBSHCHESTVO ROSSIYSKO-CHECHENSKOY DRUZHBY
against Russia
lodged on 19 August 2008

STATEMENT OF FACTS

The applicants are Mr Stanislav Mikhaylovich Dmitriyevskiy and Mezhregionalnaya obshchestvennaya organizatsiya "Obshchestvo Rossiysko-Chechenskoy Druzhby" (*the Inter-Regional Non-Governmental Organisation "Russian-Chechen Friendship Society"*). The first applicant is a Russian national who was born in 1966 and lives in Nizhniy Novgorod. The second applicant was located in Nizhniy Novgorod.

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

A. The applicants' background

The first applicant was the second applicant's executive director and then the head of the commission responsible for the second applicant's liquidation.

Prior to its liquidation, the second applicant was a non-governmental organisation registered by the Main Department of the Russian Ministry of Justice in Nizhniy Novgorod on 21 June 2000. According to the second applicant's charter, its main purposes included overcoming hostility and distrust between the people of the Chechen Republic and Russia; monitoring human-rights violations in the Chechen Republic and other parts of the North Caucasus; protecting the rights of civilians, refugees and forced migrants; making public the facts of military crimes and crimes against humanity committed by any of the parties to the conflict in the Chechen Republic; legally representing victims of those crimes in court, and so on. The second applicant was a non-profit organisation and was funded primarily through special-purpose financing from donor foundations and organisations.

B. Events in 2004

In 2004 the first applicant, who was also the chief editor of a regional monthly newspaper *Pravo-Zashchita (Protection of Rights*) funded by the second applicant, reprinted two documents from the "Chechenpress" Internet site. The first, entitled 'Address by Akhmed Zakayev, Vice Prime Minister of the Government of the Chechen Republic Ichkeria, to the Russian People' *(«Обращение вице-премьера правительства Чеченской Республики Ичкерия Ахмеда Закаева к российскому народу»*) was published by the first applicant in issue no. 1 (58) of *Pravo-Zashchita* for March 2004. The second document entitled 'Address by Maskhadov, President of the Chechen Republic Ichkeria, to the European Parliament' *(«Обращение Президента Чеченской Республики Ичкерия Масхадова к Европарламенту»*) was published by the applicant in issue no. 2 (59) of *Pravo-Zashchita* for April-May 2004. In the articles, the authors blamed the Russian authorities for the conflict in the Chechen Republic and criticised them harshly.

C. Events in 2005

1. Criminal proceedings against the first applicant

In January 2005 the prosecutor's office of the Nizhniy Novgorod Region instituted criminal proceedings in connection with public calls to extremist activity through the mass-media on the basis of a report by their office that the two aforementioned articles contained public calls to extremist activity, and notably to overthrow the State regime and change the fundamental aspects of Russia's constitutional system by force.

On 18 February 2005 two linguistic reports stated that the articles contained no calls to extremist activity but rather incitements to racial, national and social hostility. The authorities then decided to conduct a further investigation in connection with incitement to hatred or hostility and humiliation of human dignity of a group of persons on the grounds of race, ethnic origin and membership of a certain social group.

2. Tax inspection in respect of the second applicant

In the period from March to June 2005 the Inspection of the Federal Tax Service in the Nizhegorodskiy District of Nizhniy Novgorod ("the tax authority") carried out an on-the-spot tax inspection (*выездная налоговая проверка*) to check the second applicant's compliance with the tax legislation for the period from 1 January 2002 to 1 January 2005.

In decision no. 25 of 15 August 2005 the tax authority held the second applicant liable to a fine for its failure to pay in full a profit tax for the years 2002 and 2004. The authority referred to the results of the on-the-spot tax inspection which had established that in 2002-2004 the second applicant had received monetary allocations from the European Commission of the European Communities and from the National Endowment for Democracy ("the NED") – a United States non-governmental organisation funded primarily through an annual allocation from the US State Department –

under grant contracts. The authority then stated that Article 251 of the Russian Tax Code established an exhaustive list of revenues exempt from taxation. Those comprised revenues received as special-purpose financing, including grants.

The tax authority further considered that the amounts located to the second applicant by the European Commission and the NED had not, in fact, met the relevant requirements of Article 251 of the Russian Tax Code to correspond to the notion of a "grant" as defined by that Article. In particular, those allocations could not be regarded as grants, and therefore be free from taxation, firstly, because grants could only be received from the organisations included in a list adopted by the Russian Government on 24 December 2002, whereas the NED was not on that list. Secondly, under relevant domestic legislation, only an allocation earmarked for a special-purpose program in the field of education, art, culture or protection of environment could be regarded to be a grant. The tax authority observed that, under the grant contracts, the allocations had been made for a project aimed at ensuring information transparency and partnership between Chechnya and Russia, and that in the context of that project the second applicant carried out regular publishing activities. These activities, however, did not correspond to any of those mentioned above, and that therefore the allocations it had received should represent its taxable revenues rather than grants and should be included in a tax base for the years 2002 and 2004.

The tax authority thus ordered the second applicant to pay the amount of 80,952 Russian roubles ("RUB", approximately 2,000 euros, "EUR") as profit tax in arrears for the year 2004; the amount of RUB 705,720 (approximately EUR 18,100) as profit tax in arrears for the year 2004, the amount of RUB 57,555 (approximately EUR 1,500) as surcharges, and the amount of RUB 157,334 (approximately EUR 4,000) as a fine.

3. Proceedings before commercial courts

The second applicant challenged the decision of 15 August 2005 before the Nizhniy Novgorod Regional Commercial Court ("the Regional Commercial Court"). It contested the tax authority's findings as erroneous and argued, in particular, that the fact that the disputed allocations did not met the requirements of relevant law to be regarded as grants did not automatically render them a taxable income. The second applicant insisted that those allocations corresponded to other types of funds exempt from taxation under Article 251 of the Russian Tax Code, such as donations or funds received for charitable activities. It also pointed out that issuing the *Pravo-Zashchita* newspaper was also funded from the allocations received from the NED, whereas the allocations from the European Commissions were spent for other purposes. The second applicant further requested the court to issue an injunction order to suspend the implementation of the tax authority's decision.

On 12 September 2005 the Regional Commercial Court issued an injunction order requested by the second applicant.

In a decision of 20 December 2005 the Regional Commercial Court, upon the tax authority's request, suspended the proceedings on the merits of the second applicant's claim pending the outcome of criminal proceedings against the first applicant instituted in connection with the two publications

in the *Pravo-Zashchita* newspaper, which, according to the Regional Commercial Court was funded from the disputed allocations.

It then referred to relevant provisions of the domestic law, stating that a donation was defined as an asset or interest granted for generally beneficial purposes and that charitable activities were performed, *inter alia*, with a view to assisting to strengthen peace, friendship and accord between the peoples, to prevent social, ethnic, religious conflicts.

The Regional Commercial Court further noted that the criminal proceedings were currently pending against the first applicant on suspicion of him having committed actions aimed at inciting enmity and humiliating dignity of a group of persons on the grounds of race, ethnic origin and membership of a social group, in the mass-media and using his official position. The Regional Commercial Court went on to note that without an assessment of those actions by a court of general jurisdiction, it would be unable to assess the second applicant's arguments concerning a generally beneficial and charitable nature of its activities with a view to establishing whether those activities, indeed, corresponded to the aims listed in its charter and requirements of the relevant legislation, to fall within the revenues exempt of taxation under Article 251 of the Russian Tax Code. The Regional Commercial Court therefore held that the circumstances which may be established in the criminal case against the first applicant would be binding for the parties in the instant case, and therefore this latter case could not be examined before the final adjudication of the criminal case against the first applicant. This decision was upheld on appeal by the Appellate Instance of the Regional Commercial Court on 3 March 2006. The second applicant did not appeal further to a higher court.

D. Events in 2006

1. The first applicant's conviction

By a judgment of 3 February 2006 the Sovetskiy District Court of Nizhniy Novgorod convicted the first applicant of having committed actions aimed at inciting enmity and humiliating the dignity of a group of persons on the grounds of race, ethnic origin and membership of a certain social group, in the mass-media and using his official position and sentenced him to two years' imprisonment, suspended, and to four years' probation. The court had regard to the articles in question and the expert reports of 18 February 2005 and found it established that the first applicant, "acting intentionally and using his official position as chief editor, decided to publish two articles which contained statements aimed at inciting hostility and humiliation of human dignity on the ground of race, nationality and membership of a certain social group".

On 11 April 2006 the Nizhniy Novgorod Regional Court ("the Regional Court") upheld the judgment of 3 February 2006 on appeal.

2. The second applicant's dissolution

In a judgment of 13 October 2006 the Regional Court ordered the second applicant's dissolution.

In particular, the court noted that the first applicant had been convicted for actions aimed at inciting enmity and humiliating the dignity of a group of persons on the ground of race, nationality and membership of a social group, as it had been established that, acting deliberately and using his official position as chief editor, he had published two articles which, according to expert reports, had contained such statements. The court then had regard to the definition of "extremism" in the domestic legislation on suppression of extremism and concluded that the offence of which the first applicant had been convicted fell within that definition. Therefore, by that legislation, the second applicant should have publicly declared its disagreement with the actions of which the first applicant had been convicted within five days of the conviction becoming final. However, the second applicant had made no such statement within the prescribed time-limit, having thus breached the requirements of the domestic law, therefore there were elements of extremism in its activities, too.

Also, according to the Regional Court, under relevant legislation on non-governmental organisations, because of his conviction, the first applicant should be banned from holding any office or being a member of any non-governmental organisation. However, the second applicant had breached that provision as up to that time the first applicant remained its executive director despite his conviction.

The Regional Court further found that the second applicant had repeatedly and grossly violated several other federal laws and other legal instruments, including tax legislation. In this respect, the court referred to decisions of the tax authority, including that of 15 August 2005. The court did not address the second applicant's argument that it had challenged the tax authority's relevant decision and that the proceedings were pending before a commercial court at that time.

The Regional Court thus concluded, with reference to all those breaches, that under relevant provisions of domestic law there were grounds for the second applicant's liquidation and ordered the first applicant to proceed with that liquidation.

3. Proceedings before commercial courts

On 17 October 2006 the tax authority requested the Commercial Regional Court to resume the proceedings in the second applicant's tax dispute. The second applicant supported that request.

During an examination of its request by the court, the tax authority changed its position and requested that the proceedings in the present case remain suspended until the judgment of 13 October 2006 on the second applicant's dissolution became final.

In a decision of 16 November 2006 the Regional Commercial Court refused, upon the tax authority's request, to resume the proceedings on the merits of the second applicant's complaint against the tax authority's decision of 15 August 2005 pending the outcome of the appeal proceedings concerning the second applicant's dissolution. The court noted that in its judgment of 13 October 2006 the Regional Court had ordered that the second applicant be dissolved, stating that the latter's activities had grossly and repeatedly breached the domestic legislation and, in particular, had been of an extremist nature. The Regional Commercial Court further considered

that without an assessment of the second applicant's activities by a court of general jurisdiction, it would be unable to assess the second applicant's arguments concerning a generally beneficial and charitable nature of those activities with a view to establishing whether they, indeed, corresponded to the aims listed in its charter and requirements of the relevant legislation, to fall within the revenues exempt of taxation under Article 251 of the Russian Tax Code. The Regional Commercial Court therefore held that the circumstances which may be established in the case concerning the second applicant's dissolution would be binding for the parties in the present case, and therefore this latter case could not be examined before the final adjudication of the former case. This decision was upheld by an appellate court on 15 February 2007. The applicant did not appeal to any higher instance court.

E. Events in 2007-2008

1. Appeal proceedings in the case concerning the second applicant's dissolution

On 23 January 2007 the Supreme Court of Russia ("the Supreme Court") upheld the judgment of 13 October 2006 on appeal. It agreed with the Regional Court that the second applicant had repeatedly and grossly violated the federal legislation.

In particular, the Supreme Court confirmed that the second applicant had breached the tax legislation. It rejected the second applicant's argument that the breach could not be regarded as established as proceedings were pending before a commercial court at that time. The Supreme Court noted that on the date of the examination of the second applicant's appeal against the judgment of 13 October 2006 the decision of 15 August 2005 had not been set aside, and could therefore be regarded as evidence confirming the second applicant's failure to comply with the tax legislation.

The Supreme Court also confirmed that the second applicant had breached the legislation on non-governmental organisations, as the first applicant had retained his post as the second applicant's executive director despite having been convicted of a criminal offence of an extremist nature, and also legislation on suppression of extremism because the second applicant had not publicly distanced itself from the actions of which the first applicant had been convicted.

The Supreme Court rejected the first applicant's argument that the offence of which he had been convicted could not be regarded as an extremist one given that he had never been convicted of any actions associated with violence or calls to violence, a criterion necessary for an offence to fall within the scope of the definition of extremism under the relevant provision of the legislation on suppression of extremism. In this respect, the Supreme Court noted that the wording of the *corpus delicti* of the criminal offence of which the first applicant was convicted need not necessarily coincide with the wording of the notion of extremist activity as defined in the legislation on suppression of extremism and concluded that the Regional Court's finding that the actions committed by the first applicant had constituted extremist activities had been correct.

2. Proceedings before the Regional Commercial Court

On 16 February 2007 the proceedings before the Regional Commercial Court of the merits of the second applicant's tax dispute were resumed.

At a hearing the parties upheld their positions. In particular, the tax authority maintained that the contested allocations should be considered as grants which did not meet the requirements of Article 251 § 1 (14) of the Russian Tax Code.

The second applicant conceded that the disputed allocations had not been "grants", within the meaning of the aforementioned provision. It insisted, however, that they should be regarded as donations under Article 251 § 2 (1) of the Russian Tax Code and as funds received for charitable activities under Article 251 § 2 (4) of the Russian Tax Code. It also insisted that it had complied with all necessary requirements of that Article. The second applicant further argued that the tax authority's decision of 15 August 2005 was disproportionate as a measure and, after its implementation, the second applicant would be deprived of all its property, which would impose an excessive burden on it, in breach of Article 1 of Protocol No. 1 of the Convention. It also requested the court to suspend the proceedings pending the outcome of the examination of the first applicant's complaint lodged with the European Court of Human Rights in connection with the alleged violation of his rights secured by Articles 6 and 10 of the Convention as a result of his conviction for the two publications.

3. Judgment of 18 June 2007

In a judgment of 18 June 2007 the Regional Commercial Court rejected the second applicant's complaint in so far as the qualification of the disputed allocations was concerned.

The court noted that the contracts, under which the second applicant received the disputed allocations, defined those as donations or assets transferred for charitable activities.

It further agreed with the tax authority that those allocations fell foul of the requirements of Article 251 § 1 (14) of the Russian Tax Code to be exempt from taxation, as, firstly, part of those allocations had been provided by the NED, which was not included in the list of the organisations entitled to make grants in Russia, adopted by the Russian Government on 24 December 2002. Also, in the Regional Commercial Court's opinion, the second applicant's activities could not be defined as those carried out in the field of education, art, culture or protection of environment and therefore, as regards this aspect, the disputed allocations also fell foul of the relevant requirements of domestic law. The court thus upheld the tax authority's conclusion that the amounts in question had not been "grants" within the meaning of Article 251 § 1 (14) of the Russian Tax Code.

As regards the second applicant's arguments, the Regional Commercial Court stated that, under a relevant provision of civil law, a donation was defined as an asset or interest granted for generally beneficial purposes. It further noted that under relevant legislation on charitable activities, those latter were performed, *inter alia*, with a view to assisting to strengthen peace, friendship and accord between the peoples, to prevent social, ethnic, religious conflicts. The court went on to state:

> "However, as follows from ... the decisions of the Nizhniy Novgorod Regional Court and the Supreme Court of Russia in the case concerning [the second applicant's] liquidation, one of the ground thereof was a breach [by the second applicant] of requirements of [relevant legislation on non-governmental organisations], which provided that a person, in whose respect it has been established by a final court decision that there have been elements of extremist activities in his actions, shall not be a founder or member of, or a participant in, a non-governmental organisation. By the judgment of the Sovetskiy District Court of Nizhniy Novgorod of 3 February 2006, which became final, [the first applicant] – a founder and director of [the second applicant] – was found guilty of having committed an offence punishable under Article 282 § 2 of the Russian Criminal Code (actions aimed at inciting enmity and humiliating the dignity of a group of persons on the grounds of race, ethnic origin and membership of a social group, in the mass-media and using his official position). A court of general jurisdiction has also found elements of extremism in the second applicant's activities ([relevant section of legislation on suppression of extremism]).
>
> By virtue of Article 69 § 3 of the Russian Code of Commercial Procedure, a final decision of a court of general jurisdiction in a civil case is binding for a commercial court as regards circumstances established by [that decision] and relating to the parties to the proceedings [before the commercial court].
>
> Therefore, since the court of general jurisdiction has established the extremist nature of the [second applicant's] activities, there are no grounds to regard the disputed allocations as donations or as funds earmarked for charitable activities."

The court then noted that since the list of revenues exempt from taxation in Article 251 of the Russian Tax Code was exhaustive, all other revenues should be taxable. It thus concluded that the tax authority's claim for the second applicant to pay profit tax in respect of allocations received from the European Commission and the NED had been justified.

The court rejected the second applicant's request that the proceedings be suspended pending the outcome of the proceedings before the European Court. In this respect, it noted, with reference to relevant provision of law on commercial and criminal procedure, that final decisions of the domestic courts were binding and were to be strictly complied with within the territory of Russia. The court noted that should any violations be found by the European Court, this could be regarded as a newly discovered circumstance for a revision of a court decision.

The court also rejected the second applicant's argument concerning the alleged violation of Article 1 of Protocol No. 1 to the Convention, stating that this Article did not prevent a State from enforcing such laws as it deemed necessary to secure payment of taxes or other contributions or penalties, which corresponded to relevant provisions of the Russian Constitution. The court continued stating that it had no grounds to believe that the profit tax was levied unlawfully, or that the disputed decision of the tax authority had been taken in breach of any provisions of the Russian Tax Code.

Lastly, the Regional Commercial Court noted that the tax authority had incorrectly calculated the amount to be imposed by the second applicant and ordered the latter to pay RUB 696,110 (approximately EUR 18,000) in arrears, RUB 47,660 (approximately EUR 1,200) in surcharges and RUB 139,222 (approximately EUR 3,600) as a fine. The court also lifted the injunction order of 12 September 2005.

4. Appeal proceedings

The second applicant appealed against the judgment of 18 June 2007 to the First Commercial Appellate Court ("the Appellate Court"). It argued, firstly, that, when finding the tax authority's decision of 15 August 2005 to be lawful, the first-instance court had, in fact, examined a tax offence which had never been imputed to the second applicant in that decision. In particular, the tax authority had pointed out that the disputed allocations received by the second applicant's as grants had not corresponded to the notion of grants as defined in Article 251 of the Russian Tax Code. In other words, in its decision the tax authority had held the second applicant liable for its failure to observe the requirements of the aforementioned provision. Thus, the subject-matter of the second applicant's tax dispute was a question of lawfulness of the tax authority's decision in so far as it had included in the tax base for the years 2002 and 2004 of the disputed amounts on the ground of their failure to meet the requirements of Article 251 of the Russian Tax Code. The decision of 15 August 2005 had never held the second applicant liable in connection with the alleged misuse of the contested allocations. However, the Regional Commercial Court had confined its assessment to examining what the purpose of use by the second applicant of those allocations had been rather than addressing its argument to the effect that the tax authority's decision had been unfounded in so far as it had regarded the allocations as grants not corresponding to the requirements of domestic law. The first-instance court, therefore, had substituted itself for the tax authority and had imputed another tax offence to the second applicant, which had been in breach of domestic law and Article 1 of Protocol No. 1 to the Convention, being arbitrary and unforeseeable.

Secondly, the second applicant argued that, in any event, the judgment of the Nizhniy Novgorod Regional Court of 13 October 2006, referred to by the Regional Commercial Court had not established any facts relevant for determination of a question as to the purposes on which the contested allocations had been spent by the second applicant. According to the second applicant, the judgment of 13 October 2006 on its dissolution had mainly been based on the judgment of 3 February 2006 by which the first applicant had been convicted in connection with two publications in the *Pravo-Zashchita* newspaper. In particular, the judgment of 13 October 2006 had found the second applicant's activities to be of "an extremist nature", because it had not distanced itself from the first applicant, nor had it publicly criticised his actions of which the first applicant had been convicted, and because after his conviction the first applicant continued to act as the second applicant's executive director. The judgment of 13 October 2006 had not found any other activities of the second applicant to be of an extremist nature; nor had it assessed the second applicant's actions with a view to establishing whether it had spent its funds on extremist activities. Therefore, in the second applicant's opinion, by holding that the contested allocations could not be regarded as donations or funds intended for charitable activities, as they had not been spent for purposes defined in the relevant legislation on donations and charitable activities, the Regional Commercial Court had, in fact, found that the second applicant

spent all its funds on extremist activities, and that thus all its activities had constituted extremism.

Lastly, the second applicant argued that by rejecting its request to suspend the proceedings pending the outcome of the examination of the first applicant's complaint by the European Court, the Regional Commercial Court had violated a principle of equality of arms, as previously it had on two occasions adjourned the proceedings upon the tax authority's requests lodged on the same grounds.

On 22 November 2007 the Appellate Court dismissed the second applicant's appeal and upheld the judgment of 18 June 2007 as based on correct application of substantive and procedural provisions of domestic law. In essence, the Appellate Court largely relied on the reasoning of the first-instance court. It rejected the second applicant's argument concerning the equality of arms, stating that this principle had not been violated by the first-instance court's refusal to suspend the proceedings pending the outcome of the first applicant's complaint to the European Court, as that refusal "had not led to adoption of an incorrect judgment". The Appellate Court remained silent with regard to the second applicant's other arguments.

The second applicant further appealed against the judgment of 18 June 2007 and the decision of 22 November 2007 to the Federal Commercial Court of the Volgo-Vyatskiy Circuit ("the Circuit Commercial Court"). In addition to its previously employed arguments, the second applicant pointed out that the Regional Commercial Court had, in essence, acknowledged that, under relevant agreements, the disputed allocations had been received as donations or funds intended for charitable activities, that is the purposes for which those amounts had been allocated to the second applicant had corresponded to those defined in relevant legislation. It argued that the manner in which they had been subsequently spent could not be the ground for regarding them as falling foul of the requirements of the relevant legislation. The second applicant also argued that, if the commercial courts considered that the disputed allocations had been spent for extremist activities, that is misused, then under the relevant tax legislation they should be regarded as taxable income for the period when they had actually been spent rather than for the period when they had been received.

On 22 February 2008 the Circuit Commercial Court dismissed the second applicant's appeal and upheld the decisions of the lower courts, relying, in essence, on the same reasons. It rejected the second applicant's argument concerning a violation of the principle of equality of arms, noting that the refusal to grant the second applicant's request to suspend the proceedings had not entailed adoption of an incorrect court decision. It also stated that it could not accept the second applicant's other arguments advanced in his appeal, as they had been of no significant importance for an assessment of the lawfulness of the lower courts' decisions.

The second applicant then sought to have the court decisions taken in its case re-examined in supervisory review proceedings. On 26 June 2008 the Supreme Commercial Court of Russia declined the second applicant's request.

COMPLAINTS

The applicants complain under Article 1 of Protocol No. 1 to the Convention that imposition of profit tax in arrears, surcharges and fine on the second applicant was unforeseeable and arbitrary measure, which placed a disproportionate and excessive burden on the second applicant and amounted to a violation of the applicants' right to peaceful enjoyment of possessions. They argue that this measure pursued the aim to punish them for publication by the first applicant in the newspaper funded by the second applicant of the two articles criticising the authorities, since it was only because of those publications that the first and second applicants' activities were found to be of an extremist nature and that the domestic commercial courts refused to consider the contested amounts allocated to the second applicant as donations or funds intended for charitable activities. Therefore, in the applicants' opinion, the measure complained of also amounted to a violation of their right to freedom of expression under Article 10 of the Convention.

The applicants further complain under Article 6 of the Convention about a violation of their right to a fair hearing. They contend that the severity of penalty imposed on the second applicant by the commercial courts undoubtedly bring the proceedings in question within the scope of Article 6, in its criminal aspect. The applicants further complain, firstly, that the domestic commercial courts held the second applicant liable for a tax offence which was never imputed to it by the tax authority in its decision contested by the second applicant before those courts, and, secondly, that they violated the principle of equality of arms by refusing the second applicant's request to suspend the proceedings while previously having granted two similar request lodged by the other party to the proceedings.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicants' rights under Article 1 of Protocol No. 1 to the Convention as a result of the imposition of an obligation to pay profit tax in arrears (неуплаченная сумма налога на прибыль), surcharges (пеня) and fines (штраф) for the years 2002 and 2004? If so, was that interference justified? In particular:

(a) Was the alleged interference lawful? In particular, what was the basis in national law for that interference? Also, did the domestic law meet the Convention "quality-of-law" requirement?

(b) Was the alleged interference in the general interest?

(c) Was the alleged interference proportionate to the aim pursued?

Also, regard being had to the fact that the first applicant published the articles, which were held to contain statements aimed at inciting enmity and

humiliating the dignity of a group of persons on the grounds of race, ethnic origin and membership of a social group, in March-May 2004, that he was convicted in that connection on 3 February 2006, as upheld on appeal on 11 April 2006, and that the elements of extremism were found in the second applicant's activity in a judgment of 13 October 2006, as upheld on appeal on 23 January 2007, was the imposition of an obligation to pay profit tax in arrears, surcharges and fine compatible with the requirements of Article 1 of Protocol No. 1 to the Convention and, in particular, foreseeable:

(i) as regards the year 2002?

(ii) as regards the year 2004?

Also, did the fact that the commercial courts in the proceedings, in which the tax authority's decision of 15 August 2005 was challenged, referred to the decisions of the courts of general jurisdiction by which the first applicant was convicted and the second applicant was dissolved and stated that "since the court of general jurisdiction [had] established the extremist nature of the [second applicant's] activities, there [were] no grounds to regard the disputed allocations as donations or as funds earmarked for charitable activities" compatible with the requirements of Article 1 of Protocol No. 1 to the Convention and, in particular, could the commercial courts be said to have been justified in merely referring to the decisions of the courts of general jurisdiction without establishing the purposes on which the contested allocations had actually been spent, whether those purposes could be regarded as "beneficial", whether all the allocations or only part of them had been spent on the purposes which could not be regarded as "beneficial", and so on:

(i) as regards the year 2002?

(ii) as regards the year 2004?

2. Did the proceedings, in which the tax authority's decision of 15 August 2005 was challenged, fall within the scope of Article 6 of the Convention? If so, were those proceedings fair within the meaning of Article 6 § 1 of the Convention?

Regard being had to the fact that the commercial courts in those proceedings referred to the decisions of the courts of general jurisdiction by which the first applicant was convicted and the second applicant was dissolved and stated that "since the court of general jurisdiction [had] established the extremist nature of the [second applicant's] activities, there [were] no grounds to regard the disputed allocations as donations or as funds earmarked for charitable activities", without establishing the purposes on which the contested allocations had been spent, whether those purposes could be regarded as "beneficial", whether all the allocations or only part of them had been spent on the purposes which could not be regarded as "beneficial", and so on, was the principle of equality of arms respected in the present case? More specifically, by seemingly failing to address the

aforementioned questions and depriving the second applicant to adduce its arguments on those questions, did the commercial courts put the second applicant at a substantial disadvantage vis-à-vis the other party to those proceedings?

3. Did the imposition of an obligation to pay profit tax in arrears, surcharges and fines for the years 2002 and 2004 in the particular circumstances of the present case amount to an interference with the applicants' rights under Article 10 of the Convention? If so, was that interference justified? In particular:

(a) Was the alleged interference lawful? In particular, what was the basis in national law for that interference? Also, did the domestic law meet the Convention "quality-of-law" requirement?

(b) Was the alleged interference in the general interest?

(c) Was the alleged interference proportionate to the aim pursued?