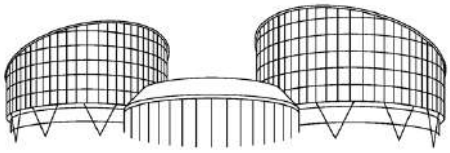

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF N.F. AND OTHERS v. RUSSIA

(Applications nos. 3537/15 and 8 others – see appended list)

JUDGMENT

Art 8 • Private life • Disproportionate character of processing of applicants' personal data relating to discontinued criminal proceedings on "non-rehabilitative grounds" and criminal convictions lifted by a court or spent • Scope and application of data storage system extensive • Data automatically collected and stored in databases once an individual was subjected to criminal prosecution and, in relation to criminal convictions, irrespective of nature and gravity of offence committed • Absence of sufficient guarantees against abuse and of possibility of review • Failure of domestic legal framework to make a distinction as to the purpose and other important functionalities of retention and processing of such data • Absence of real possibility to conduct proportionality analysis with respect to possible access by third parties • Continued processing of data intrusive • Failure to strike fair balance between competing interests at stake • Margin of appreciation overstepped

STRASBOURG

12 September 2023

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

In the case of N.F. and Others v. Russia,

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

Pere Pastor Vilanova*, President*,
Yonko Grozev,
Georgios A. Serghides,
María Elósegui,
Darian Pavli,
Ioannis Ktistakis,
Andreas Zünd*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the applications (see the list of applications in Appendix I) 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 nine Russian nationals ("the applicants"), on the various dates indicated in Appendix I;

the decision to give notice to the Russian Government ("the Government") of the complaints under Article 8 of the Convention concerning the processing, by the Ministry of the Interior, of the personal data in respect of the applicants relating to either discontinued criminal proceedings against the applicants or criminal convictions that have been either lifted or became spent and to declare inadmissible the remainder of the applications;

the decision not to have the applicants' names disclosed;

the decision of the President of the Section to appoint one of the elected judges of the Court to sit as an *ad hoc* judge, applying by analogy Rule 29 § 2 of the Rules of Court (see, *Kutayev v. Russia*, no. 17912/15, §§ 5-8, 24 January 2023);

the parties' observations;

Having deliberated in private on 21 March and 11 July 2023,

Delivers the following judgment, which was adopted on the last-mentioned date:

INTRODUCTION

1. The case concerns the processing by the Ministry of the Interior of the applicants' personal data in respect of discontinued criminal proceedings or criminal convictions that have been lifted or became spent.

THE FACTS

2. The names of the applicants' representatives are listed in Appendix I.

3. The Government were represented by Mr M. Galperin, the former Representative of the Russian Federation to the European Court of Human Rights, and subsequently by Mr M. Vinogradov, his successor in that office.

4. The facts of the case may be summarised as follows.

I. CRIMINAL PROCEEDINGS AGAINST THE APPLICANTS

5. On various dates criminal proceedings were instituted against the applicants; those proceedings either were subsequently discontinued on "non-rehabilitative grounds" (for example, through the application of an Amnesty Act or friendly settlement reached between the parties) or resulted in criminal convictions (see Appendix I for further details).

6. The Ministry of the Interior (hereinafter, "the Ministry") recorded the personal data relating to the criminal proceedings against the applicants in a special database.

7. After a certain period, the applicants' convictions became spent or were lifted by a court.

8. On various dates the local database centres of the Ministry delivered to the applicants, at their requests, certificates "on the existence/absence of convictions, the existence/absence of a criminal prosecution or the discontinuation of a criminal prosecution", which contained information regarding the criminal proceedings against them, such as whether an amnesty had been granted, the dates of the respective convictions, the criminal offences for which they had been suspected or convicted, the sentences imposed and the names of the courts that had convicted them.

9. Most of the applicants needed their respective certificates for presentation to employment recruiters or to their current or potential employers. Some of them allegedly were subsequently dismissed on account of their criminal record or were denied employment.

10. The applicants complained to the heads of the database centres of the Ministry that the processing, including the storage, of data relating to discontinued criminal proceedings and spent and lifted convictions was unlawful and unnecessary and asked them to delete such data. Some of the applicants asked the Ministry to delete such data and to issue them with new certificates.

11. The Ministry replied that the certificates had been issued in compliance with its order of 7 November 2011 (see "Relevant domestic law" below, paragraph 25) and that the data relating to the applicants' criminal prosecution was stored in the information databases, in accordance with law.

II. PROCEEDINGS AGAINST THE MINISTRY OF THE INTERIOR

12. Each of the applicants brought court proceedings against the Ministry. They submitted, in substance, that the processing by the Ministry of data

relating to the discontinued criminal proceedings or to their spent or lifted criminal convictions, as well as its refusal to delete that information, had been unlawful or unnecessary for the following reasons:

- the processing of such data substantially restricted their right to employment;

- the processing of such data and, in particular, the duration of its processing, was governed by ministerial orders, and not by federal law;

- data relating to past criminal convictions were to be stored until the persons concerned reached eighty years of age, regardless of whether the conviction in question had become spent or had been lifted, and irrespective of the type of offence committed, the type of punishment imposed, the term of imprisonment imposed and the time that had elapsed since the conviction;

- it was no longer necessary to process information relating to their convictions or prosecution.

13. The courts dismissed the applicants' complaints, having essentially found in each case that under section 13(1) and (3) and section 17(3) and (8) of the Police Act and section 10 (3) of the Personal Data Act (see "Relevant domestic law" below, paragraphs 21 and 22) the Ministry had the right to process the data relating to the criminal proceedings against the applicants and their convictions.

14. The courts observed that the length of time during which personal data relating to criminal prosecutions and convictions could be stored in the police database was not determined by any legislative act. However, the Ministry's Order no. 612 of 9 July 2007 and Order no. 89 of 12 February 2014 (see "Relevant domestic law" below, paragraph 25) provided that such information should be stored until the individual concerned reached eighty years of age.

15. The domestic courts also referred to Decree no. 248 of the President of the Russian Federation of 1 March 2011, and to Orders nos. 1070 and 1121 issued by the Ministry of the Interior on 29 December 2005 and 7 November 2011 respectively (see "Relevant domestic law" below, paragraph 25).

16. With respect to the applicants' convictions, the courts further established that it remained necessary to store the respective data and that the Ministry's refusal to delete those data had not therefore breached the applicants' rights.

RELEVANT LEGAL FRAMEWORK

I. RELEVANT DOMESTIC LAW

A. Criminal Code of the Russian Federation (FZ-63 of 13 June 1996)

17. Article 86 provides that a person found guilty of a crime shall be deemed to have been convicted from the date of the entry into force of the

court's sentence until such time as the conviction becomes spent or is lifted. The conviction is, essentially, taken into consideration in the event of the individual in question reoffending, and when he or she is sentenced. An individual who has been exempted from serving a sentence will be deemed not to have been convicted.

18. Article 86 § 3 sets out when a conviction becomes spent:

(a) in the case of a suspended sentence – upon the expiry of the probation period;

(b) in the case of a sanction not involving the deprivation of liberty – upon the expiry of one year following the completion of the sentence or the enforcement of the punishment;

(c) in the case of conviction for crimes of minor or medium gravity – upon the expiry of three years following the completion of the sentence;

(d) in the case of being sentenced to the deprivation of liberty for serious crimes – upon the expiry of eight years following the completion of the sentence;

(e) in the case of being sentenced to the deprivation of liberty for particularly serious crimes – upon the expiry of ten years following the completion of the sentence.

19. Article 86 § 5 provides that in the event that an individual has displayed good behaviour after completing a sentence and has afforded compensation for the damage caused by the crime in question, a court may, at that individual's request, lift the conviction before the expiry of the statutory period after which that conviction would otherwise have become spent.

20. Article 86 § 6 provides that after a conviction becomes spent or is lifted by a court, all the legal consequences arising from that conviction will be annulled.

B. Personal Data Act (FZ-152 of 27 July 2006)

21. The processing of personal data should come to an end once specific and lawful aims (to be defined in advance) have been achieved or where it is no longer necessary to pursue those aims. The processing of personal data relating to convictions may be carried out not only by State or municipal authorities acting within the limits of their powers, but also by other individuals, where so established by law (sections 5 and 10(3)).

C. Police Act (FZ-3 of 7 February 2011)

22. The police have the right to process individuals' personal data as and when necessary, and subsequently to store such data in databases. Such data includes information about "individuals convicted of a criminal offence", information about "individuals in respect of whom an amnesty act has been

applied before the entry into force of the sentence – exempting them from serving a sentence" and "individuals in respect of whom a decision to terminate criminal proceedings was taken because the prosecution was time-barred, following a friendly settlement reached by the parties, following an application of an Amnesty Act or following the giving of a formal apology by that individual". Personal data must be destroyed once the aims pursued by their processing have been achieved or in cases where it is no longer necessary to pursue those aims (sections 13 (1) and (3), 17 (1), (3) and (8)).

23. Police must protect all data in their possession from illegal or accidental access, destruction, copying, dissemination or other unlawful actions. Information contained in databases may be provided to State authorities or officials only in cases defined by federal law (section 17 (4) and (5)).

D. Decree no. 248 of the President of the Russian Federation of 1 March 2011

24. The decree approved the rules on the functioning of the Ministry of the Interior that remained in force until 21 December 2016. Article 13 § 8 of those rules provided that the Ministry had the right to establish and run, in accordance with the relevant legislation, federal databases (including databases of criminal convictions).

E. Relevant orders of the Ministry of the Interior

25. Between 2005 and 2017 the Ministry adopted a number of orders regulating the processing of personal data: Order no. 1070 of 29 December 2005 on the centralised registration of crimes, Order no. 612 of 9 July 2007 (not published in a generally accessible official publication), Order no. 1121 of 7 November 2011 approving the rules on the issuing of certificates attesting to the existence/absence of a conviction and/or of a criminal prosecution or the termination of a criminal prosecution, Order no. 89 of 12 February 2014 approving the guidelines regarding the maintenance and use of centralised operational reference databases, criminal records and investigation databases (none of which are published in a generally accessible official publication) and Order no. 949 of 21 December 2017 on certain measures aimed at guaranteeing the enforcement by the Ministry of obligations provided by the Personal Data Act of 27 July 2006.

II. RELEVANT COUNCIL OF EUROPE INSTRUMENTS

26. The Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, hereinafter "the Data Protection Convention") of 28 January 1981 entered

into force in respect of the Russian Federation on 1 September 2013 and is currently being updated. The relevant parts of the Data Protection Convention read as follows:

Article 2 – Definitions

"For the purposes of this Convention:

'personal data' means any information relating to an identified or identifiable individual ('data subject');

..."

Article 5 – Quality of data

"Personal data undergoing automatic processing shall be ...

(b) stored for specified and legitimate purposes and not used in a way incompatible with those purposes;

(c) adequate, relevant and not excessive in relation to the purposes for which they are stored;

...

(e) preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored."

Article 6 – Special categories of data

"Personal data revealing racial origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards. The same shall apply to personal data relating to criminal convictions."

27. Recommendation No. R (84) 10 of the Committee of Ministers on the criminal record and rehabilitation of convicted persons (adopted on 21 June 1984) notes in its preamble that any use of criminal-record data outside the context of a criminal trial may jeopardise a convicted person's chances of social reintegration and should therefore be restricted "to the utmost". The Recommendation invited member States to review their legislation with a view to introducing a number of measures, where necessary – including provisions limiting the communication of criminal record information and provisions governing the rehabilitation of offenders - that would imply the prohibition of any reference to the convictions of a rehabilitated person except on compelling grounds provided for by national law.

28. Recommendation No. R (87) 15 of the Committee of Ministers regulating the use of personal data in the police sector (adopted on 17 September 1987) provides, *inter alia*, as follows:

Principle 2 – Collection of data

"2.1. The collection of personal data for police purposes should be limited to such as is necessary for the prevention of a real danger or the suppression of a specific criminal

offence. Any exception to this provision should be the subject of specific national legislation.

...

Principle 3 – Storage of data

3.1. As far as possible, the storage of personal data for police purposes should be limited to accurate data and to such data as are necessary to allow police bodies to perform their lawful tasks within the framework of national law and their obligations arising from international law.

...

Principle 7 – Length of storage and updating of data

7.1. Measures should be taken so that personal data kept for police purposes are deleted if they are no longer necessary for the purposes for which they were stored.

For this purpose, consideration shall in particular be given to the following criteria: the need to retain data in the light of the conclusion of an inquiry into a particular case; a final judicial decision, in particular an acquittal; rehabilitation; spent convictions; amnesties; the age of the data subject, particular categories of data."

THE LAW

I. JOINDER OF THE APPLICATIONS

29. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. JURISDICTION

30. The Court observes that the applicants complained about the processing of their personal data by the Ministry of the Interior. The Court decides that it has jurisdiction to examine the present applications in so far as the facts giving rise to the alleged violations of the Convention occurred prior to 16 September 2022 – the date on which the Russian Federation ceased to be a party to the Convention (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023).

III. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

31. The applicants complained that the processing by the Ministry of their personal data concerning discontinued criminal proceedings or lifted or spent criminal convictions had been in breach of their right to respect for their private life, as provided by Article 8 of the Convention, which reads as follows:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

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

A. Admissibility

32. The Government did not raise any objection as to the admissibility of the applications.

33. The Court notes that the right to the protection of one's personal data is guaranteed by the right to respect for private life under Article 8. As the Court has previously held, the protection of personal data is of fundamental importance to a person's enjoyment of his or her right to respect for private and family life, as guaranteed by Article 8 of the Convention. Article 8 thus provides for the right to a form of informational self-determination, allowing individuals to rely on their right to privacy as regards data which, albeit neutral, are collected, processed and disseminated collectively and in such a form or manner that their Article 8 rights may be engaged. In determining whether personal information retained by the authorities involves any private-life aspects, the Court will have due regard to the specific context in which the information at issue has been recorded and retained, the nature of the records, the way in which such records are used and processed and the results that may be obtained (see *L.B. and Hungary* [GC], no. 36345/16, § 103, 9 March 2023).

34. In the light of the Court's case-law in respect of Article 8 of the Convention, it follows that in the instant case, data which were processed by the Ministry (and which related to discontinued criminal proceedings and criminal convictions that have become spent or have been lifted by a court) concerned the applicants' private life and therefore attracted the protection of Article 8 of the Convention (see also *Gardel v. France*, no. 16428/05, § 58, ECHR 2009, and *Brunet v. France*, no. 21010/10, § 31, 18 September 2014).

35. The Court further notes that the applications are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

36. The applicants submitted that the processing by the Ministry of the part of their personal data relating to discontinued criminal proceedings or to criminal convictions that had become spent or had been lifted by a court had amounted to an interference with their right to respect for private life. That interference had not been justified under Article 8 § 2 of the Convention. In particular, the domestic law governing the processing of those data did not

provide appropriate safeguards against abuse of power; ministerial orders setting the procedure and time-limits for the storage of such data were classified as confidential and were not accessible to the public. Furthermore, the interference had not been "necessary in a democratic society" for the following reasons: the extensive scope of the data storage system, which did not draw any distinction based on the nature or degree of seriousness of an offence leading to a conviction, or on whether the data subject had been convicted or discharged after being detained on suspicion of committing an offence; the excessively lengthy period for which data were retained (data were stored until the subject in question reached the age of eighty years); and the absence of an effective review process by which to assess the necessity of the continued storage of the data.

37. The Government submitted that the processing of the applicants' personal data had been in accordance with law. They confirmed that the Ministry's orders setting down the procedure for the collection and storage of personal data and the time-limits for their processing were classified as confidential and were not published in any official publication. They further indicated that the processing of data was aimed at prevention, detection, and investigation of crimes.

2. The Court's assessment

(a) Whether there was an "interference"

38. The Court reiterates that the processing by a public authority of personal data concerning criminal proceedings that were subsequently either discontinued or resulted in criminal convictions will constitute an interference with the data subject's right to respect for his or her private life (see, for instance, the above-cited cases of *Gardel*, § 58, and *Brunet*, § 31). The Court finds no reason to hold otherwise in the present case. It will accordingly examine whether the interference was justified in terms of Article 8 § 2 of the Convention – that is, whether it was in accordance with the law, pursued a legitimate aim and was "necessary in a democratic society".

(b) Whether the interference was justified

(i) Whether the interference was "in accordance with law"

39. To be justified under Article 8 § 2 of the Convention, the interference must be in accordance with the law. The wording "in accordance with the law" requires the impugned measure to have some basis in domestic law. The law must be accessible to the person concerned and foreseeable as to its effects (see *S. and Marper v. the United Kingdom* [GC], nos. 30562/04 and 30566/04, § 103, ECHR 2008).

40. With regard to the processing by the authorities of criminal-record data, the Court has indicated that it is essential to have clear, detailed rules

governing the scope and application of such measures, together with minimum safeguards concerning, *inter alia*, duration, storage, usage, access of third parties, procedures for preserving the integrity and confidentiality of data and procedures for their destruction – thus providing sufficient guarantees against the risk of abuse and arbitrariness (see *M.M. v. the United Kingdom*, no. 24029/07, § 195, 13 November 2012).

41. The provisions and principles set out by the Data Protection Convention and by Recommendations Nos. R (84) 10 and R (87) 15 of the Committee of Ministers are of some importance (see "Relevant Council of Europe Instruments" above, paragraphs 26 - 28).

42. According to the domestic authorities and the Government, the processing of the applicants' data had a legal basis in the Personal Data Act, the Police Act and Ministry orders no. 612 of 9 July 2007 and no. 89 of 12 February 2014. Under the Police Act, the police have the right to process an individual's personal data to the extent necessary for the fulfilment of their obligations (see "Relevant domestic law" above, paragraphs 21 and 22 above). The Court therefore accepts that the processing of the applicants' data had a legal basis in domestic law.

43. In so far as the applicants alleged that the domestic law did not meet the "quality of law" requirement (since the Ministry orders were classified as confidential), the Court notes that in the present case this issue is closely related to the broader issue of whether the interference was necessary in a democratic society and that it would therefore be more appropriate to examine it from the perspective of proportionality rather than of lawfulness (see *S. and Marper*, cited above, § 99).

(ii) Whether the interference pursued a legitimate aim

44. The Court has previously held that in order to protect their population, the national authorities can legitimately hold relevant records as an effective means of helping to punish and prevent certain offences (see *B.B. v. France*, no. 5335/06, § 62, 17 December 2009). Therefore, the processing of the applicants' data pursued the legitimate aim of the prevention of crime and the protection of the rights of others.

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

(α) General principles

45. An interference will be considered "necessary in a democratic society" in order to achieve a legitimate aim if it answers a "pressing social need" and, in particular, if it is proportionate to the legitimate aim pursued and if the reasons adduced by the national authorities to justify it are "relevant and sufficient". While it is for the national authorities to make the initial assessment in all these respects, the final evaluation of whether the interference is necessary remains subject to review by the Court for

conformity with the requirements of the Convention (see *S. and Marper*, cited above, § 101). The protection of personal data is of fundamental importance to a person's enjoyment of his or her right to respect for his private life, as guaranteed by Article 8 of the Convention. The domestic law must therefore afford appropriate safeguards to prevent any such use of personal data as may be inconsistent with the guarantees of this Article (see *P.N. v. Germany*, no. 74440/17, § 70, 11 June 2020, and *S. and Marper*, cited above, § 103). The need for such safeguards is all the greater where the protection of personal data undergoing automatic processing is concerned, not least when such data are used for police purposes. The domestic law should in particular ensure that such data are relevant and not excessive in relation to the purposes for which they are stored, and are preserved in a form that permits the identification of the data subjects for no longer than is required for the purpose for which those data are stored. The domestic law must also afford adequate guarantees that retained personal data shall be efficiently protected from misuse and abuse (see *P.N. v. Germany*, cited above, § 71, with further references).

46. The Court has considered a series of cases relating to the retention and processing of personal data of individuals convicted of criminal offences and of individuals who had been suspected of committing criminal offences, but who had ultimately been discharged. In its assessment of the proportionality of the interference in those cases the Court has had regard to the following elements: the nature and gravity of the offences in question; the level of the actual interference with the right to respect for private life; the scope and application of the data storage system; the data retention period; the possibility of review; safeguards against abuse; and guarantees aimed at regulating access by third parties and protecting data integrity and confidentiality (see, for instance, *S. and Marper*, cited above, §§ 118-24; *Gardel*, cited above, §§ 65-70; and *Gaughran* v. the United Kingdom, no. 45245/15, §§ 94 and 96, 13 February 2020, with further references).

47. A margin of appreciation must be left to the relevant national authorities in such an assessment. The breadth of this margin varies and depends on a number of factors, including the nature of the Convention right in issue, its importance for the individual, the nature of the interference and the object pursued by the interference. The margin will tend to be narrower where the right at stake is crucial to the individual's effective enjoyment of intimate or key rights. Where a particularly important facet of an individual's existence or identity is at stake, the margin allowed to the State will be restricted. Where, however, there is no consensus within the member States of the Council of Europe – either as to the relative importance of the interest at stake or as to how best to protect it – the margin will be wider (see *S. and Marper*, cited above, §102).

(β) Application of those principles to the present case

48. The Court notes from the outset that the applicants did not contest the initial collection of data relating to the criminal proceedings against them or to their convictions. They contested the processing of these data after the proceedings against them had been discontinued on "non-rehabilitative grounds" or after their convictions had become spent or had been lifted by a court.

49. Regarding the scope and application of the data storage system, the Court observes that the recording system in place covers not only criminal convictions but also situations where an individual has been subjected to criminal prosecution and the criminal proceedings were subsequently discontinued on "non-rehabilitative grounds". Thus, a significant amount of data is collected and stored in databases once an individual is subjected to criminal prosecution. Moreover, data relating to criminal convictions are collected and stored, irrespective of the nature and gravity of the offence committed. It was not contested by the Government that both the collection and initial storage of those data are intended to be automatic, and that their further storage is also automatic. Therefore, the scope and application of this system are extensive.

50. The Court further observes that the procedure and the time-limits for the storage and processing of data are governed by Ministry orders no. 612 of 9 July 2007 and no. 89 of 12 February 2014, which are classified confidential, have never been published in any official publication and are not accessible to the public (see paragraphs 15 and 25 above). It was deemed by the domestic courts (which referred to these orders) that such data should be stored until the subject in question reached the age of eighty years. Under the Personal Data Act and the Police Act, personal data must be destroyed once the aims pursued by their processing have been achieved or in the event that it is no longer necessary to pursue those aims. However, since the relevant Ministry orders are classified as confidential, the discretion afforded to the Ministry in the exercise of this power is not counterbalanced by sufficient guarantees against abuse, and the possibility of any review would appear to be almost hypothetical (see, *mutatis mutandis*, *Gaughran*, cited above, § 94; also contrast with *P.N. v. Germany*, cited above, §§ 85-88). The available legal framework failed to make any distinction based on the purpose of the processing of the data, such as providing information in the context of employment, and, as a result, at no point the proportionality and the existence of relevant and sufficient reasons for the interference with the applicants' right to respect for their private life were assessed.

51. In so far as the guarantees aimed at regulating access by third parties and protecting data integrity and confidentiality are concerned, the Court observes that under the Police Act, police must protect data in their care from illegal or accidental access, destruction, copying and dissemination. Such information may be provided to State authorities or officials only in cases

defined by federal law (see "Relevant domestic law" above, paragraph 23). However, as noted above, the available regulations make no distinction as to the purpose and other important functionalities of retention and processing of such data, and thus give no real possibility to conduct a proportionality analysis with respect to possible access by third parties, in line with the requirements of Article 8.

52. Lastly, the Court acknowledges that the level of interference with the applicants' right to a private life may differ according to whether the applicant was convicted or whether the charges were dropped.

53. The continued processing of data is particularly intrusive for applicants who have not been convicted of any criminal offences. The Court has already expressed its concerns about the risk of stigmatisation, which stems from the fact that such persons, who are entitled to presumption of innocence, have in the past been treated in the same way as convicted persons (see *S. and Marper*, cited above, § 122).

54. In so far as convicted persons are concerned, the level of interference with their private life will also be intrusive after their convictions have become spent or are lifted by a court; this is particularly so in respect of their social reintegration (see Recommendation No. R (84) 10 of the Committee of Ministers on the criminal record and rehabilitation of convicted persons, "Relevant Council of Europe Instruments" above, paragraph 27).

55. In conclusion, the Court finds that the processing of the applicants' data relating to criminal convictions which have become spent or which have been lifted by a court and of data relating to criminal proceedings which have been discontinued on "non-rehabilitative grounds" failed to strike a fair balance between the competing public and private interests and that the respondent State has overstepped any acceptable margin of appreciation in this regard. Accordingly, such processing constituted a disproportionate interference with the applicants' right to respect for their private life and cannot be regarded as "necessary in a democratic society".

56. There has therefore been a violation of Article 8 of the Convention in the present case.

IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

57. The Court has examined the other complaints submitted by the applicant in application no. 3537/15. Having regard to all the material in its possession and in so far as these complaints fall within the Court's competence, it finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. 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

59. The applicants claimed, in respect of non-pecuniary damage, the amounts indicated in Appendix II. The ninth applicant (application no. 32673/18) did not submit any claims in respect of just satisfaction.

60. The Government contested those claims.

61. Having regard to the documents in its possession and to its case-law, the Court awards 7,500 euros (EUR) to each applicant (except for the ninth applicant) in respect of non-pecuniary damage, plus any tax that may be chargeable to the applicants, and dismisses the remainder of their claims.

B. Costs and expenses

62. The applicants, except for the ninth applicant, claimed, in respect of costs and expenses incurred before the domestic courts and the Court, the amounts indicated in Appendix II.

63. The Government contested those claims.

64. 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 were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and to the above-noted criteria, the Court considers it reasonable to award EUR 1,800 to each applicant, except for the ninth applicant, in respect of costs and expenses under all heads, plus any tax that may be chargeable to the applicants.

C. Default interest

65. 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 it has jurisdiction to deal with the applicants' complaints in so far as they relate to facts that took place before 16 September 2022;

3. *Declares* the complaints under Article 8 of the Convention about the processing by the Ministry of the Interior of the applicants' personal data concerning discontinued criminal proceedings or lifted or spent criminal convictions admissible and the remainder of the applications inadmissible;

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

5. *Holds*
   (a) that the respondent State is to pay each applicant, except for the ninth applicant, within three months from the date on which the judgment becomes final, in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,800 (one thousand eight hundred euros), plus any tax that may be chargeable to the applicants, 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;

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

Done in English, and notified in writing on 12 September 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Pere Pastor Vilanova President

APPENDIX

APPENDIX I: LIST OF APPLICATIONS AND DOMESTIC PROCEEDINGS

No.	Application no. Date of introduction	Case name	Representative's name and location	Criminal proceedings against the applicants	Proceedings against the Ministry of the Interior
1.	3537/15 27/12/2014	N.F. v. Russia	Pimonov Vladimir Aleksandrovich Tver	In 2001 the applicant was convicted under Article 113 of the Criminal Code.	26/08/2014, Pskov Regional Court
2.	16985/15 26/03/2015	I.D. v. Russia	Pimonov Vladimir Aleksandrovich Tver Pashinin Dmitriy Sergeyevich Krasnodar Region	In 1996 the applicant was convicted under Article 206 § 1 of the Criminal Code of the Russian Soviet Socialist Republic.	23/06/2015, Supreme Court of the Russian Federation
3.	27062/15 14/05/2015	A.G. v. Russia	Pimonov Vladimir Aleksandrovich Tver Pashinin Dmitriy Sergeyevich Krasnodar Region	In 1999 criminal proceedings were instituted against the applicant on suspicion of the applicant having committed a criminal offence punishable under Article 116 of the Criminal Code. In June 1999, in accordance with Article 5 § 4 of the old Code of Criminal Procedure, the Department of the Interior discontinued the criminal proceedings against the applicant (the application of an Amnesty Act).	14/01/2015,Krasnoyarsk Regional Court

No.	Application no. Date of introduction	Case name	Representative's name and location	Criminal proceedings against the applicants	Proceedings against the Ministry of the Interior
4.	44941/15 28/08/2015	A.K. v. Russia	Pimonov Vladimir Aleksandrovich Tver Pashinin Dmitriy Sergeyevich Krasnodar Region	In 2000 the applicant was convicted under Article 213 § 3 of the Criminal Code. In 2002 the Naberezhno-Chelninskiy Town Court of the Republic of Tatarstan lifted the applicant's conviction.	27/11/2015, Supreme Court of the Russian Federation
5.	46208/15 19/08/2015	D.C. v. Russia	Pimonov Vladimir Aleksandrovich Tver	In 2006 criminal proceedings were instituted against the applicant on suspicion of the applicant having committed a criminal offence punishable under Article 111 § 3 (a) of the Criminal Code. In 2007 the Borovskiy District Court of the Kaluga Region discontinued those proceedings following a friendly settlement reached by the parties.	19/02/2016, Supreme Court of the Russian Federation
6.	19003/16 30/03/2016	B.C. v. Russia	Pimonov Vladimir Aleksandrovich Tver Pashinin Dmitriy Sergeyevich Krasnodar Region	In 2000 criminal proceedings were instituted against the applicant on suspicion of the applicant having committed several criminal offences. In August 2000 these proceedings were discontinued following a material change in circumstances (Article 6 of the old Code of Criminal Procedure).	31/05/2016, Supreme Court of the Russian Federation

No.	Application no. Date of introduction	Case name	Representative's name and location	Criminal proceedings against the applicants	Proceedings against the Ministry of the Interior
7.	7965/18 30/01/2018	V.M. v. Russia	Shevchenko Yuriy Viktorovich Kkasnodar	In 1997, the applicant was convicted under Article 228 of the Criminal Code. In 2000 the applicant's conviction became spent.	04/09/2017, Supreme Court of the Russian Federation
8.	13977/18 09/03/2018	K.F. v. Russia	Fedotov Igor Leonidovich Moscow Stakhiyeva Lyudmila Vladimirovna Moscow	In 2006 the applicant was convicted under Article 116 of the Criminal Code. The applicant's conviction became spent in 2010.	12/09/2017, Supreme Court of the Russian Federation
9.	32673/18 27/06/2018	I.K. v. Russia	Akhmineyeva Yelena Vasilyevna Maykop, Republic of Adygeya	In January 2003 criminal proceedings were instituted against the applicant on suspicion of the applicant having committed a criminal offence. In February 2003 these criminal proceedings were discontinued under Article 28 of the new Code of Criminal Procedure (after the applicant had made a formal apology).	31/05/2018, Supreme Court of the Russian Federation

APPENDIX II: CLAIMS UNDER ARTICLE 41 OF THE CONVENTION

No.	Application no.	Case name	Applicants' claims for just satisfaction (Article 41 of the Convention)	
			Non-pecuniary damage	***Costs and expenses incurred in domestic proceedings and before the Court***
1.	3537/15	N.F. v. Russia	EUR 47,000	EUR 3,326
2.	16985/15	I.D. v. Russia	EUR 45,000	EUR 3,326
3.	27062/15	A.G. v. Russia	EUR 45,000	EUR 3,323
4.	44941/15	A.K. v. Russia	EUR 46,000	EUR 3,326
5.	46208/15	D.C. v. Russia	EUR 45,000	EUR 3,326
6.	19003/16	B.C. v. Russia	EUR 42,000	EUR 3,341
7.	7965/18	V.M. v. Russia	EUR 30,000	RUB 150,000
8.	13977/18	K.F. v. Russia	EUR 100,000	RUB 152,000
9.	32673/18	I.K. v. Russia	No claims submitted	No claims submitted