



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

FIFTH SECTION

CASE OF MIKHALKOVA AND OTHERS v. UKRAINE

(Application no. 10919/05)

JUDGMENT

STRASBOURG

13 January 2011

FINAL

13/04/2011

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

In the case of Mikhalkova and Others v. Ukraine,

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

Peer Lorenzen, *President*,
Renate Jaeger,
Karel Jungwiert,
Mark Villiger,
Mirjana Lazarova Trajkovska,
Zdravka Kalaydjieva,
Ganna Yudkivska, *judges*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 7 December 2010,

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

PROCEDURE

1. The case originated in an application (no. 10919/05) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by three Ukrainian nationals, Mrs Olga Kuzminichna Mikhalkova, Mr Sergey Petrovich Mikhalkov and Mrs Natalya Stanislavovna Bikbulatova (Besbulatova) (“the applicants”), on 16 March 2005.

2. The applicants were represented by Mr I. Pogasiy, a lawyer practising in Kirovograd. The Ukrainian Government (“the Government”) were represented by their Agent, Mr Y. Zaytsev.

3. The applicants alleged, in particular, that their son and brother, Mr Vasiliy Mikhalkov, had died in custody as a result of ill-treatment by the police, and that there had been no effective investigation of the circumstances of his ill-treatment and death.

4. On 12 November 2009 the President of the Fifth Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants were born in 1938, 1968 and 1978 respectively and live in Maryivka.

6. On 29 April 2003 the first applicant requested the Kompaniyivsky District Police to take Vasiliy Mikhalkov, born in 1963, her son and the brother of the second and third applicants, to a sobering-up facility because of his severe alcohol intoxication. Two police officers, S. and P., arrived in response to her call. According to the first applicant, they mocked and kicked Vasiliy Mikhalkov, notwithstanding the first applicant's protests, dragged him into their police car and took him to the police station.

7. On 30 April 2003 the first applicant went to the police station and discovered that Vasiliy Mikhalkov was dead.

8. Following an autopsy, on 14 May 2003 it was established that Vasiliy Mikhalkov had died on 29 April 2003 of an acute internal haemorrhage and the laceration of the small intestine resulting from abdominal trauma sustained on the same date.

9. In the meantime, on 10 May 2003 the Kompaniyivsky District Prosecutor's Office refused to institute criminal proceedings into the incident. On 2 June 2003 this decision was quashed and the case remitted for further inquiry.

10. On 9 June 2003 a post-mortem forensic assessment of Vasiliy Mikhalkov's body confirmed the earlier conclusion concerning the cause of his death. It was also established that the abdominal injury could have resulted from a fall on to a blunt object, such as a kerb or a concrete pole. Other injuries found on his arms, legs and buttocks could have resulted from his body being dragged.

11. Following this assessment, on 10 June 2003 the Kompaniyivsky District Prosecutor's Office took a fresh decision not to initiate criminal proceedings.

12. On 20 June 2003 the Kompaniyivsky District Prosecutors' Office annulled this decision and initiated criminal proceedings into the circumstances of Vasiliy Mikhalkov's death. This investigation is currently under way.

13. The applicants have provided no documents concerning the course of the investigation, maintaining that they had been denied access to the case file and any meaningful opportunity to participate in the proceedings, regardless of their repeated complaints to various authorities, including the General Prosecutor's Office. By way of response, the General Prosecutor's Office kept forwarding their complaints to the Kirovograd Regional Prosecutor's Office, which assured the applicants, without providing any details, that the criminal proceedings were well under way. On several occasions the first applicant requested a meeting with the employees of the Prosecutors' Office to discuss the progress of the case; however, her requests were not accommodated.

14. On 16 December 2003 the first applicant lodged a complaint with the Pechersky District Court of Kyiv, seeking to oblige the General Prosecutor's Office to ensure meaningful monitoring of the proceedings and

to address omissions by the local authorities. She claimed, in particular, that there was sufficient evidence to charge two named police officers with abuse of position and a violent assault on her son.

15. On 23 April 2004 the court dismissed this claim. It found, in particular, that the investigation was pending, the necessary investigative measures were under way, the persons responsible for inflicting injuries on her son had not yet been identified, the Regional Prosecutor's Office was monitoring the proceedings and the General Prosecutor's Office had referred the applicants' complaints to the local prosecutorial authorities for reacting. On 13 August 2004 and 10 October 2007 the Kyiv Regional Court of Appeal and the Higher Administrative Court respectively dismissed the first applicant's appeals.

16. The Government likewise provided no documents concerning the investigation of Vasiliy Mikhalkov's death, referring to the confidentiality of documents concerning a pending investigation. They noted, however, that in the course of the investigation eighteen witnesses had been questioned, two reconstructions of the crime scene were conducted and six expert assessments were carried out. They further provided summaries of the findings of the expert assessments.

17. According to the Government's submissions, the expert assessment of 23 October 2003 established that Vasiliy Mikhalkov's death had been directly caused by the internal abdominal injury and acute haemorrhage. These injuries could have resulted from his fall.

18. On 12 December 2003 a further expert assessment confirmed the results of the previous assessments.

19. On 12 May 2004 a further expert assessment established that the injury had been inflicted by the impact, of considerable force, of a blunt object with limited contact surface, possibly a booted foot, hitting the applicant's abdomen at an acute angle. This injury could not have resulted from a simple fall on to a flat or convex surface.

20. On 23 January 2006 a further expert assessment concluded that the injury could have been inflicted in the circumstances described by the first applicant.

21. On 11 February 2008 a further expert assessment suggested that the injury could have resulted from the cumulative impact of various kicks, possibly under the circumstances described by the first applicant.

22. On 6 April 2009 a further expert assessment was ordered to examine in detail how the injuries on Vasiliy Mikhalkov's legs and arms were incurred. This expert assessment was followed by an order of a further expert assessment on 8 June 2010, which is currently underway.

II. RELEVANT DOMESTIC LAW

23. The relevant provisions of the Constitution and the Code of Criminal Procedure can be found in the judgment in the case of *Sergey Shevchenko v. Ukraine* (no. 32478/02, §§ 36-39, 4 April 2006).

THE LAW

I. ALLEGED VIOLATION OF THE CONVENTION ON ACCOUNT OF VASILIIY MIKHALKOV'S DEATH AND FAILURE TO INVESTIGATE ITS CIRCUMSTANCES

24. The applicants alleged that Vasiliy Mikhalkov had died as a result of ill-treatment by the police officers. They also complained that no effective investigation had been conducted into the circumstances surrounding his death. They referred in this respect to Articles 2, 6 § 1 and 13 of the Convention.

25. The Court, which is master of the characterisation to be given in law to the facts of the case (see, as a recent authority, *Drozd v. Ukraine*, no. 12174/03, § 49, 30 July 2009) finds that the complaints at issue fall to be examined under Article 2 of the Convention which is the relevant provision and reads as follows:

“1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.”

A. Admissibility

26. The Government alleged that this part of the application was inadmissible for non-exhaustion of domestic remedies. In particular, the applicants should have challenged the alleged inactivity of the investigative

authorities before the domestic courts. According to the applicable law, the courts had the authority to pronounce such inactivity unlawful and to award the applicants damages for infringement of their rights.

27. The applicants disagreed. They noted that they had complained about the inactivity of the investigative authorities to the General Prosecutor's Office, which had refused to consider their complaints in a meaningful way. The domestic courts in their turn had rejected the applicants' complaints about the omissions on the part of the General Prosecutor's Office. As the investigation's failure to establish the circumstances of Vasiliy Mikhalkov's death was deliberate and aimed at concealment of the crime committed by the police officers, any further proceedings before the domestic courts would have been futile.

28. The Court notes that Article 35 of the Convention requires that the complaints made before the Court should have been made to the appropriate domestic body, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law and, further, that any procedural methods that might prevent a breach of the Convention should have been used (see *Cardot v. France*, 19 March 1991, § 34, Series A no. 200). Normally recourse should be had by an applicant to remedies which are available and sufficient to afford redress in respect of the breaches alleged. The existence of the remedies in question must be sufficiently certain not only in theory but also in practice, failing which they will lack the requisite accessibility and effectiveness (see, for example, *Vladimir Fedorov v. Russia*, no. 19223/04, § 38, 30 July 2009).

29. It is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one available in theory and in practice at the relevant time, that is to say that it was accessible, was capable of providing redress in respect of the applicant's complaints, and offered reasonable prospects of success. However, once this burden of proof has been satisfied it falls to the applicant to establish that the remedy advanced by the Government had in fact been used or was for some reason inadequate and ineffective in the particular circumstances of the case, or that there existed special circumstances absolving him or her from the requirement (*ibid.*, § 39).

30. Turning to the facts of the present case, the Court observes that the Government, without providing any further explanation, suggested that a complaint of inactivity on the part of the investigative authorities and an action for damages against them could have been an effective remedy in the applicants' case for their complaints about the alleged death of their relative resulting from ill-treatment in the police custody. They have not, however, explained how, in the event of success, recourse to this remedy would have facilitated the establishment of the facts surrounding Vasiliy Mikhalkov's death, identification and punishment of those (if any) responsible for his ill-

treatment. Likewise, they did not provide any evidence that there existed relevant domestic practice on the subject.

31. Moreover, the Court reiterates its finding in a number of cases that in situations where a death has resulted from wilful ill-treatment the breach of the Convention cannot be remedied exclusively through an award of compensation to the victim. This is so because, if the authorities could confine their reaction to such incidents by State agents to the mere payment of compensation, while not doing enough to prosecute and punish those responsible, it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity (see, among many other authorities, *Velikova v. Bulgaria*, no. 41488/98, § 89, ECHR 2000-VI, and *Salman v. Turkey* [GC], no. 21986/93, § 83, ECHR 2000-VII). Regard being had to the above and to the applicants' submissions, the Court considers that the applicants were excused from pursuing the remedy referred to by the Government.

32. The Court notes that this part of the application 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. The parties

33. The applicants alleged that Vasiliy Mikhalkov died as a result of ill-treatment by the police officers. They further argued that the investigation into his death was slow, biased and aimed at exonerating the police officers of all responsibility for Vasiliy Mikhalkov's death. It was in order to conceal the deficiencies of the investigation that they had been denied access to documents and an opportunity to participate in the criminal proceedings in a meaningful way.

34. The Government alleged that it was impossible to draw any conclusions regarding State responsibility for the death of Vasiliy Mikhalkov, as the relevant investigation was pending. They further argued that the authorities were doing everything in their power to establish the cause and circumstances of his death.

2. The Court's assessment

a. Responsibility of the State for the death of Vasiliy Mikhalkov

35. The Court notes that Article 2 of the Convention, which safeguards the right to life, ranks as one of the most fundamental provisions in the Convention. Together with Article 3, it enshrines one of the basic values of

the democratic societies making up the Council of Europe. The object and purpose of the Convention as an instrument for the protection of individual human beings also requires that Article 2 be interpreted and applied so as to make its safeguards practical and effective (see, for example, *McCann and Others v. the United Kingdom*, 27 September 1995, §§ 146-47, Series A no. 324, and *Salman*, cited above, § 97).

36. In the light of the importance of the protection afforded by Article 2, the Court must subject complaints about deprivation of life to the most careful scrutiny, particularly where deliberate lethal force is used, taking into consideration not only the actions of the agents of the State who actually administer the force, but also all the surrounding circumstances including such matters as the planning and control of the actions under examination (see *McCann and Others v. the United Kingdom*, 27 September 1995, § 150, Series A no. 324, no. 45661/99).

37. The Court also reiterates that where, as in the present case, the applicant makes out a *prima facie* case and the Court is prevented from reaching factual conclusions owing to the lack of documents withheld by the Government (see paragraph 16 above), it is for the latter to argue conclusively why the documents in question cannot serve to corroborate the allegations made by the applicant, or to provide a satisfactory and convincing explanation of how the events in question occurred. The burden of proof is thus shifted to the Government, and if they fail in their arguments, issues will arise under Article 2 and/or Article 3 (see, for example, *Pukhigova v. Russia*, no. 15440/05, § 84, 2 July 2009).

38. Examining the facts of the present case in light of the above principles, the Court notes first that Vasiliy Mikhalkov died on 29 April 2003 in a State-run sobering-up facility. It is undisputed by the parties that his death resulted from an abdominal injury sustained on the same date.

39. According to the applicants' version of events, the injury in question was inflicted by two policemen, who were kicking Vasiliy Mikhalkov with their legs before taking him to the sobering-up facility, while he was under severe alcohol intoxication and in a helpless state. This version is coherent and the applicants have consistently held to it since the incident, the first applicant maintaining that she had been an eyewitness to the beatings. The applicants' version is consistent with the findings of the forensic expert assessments, as summarised by the Government. In particular, on 12 May 2004 it was concluded that Vasiliy Mikhalkov's small intestine had been traumatised by the impact of a blunt object with a limited surface, possibly a booted foot, with significant force and at an acute angle. This injury could not have been caused by an accidental single fall. Further, expert assessments of 23 January 2006 and 11 February 2008 confirmed that the applicants' version of the events was not incredible and that the abdominal injury could have resulted from the cumulative force of a number of blows.

40. The Government have not provided any plausible alternative explanation to Vasiliy Mikhalkov's injuries or evidence that when taking him in custody, the authorities abstained from application of force or that the force applied was strictly necessary in context of the surrounding circumstances. They also did not provide any details concerning medical assistance and supervision available to Vasiliy Mikhalkov in the sobering-up facility to prevent the lethal outcome of his injuries.

41. In light of all the above, the Court finds the applicants' version credible and considers that the State is responsible for the death of Vasiliy Mikhalkov in breach of Article 2 of the Convention.

b. Concerning effectiveness of the investigation

42. The Court reiterates that the obligation to protect the right to life under Article 2 of the Convention, read in conjunction with the State's general duty under Article 1 of the Convention to “secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention”, requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force. The investigation must be, *inter alia*, thorough, impartial and careful (see *McCann and Others*, cited above, §§ 161-63; *Kaya v. Turkey*, 19 February 1998, § 105, *Reports of Judgments and Decisions* 1998-I; and *Çakıcı v. Turkey* [GC], no. 23657/94, § 86, ECHR 1999-IV). It may generally be regarded as necessary for the persons responsible for and carrying out the investigation to be independent of those implicated in the events (see, for example, *Güleç v. Turkey*, §§ 81-82, *Reports* 1998-IV, and *Oğur v. Turkey* [GC], no. 21594/93, §§ 91-92, ECHR 1999-III). The investigation must also be capable of leading to the identification and punishment of those responsible. The authorities must have taken all reasonable steps to obtain all available evidence concerning the incident, including, *inter alia*, eyewitness testimony, forensic evidence and, where appropriate, an autopsy report providing a complete and accurate record of injuries and an objective analysis of clinical findings, including the cause of death (see, for example, *Carabulea v. Romania*, no. 45661/99, § 130, 13 July 2010). Any deficiency in the investigation which undermines its ability to establish the cause of death or the person responsible will risk falling foul of this standard.

43. Finally, for an investigation to be effective, there must be a sufficient element of public scrutiny to secure accountability in practice as well as in theory, maintain public confidence in the authorities' adherence to the rule of law and prevent any appearance of collusion in or tolerance of unlawful acts. The degree of public scrutiny required may well vary from case to case. In all cases, however, the next of kin of the victim must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests (see, for example, *Carabulea*, cited above, § 131).

44. The Court notes that Vasiliy Mikhalkov died on 29 April 2003. The ensuing investigation has been pending for more than seven years now without any conclusion having been drawn as to the circumstances in which he had sustained his lethal injuries or the identity of those responsible for them.

45. In so far as can be seen from the Government's observations, the measures carried out by investigative authorities consisted of eighteen interviews with unspecified witnesses, two reconstructions of the crime scene, and six medical expert assessments. Regard being had to the Government's refusal to provide any corroborating documents, the Court is left without evidence enabling it to infer that seven years were necessary for these actions to be taken, and there is nothing which leads to the establishment of a credible account of the circumstances surrounding a death that occurred in a State-controlled facility. The Court pays special attention to the fact that within this period the investigating authorities appear not to have been able to formulate a position concerning a credible version, proposed by an eyewitness (the first applicant), who identified two likely perpetrators, who were also State agents.

46. The Court notes that for substantial amounts of time the proceedings apparently have remained dormant pending the results of numerous and lengthy forensic assessments, the findings of which appear largely to repeat the previous ones. To the extent that additional conclusions were obtained in the course of further expert assessments, the Court has not been provided with any explanation as to why the investigative authorities did not ask the relevant questions earlier.

47. Based on the available materials, the Court is unable to conclude that the investigating authorities have done everything in their power to establish the circumstances of Vasiliy Mikhalkov's death thoroughly and in good time.

48. The Court also notes that the applicants were repeatedly denied access to the case file (see paragraphs 13 and 33 above) and the opportunity to participate meaningfully in the proceedings concerning the establishment of circumstances of death of their relative. The Court considers that such conduct on the part of the authorities *vis-à-vis* the applicants could not but undermine the effectiveness of the investigation and was contrary to the Convention.

49. In the light of all the above, the Court considers that the investigation of Vasiliy Mikhalkov's death did not meet minimum standards of effectiveness. There has therefore been a breach of Article 2 of the Convention in respect of the effectiveness of the investigation.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

50. The applicants next complained that prior to his death Vasiliy Mikhalkov had been severely ill-treated, specifically that he had been beaten up by the police officers, and that the authorities had not carried out an effective investigation into this allegation. They relied on Article 3 of the Convention, which provides as follows:

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

51. The applicants submitted that the injuries found on Vasiliy Mikhalkov's body resulted from beatings by two police officers and his body being dragged, to which the first applicant was an eyewitness. Referring to their arguments in respect of the investigation under Article 2, the applicants argued that there had also been a breach of the obligation of the authorities to conduct an effective investigation into the allegations that Vasiliy Mikhalkov had been ill-treated.

52. The Government referred to their arguments concerning admissibility and the alleged violations of Article 2.

53. The Court considers that this complaint is connected to the one examined above under Article 2 of the Convention. It is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and not inadmissible on any other ground. The Court therefore declares it admissible.

54. The Court has found above that the Government had not provided any plausible explanation for the lethal abdominal trauma and other injuries found on Vasiliy Mikhalkov's body or at least any documents disproving the version proposed by the applicants (see paragraphs 40-41 above).

55. According to this version, those injuries were indicative of inhuman treatment beyond the threshold of severity under Article 3 of the Convention.

56. There has therefore been a violation of that provision.

57. The Court does not deem it necessary to make a separate finding under Article 3 in respect of the deficiencies in the investigation, having already dealt with that question under Article 2 (see, for example, *Ognyanova and Choban v. Bulgaria*, no. 46317/99, § 124, 23 February 2006).

III. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

58. The applicants also complained under Article 5 § 1 of the Convention that Vasiliy Mikhalkov's placement and detention in the sobering-up facility were not carried out in accordance with the law.

59. Having considered the applicants' submissions in the light of all the material in its possession, the Court finds that, in so far as the matter complained of is within its competence, it does not disclose any appearance of a violation of the rights and freedoms set out in the Convention.

60. It follows that this part of the application must be declared inadmissible as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

61. 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

62. The applicants claimed 130,000 euros (EUR) in respect of pecuniary damage, allegedly consisting of estimated material loss for the family living in rural area in connection with the death of an able-bodied family member. They argued that this amount included UAH 914,880 of his estimated lost earnings calculated based on an average salary in Ukraine multiplied by the life expectancy of 80 years. They further claimed 280,000 euros in respect of non-pecuniary damage.

63. The Government submitted that these claims were exorbitant and unsubstantiated.

64. The Court notes that the applicants have not provided convincing evidence to substantiate their pecuniary damage. It therefore rejects this claim. On the other hand, it considers that the applicants suffered anguish and distress on account of the death of their relative and the authorities' failure to look into their allegations of ill-treatment and the circumstances of his death. Ruling on an equitable basis, the Court awards the first applicant, Mrs Olga Kuzminichna Mikhalkova, EUR 50,000, the second applicant, Mr Sergey Petrovich Mikhalkov, EUR 20,000, and the third applicant, Mrs Natalya Stanislavovna Bikbulatova (Besbulatova), EUR 20,000 in respect of the violations of the Convention.

B. Costs and expenses

65. The applicants also claimed 11,250 Ukrainian hryvnias (UAH) for their costs incurred before the domestic courts and UAH 25,000 for those incurred before the Court. By way of justification, the applicants submitted

a detailed list of consultations and procedural documents drafted by their lawyer and copies of contracts with respective prices per document or service received. They also claimed UAH 25.20 for postal expenses.

66. The Government did not object against the award of postal expenses. They further submitted that the claims concerning legal fees were unreasonable and insufficiently supported by evidence.

67. The Court reiterates that in order for costs and expenses to be reimbursed under Article 41, it must be established that they were actually and necessarily incurred and were reasonable as to quantum (see, for example, *Nilsen and Johnsen v. Norway* [GC], no. 23118/93, § 62, ECHR 1999-VIII, and *Boicenco v. Moldova*, no. 41088/05, § 176, 11 July 2006). In accordance with Rule 60 § 2 of the Rules of Court, itemised particulars of all claims must be submitted, failing which the Court may reject the claim in whole or in part.

68. In the present case, having regard to the above criteria, to the itemised list submitted by the applicants and to the number and complexity of issues of fact and law dealt with, the Court finds the applicants' claim reasonable and accordingly awards them jointly EUR 3,300 plus any tax that may be chargeable thereon to the applicants, in costs and expenses.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints concerning responsibility of the State for the ill-treatment and death of Vasiliy Mikhalkov and ineffective investigation of the relevant allegations admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 2 of the Convention on account of Vasiliy Mikhalkov's death;
3. *Holds* that there has been a violation of Article 2 of the Convention on account of the authorities' failure to conduct an effective investigation of Vasiliy Mikhalkov's death;
4. *Holds* that there has been a violation of Article 3 of the Convention on account of Vasiliy Mikhalkov's inhuman treatment;

5. Holds that there is no need to examine under Article 3 the complaint concerning the authorities' failure to conduct an effective investigation into Vasiliy Mikhalkov's ill-treatment;
6. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months of 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 national currency of Ukraine at the rate applicable on the date of settlement:
 - (i) EUR 50,000 (fifty thousand euros) to Mrs Olga Kuzminichna Mikhalkova; EUR 20,000 (twenty thousand euros) to Mr Sergey Petrovich Mikhalkov and Mrs Nataliya Stanislavovna Bikbulatova (Besbulatova) each in respect of non-pecuniary damage;
 - (ii) EUR 3,300 (three thousand three hundred euros) to the applicants jointly in respect of costs and expenses;
plus any tax that may be chargeable to the applicants on the about amounts;
 - (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;
7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 13 January 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President