



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

FIRST SECTION

CASE OF SIZOV v. RUSSIA

(Application no. 33123/08)

JUDGMENT

STRASBOURG

15 March 2011

FINAL

15/06/2011

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

In the case of Sizov v. Russia,

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

Nina Vajić, *President*,
Anatoly Kovler,
Christos Rozakis,
Peer Lorenzen,
Elisabeth Steiner,
Mirjana Lazarova Trajkovska,
Julia Laffranque, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 22 February 2011,

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

PROCEDURE

1. The case originated in an application (no. 33123/08) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Mr Mikhail Mikhaylovich Sizov (“the applicant”), on 5 February 2008.

2. The applicant was represented by Ms A. Vasilyeva and Mr A. Gliskov, lawyers practising in Krasnoyarsk. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

3. The applicant alleged, in particular, that he had been detained for a very long time without sufficient grounds.

4. On 7 October 2008 the President of the First Section decided to give notice of the application to the Government and granted priority treatment to it under Rule 41 of the Rules of Court. 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 applicant was born in 1980 and lives in Krasnoyarsk.

A. First set of criminal proceedings against the applicant

6. On 4 July 2003 the applicant was arrested on suspicion of extortion. However, on 6 July 2003 the Zheleznodorozhnyy District Court of Krasnoyarsk dismissed the prosecutor's request to place the applicant in detention and released the applicant under an undertaking not to leave his place of residence. It held, in particular, as follows:

“... [the prosecuting authorities] did not submit sufficient evidence justifying the [applicant's] remand in custody. He has never been subject to criminal prosecution, he has a job and a permanent place of residence; he played a passive role in the offences of which he was suspected and he intends to continue his studies.

In such circumstances, the applicant's attendance during investigation and trial can be ensured by a less strict preventive measure.”

7. In December 2003 the case was referred to the Tsentralnyy District Court of Krasnoyarsk for trial.

8. On 7 October 2004 unidentified persons set fire to three cars which were considered as evidence in the criminal case against the applicant and had been left in the charge of the victims S. and U. The victims told the trial court that they suspected the applicant and two other defendants of having set fire to the cars to put pressure on them. They thought that their lives were in danger.

9. On 12 October 2004 the District Court remanded the applicant and his co-defendants Zh. and T. in custody. The court did not set the time-limit for their pre-trial detention. In particular, it stated as follows:

“... [the victims'] statement were joined to the case file, whereby they stated that... on 7 October 2004 ... three cars admitted as evidence in the criminal case and transferred to the care of the victims had been set on fire. The victims interpreted that circumstance as an attempt to put psychological pressure on them by the defendants. They expressed concern for their lives.

To date it is not known who burnt the cars. Nevertheless, the court does not have any evidence exculpating Zh., T. or [the applicant].

Having regard to the above circumstances, and in compliance with Article 255 of the [Russian Code of Criminal Procedure] the court

HEREBY DECIDES

...

To remand Zh. ..., T. ... and [the applicant] in custody.”

10. On 16 November 2004 the Krasnoyarsk Regional Court upheld the decision of 12 October 2004 on appeal.

11. On 15 December 2004 the police investigator suspended the investigation in respect of vehicle arson on the grounds that the persons responsible for burning them had not been indentified.

12. On 14 February 2005 the District Court convicted the applicant along with his co-defendants on several counts of extortion and acquitted them on one count. The applicant was sentenced to three years' imprisonment.

13. On 24 May 2005 the Regional Court quashed the judgment of 14 February 2005 and remitted the case to the trial court for examination by a different panel. The defendants' detention was extended until 24 August 2005. In particular, the court indicated as follows:

“The court considers that the preventive measure imposed on Zh., [the applicant] and T., notably [pre-trial detention], should remain unchanged. The court does not discern any grounds for its changing or lifting.”

B. Second set of criminal proceedings

14. On 15 June 2005 the District Court returned the case to the prosecutor, at his request, to be joined to the cases against two other presumed accomplices, V. and P. As regards the defendants' detention, the court noted as follows:

“The court does not discern any grounds to change or lift the restrictive measure applied earlier and Zh., [the applicant] and T. should remain in custody.”

15. On an unspecified date the case was again referred to the District Court.

16. On 18 August 2005 the District Court extended the applicant's detention until 24 November 2005. It held, in particular, as follows:

“... [the applicant] is charged with two counts of particularly serious offences which might entail a lengthy custodial sentence. [He] did not plead guilty, which fact gives rise to the ground to believe that he might abscond and interfere with the administration of justice, if released.”

17. On 27 October 2005 the District Court further extended the detention of three defendants, including the applicant, until 24 February 2006. The detention of P., the fourth defendant, was extended until 28 February 2006. The court held as follows:

“Zh., T., [the applicant] and P. are charged with particularly serious offences. Regard being had to the volume of the criminal case file, the large number of people to be questioned and the fact that the court will hear another criminal case between 1 and 30 November 2005, the court would be unable to examine the case before the expiration of the term of [the defendants'] detention. There are no grounds for changing or lifting the preventive measure.”

18. On 16 February 2006 the District Court extended the applicant's and his co-defendants' detention until 24 May 2006, referring to the same grounds as in its decision of 27 October 2005.

19. On 2 March 2006 the applicant and his co-defendants applied to the District Court for release. The applicant submitted that the suspicion that he had set fire to the cars was no longer valid. On the same date the District Court examined all the applications together and rejected them, having found that the decision to terminate the criminal proceedings concerning the burning of the cars had been made in the framework of different criminal proceedings, that that decision had not been a final one and that it could not in any way shed doubt on the reasonableness of the applicant's and his co-defendants' detention.

20. The applicant did not appeal against the court orders of 18 August and 27 October 2005, 16 February and 2 March 2006.

21. On 15 May 2006 the District Court found the applicant and his co-defendants guilty on several counts of extortion. The applicant was sentenced to eight years' imprisonment.

22. On 10 October 2006 the Regional Court quashed the judgment of 15 May 2006 on account of procedural breaches and remitted the case to the trial court for fresh examination. The court further extended the defendants' detention until 10 January 2007, noting as follows:

“Having regard to the circumstances of the case, the gravity of the charges against Zh., T., [the applicant], P. and V., their character and the possibility of them interfering with the proceedings, the court considers it necessary to hold them in custody.

C. Third set of criminal proceedings

23. On 22 December 2006 the District Court extended the applicant's and his co-defendants' detention until 10 April 2007. The court indicated as follows:

“Having heard the prosecutor, the defence counsel, and the defendants, the court considers that there are no grounds to lift or change the restrictive measure. The defendants are charged with particularly serious offences which entail a custodial sentence of up to fifteen years; the offences were committed in concert; the victims are known by the defendants. There is therefore reason to believe that the defendants might abscond, interfere with the proceedings and put pressure on victims and witnesses.”

24. In the appeal against the detention order, the applicant and his counsel submitted that there were no grounds to keep him in detention. He had a permanent place of residence, lived with his parents and had no intention of interfering with the proceedings. They also pointed out that the applicant had positive references, had finished his university studies and had not breached the undertaking not to leave his place of residence. Lastly, they

submitted that the District Court's reference to the gravity of the charges had no basis in law.

25. In January 2007 the applicant was diagnosed with tuberculosis.

26. On 23 January 2007 the Regional Court upheld the extension order, finding that it was lawful and properly justified.

27. On 23 March 2007 the District Court extended the applicant's and his co-defendants' detention until 10 July 2007, on the same grounds as in its decision of 22 December 2006. The court further noted as follows:

“[The applicant's] reference to his poor state of health and his illness is not a sufficient ground for release, as the [remand prison where the applicant is detained] has a medical unit where [the applicant] can be provided with qualified medical care. [The applicant's] argument that the grounds underlying the decision to remand him in custody on 12 October 2004 no longer existed is unsubstantiated, as he failed to submit any documents confirming that the criminal proceedings have been discontinued on exculpatory grounds.”

28. In the grounds of appeal against that detention order, the applicant's counsel submitted that the grounds for placing him in detention had been suppositional, the applicant's guilt had not been established, the case had been under examination for a long time and the applicant's health had seriously deteriorated. He had contracted tuberculosis in detention and was not receiving appropriate medical treatment.

29. On 29 May 2007 the Regional Court upheld that extension order, noting as follows:

“... [the applicant] was sentenced to a lengthy term of imprisonment. However, his conviction was quashed on account of procedural breaches, which did not change the serious character of the charges against him... Taking into account that the examination of the criminal case was not yet completed, the [District Court] ... had the right to extend the [applicant's] detention and did so on a lawful basis. [The applicant], the doctor states, is receiving adequate medical care.”

30. On 6 July 2007 the District Court extended the applicant's and his co-defendants' detention until 10 October 2007, referring to the same grounds as in its decision of 23 March 2007. The applicant was not present at the hearing. Since 2 July 2007 he had been undergoing in-patient treatment for tuberculosis. He was represented by counsel. As regards the applicant's situation, the court indicated as follows:

“... the deterioration of the applicant's state of health does not justify changing the preventive measure. [The applicant] is receiving appropriate medical treatment in the [remand prison]. The [applicant's] character was taken into account by the court which remanded him in custody and does not justify changing the preventive measure either. Nor does the reference ... to the lengthy period of detention pending trial justify changing the preventive measure. The court may, as a matter of [law], extend detention, regard being had to the complexity of the case. The present case is a complex one. It is voluminous; it concerns several defendants; some difficulties arose when calling witnesses to the hearings; and the case is being examined by a panel of judges.”

31. On 7 August 2007 the Regional Court upheld the extension order, finding that it was sufficiently motivated and lawful.

32. On 2 August 2007 the District Court, at the prosecutor's request, suspended the criminal proceedings against the applicant on the ground that the applicant was undergoing intensive treatment for tuberculosis and that his ill-health prevented him from participating in the examination of the case. By the same decision the District Court held that the applicant was to remain in detention. The examination of the criminal charges against the applicant's co-defendants continued and, by a final decision of 15 November 2007, they were convicted.

33. On 10 October 2007 and 9 January 2008 the District Court extended the applicant's detention until 10 January and 10 April 2008 respectively, referring to the same grounds as in its previous decisions. On 30 October 2007 the Regional Court upheld the extension order of 10 October 2007 on appeal, finding it lawful, sufficiently reasoned and justified.

34. On 30 January 2008 the District Court found the applicant guilty as charged and sentenced him to five years and ten months' imprisonment. On 13 May 2008 the Regional Court upheld the applicant's conviction on appeal.

II. RELEVANT DOMESTIC LAW

35. Pursuant to the Russian Code of Criminal Procedure, in force since 1 July 2002, “preventive measures” or “measures of restraint” (*меры пресечения*) include an undertaking not to leave a town or region of residence, personal surety, bail and detention (Article 98). If necessary, the suspect or accused may be asked to give “an undertaking to appear” (*обязательство о явке*) (Article 112).

36. When deciding on a preventive measure, the authority with jurisdiction is required to consider whether there are “sufficient grounds to believe” that the accused would abscond during the investigation or trial, reoffend, put pressure on witnesses or other parties to the criminal proceedings, destroy evidence or interfere with the criminal proceedings in any other way (Article 97). It must also take into account the gravity of the charge, information on the accused's character, his or her profession, age, state of health, family status and other circumstances (Article 99).

37. Detention is ordered by a court if the charge carries a sentence of at least two years' imprisonment, provided that a less restrictive preventive measure cannot be applied (Article 108 § 1).

38. From the date when the prosecutor sends the case to the trial court the defendant's detention is “before the court” (or “pending trial”). The period of detention “pending trial” is calculated up to the date on which the judgment is pronounced. It may not normally exceed six months, but if the case concerns serious or particularly serious criminal offences, the trial

court may approve one or more extensions of no longer than three months each (Article 255 §§ 2 and 3).

39. A preventive measure shall be lifted when it ceases to be necessary, or else changed into a stricter or a milder one if the grounds for application of a preventive measure change (Article 110 § 1).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

40. The applicant complained that he had been detained pending trial without sufficient reasons and for a very long time. He referred to Article 5 § 3 of the Convention, which reads as follows:

“Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

41. The Government contested that argument. They submitted that the applicant had been remanded in custody pending trial only after the court had established that he had been trying to intimidate the victims of the crime he had been charged with. The domestic courts had taken into account all the relevant circumstances when deciding to detain the applicant pending trial. The fact that he had contracted tuberculosis had no bearing on his detention. He had been placed in the prison hospital and received adequate medical assistance. The applicant's pre-trial detention was compatible with the “reasonable time” requirement. The case against him had been complex. The trial court had had to question a large number of witnesses and study voluminous documents. Besides, the applicant's and his co-defendants' conviction had been quashed twice on appeal. Then the proceedings against the applicant had been stayed due to his illness. Accordingly, the domestic authorities had displayed special diligence when dealing with the applicant's case.

42. The applicant maintained his complaint. He noted that, when extending his detention, the domestic judicial authorities had used a summary formula without describing his personal situation. The courts repeatedly alleged that the applicant might abscond, interfere with administration of justice or continue his criminal activities, without referring to any facts to corroborate the detention orders. As regards the vehicle arson that the trial court had referred to when remanding the applicant in custody, the relevant criminal investigation had been stayed and no evidence had been presented to the trial court to implicate the applicant in the arson, other than the victims' complaint. The authorities' presumption

that the applicant might abscond lacked any substantiation. On the contrary, when released on an undertaking not to leave his place of residence, the applicant had duly complied with the court's order. He had appeared before the investigator and the court. He had been employed and had completed his studies at university. Even though the applicant had drawn the judicial authorities' attention to those circumstances, they had not taken them into account. Lastly, at no time had the courts considered the question as to whether the applicant's pre-trial detention had exceeded the reasonable time requirement set out in Article 5.

A. Admissibility

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

B. Merits

1. The period to be taken into consideration

44. According to the Court's well-established case-law, in determining the length of detention under Article 5 § 3 of the Convention, the period to be taken into consideration begins on the day the accused is taken into custody and ends on the day when the charge is determined, even if only by a court of first instance (see, among many other authorities, *Belevitskiy v. Russia*, no. 72967/01, § 99, 1 March 2007).

45. Furthermore, in view of the essential link between Article 5 § 3 of the Convention and paragraph 1 (c) of that Article, a person convicted at first instance cannot be regarded as being detained “for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence”, but is in the position provided for by Article 5 § 1 (a), which authorises deprivation of liberty “after conviction by a competent court” (see *Panchenko v. Russia*, no. 45100/98, §§ 91 and 93, 8 February 2005, with further references).

46. Accordingly, in the present case the period to be taken into consideration consisted of three separate terms: (1) from 12 October 2004, when the applicant was remanded in custody, to 14 February 2005, when he was convicted at first instance in the first set of criminal proceedings; (2) from 24 May 2005, when the applicant's conviction was quashed on appeal, to 15 May 2006, when the applicant was convicted at first instance in the second set of criminal proceedings; and (3) from 10 October 2006, when the applicant's conviction was again quashed on appeal, to 30 January

2008, when the applicant was convicted at first instance in the third set of criminal proceedings.

47. It follows that the period of the applicant's detention to be taken into consideration under Article 5 § 3 of the Convention in the instant case amounted in total to two years and seven and a half months.

2. Whether there were relevant and sufficient reasons to justify the applicant's detention

48. Under the Court's case-law, the issue of whether a period of detention is reasonable cannot be assessed *in abstracto*. Whether it is reasonable for an accused to remain in detention must be assessed in each case according to its particular features. Continued detention can be justified in a given case only if there are specific indications of a genuine requirement of public interest which, notwithstanding the presumption of innocence, outweighs the rule of respect for individual liberty (see, among other authorities, *W. v. Switzerland*, 26 January 1993, § 30, Series A no. 254-A, and *Pantano v. Italy*, no. 60851/00, § 66, 6 November 2003).

49. It falls in the first place to the national judicial authorities to ensure that in a given case the pre-trial detention of an accused person does not exceed a reasonable time. To this end they must examine all the facts arguing for or against the existence of a genuine requirement of public interest justifying, with due regard to the principle of presumption of innocence, a departure from the rule of respect for individual liberty, and set them out in their decisions dismissing the applications for release. It is essentially on the basis of the reasons given in these decisions and of the matters referred to by the applicant in his appeals, that the Court is called upon to decide whether or not there has been a violation of Article 5 § 3 of the Convention (see *Kudła v. Poland* [GC], no. 30210/96, § 110, ECHR 2000-XI, and *Labita v. Italy* [GC], no. 26772/95, § 152, ECHR 2000-IV).

50. The Court accepts that the applicant's remand in custody in October 2004 may have been warranted by a suspicion of his involvement in the alleged attempts to intimidate witnesses (see para. 9). However, as early as December 2004, that is two months later, the relevant criminal investigation was suspended, and no perpetrators were ever identified. Nevertheless the applicant remained in detention. Accordingly, in the Court's view, it was incumbent on the domestic judicial authorities to give other reasons to justify his deprivation of liberty.

51. The Court further observes that in 2005-2008, when extending the applicant's detention, the domestic courts consistently relied on the gravity of the charges against the applicant, arguing that he might abscond, interfere with the proceedings or put pressure on the witnesses.

52. As regards any risk of absconding, the Court reiterates that such a danger cannot be gauged solely on the basis of the severity of the sentence faced. It must be assessed with reference to a number of other relevant

factors, which may either confirm the existence of a danger of absconding or make it appear so slight that it cannot justify detention pending trial (see *Panchenko v. Russia*, cited above, § 16, and *Letellier v. France*, 26 June 1991, § 43, Series A no. 207). In the present case, however, the decisions of the domestic authorities gave no reasons why, notwithstanding the arguments put forward by the applicant, they considered the risk of his absconding to be decisive. In any event, the Court considers that in the course of time that risk became negligible, given the deterioration of the applicant's health and his subsequent placement in a prison hospital in July 2007.

53. Furthermore, the Court accepts that in cases involving numerous accused, the risk that a detainee might put pressure on witnesses or might otherwise obstruct the proceedings if released is often particularly high. These factors may justify a relatively longer period of detention. However, they do not give the authorities unlimited power to extend this preventive measure (see *Osuch v. Poland*, no. 31246/02, § 26, 14 November 2006, and *Celejewski v. Poland*, no. 17584/04, §§ 37-38, 4 May 2006). The fact that a person is charged with acting in criminal conspiracy is not in itself sufficient to justify long periods of detention; his personal circumstances and behaviour must always be taken into account. There is no indication in the present case that the domestic courts had any evidence that the applicant had indeed attempted to intimidate witnesses or to obstruct the course of the proceedings in any other way. In such circumstances the Court has difficulty in accepting the argument that there was a risk of interference with the administration of justice. Furthermore, such a risk was bound to decrease gradually as the trial proceeded and the witnesses were interviewed (compare *Miszkurka v. Poland*, no. 39437/03, § 51, 4 May 2006). The Court is not therefore persuaded that throughout the entire period of the applicant's detention compelling reasons existed to fear that he would put pressure on witnesses or otherwise hamper the investigation of the case, and certainly not such as to outweigh the applicant's right to trial within a reasonable time or release pending trial.

54. The Court also observes that until the applicant's illness in March 2007 the courts used the same summary formula to refuse the requests for release and extend the pre-trial detention of the applicant and three other persons, without describing their personal situation in any detail. The Court has already found that the practice of issuing collective detention orders without a case-by-case assessment of the grounds for detention in respect of each detainee was incompatible, in itself, with Article 5 § 3 of the Convention (see *Dolgova v. Russia*, no. 11886/05, § 49, 2 March 2006; *Korchuganova v. Russia*, no. 75039/01, § 76, 8 June 2006; and *Shcheglyuk v. Russia*, no. 7649/02, § 45, 14 December 2006). In extending the applicant's detention by means of collective detention orders the domestic authorities had no proper regard to his individual circumstances.

55. Lastly, the Court emphasises that when deciding whether a person should be released or detained the authorities have an obligation under Article 5 § 3 to consider alternative means of ensuring his or her appearance at trial (see *Sulaoja v. Estonia*, no. 55939/00, § 64, 15 February 2005, and *Jabłoński v. Poland*, no. 33492/96, § 83, 21 December 2000). In the present case, during the entire period of the applicant's detention the authorities did not consider the possibility of ensuring his attendance by the use of other “preventive measures” which are expressly provided for by Russian law to secure the proper conduct of criminal proceedings. At no point in the proceedings did the domestic courts explain in their decisions why alternatives to the deprivation of liberty would not have ensured that the trial would follow its proper course.

56. The Court has frequently found a violation of Article 5 § 3 of the Convention in Russian cases where the domestic courts have extended an applicant's detention relying essentially on the gravity of the charges and using stereotyped formulae without addressing specific facts or considering alternative preventive measures (see *Belevitskiy v. Russia*, cite above, §§ 99 et seq., 1 March 2007; *Khudobin v. Russia*, no. 59696/00, §§ 103 et seq., ECHR 2006-... (extracts); *Khudoyorov v. Russia*, no. 6847/02, §§ 172 et seq., ECHR 2005-X (extracts); *Mamedova v. Russia*, no. 7064/05, §§ 72 et seq., 1 June 2006; *Dolgova*, cited above, §§ 38 et seq.; *Rokhlina v. Russia*, no. 54071/00, §§ 63 et seq., 7 April 2005; *Panchenko*, cited above, §§ 91 et seq.; and *Smirnova v. Russia*, nos. 46133/99 and 48183/99, §§ 56 et seq., ECHR 2003-IX (extracts)).

57. Having regard to the above, the Court considers that by failing to address specific facts or consider alternative “preventive measures” and by relying essentially on the gravity of the charges, the authorities extended the applicant's detention on grounds which, although “relevant”, cannot be regarded as “sufficient” to justify its duration.

58. There has accordingly been a violation of Article 5 § 3 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

59. The applicant complained under Article 5 § 1 (c) of the Convention that there had been no reasonable suspicion justifying his remand in custody on 12 October 2004.

60. The Court reiterates that, according to Article 35 § 1 of the Convention, it may only deal with the matter within a period of six months from the date on which the final decision was taken.

61. The Court observes that the final domestic decision authorising the applicant's remand in custody was taken by the Krasnoyarsk Regional Court on 16 November 2004. The Court further observes that the applicant introduced his application on 5 February 2008. It follows that the applicant's

complaint was lodged out of time and must be rejected in accordance with Article 35 § 1 and 4 of the Convention for non-compliance with the six-month time-limit.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

62. 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

63. The applicant claimed 100,000 euros (EUR) in respect of non-pecuniary damage.

64. The Government submitted that there had been no violation of the applicant's rights as set out in the Convention. In any event, they considered the applicant's claims unreasonable and excessive and suggested that the acknowledgement of a violation would constitute adequate just satisfaction.

65. The Court observes that the applicant spent two years and seven and a half months in custody awaiting determination of the criminal charge against him, his detention not being based on sufficient grounds. In these circumstances, the Court considers that the applicant's suffering and frustration cannot be compensated for by a mere finding of a violation. Making its assessment on an equitable basis, it awards the applicant EUR 5,500 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

66. The applicant did not submit a claim for costs and expenses. Accordingly, the Court considers that there is no call to award him any sum on that account.

C. Default interest

67. 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 complaint concerning excessive length of the applicant's pre-trial detention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 5 § 3 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 5,500 (five thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 15 March 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Nina Vajić
President