



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

FIRST SECTION

CASE OF ROMANOVA v. RUSSIA

(Application no. 23215/02)

JUDGMENT

STRASBOURG

11 October 2011

FINAL

08/03/2012

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

In the case of Romanova v. Russia,

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

Nina Vajić, *President*,
Anatoly Kovler,
Peer Lorenzen,
Khanlar Hajiyeu,
Julia Laffranque,
Linos-Alexandre Sicilianos,
Erik Møse, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 20 September 2011,

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

PROCEDURE

1. The case originated in an application (no. 23215/02) 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, Ms Larisa Valeryevna Romanova (“the applicant”), on 24 April 2001.

2. The applicant, who had been granted legal aid, was represented by Ms V. Kartseva and then by Mr D. Sirozhidinov, lawyers practising in Moscow and the Moscow Region respectively. The Russian Government (“the Government”) were represented by Ms V. Milinchuk and then by Mr G. Matyushkin, former and current Representatives of the Russian Federation at the European Court of Human Rights respectively.

3. On 23 May 2007 the President of the First Section decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 1).

4. In June 2010 the President of the Chamber to which the case had been assigned invited the respondent Government under Rule 54 § 2 (a) of the Rules of Court to submit further documents concerning the application. The President of the Chamber also acceded to the Government’s request and ruled that, pursuant to Rule 33 § 1, the above-mentioned documents should not be made available to the public.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1974 and lives in Moscow.

A. Explosions

6. On 1 November 1998 an explosion destroyed the monument to Tsar Nicolas II in Podolsk in the Moscow Region.

7. On 13 August 1998 and 4 April 1999 two explosions occurred in Moscow during the night, damaging the façade of the Federal Security Service (“the FSB”).

8. Criminal investigations into acts of terrorism were opened following these events. Responsibility for the explosions was attributed to the anarchist movement “New Revolutionary Alternative” (NRA).

B. Subsequent events and investigative measures

9. With regard to the explosion on 13 August 1998, the Moscow Regional Office of the Federal Security Service sought in September 1998 to establish whether the area adjacent to the FSB Office was monitored by any privately-owned or public video surveillance and recording systems. It was established that the video equipment of a private bank situated in the vicinity had been out of order from 11 to 13 August 1998; guards in others buildings which had video surveillance systems had not heard of any incident on 13 August 1998. It was reported that another bank and a shopping centre also had video surveillance and recording systems and that the authorities “had taken measures to ensure the safeguarding and seizure of the recordings”.

10. It was decided in December 1998 to suspend the investigation because no suspects had been identified in relation to the explosion on 13 August 1998.

11. On unspecified dates, following the resumption of the investigation, four suspects, including the applicant, were identified. The proceedings against one of them, Mr B., were later severed. The court discharged him from criminal liability and ordered mandatory psychiatric treatment for schizophrenia.

12. In the meantime, the applicant was made the subject of another criminal investigation in the Krasnodar Region on charges of handling explosives. It is unclear whether or not she was detained there for an unspecified period of time between January and June 1999.

13. On 2 February 1999 the applicant's flat was searched and a number of items which could be used for manufacturing an explosive device were found, together with allegedly anarchist literature. Between May 1999 and January 2000 the applicant was questioned in Moscow as a witness in relation to the explosions in Moscow and Podolsk.

14. According to the applicant, her telephone conversations had also been recorded in January and February 1999, that is, after the events on 13 August and 1 November 1998 but before the explosion in front of the FSB Moscow office on 4 April 1999. Allegedly, she learnt about the secret surveillance measures in January 2002 when she was studying the case file before her trial (see paragraph 36 below).

15. As can be seen from a report dated 8 June 1999 issued in connection with the criminal investigations of the Moscow and Podolsk explosions, an officer of the FSB Regional Office stated that a number of measures under the Operational and Search Activities Act (see paragraph 79 below) revealed that the applicant was skilled in the manufacturing of explosives and was a member of "New Revolutionary Alternative"; the above-mentioned measures had also permitted the authorities to identify her co-members and had made it probable that explosives or their components would be found at the applicant's place of residence. In view of the above, the reporting officer sought permission to carry out a search. It is unclear whether and when this search was carried out (see, however, paragraph 19 below).

16. By a decision of 9 June 1999, the Moscow City Court authorised the investigating authority to monitor conversations on seventeen fixed lines for a period of one hundred and eighty days; these were apparently unrelated to the applicant's place of residence. In the same court decision, however, the City Court also authorised the opening and inspection of postal and other correspondence related to the corresponding postal addresses, as well as surveillance using video and audio recording at the applicant's flat for the same period of time. In October 1999 the City Court issued another order authorising the tapping of another telephone line.

17. In August 1999 an officer of the FSB Regional Office reported to his superior that it was necessary to carry out "an analysis of calls since 1 January 1998" made to and from a number of fixed telephone lines, including the lines used by the applicant and her mother.

18. From October 1999 to April 2000 the applicant was subject to surveillance with the use of radio-transmitting devices which monitored and recorded her conversations in the flat.

19. In the meantime, at around 8.30 p.m. on 16 November 1999, a search was carried out in the flat of the applicant's mother. The applicant was temporarily residing in the flat. The investigators found and seized a number of chemical agents and objects allegedly used for manufacturing

explosives and samples of materials subsequently identified as those used in the 1998 explosions.

20. On 28 April 2000 the Chertanovskiy District Court of Moscow disallowed a complaint brought by the applicant's mother regarding the searches which had been carried out in her flat.

C. Matters relating to the applicant's arrest and detention

21. In the meantime, on 5 April 2000, the applicant, together with Mr B. and Ms Nev., was arrested on suspicion of her involvement in the explosion of 13 August 1998. The deputy director of the FSB Investigations Department ordered her placement in custody, with reference to the risk of her evading investigation, obstructing the proceedings and reoffending, and with particular regard to the gravity of the offences and the applicant's personality.

22. On 11 April 2000 the Moscow public prosecutor's office extended the applicant's detention. On 17 April 2000 the Lyublinskiy District Court of Moscow rejected her application for release. The applicant's detention was further extended by the Prosecutor General's Office on 30 May, 30 June and 2 October 2000, 7 February, 11 May and 8 August 2001.

23. Apparently on 27 June 2001, the applicant lodged an application for release and waived her right to appear before the court, referring in particular to the exhausting conditions of transport between the remand centre and the courthouse. On 20 July 2001 the Lyublinskiy District Court rejected the application for release. Allegedly, on that day the applicant was brought to the courthouse for unspecified reasons but did not attend the hearing. The District Court held as follows:

"Despite [the applicant's] arguments concerning her state of health and the fact that she has underage children, one of whom is under her care in the detention facility, the court considers that the continued detention of [the applicant] is lawful and justified on account of the gravity of the charges and her personality."

24. The applicant appealed. In the meantime, on 3 October 2001, the Moscow City Court extended the applicant's detention until 5 April 2002, giving the following reasons:

"...taking into account the accused's character ([she was] previously convicted under ...the CCrP) [and] the gravity of the charges, [there are] sufficient grounds to believe that, if released, the accused would abscond ... and thereby interfere with the establishment of the truth in the present criminal case and continue her criminal activity...".

25. On 22 November 2001 the Supreme Court of Russia upheld the extension order. Several public figures, including a member of Parliament, signed personal guarantees in support of the applicant's bail applications.

26. On 29 November 2001 the City Court upheld the decision of 20 July 2001 as follows:

“The court authorised [the applicant’s] placement in custody on account of the public dangerousness of the offences, the gravity of the charges and the particular circumstances of the case, including her personality, state of health and her underage children. No new circumstances affecting the preventive measure were identified. The detention issue was examined in the absence of [the applicant], owing to her waiver.”

27. On 6 March 2002 the City Court decided to “maintain the preventive measure”. It appears that no hearing had been held. On 25 April 2002 the Supreme Court heard the applicant’s lawyer and a prosecutor, and upheld that decision in the following terms:

“...the judge rightly pointed to the absence of any grounds for release as the preventive measure had been ordered in compliance with the law, regard being had to the actual circumstances of the offences in question and the character [of the applicant].”

28. From 1 July 2002 onwards the applicant’s detention was regulated by the new Code of Criminal Procedure, and in particular Article 255 thereof (see paragraph 71 below).

29. On 21 August 2002 the applicant’s lawyer Ms Ka. made written submissions in relation to the pending extension request from the prosecution. A detention hearing was held on the same day by judge M. assisted by two lay assessors. At the hearing the applicant’s lay representative Mr R. challenged the court, submitting that there had been no decision reassigning the criminal case to judge M. The challenge was dismissed as not “prescribed by law”. The court, composed of judge M. and two lay assessors, extended the applicant’s detention until 22 November 2002. The court held as follows:

“The following persons are absent: lawyers Ms Ka. and Mr Ka. (on annual leave), Ms E. (busy in another case), Kr. and prosecutor Ma. (reason unspecified). Thus, the examination of the case cannot proceed. Besides, the six-month period of detention of [the applicant] expires on 22 August 2002. Under Article 255 § 3 of the Code of Criminal Procedure a court may extend detention...”

The court has heard submissions from the defendants and lawyer Kr., who is against the extension; representative R. and lawyer Ch. are against the examination of the detention issue in the absence of the persons referred to above. The court considers that [the applicant’s] detention should be extended in view of the gravity of the charges.”

30. The applicant appealed, arguing that judge Ko. had been the trial judge in the case. By virtue of the rule of immutability of the court’s composition, judge M. had no legal basis for issuing any decisions concerning the applicant in the absence of a formal decision to replace the trial judge. In any event, this “court” could not have lawfully taken any detention-related decision in the absence of the prosecutor and counsel. The detention order was unlawful as no reasons had been given.

31. Having heard submissions from the applicant’s lawyer, and referring to Articles 377, 378 and 388 of the Code of Criminal Procedure (see

paragraphs 76 and 77 below), the Supreme Court set aside that decision on 16 October 2002, finding as follows:

“...the court ...was not in a position to give its rulings, which were prejudicial to the rights and freedoms [of the applicant], in the absence of defence counsel and especially of the prosecutor, who must carry out the function of prosecution on behalf of the State...

Ruling on the detention issue, the court premised its findings on the parties’ submissions, without any analysis of the materials in the case file relevant to the detention issue... Moreover, when extending the term of the detention ... the court referred only to the gravity of the charges ... in breach of Article 7 § 4 of the Code of Criminal Procedure, which provides that the detention order must be lawful and reasoned...

...the expiry of the six-month period and the gravity of the charges are not absolute grounds for extending detention... The court is empowered, but not obliged, to order an extension...

The new examination will have to address the above breaches and consider the arguments submitted by the accused and their counsel...

This court has no power to annul or amend the preventive measure in respect of [the applicant] because the criminal case [against her] is pending before the Moscow City Court.”

Lastly, the Supreme Court held that the applicant “should be taken into custody”.

32. Having heard submissions from the applicant’s lawyers, on 21 November 2002 judge Ko., sitting with the lay assessors, issued a new extension order in respect of the period from 22 August until 22 November 2002. The order referred solely to the gravity of the charges against the applicant. By a separate order of the same date, the City Court granted a further extension of the applicant’s detention until 22 February 2003. On 12 February 2003 the Supreme Court upheld that (second) decision in the following terms:

“the [city] court analysed thoroughly the materials in the case file ... [including] those relating to the adjournment of hearings on several occasions on the ground that the trial participants, including counsel for Ms Romanova, had failed to appear...”

33. On 14 February 2003 the City Court rejected an application for release from the applicant. The court held:

“...given the gravity of the charges and other circumstances, as well as the [applicant’s] conduct at this stage of the proceedings – she is seeking to delay them – there are no valid reasons for varying the preventive measure.

The issue of the preventive measure will be finally determined by the court taking the final decision on [the applicant’s and co-defendants’] guilt or innocence in respect of the offences in question.

The arguments concerning the alleged difference in treatment of defendants Nev. and Nekh., who are under an undertaking not to leave their town of residence, and [the applicant] and Ra. are without legal basis.”

34. By a separate decision on the same day the City Court extended the applicant’s detention until 22 May 2003, referring to the gravity of the charges against her. On 23 April 2003 the Supreme Court upheld the extension, finding, with reference to Article 255 § 3 of the Code of Criminal Procedure, that the gravity of the charges justified a further extension of the applicant’s detention.

35. The applicant and her co-defendant Ra. were thus kept in custody before and during the trial. Their co-defendants Nev. and Nekh. were under an undertaking not to leave their town of residence.

D. Criminal proceedings against the applicant

1. Pre-trial proceedings

36. On 11 April 2000 the applicant was charged with terrorism, handling explosives and drug-related offences. The preliminary investigation was completed on 22 May 2001. The applicant studied the case file together with counsel and her lay representative, Mr R. As can be seen from the record, between 22 May and 3 August 2001 the applicant studied several volumes for periods of between thirty minutes and seven hours per day. Between 22 August and 21 September 2001 the applicant refused to study the file because her counsel was not present. After resuming her study for a further period, she again did not study the material owing to the unavailability of her lawyers. In December 2001 the investigating authority ordered the defence to complete its study of the case file before 5 February 2002.

2. Trial

37. On 22 February 2002 the criminal case was submitted to the City Court for trial. The case was assigned to judge Ko. On 6 March 2002 judge Ko. refused to relinquish jurisdiction in favour of the Moscow Regional Court for trial by jury. The judge ruled that “the nature of the charges and the need to ensure the safety of the trial participants” required that the trial be conducted in camera. On 14 March 2002 the applicant was provided with a copy of the bill of indictment.

38. On 25 April 2002 the Supreme Court upheld the decision of 6 March 2002 in the part concerning the trial in camera. It also rejected a challenge from the applicant concerning two of the three appeal judges, Bo. and Va., who had previously ruled on her appeals against her detention.

39. On 26 April 2002 two lay assessors were appointed to sit with the presiding judge. The applicant complained that she had not received a copy of the annexes to the bill of indictment, including the list of persons to be called as witnesses and the list of physical evidence to be examined at the trial (see also paragraphs 41 and 44 below). On 21 May 2002 the applicant was provided with a copy of the list of witnesses. On 21 August 2002 judge M., apparently replacing the trial judge Ko., decided to stay the proceedings owing to the absence of the prosecutor and of counsel for the applicant and her co-defendants.

40. It appears that since April 2002 at least twenty adjournments were ordered, mostly due to one or several lawyers' absence for medical reasons, due to annual leave or unspecified reasons. In January 2003 judge Ko. sent a letter to the Moscow Bar Association complaining that the lawyers representing the applicant (Mr Ka. and Ms Ka.) and those representing her co-defendants had obstructed the trial by failing to appear on a number of occasions. The judge indicated that Mr Ka. had not been present on 21 May and 25 June 2002 owing to his involvement in another trial; had been on sick leave from 23 November to 11 December 2002; had been absent on 18 July and 16 December 2002 and on 9 January 2003 without a valid excuse supported by proof; and between 19 and 27 December 2002 had apparently been admitted to hospital, allegedly until 23 January 2003. Ms Ka. had not been present on 26 April 2002 owing to alleged illness and had been absent on 18 July and 27 December 2002 and on 23 January 2003 without a valid excuse supported by proof.

41. According to the trial verbatim record, the trial judge, noting the applicant's refusal to study the case file in July 2002, asked the applicant which documents in the case file she wanted to examine. The applicant did not make any specific request. Instead, she and her lawyer Ka. complained that they had not been given an adequate opportunity to study the file during the preliminary investigation or to consult it at the premises of the remand centre rather than in the court building. The judge granted the defence request to study the case file, but the applicant refused to make use of it.

42. It appears that the applicant's co-accused retained new counsel, who were given time to study the case file.

43. On 3 February 2003 the trial court removed the applicant's lay representative from the trial for repeated disruption of order in the courtroom. On the same date, the Preobrazhenskiy District Court of Moscow held the lay representative in contempt and ordered him to pay a fine of 1,000 Russian roubles. On 14 February 2003 the City Court rejected the applicant's requests to have Mr R. re-admitted and also a motion she had submitted seeking to have the trial conducted in public. The court held that the case was "secret" for the purposes of Article 241 § 2 of the Code of Criminal Procedure and the anti-terrorist legislation.

44. On 14 March 2003 the trial court examined a number of requests submitted by the defence. The court considered that the RSFSR Code of Criminal Procedure, which had been applicable before the trial, did not require that the defence should be provided with both the bill of indictment and any “annexes” to it. In any event, the defence had been provided with the annexes, including the list of persons to be called as witnesses at the trial. The applicant, her lawyers and the lay representative R. had been afforded an opportunity to study the case file on several occasions. They had not made full use of that opportunity, on spurious grounds.

45. It appears that from 25 April to 1 May 2003 the applicant was kept in a disciplinary cell.

46. On 14 May 2003 the City Court convicted the applicant and Ms Nev. in relation to the explosion of 13 August 1998 (unlawful production, possession and carrying of explosives, and terrorism) and the explosion of 1 November 1998 (unlawful possession, carrying and procurement of explosives and aiding and abetting an act of terrorism). The applicant was sentenced to a term of imprisonment of six years and six months.

47. The defendants had pleaded not guilty. However, referring to written depositions by Ms V. and Mr St. made at the pre-trial investigation stage, the City Court established that the bomb had targeted a public building, namely the FSB offices. The court also relied on written depositions by Mr N. and oral testimony from the witnesses R., K. and S., who had received information about the applicant’s anarchist activities and details of the explosions either directly from her or from her accomplices, including Mr B.

48. On the basis of the forensic reports the City Court established that the materials seized during the searches at the applicant’s home were identical to those used in the Moscow explosion. The City Court also had regard to transcripts of the tapped telephone conversations of 4 October and 18 November 1999, in which the applicant had discussed the explosions with her accomplices.

49. The trial judgment reveals that the national authorities seized from a third person a handwritten note containing B.’s name and telephone number. It was established that this telephone number corresponded to the applicant’s and B.’s shared place of residence in Moscow and that B. had used the line for his telephone calls, as confirmed by the information set out at pages 110-115 of volume 16 of the criminal case file.

50. The applicant and her lawyers appealed against her conviction to the Supreme Court, relying on arguments which were substantially the same as those raised before this Court.

51. On 4 December 2003 the Supreme Court, sitting in camera, quashed for lack of evidence the applicant’s conviction in the part concerning the Podolsk explosion on 1 November 1998 but upheld the remainder of the

judgment and reduced the applicant's sentence to five years and six months' imprisonment.

3. Post-trial proceedings

52. On 6 August 2004 the Vladimir Regional Court refused to suspend execution of the applicant's sentence. On 27 October 2004 the Supreme Court upheld this judgment.

53. Subsequently, the applicant attempted to have the 2001 Amnesty Act applied to her, but was told she did not qualify for it. She also unsuccessfully sought supervisory review of her conviction.

54. On 24 January 2005 the Sudogodskiy District Court of the Vladimir Region refused to release the applicant on parole.

55. Between 2003 and 2005 the applicant, her counsel and her parents lodged numerous applications with the Constitutional Court seeking a declaration of incompatibility of specific laws with the Constitution or a finding that other authorities had incorrectly applied the law. The Constitutional Court refused to entertain these complaints, *inter alia*, for lack of jurisdiction.

56. On 4 October 2005 the applicant was released after having served her sentence.

E. Conditions of detention, transport and confinement in the courthouse

1. The applicant's account

57. From 5 April 2000 until December 2003 the applicant was detained in Moscow remand centre no. 77/6. Thereafter, she was also held in a prison in Vladimir.

(a) Conditions of detention in the remand centre

58. Under domestic legislation that allowed children under three to remain with their mother, the applicant opted to have her daughter (born in September 1999) placed in the remand centre with her. They were placed in the wing for women with children. It appears that in June 2000 the applicant and her daughter were temporarily placed in the medical unit as their cell was being renovated. On an unspecified date the child was admitted to hospital for treatment. In late August 2002 the applicant's mother took the child out of the detention facility and took care of her thereafter. The applicant's elder daughter, born in 1997, remained at home with her grandmother.

59. According to a letter sent to judge Ko. by the Moscow Department for the Execution of Sentences in April 2002, the applicant was kept in cell

no. 205, designed for twelve women with children; the cell had twelve cots, three refrigerators, two electric stoves and a playpen. The cell comprised a bedroom, a bathroom and a toilet. At the time, the cell accommodated seven women with children.

60. During her detention the applicant, her counsel and her parents submitted a number of complaints to the management of the remand centre and other public authorities. The applicant complained about the conditions of her detention, claiming in particular that the cells were poorly ventilated and were not equipped with heating or cooking facilities, that the food was of poor quality, that there was an insufficient supply of personal hygiene products and that a shower was permitted only once a week. The applicant also complained of having been beaten up by a warden and of disputes with her cellmates allegedly instigated by investigators in order to put pressure on her. She also complained that she and her daughter had not been allowed to participate in outdoor activities. The applicant was authorised to have regular walks within a specially-designated closed area. In 2003 the applicant's stepfather complained about the court's failure to examine his applications for permission to visit the applicant in the remand centre.

61. It appears that on 25 April 2003 for unspecified reasons the applicant was put in a disciplinary cell for five days. On 25 and 29 April 2003 the applicant's stepfather and counsel filed complaints with the Moscow City Court, claiming that placing a mother of two suffering from kidney disease in a disciplinary cell was inhuman.

(b) Conditions of transport and confinement at the courthouse

62. During the trial, in particular between October 2002 and May 2003, the applicant, occasionally together with her child, was transported from the remand centre to the Moscow City Court between one and four times a week. She was woken up between 4.30 and 6 a.m. and brought to a cell measuring ten to twelve square metres, in which she awaited her departure together with twenty to thirty other detainees. Before leaving they had to undergo a strip search. At around 10 a.m. the detainees were transported by a "prison bus" with individual compartments or by a prison van divided into two compartments – male and female – accommodating twelve prisoners each. However, on occasions the female compartment contained up to fifteen women, and the applicant at least once had to sit on another person's lap. The heating, ventilation and light were deficient and not adapted to seasonal conditions. No toilet facilities were available during the journey.

63. Owing to a shortage of prison vans and the long distances between detention facilities, the return to the detention facility could take up to several hours. Unlike for the journeys to the courthouse, on the way back the prison van had never gone directly to remand centre no. 77/6, it made a detour to bring detainees to other remand centres where it sometimes stayed

for hours. On arrival at around 1 or 2 a.m., the admission check would take another hour or two.

64. In the City Court the applicant was put in the convoy cell, a poorly lit and ventilated room measuring seven square metres, with a row of benches. Detainees had to clean the cells. The only lavatory, for both male and female detainees, was extremely dirty. The applicant subsequently submitted that the cells at the courthouse had, most of the time, been reserved for male detainees; female detainees had been placed in a small cell; there was no toilet reserved for women; the toilet could not always be accessed when needed.

65. In the City Court no hot meals or boiled water were distributed. Detainees leaving for a court were provided with a “day pack” containing a piece of bread, a tea bag and cold soup. The applicant subsequently submitted that in 2002 detainees had been given a ration of bread, a soya-based cold food and, at times, sugar. The applicant’s relatives supplied food on several occasions. The applicant was allowed to bring a bottle of water. In mid-2003 the authorities had started to provide dry rations which could not be properly consumed without hot water. It does not appear that these new arrangements affected the applicant.

66. According to the applicant, she remained handcuffed throughout the time she spent studying the case file on the court premises. In the courtroom, the applicant was kept in a metal cage guarded by convoy officers.

2. The Government’s account concerning the conditions of transport and confinement at the courthouse

67. The applicant was transported between the remand centre and the courthouse in ZIL and GAZ vehicles designed for thirty-six and twenty-one persons respectively. The ventilation consisted of an opening in the back door and an opening in the ceiling. The vehicles were heated through the internal system connected to the vehicle’s engine.

68. At the Moscow City Court, before renovation works in 2004, the applicant was kept in a cell measuring 1.95 square metres. Each cell had a system of ventilation, lights and a bench. Each cell was cleaned on a daily basis. The applicant could be taken to the toilet on request, as well as before departure to the remand centre and before and after a court hearing. Detainees were “kept separately” in the cells. Before departure detainees were provided with a hot meal in the remand centre and could take their own food with them. Hot water was provided in the court building.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Detention and judicial review

69. The Constitution guarantees the right to liberty. Arrest, placement in custody and detention are permitted only on the basis of a judicial decision. Prior to a judicial decision, an individual may not be detained for longer than forty-eight hours (Article 22).

70. Under Article 239.1 of the RSFSR Code of Criminal Procedure (CCrP), detention pending trial could not exceed six months from the date when the case was submitted to the court. If the available data confirmed that the defendant's release would significantly obstruct the course of the proceedings, the court could issue a reasoned decision extending his or her detention until the delivery of the judgment and, in any event, for up to three months. If the decision was quashed on appeal, the defendant had to be released without delay. The above provisions did not apply to defendants charged with particularly serious offences.

71. From 1 July 2002 onwards detention pending trial was regulated by Article 255 of the new Code of Criminal Procedure. At the material time it authorised detention for six months from the receipt of the case by the court until the delivery of the judgment. On expiry of the six-month period "the court dealing with the case" was empowered to order extensions of the defendant's detention by up to three months each time. In its ruling of 22 March 2005 the Constitutional Court of Russia held that the CCrP allowed a court to decide on detention *proprio motu*. This finding, however, did not absolve the court from its obligation to examine all relevant evidence adduced by the parties; defendants had to be allowed to take part in the proceedings concerning their detention and be given an opportunity to present their case and adduce evidence.

72. Article 379 of the new CCrP sets forth the legal grounds for quashing or amending a judgment on appeal: (i) contradiction between the court findings in the judgment and the factual circumstances of the case; (ii) violation of a rule of criminal procedure; (iii) incorrect application of the criminal law; and (iv) unfairness of the judgment.

73. Ground (i) obtains where the court's findings are not supported by the evidence examined at the trial; the court does not take account of circumstances capable of influencing its conclusions; despite the existence of contradictory evidence crucial to the court's conclusions, the latter omits to indicate why it accepted or excluded such evidence; the court's findings in the judgment contain significant contradictions which influence or could influence the findings on guilt or innocence, the correct application of the criminal law or the determination of sentence (Article 380).

74. Ground (ii) obtains where a party to the proceedings is deprived of or restricted in the exercise of his or her procedural rights; a procedure is not complied with or there has been another defect which influences or could influence the fairness of the proceedings. The following circumstances should, in any event, constitute grounds for the quashing or amendment of the judgment: failure to discontinue a criminal case despite the existence of the circumstances set out in Article 254 of the Code; unlawful composition of the trial court or jury; examination of the case in the absence of the defendant, except in the circumstances set forth in Article 247 of the Code; examination of the case without legal counsel, when his or her presence is mandatory under the Code, or other violations of the right to legal assistance; violation of the defendant's right to use his or her own language or to have the assistance of an interpreter; failure to give the defendant an opportunity to take part in oral pleadings or make final pleadings; violation of the secrecy of the deliberations, etc. (Article 381).

75. Ground (iii) obtains when there has been a violation of the Criminal Code or incorrect reference is made to its articles or sub-paragraphs. Ground (iv) obtains if the sentence does not correspond to the seriousness of the offence or the defendant's personality.

76. Article 377 describes the procedure for an appeal hearing. Article 378 provides that an appeal court may uphold the court decision under review, quash the decision and discontinue the case, quash the decision and order re-examination of the case or amend the decision.

77. Article 388 sets out the requirements in terms of the content of the appeal decision (date, court, parties, arguments, reasons). If the appeal court orders the release of the defendant, that decision must be enforced immediately if the defendant is present at the appeal hearing. In 2003 this provision was amended to also require the appeal court to decide on the preventive measure (detention or other).

78. In a decision no. 1003-O-O of 19 May 2009 the Constitutional Court held that the appeal court's power to keep a defendant in detention pending re-examination of the detention issue after the quashing of the most recent detention order was implicit in the principle requiring a court decision for each period of detention. Such "interim" decisions of the appeal court were found to be capable of ensuring adequate judicial control, since the appeal court was empowered to decide in adversarial proceedings on the existence of factual circumstances which justified keeping the defendant in custody (see also ruling no. 6-II of 16 May 2007, and ruling no. 22 of 29 October 2009 by the Plenary Supreme Court of Russia (§ 32)). The relevant court was to apply the relevant principles set out in Articles 10, 108, 109 and 255 of the CCrP.

B. Operational and Search Activities Act

79. Section 6 of the Act contained a list of open and secret investigative activities including observation, searching of premises, monitoring of postal and other communications and tapping of telephone conversations. The above activities could be accompanied by the use of information systems and video and audio recording. Activities which affected the right to confidentiality of communications transmitted by means of telephone or mail and the right to respect for the home had to be authorised by a court order (section 8).

III. RESERVATION ISSUED BY THE RUSSIAN FEDERATION

80. The instrument of ratification of the Convention deposited by the Russian Federation on 5 May 1998 contained the following reservation:

“In accordance with Article 64 of the Convention, the Russian Federation declares that the provisions of Article 5 paragraphs 3 and 4 shall not prevent ... the temporary application, sanctioned by the second paragraph of point 6 of Section Two of the 1993 Constitution of the Russian Federation, of the procedure for the arrest, holding in custody and detention of persons suspected of having committed a criminal offence, established by Article 11 paragraph 1, Article 89 paragraph 1, Articles 90, 92, 96, 96-1, 96-2, 97, 101 and 122 of the RSFSR Code of Criminal Procedure of 27 October 1960, with subsequent amendments and additions...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

81. The applicant complained that the conditions of her transport to and confinement at the courthouse had violated Article 3 of the Convention, which reads as follows:

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

82. The Government submitted that the applicant had not complained to any public authority about the conditions of transport and confinement, which, in any event, had been acceptable (see paragraphs 67 and 68 above).

83. The applicant argued that the problems relating to the transport of detainees had been due to the insufficiency of vehicles and convoy personnel rather than her particular circumstances. The Government had not substantiated their submissions by reference to any records concerning food supplies or transport.

A. Admissibility

84. In so far as the requirement of exhaustion of domestic remedies is concerned, the Court reiterates that when a Contracting State seeks to shelter behind the requirement to exhaust remedies, it is for the State to establish the existence of available remedies that have not been utilised. However, the Government did not clearly identify the means of redress to which the applicant had failed to have recourse. It is not for the Court to ascertain what were the particular remedies alluded to (see, among others, *Hajibeyli v. Azerbaijan*, no. 16528/05, § 41, 10 July 2008). Thus, the Court is not convinced that the applicant was required to exhaust any specific remedies which were capable of affording her adequate redress in relation to her grievances concerning the conditions of her transport to and confinement at the courthouse. Hence, the Government's argument is dismissed.

85. The Court considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. No other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

B. Merits

1. General principles

86. As the Court has held on many occasions, legitimate measures depriving a person of his liberty may often involve an element of suffering and humiliation. Yet it cannot be said that detention on remand in itself raises an issue under Article 3 of the Convention. However, the Court reiterates that Article 3 of the Convention requires the State to ensure that detention conditions are compatible with respect for human dignity, that the manner and method of the execution of the measure do not subject the detainees to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, their health and well-being are adequately secured (see, as a recent authority, *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, § 221, 21 January 2011).

87. The Court reiterates that to be regarded as degrading or inhuman for the purposes of Article 3 of the Convention treatment must attain a minimum level of severity (see *Price v. the United Kingdom*, no. 33394/96, § 24, ECHR 2001-VII). When assessing conditions of detention, account has to be taken of the specific allegations made by the applicant and the cumulative effects of those conditions (see *Dougoz v. Greece*, no. 40907/98, § 46, ECHR 2001-II). Allegations of ill-treatment must be supported by appropriate evidence.

2. *Application of the principles in the present case*

88. The Court observes at the outset that the crux of the applicant's complaint is the length of the transfers between the courthouse and the remand centre (see paragraph 63 above). She also referred to the conditions of her confinement at the convoy premises in the courthouse and the absence of hot wholesome meals on the days of court hearings. It is noted that the applicant's grievance concerning the conditions of transport relates essentially to the period from October 2002 to May 2003. Similarly, her complaint about the conditions of confinement at the premises of the Moscow City Court relates to the trial.

89. First of all, it is noted that the parties are in disagreement as regards the relevant factual circumstances. It should also be observed that in the present case the Court does not have the benefit of the relevant findings of fact made at the material time at the domestic level.

90. Regarding confinement at the courthouse, the Court observes that the applicant made contradictory descriptions of the premises at which she had allegedly been kept in the courthouse (see paragraphs 64 and 65 above). In any event, it does not appear that she was detained at the courthouse in cramped conditions on many occasions and/or for prolonged periods of time (see, for comparison, *Pavlenko v. Russia*, no. 42371/02, §§ 80 and 81, 1 April 2010; *Vladimir Krivonosov v. Russia*, no. 7772/04, §§ 101 and 102, 15 July 2010; and *Khudoyorov v. Russia*, no. 6847/02, §§ 117-120, ECHR 2005-X (extracts)). Moreover, it is noted that the applicant was given some food on the days of court hearings. The applicant's allegations concerning the amount or quality of food are unsubstantiated. As she has acknowledged, the alleged unavailability of hot water necessary for eating the "dry ration" did not affect her. She has not put forward any convincing argument suggesting that the arrangements made by the national authorities for feeding detainees, including herself, amounted to a form of treatment proscribed by Article 3 of the Convention (see, in a similar context, *Vlasov v. Russia*, no. 78146/01, §§ 93-99, 12 June 2008; *Denisenko and Bogdanchikov v. Russia*, no. 3811/02, §§ 106-10, 12 February 2009; and *Svetlana Kazmina v. Russia*, no. 8609/04, §§ 76-79, 2 December 2010). Thus, the alleged conditions of confinement at the courthouse, as presented, do not appear to exceed the minimum level of severity under Article 3 of the Convention.

91. As to the conditions of transport, it does not appear that the applicant was transported on numerous occasions in cramped or indecent conditions. As to the alleged length of transfers (mainly from the courthouse to the detention facility), bearing in mind the "practical demands of imprisonment", the Court does not find it established that the applicant was subjected to treatment which exceeded the minimum level of severity. Having examined the parties' submissions and the available material, the Court does not consider that the applicant was subjected to distress or

hardship of an intensity “exceeding the unavoidable level of suffering inherent in detention”.

92. There has therefore been no violation of Article 3 of the Convention.

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

93. The applicant complained that her detention from 6 March to 21 November 2002 had been in breach of Article 5 § 1 of the Convention. It reads as follows:

“1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

...(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so...”

A. The parties’ submissions

94. The applicant argued that the detention order of 6 March 2002 had been “unlawful” because it had been taken without the applicant and her lawyers being present; it had not set any time-limit and could not serve as a lawful basis for her detention before it became final on 25 April 2002. As the case against the applicant had apparently been reassigned in June, July and August 2002, the detention issue should have been re-examined on each occasion, as required by the Code of Criminal Procedure. The detention order of 21 August 2002 could not serve as a lawful basis for her continued detention because of the unlawful composition of the court and as it had been quashed owing to some other fundamental defects. The appeal decision of 16 October 2002 ordering the applicant’s detention pending re-examination of the detention issue had prejudged this re-examination. The appeal court had cited no lawful basis for its decision. The new detention order of 21 November 2002 had contained no reasons. The applicant retained her victim status in respect of the above grievances in the absence of any acknowledgment and adequate redress.

95. The Government submitted that the decision of 6 March 2002 had lawfully authorised the applicant’s detention until 21 August 2002; the detention order of 21 August 2002 had lawfully authorised her detention until its quashing by the appeal court on 16 October 2002; the appeal decision had served as a legal basis for the applicant’s subsequent detention until 21 November 2002. The order of 21 August 2002 was *prima facie* valid in that its quashing had not been due to any fundamental defect. The

delay in issuing a fresh order on 21 November 2002 did not affect the lawfulness, although it could have raised an issue under Article 5 § 4 of the Convention. In any event, the applicant had lost her victim status on account of the explicit acknowledgment of the violation of her rights by the appeal decision of 16 October 2002. She should have sought compensation under Articles 196, 1070 § 1 and 1100 § 2 of the Civil Code.

B. The Court's assessment

1. Admissibility

96. As to compensation, the Government has not provided sufficient information which would confirm that the suggested civil action had any prospect of success in a situation in which, after a higher court had annulled a detention order issued by a lower court, the latter re-examined the matter and declared the relevant period of detention lawful. Having previously examined and rejected a similar argument, the Court does not find any reason to reach a different conclusion in the present case (see *Shcheglyuk v. Russia*, no. 7649/02, § 34, 14 December 2006, with further references). The Government's objection in this regard is therefore dismissed.

97. As to the applicant's victim status, the Court considers that the matter is closely linked to the substance of the complaint and thus should be joined to the merits.

98. The Court considers that the complaint concerning the applicant's detention from 6 March to 21 November 2002 is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. No other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

2. Merits

(a) General principles

99. The Court reiterates that Article 5 § 1 of the Convention requires in the first place that detention be "lawful"; this includes the condition of compliance with a procedure prescribed by law. The Convention here essentially refers back to national law and states the obligation to conform to the substantive and procedural rules thereof. In addition, the Convention requires in addition that any deprivation of liberty should be consistent with the purpose of Article 5, namely to protect individuals from arbitrariness (see, as a recent authority, *Medvedyev and Others v. France* [GC], no. 3394/03, § 79, 29 March 2010).

100. Since it is in the first place for the national authorities, notably the courts, to interpret domestic law, and in particular rules of a procedural

nature, the Court will not substitute its own interpretation for theirs in the absence of arbitrariness. However, since under Article 5 § 1 of the Convention failure to comply with domestic law may entail a breach of the Convention, it follows that the Court can and should exercise a certain power to review whether this law has been complied with (see, among others, *Shteyn (Stein) v. Russia*, no. 23691/06, §§ 89 and 94, 18 June 2009).

101. It should be noted in that connection that defects in a detention order do not necessarily render the underlying detention as such “unlawful” for the purposes of Article 5 § 1. In a given case, the Court has to examine whether any flaw in the relevant detention order amounted to “a gross and obvious irregularity” so as to render the underlying period of detention in breach of Article 5 § 1 of the Convention (see *Mooren v. Germany* [GC], no. 11364/03, § 84, ECHR 2009-...).

(b) Application of the principles in the present case

(i) Detention from 6 March to 21 August 2002

102. The Court observes that the detention order of 6 March 2002 was issued in the absence of the parties, that it did not contain any reasons for the applicant’s continued detention and did not set any time-limit for it (see paragraph 27 above).

103. It is the Court’s well-established case-law, albeit in the context of Article 5 § 4 of the Convention, that in the case of a person whose detention falls within the ambit of Article 5 § 1 (c), a hearing is required (see *Trzaska v. Poland*, no. 25792/94, § 74, 11 July 2000, and *Reinprecht v. Austria*, no. 67175/01, § 41, ECHR 2005-XII). The possibility for a detainee to be heard either in person or through some form of representation features among the fundamental guarantees of procedure applied in matters of deprivation of liberty (see *Kampanis v. Greece*, 13 July 1995, § 47, Series A no. 318-B). It appears that no hearing was held on 6 March 2002.

104. Whether or not the above element, taken alone, disclosed “unlawfulness”, the Court also reiterates that the absence of any grounds given by the judicial authorities in their decisions authorising detention for a prolonged period of time, coupled with the failure of the judicial authorities to indicate a time-limit for the detention is incompatible with the principle of protection from arbitrariness enshrined in Article 5 § 1 of the Convention (see *Nakhmanovich v. Russia*, no. 55669/00, § 71, 2 March 2006). The detention order of 6 March 2002 did not state any reasons and did not indicate any time-limit. Nor did any such time-limit transpire from the applicable provisions of the domestic law (see paragraph 70 above).

105. While it is true that the applicant had, and made use of, the opportunity to appeal against the decision of 6 March 2002, the appeal court did not in fact cure any defects in the above decision. Nor has it been submitted that the earlier detention order of 3 October 2001 extending

detention until 5 April 2002 (see paragraph 24 above) remained in force until that date, even after a new detention order dated 6 March 2002 was issued.

106. Making a global assessment of the above-mentioned elements, the Court considers that the applicant's detention under the order of 6 March 2002 was not "lawful" for the purposes of Article 5 § 1 of the Convention (see, among others, *Savenkova v. Russia*, no. 30930/02, § 68, 4 March 2010).

107. There has therefore been a violation of Article 5 § 1 of the Convention concerning the applicant's detention from 6 March to 21 August 2002.

(ii) *Detention from 21 August to 16 October 2002*

108. The applicant's detention under the order of 21 August 2002 was authorised by judge M. of the City Court under the new Code of Criminal Procedure in force since 1 July 2002 (see paragraphs 29, 30 and 39 above). The appeal court quashed this order on 16 October 2002 and ordered the re-examination of the detention issue by the City Court. The appeal court referred to the absence of defence counsel and of the prosecutor from the detention hearing; the first-instance court's failure to assess the relevant material in the case file and to give reasons (see paragraph 31 above).

109. The Court reiterates that where a detention order contains defects or flaws disclosing a "gross and obvious irregularity", the underlying period of detention is in breach of Article 5 § 1 of the Convention (see *Mooren*, cited above, § 84).

110. The Court observes that the detention order of 21 August 2002 was issued by a court having jurisdiction in the matter. However, the appeal court subsequently considered that this detention order suffered from defects which were serious enough to prompt the quashing of this court decision and ordering the re-examination of the detention issue by the first-instance court.

111. The Court agrees with the reasoning of the appeal court, which acknowledged serious defects in the detention order, rendering the underlying period of detention unlawful and not "in accordance with a procedure prescribed by law", in breach of Article 5 § 1 of the Convention.

112. As to the redress which is appropriate and sufficient in order to remedy a breach of a Convention right at national level, the Court has generally considered this to be dependent on all the circumstances of the case, having regard, in particular, to the nature of the Convention violation in issue (see *Gäffen v. Germany* [GC], no. 22978/05, § 116 et seq., ECHR 2010-..., and *Saknovskiy v. Russia* [GC], no. 21272/03, §§ 76-84, 2 November 2010). The Court observes that in the present case it took more than one month for the first-instance court to reassess the detention issue and to validate the preceding period of detention. In addition, neither the

appeal decision nor the fresh detention order concerning this period of detention contained time-limits or reasons (see paragraphs 31 and 32 above). Thus, the Court dismisses the Government's argument that the applicant has lost her victim status in respect of the grievance concerning the compliance of her detention from 21 August to 16 October 2002 with the requirements of Article 5 § 1 of the Convention.

113. There has therefore been a violation of Article 5 § 1 of the Convention in respect of this period of detention.

(iii) Detention from 16 October to 21 November 2002

114. The Court observes that when quashing the detention order of 21 August 2002 and ordering the re-examination of the matter, the Supreme Court noted that it had no powers to annul or amend the preventive measure because the criminal case against the applicant was pending before the City Court. Notwithstanding this finding, the appeal court decided that the applicant should remain in detention pending re-examination of the detention issue by the City Court (see, for comparison, *Kuptsov and Kuptsova v. Russia*, no. 6110/03, § 81, 3 March 2011).

115. The applicant argued that the appeal court had no jurisdiction to maintain her in detention (see paragraphs 77 and 94 above). No other arguments were adduced concerning the lawfulness issue in respect of the relevant period of detention.

116. In the Court's view, it could be reasonably considered in the absence of any indication or case-law to the contrary that the appeal court did not act in excess of jurisdiction when deciding to maintain the applicant in custody in the circumstances of the case (see paragraphs 31 and 69 above). It should not be overlooked that the Constitutional Court held, albeit in 2009, that the appeal court's power to keep a defendant in detention pending re-examination of the detention issue after the quashing of the most recent detention order was implicit in the principle requiring a court decision for each period of detention (see paragraph 78 above).

117. There has therefore been no violation of Article 5 § 1 of the Convention in respect of that period of detention.

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

118. The applicant complained that she had not been brought before an "officer authorised by law to exercise judicial power" and that the length of her detention had not been based on relevant and sufficient reasons, in breach of 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 brought promptly before a judge or other officer authorised by

law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

A. Admissibility

119. Firstly, the Court reiterates that Russia issued a reservation in respect of certain aspects of Article 5 §§ 3 and 4 of the Convention. The reservation referred, among other things, to the provisions of the RSFSR Code of Criminal Procedure, under which a person could be detained on a decision of the investigating authorities without there being any requirement for judicial supervision of the detention. The Court has examined the validity of the reservation and found it to be compatible with the requirements of Article 57 of the Convention (see *Labzov v. Russia* (dec.), no. 62208/00, 28 February 2002; see also paragraph 80 above). It follows that, even assuming that the applicant complied with the six-month rule under Article 35 § 1 of the Convention, her first complaint is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

120. Secondly, the Court considers that the complaint concerning the length and reasonableness of the applicant’s detention pending investigation and trial is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

121. The Government argued that the applicant’s detention had been justified owing to the complexity of the case, her status as a member of an extremist organisation and the “real risks that her release would endanger public safety” on account of the nature of the charges against her and the media coverage of the case.

122. The applicant argued that the detention orders had not contained relevant and sufficient reasons. Nor had the circumstances first referred to by the Government been shown to be relevant and sufficient. The prosecution requests for extension orders had not been supported by any evidence.

123. The Court observes that the applicant was arrested on 5 April 2000 and was convicted on 14 May 2003. Therefore, the period to be considered under Article 5 § 3 of the Convention amounts to three years, one month and eight days.

124. Having examined the available material, the Court is satisfied that the suspicion against the applicant was a reasonable one in the circumstances and that it persisted during the relevant period of time. It

accepts that the existence of this suspicion justified the applicant's arrest and the initial period of detention.

125. The Court reiterates, however, that while the persistence of reasonable suspicion that the person arrested has committed an offence is a condition *sine qua non* for the assessment of the continued detention, with the lapse of time this no longer suffices. Thus, the Court must establish whether the other grounds given by the authorities continued to justify the deprivation of liberty (see *McKay v. the United Kingdom* [GC], no. 543/03, § 44, ECHR 2006-X). The national authorities must establish the existence of specific indications of a genuine requirement of public interest which, notwithstanding the presumption of innocence, outweighed the rule of respect for individual liberty laid down in Article 5 of the Convention (see, among other authorities, *Bykov v. Russia* [GC], no. 4378/02, §§ 62 and 63, ECHR 2009-...). Where such grounds were "relevant" and "sufficient", the Court must also be satisfied that the national authorities displayed "special diligence" in the conduct of the proceedings.

126. It can be discerned from the available detention orders that when extending the applicant's detention or refusing applications for her release the courts were satisfied that there was still a reasonable suspicion against the applicant. In addition, the domestic courts justified their decisions by reference to the gravity of the charges and the applicant's personality or behaviour. On several occasions they also mentioned the risk that, if at large, she would evade justice and thereby obstruct the course of the proceedings or continue her criminal activity (see paragraphs 21 and 24 above). The Court will examine these aspects in turn.

1. Risks of evading justice or obstructing the proceedings

127. The Court reiterates that the risk of flight should be assessed with reference to various factors, especially those relating to the character of the person involved, his morals, his home, his occupation, his assets, his family ties and all kinds of links with the country in which he is being prosecuted (see *Neumeister v. Austria*, 27 June 1968, § 10, Series A no. 8).

128. As to the risk of obstruction of the proceedings, the national authorities should have regard to pertinent factors such as the advancement of the investigation or judicial proceedings and their resumption or any other specific indications justifying the fear that the applicant might abuse the regained liberty by carrying out acts aimed, for instance, at the falsification or destruction of evidence (see *W. v. Switzerland*, 26 January 1993, § 36, Series A no. 254-A).

129. The Court observes that the national authorities did not specify any way in which the above risks were heightened in the present case or could materialise. Nor did the courts assess the risk of flight in the light of the applicant's personal situation, for instance her being a mother of two minor

children. The Court is not satisfied that the risks were sufficiently established.

2. Risk of reoffending

130. The risk of reoffending, if convincingly established, may lead the judicial authorities to place and leave a suspect in detention in order to prevent any attempts to commit further offences. It is however necessary, among other conditions, that the danger be a plausible one and the measure appropriate, in the light of the circumstances of the case and in particular the past history and the personality of the person concerned (see *Clooth v. Belgium*, 12 December 1991, § 40, Series A no. 225, and *A.J.P. v. France*, no. 17020/05, § 71, 29 October 2009). On at least one occasion the domestic court mentioned that the applicant had previously been prosecuted for unspecified offences (see paragraph 24 above). However, the national courts did not attempt to assess the relevant risk, including whether the previous facts and charges were comparable, either in nature or in the degree of seriousness, to the charges in the pending proceedings (see *Popkov v. Russia*, no. 32327/06, § 60, 15 May 2008, and *Shteyn (Stein)*, cited above, § 115). The Court is not convinced that the risk of reoffending was sufficiently established.

3. Protection of public order

131. The Government also relied on the protection of public order as a ground for the applicant's detention. Indeed, the Court has previously accepted that, by reason of their particular gravity and the public reaction to them, certain offences may give rise to public disquiet capable of justifying pre-trial detention, at least for a certain time (see *I.A. v. France*, 23 September 1998, § 104, *Reports of Judgments and Decisions* 1998-VII, and *Bouchet v. France*, no. 33591/96, § 43, 20 March 2001). In exceptional circumstances – and subject, obviously, to there being sufficient evidence – this factor may therefore be taken into account for the purposes of the Convention. However, this ground can be regarded as relevant and sufficient only provided that it is based on facts capable of showing that the defendant's release would actually prejudice public order. In addition, detention will continue to be legitimate only if public order actually remains threatened; its continuation cannot be used to anticipate a custodial sentence (see *Kemmache v. France*, 27 November 1991, § 52, Series A no. 218, and *Tomasi v. France*, 27 August 1992, § 91, Series A no. 241-A).

132. The Court, however, notes that it does not appear that Russian law recognised prejudice to public order caused by an offence as a ground for detention (see *Aleksandr Makarov v. Russia*, no. 15217/07, § 137, 12 March 2009). In any event, no such ground of detention was articulated clearly by the national courts. The courts did not explain why the continued

detention of the applicant was necessary in order to prevent public disquiet and did not examine whether the applicant presented a danger to public safety, for instance by contrast to two of her four co-defendants, who remained at liberty during the trial. Therefore, the arguments of the Government referring to the protection of public order cannot be seen as sufficient basis for ordering or extending the applicant's detention. The Court reiterates in that connection that it is not its task to take the place of the national authorities which ruled on the applicant's detention (see *Ilijkov v. Bulgaria*, no. 33977/96, § 86, 26 July 2001).

4. Conclusion

133. While the Court is not oblivious to the fact that the applicant was prosecuted on terrorist charges, the detention orders in the present case do not stand up to scrutiny as regards the requirements of Article 5 § 3 of the Convention. There has therefore been a violation of that provision.

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

134. The applicant complained that the length of the criminal proceedings against her had exceeded a "reasonable time", in breach of Article 6 § 1 of the Convention, which reads as follows:

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

A. Admissibility

135. The Court considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. No other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

B. Merits

136. The applicant submitted that the proceedings had started on 5 April 2000, when she was arrested, and had not been completed within a reasonable time.

137. The Government submitted that the proceedings had started on 11 April 2000 and had been delayed by the applicant and her lawyers, in particular while they had studied the case file. There had been no significant periods of inactivity on the part of the courts. All the adjournments had been justified and none had been imputable to the State authorities. The trial

court had attempted to discipline the lawyers who had failed to appear (see paragraph 40 above).

1. Period under consideration

138. The Court observes at the outset that before her arrest on 5 April 2000 the applicant had been subject to various investigative measures such as searches and secret surveillance measures. However, in the absence of submissions from the parties on the matter, the Court does not have sufficient details and thus cannot but accept that the period to be taken into consideration started, in so far as the length of proceedings is concerned, on 5 April 2000, when the applicant became substantially affected by the proceedings (compare *Barry v. Ireland*, no. 18273/04, §§ 33-35, 15 December 2005). It is common ground that these proceedings ended on 4 December 2003. Thus, they took three years and nearly eight months for the investigative stage and the trial at two levels of jurisdiction.

2. Assessment of the period

139. The Court has examined the applicant's complaint, bearing in mind that it essentially concerned the court proceedings, which lasted from 22 February 2002 to 4 December 2003, that is, for one year and slightly over nine months at two levels of jurisdiction.

140. It has not been alleged that there were any significant periods of inactivity attributable to the State during the preliminary investigation (see *Shenoyev v. Russia*, no. 2563/06, § 63, 10 June 2010).

141. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case and the conduct of the applicant and the relevant authorities (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II).

142. The Court accepts that the case was relatively complex. It also reiterates that an applicant cannot be required to cooperate actively with the judicial authorities, nor can he or she be criticised for having made full use of the remedies available under the domestic law in the defence of his or her interests (see, among other authorities, *Rokhlina v. Russia*, no. 54071/00, § 88, 7 April 2005). However, the Court agrees with the Government that certain periods of inactivity could be attributable to the defence. At the same time, the applicant did not provide evidence that any specific significant periods of inactivity during the trial were imputable to the State.

143. Although it should not be overlooked that the applicant was kept in detention pending investigation and trial, the Court, making an overall assessment, concludes that in the circumstances of the case the "reasonable time" requirement of Article 6 § 1 of the Convention was complied with.

144. There has accordingly been no violation of that provision.

V. OTHER ALLEGED VIOLATIONS OF ARTICLE 6 OF THE CONVENTION IN RELATION TO THE TRIAL

145. The applicant alleged that there had been various violations of Article 6 of the Convention in the criminal proceedings against her. Article 6, in its relevant parts, provides:

“1. In the determination of ... any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice

...

3. Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;...”

A. Submissions by the parties

1. The applicant

146. The applicant submitted numerous complaints under Article 6 of the Convention, alleging that the trial court had made incorrect findings of fact, misapplied national law and made an inadequate assessment of the evidence. She argued that the trial court had relied on evidence obtained through unlawful searches and on the transcripts of the (telephone) tapping prepared by the prosecution.

147. Moreover, the entire trial had been held in camera, and only part of the trial and appeal judgments had been delivered in public. The applicant argued that the decision to hold the trial in camera had not contained any reasoning and had been unlawful under the RSFSR Code of Criminal Procedure. There had been no reason to exclude members of the public from the appeal hearing.

148. Lastly, according to the applicant, certain documents, including the list of physical evidence, had not been timely disclosed to the defence; the applicant had not been provided with the video surveillance recording of the site of the explosion which the FSB allegedly had in its possession. The applicant had not had adequate time and facilities for the preparation of her defence because of the limited access to the case file. Allegedly, she had had to study the case file with a shackled hand and could only do so during her time at the courthouse. Owing to the conditions of transport and confinement at the courthouse, as well as her placement in a disciplinary cell, the applicant had been unable to prepare properly for the trial hearings.

2. The Government

149. The Government argued that the criminal proceedings had been fair and that the defence had been afforded adequate opportunity to plead their case in adversarial proceedings. The applicant had had regular meetings with her lawyers in the remand centre in order to study the case file. Both had disrupted or delayed the procedure on several occasions. The conditions of the applicant's detention had not impinged upon her ability to prepare her defence. The applicant had been provided with the entire text of the bill of indictment and the annexes to it.

150. The Government also submitted that the decision to close the trial to the public had been justified owing to the negative and even panic-stricken reaction of the population to the terrorist acts, which had been liable to disrupt the trial or cause mass disorder and aggression against the defendants. Hence, the restriction had been strictly necessary for protecting public order and the persons involved in the trial.

B. The Court's assessment

1. Admissibility

151. The Court considers that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

(a) Public hearing

152. The Court reiterates that the holding of court hearings in public constitutes a fundamental principle enshrined in Article 6 § 1 of the Convention. It protects litigants against the administration of justice in secret with no public scrutiny. It is also one of the means whereby

confidence in the courts can be maintained. The administration of justice, including trials, derives legitimacy from being conducted in public. By rendering the administration of justice transparent, publicity contributes to fulfilling the aim of Article 6 § 1, namely a fair trial (see *Gautrin and Others v. France*, 20 May 1998, § 42, *Reports* 1998-III, and *Pretto and Others v. Italy*, 8 December 1983, § 21, Series A no. 71). There is a high expectation of publicity in ordinary criminal proceedings, which may well concern dangerous individuals, notwithstanding the attendant security problems (see *Campbell and Fell v. the United Kingdom*, 28 June 1984, § 87, Series A no. 80).

153. The requirement to hold a public hearing is subject to exceptions. This is apparent from the text of Article 6 § 1 itself, which contains the provision that the press and public may be excluded from all or part of the trial in the interests of national security in a democratic society, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. Thus, it may on occasion be necessary under Article 6 to limit the open and public nature of proceedings in order, for example, to protect the safety or privacy of witnesses, or to promote the free exchange of information and opinion in the pursuit of justice (see *B. and P. v. the United Kingdom*, nos. 36337/97 and 35974/97, § 37, ECHR 2001-III, with further references). The Court's task in the present case is to establish whether the exclusion of the public from the trial in the City Court was justified.

154. The Court observes that in the applicant's criminal case the City Court ordered a trial in camera, referring to the nature of the charges and the need to ensure the safety of the trial participants. Subsequently, the court rejected the defence's objection to the trial in camera, referring to the "secret" status of the case file under the Code of Criminal Procedure and unspecified anti-terrorist legislation (see paragraphs 37 and 43 above).

155. In the Court's view, it was not convincingly shown that national security concerns served as a valid basis for the decision to exclude the public from the trial. Even assuming that the City Court endorsed the prosecutor's argument pertaining to the presence of classified information in the criminal case file, the Court does not concur with the Government's submission that the mere presence of such information in a case file automatically implies a need to close a trial to the public, without balancing openness with national security concerns. The Court observes that it may be important for a State to preserve its secrets, but it is of infinitely greater importance to surround justice with all the requisite safeguards, of which one of the most indispensable is publicity. Before excluding the public from criminal proceedings, courts must make specific findings to the effect that closure is necessary to protect a compelling government interest and limit secrecy to the extent necessary to preserve such an interest (see, *mutatis mutandis*, *Hummatov v. Azerbaijan*, nos. 9852/03 and 13413/04, § 149,

29 November 2007, and *Moser v. Austria*, no. 12643/02, §§ 96 and 97, 21 September 2006).

156. There is no evidence to suggest that either of these two conditions was satisfied in the present case. The City Court did not elaborate on the reasons for holding the trial in camera. It did not even indicate what documents in the case file, if any, were considered to contain State secrets or how they were related to the nature and character of the charges against the applicant. The Court further observes that the City Court did not take any measures to counterbalance the detrimental effect that the decision to hold the trial in camera, for the sake of protecting the State's interest in keeping its secrets, must have had on public confidence in the proper administration of justice. The Government did not argue – and there is no indication to the contrary in the documents submitted by the parties – that it was not open to the City Court to hold the trial publicly and simply clear the courtroom for a single or, if need be, a number of non-public sessions to deal with classified documents or information. The Court therefore finds it striking that in such a situation the Moscow City Court preferred to close the entire trial to the public (see *Belashev v. Russia*, no. 28617/03, § 84, 4 December 2008).

157. The Court will next examine the Government's second argument to the effect that the exclusion of the public was necessary in the interests of justice and in particular for the safety of the "trial participants", including the defendants. The Court considers that it would have been preferable to expand on this element in order to explain in more detail why the City Court was worried about the vulnerability of certain persons or whether and why it was concerned that those persons might have been deterred. It was also important to explain why the concern for the safety of the persons involved in the trial outweighed the importance of ensuring the publicity of the trial (see *Porubova v. Russia*, no. 8237/03, § 34, 8 October 2009). Moreover, if the trial court had indeed taken into account certain information, this should have been presented to the parties, in particular the applicant, to permit open discussion of the matter (see *Volkov v. Russia*, no. 64056/00, § 31, 4 December 2007).

158. The Court notes that the gravity of the charges cannot by itself serve to justify the restriction of such a fundamental tenet of judicial proceedings as their openness to the public. It observes that the danger which defendants may present to other parties to the proceedings cannot be gauged solely on the basis of the gravity of the charges and the severity of the sentence faced. It must be assessed with reference to a number of other relevant factors which may confirm the existence of a danger justifying the denial of public access to a trial. In the present case the decisions of the domestic courts gave no reasons why they considered the risk to the safety of the "participants" to be decisive. Nor does any relevant information emerge from the other material before the Court, including the documents in

the criminal case file produced by the parties. Consequently, the Court finds that dispensing with a public hearing was not justified in the circumstances of the present case.

159. Lastly, the Court observes – and the Government did not argue to the contrary – that the appeal hearing before the Supreme Court of the Russian Federation was also closed to the public. It therefore follows that the appeal proceedings before the Supreme Court did not remedy the failure to conduct the trial before the City Court in public (see *Belashev*, cited above, § 87).

160. Having regard to these considerations, the Court concludes that there has been a violation of Article 6 § 1 of the Convention owing to the lack of a public hearing in the applicant's criminal case.

(b) Other grievances

161. As to the remaining grievances in relation to the pre-trial and trial proceedings in the applicant's criminal case, the Court first reiterates that, in accordance with Article 19 of the Convention, its only task is to ensure the observance of the obligations undertaken by the Parties to the Convention. In particular, the Court is not competent to deal with an application alleging that errors of law or fact have been committed by the domestic courts, except where it considers that such errors might have involved a possible violation of any of the rights and freedoms set out in the Convention (see, among other authorities, *Schenk v. Switzerland*, 12 July 1988, § 45, Series A no. 140).

162. Furthermore, as regards Article 6 of the Convention, the Court also reiterates that the admissibility of evidence is primarily a matter for regulation by national law and as a general rule it is for the national courts to assess the evidence before them. The guarantees in paragraph 3 of Article 6 are specific aspects of the right to a fair trial set out in paragraph 1. In the circumstances of the case it finds it unnecessary to examine the applicant's allegations separately from the standpoint of paragraph 3 (b), since they amount to a complaint that she did not receive a fair trial. It will therefore confine its examination to the question of whether the proceedings in their entirety were fair (see *Rowe and Davis v. the United Kingdom* [GC], no. 28901/95, § 59, ECHR 2000-II). It is a fundamental aspect of the right to a fair trial that criminal proceedings, including the elements of such proceedings which relate to procedure, should be adversarial and that there should be equality of arms between the prosecution and defence. The right to an adversarial trial means, in a criminal case, that both prosecution and defence must be given the opportunity to have knowledge of and comment on the observations filed and the evidence adduced by the other party. In addition Article 6 § 1 requires that the prosecution authorities disclose to the defence all material evidence in their possession for or against the accused

(see, among others, *Natunen v. Finland*, no. 21022/04, § 39, 31 March 2009).

163. Bearing in mind the above principles, the Court has examined the applicant's remaining grievances relating to the preliminary investigation in her criminal case and the fairness of the trial. The applicant, who was assisted by two lawyers at various stages of the proceedings, was afforded an adequate opportunity to present her arguments and evidence, as well as to contest the prosecution's arguments and evidence, in adversarial proceedings. The applicant's allegation concerning unjustified limitations on her ability to have knowledge of the material in the criminal case file lacks substantiation. The Court also considers that it has not been shown that the facilities and time afforded by the authorities to study the case file was as such insufficient and that the applicant's rights under Article 6 have not been breached in this respect (see paragraphs 36, 39, 41 and 44 above).

164. The Court is not oblivious to the fact that the applicant chose that her child should not be separated from her during the period of detention before and pending the trial. Her request was granted and she was kept at premises of the detention centre designed for such purposes. Also, while the Court accepts that the necessary arrangements related to the applicant's transport between the detention facility and the courthouse, as well as her confinement at the courthouse, could have created some difficulties for the defence, the available material before the Court does not disclose that they were such as to impair significantly the applicant's ability to prepare her defence and present it at the trial (see also the Court's findings in paragraphs 88-92 above).

165. The available material before the Court does not disclose that any other alleged violations were such as to impair the overall fairness of the proceedings under Article 6 § 1 of the Convention. There has therefore been no violation of Article 6 § 1 of the Convention on this account.

VI. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

166. In her application form of 13 May 2004 the applicant complained that the secret surveillance carried out prior to the court order of 9 June 1999, including monitoring of her conversations, had been in breach of 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. The parties' submissions

167. The applicant alleged that her conversations had been recorded in January and February 1999 without a court order, in breach of national law. In making this assertion, she referred to the material contained in the trial judgment and the description of “operational and search” measures set out on pages 110-115 of volume 16 of the criminal case file (see paragraph 49 above). She had first learnt about the interference in January 2002 when studying the case file before the trial. The information collected during the above “operational and search” measures had formed the basis for the prosecution. The applicant had unsuccessfully contested the measures by means of the procedures available during the trial and on appeal against her conviction. The trial court had had the power to exclude inadmissible evidence on account of a violation of the applicant’s individual rights. Lastly, the applicant stated that the court decision of 9 June 1999 (see paragraph 16 above) had authorised surveillance measures in respect of conversations which had taken place in her place of residence, rather than telephone calls on the fixed telephone line.

168. The Government first submitted that the applicant had not raised before the Court any complaint about telephone tapping in early 1999. In any event, the applicant had not complied with the six-month rule and should have challenged the relevant “investigative measure”. The monitoring of the applicant’s conversations for one hundred and eighty days had been authorised by the decision of 9 June 1999.

B. The Court’s assessment

169. The Court observes at the outset that the applicant did not raise a general challenge to the legislative regime concerning secret surveillance measures (see, by contrast, *Kennedy v. the United Kingdom*, no. 26839/05, §§ 119 et seq., ECHR 2010-...). Instead, the applicant pointed to a number of specific measures specifically affecting her, of which she had first learnt in January 2002. There appears to be a disagreement between the parties as to whether any measure of surveillance *vis-à-vis* the applicant was carried out before June 1999.

170. However, before delving into the substance of the complaint, the Court has to determine whether the applicant complied with the six-month rule of Article 35 § 1 of the Convention. According to the applicant, she submitted the relevant complaint to the Court on 13 May 2004 after having raised it in the criminal proceedings, which had ended on 4 December 2003.

171. The Court reiterates that in the absence of any specific remedies to be exhausted, for the calculation of the six-month time-limit reference should be made to the date when the interference occurred or, as in the present case, when an applicant learnt or ought to have learnt about it. The

applicant learnt about the interference in January 2002, that is, more than six months before raising the matter before the Court.

172. However, it could be that having learnt of the non-authorised surveillance at the close of the preliminary investigation, the applicant considered that she would be able to usefully raise the related complaint at the trial before bringing the matter before the Court in May 2004 (see, *mutatis mutandis*, *Skorobogatykh v. Russia*, no. 4871/03, §§ 32-34, 22 December 2009; *Akulinin and Babich v. Russia*, no. 5742/02, §§ 30-33, 2 October 2008; and *Bykov v. Russia* (dec.), no. 4378/02, 7 September 2006).

173. Having examined the available material, the Court is not satisfied that this matter was raised in substance in the course of the applicant's criminal trial (see, *mutatis mutandis*, *Lopata v. Russia*, no. 72250/01, § 107, 13 July 2010, with further references, on the examination of complaints of pre-trial ill-treatment in the course of the applicants' criminal trials). There is no sufficient factual basis for considering that any material allegedly obtained through secret surveillance of the applicant in January and February 1999 was used at the trial.

174. Thus, the six month time-limit should be calculated in the present case from the date on which the applicant first learnt about the alleged interference, that is, in January 2002.

175. It follows that this complaint was introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

VII. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

176. The applicant complained under Article 3 of the Convention about the video surveillance and strip searches in the detention facility; the conditions of detention in the remand centre and in the transit prison; the beatings inflicted on her by a warden and some other issues in relation to the detention regime. She also complained under Articles 5 and 6 of the Convention in relation to certain detention-related and post-conviction proceedings. Lastly, she raised a number of grievances with reference to Articles 8, 9, 10, 11, 13 and 18 of the Convention and Article 4 of Protocol No. 7.

177. The Court has examined these complaints as submitted by the applicant. However, having regard to all the material in its possession, and in so far as they fall within its jurisdiction, the Court finds that these complaints 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 being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

VIII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

178. 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

179. The applicant claimed 30,000 euros (EUR) in respect of non-pecuniary damage.

180. The Government contested the claim.

181. Having regard to the nature of the violations found and making its assessment on an equitable basis, the Court awards the applicant EUR 20,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

182. Since no claim was made, there is no call to award any sum under this head.

C. Default interest

183. 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. *Decides* to join to the merits the Government’s argument concerning the applicant’s victim status in relation to the period of her detention from 21 August to 16 October 2002 and *dismisses* it after the examination of the merits;
2. *Declares* admissible the complaints relating to the conditions of transport and confinement at the courthouse; the complaints concerning the lawfulness of the applicant’s detention from 6 March to 21 November 2002, the length of her detention, as well as the length and fairness of the criminal proceedings against the applicant;

3. *Declares* the remainder of the application inadmissible;
4. *Holds* that there has been no violation of Article 3 of the Convention on account of the conditions of transport and confinement at the courthouse;
5. *Holds* that there has been a violation of Article 5 § 1 of the Convention on account of the applicant's detention from 6 March to 21 August 2002;
6. *Holds* that there has been a violation of Article 5 § 1 of the Convention on account of the applicant's detention from 21 August to 16 October 2002;
7. *Holds* that there has been no violation of Article 5 § 1 of the Convention on account of the applicant's detention from 16 October to 21 November 2002;
8. *Holds* that there has been a violation of Article 5 § 3 of the Convention;
9. *Holds* that there has been no violation of Article 6 § 1 of the Convention on account of the length of the criminal proceedings;
10. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the lack of a public hearing;
11. *Holds* that there has been no violation of Article 6 § 1 of the Convention in relation to the applicant's other grievances concerning the criminal trial;
12. *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 20,000 (twenty thousand 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;
13. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 11 October 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Nina Vajić
President