



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

FIRST SECTION

CASE OF MITROKHIN v. RUSSIA

(Application no. 35648/04)

JUDGMENT

STRASBOURG

24 January 2012

FINAL

24/04/2012

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

In the case of Mitrokhin v. Russia,

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

Peer Lorenzen, *President*,
Anatoly Kovler,
Elisabeth Steiner,
Khanlar Hajiyeu,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Erik Møse, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 4 January 2012,

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

PROCEDURE

1. The case originated in an application (no. 35648/04) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Mr Aleksandr Grigoryevich Mitrokhin (“the applicant”), on 15 June 2004 when he introduced his complaints about the conditions of transport from the remand prison to the courthouse during the trial and the alleged unfairness of the criminal proceedings against him. On 7 April 2005 the applicant introduced a further complaint concerning the conditions of his detention in remand prison no. IZ-22/1 in Barnaul in respect of the period starting on 28 October 2001. On 30 June 2011 the applicant lodged a complaint concerning the conditions of his detention in the same remand prison between 29 June 2006 and 8 September 2009.

2. The applicant, who had been granted legal aid, was represented by Ms Y., Gromova, his wife. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

3. The applicant alleged, in particular, that he had been detained in appalling conditions pending investigation and trial.

4. On 18 November 2008 the President of the First Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1). On 30 March 2011 the President of the First Section requested, under Rule 54 § 2 (a) of the Rules of the Court, further factual information from the parties.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1973 and is serving a prison sentence in the Altai Region.

A. The criminal proceedings against the applicant

6. On 5 October 2001 the applicant was arrested and charged with several offences, including murder and robbery.

7. On 7 August 2002 the Altai Regional Court found the applicant guilty as charged and sentenced him to twenty-two years' imprisonment. On 26 February 2003 the Supreme Court of the Russian Federation quashed the judgment of 7 August 2002 on appeal and remitted the matter for fresh consideration.

8. On 3 November 2003 the Altai Regional Court, on the basis of a jury verdict, found the applicant guilty as charged and sentenced him to twenty-one years' imprisonment.

9. The applicant appealed and on 12 May 2004 the Supreme Court upheld the judgment of 3 November 2003 in substance. The applicant was not represented by a lawyer.

10. On 24 October 2007 the Presidium of the Supreme Court of the Russian Federation quashed, by way of supervisory review, the judgment of 12 May 2004 and remitted the matter for fresh consideration to the appellate court. The court noted that the absence of legal representation infringed the applicant's defence rights.

11. On 25 January 2008 the Supreme Court upheld the applicant's conviction in substance, but reduced his sentence to twenty years' imprisonment. The applicant was represented by a State-appointed lawyer.

B. Conditions of the applicant's detention

12. The applicant was detained in remand prison no. IZ-22/1 in Barnaul pending investigation and trial from 27 October 2001 to 27 June 2004. On numerous occasions he was transferred to a temporary detention facility in Barnaul or remand prison no. IZ-74/1 in Chelyabinsk in connection with the criminal proceedings against him.

13. On 27 June 2004 the applicant was transferred to correctional colony no. IK-10 in Rubtsovsk to serve the prison sentence there.

14. On 17 August 2004 the applicant was returned to remand prison no. IZ-22/1 in Barnaul in connection with the proceedings unrelated to the present case. He remained there until 7 August 2005.

15. On 7 August 2005 the applicant was transported to correctional colony no. IK-10 in Rubtsovsk where he continued to serve the prison sentence until 28 June 2006.

16. It appears that the applicant lodged several complaints in connection with the criminal proceedings against him and on 29 June 2006 he was transferred back to remand prison no. IZ-22/1 in Barnaul in order for him to participate in the court hearings.

17. On 20 December 2007 the applicant was transferred to remand prison no. IZ-77/1 in Chelyabinsk to ensure his participation in the appeal hearing at the Supreme Court of Russia by means of a video link. On 13 February 2008 the applicant was returned to remand prison no. IZ-22/1 in Barnaul.

18. On 13 May 2008 the applicant was transported to correctional colony no. IK-10 to serve the prison sentence.

19. In 2008-2009, for reasons unknown the applicant was detained in remand prison no. IZ-22/1 in Barnaul from 28 May to 29 June and from 3 August to 8 September 2008 and from 13 to 28 April 2009.

1. Description provided by the Government

20. The Government provided the following information as regards the cell numbers, surface area and population related to the applicant's stay in remand prison no. IZ-22/1:

Period of detention	Cell no.	Cell surface area (sq. m)	Number of inmates per cell
From 28 October 2001 to 16 January 2003	No information provided		
From 7 to 13 March 2003	1	15.7	3-4
From 14 to 16 March 2003	101	22.8	3-5
From 17 to 21 March 2003	54	23.9	3-4
From 22 to 23 March 2003	101	See above	3-4
From 24 to 28 March 2003	4 (disciplinary cell)	3.4	1
From 29 March to 16 April 2003	101	See above	

Period of detention	Cell no.	Cell surface area (sq. m)	Number of inmates per cell
From 17 to 21 April 2003	14 (disciplinary cell)	4.1	1
From 22 April to 21 August 2003	101	See above	
From 22 August to 30 September 2003	7 (hospital room)	24.5	3-4
From 1 to 12 October 2003	101	See above	
From 13 to 20 October 2003	20	18.4	3-4
From 21 October to 2 November 2003	41 (39 from 13 February 2004)	13.3	2-3
From 3 to 4 November 2003	67	17.8	3-4
From 5 November 2003 to 4 January 2004	41 (39 from 13 February 2004)	See above	
From 5 to 22 January 2004	46	19.6	4-5
From 23 January to 4 February 2004	60	21.9	5-6
From 5 to 17 February 2004	67		2-3
From 18 February to 10 March 2004	65	21.9	3-4
From 11 March to 8 April 2004	15	16.8	3-4
From 3 June to 27 June 2004	No information provided.		
From 18 August to 3 November 2004	19	17.1	3-4

Period of detention	Cell no.	Cell surface area (sq. m)	Number of inmates per cell
From 4 to 8 November 2004	112	4.8	1
From 9 November to 3 December 2004	19	17.1	3-4
From 4 December 2004 to 7 August 2005	39 (formerly 41)	13.3	3-4
From 29 June to 5 September 2006	62	22.0	4-5
From 6 September to 2 November 2006	1 (disciplinary cell)	4.2	1
From 3 November to 24 December 2006	12 (disciplinary cell)	4.2	1
From 25 December 2006 to 19 April 2007	114	4.4	1
From 20 April to 2 July 2007	13 (disciplinary cell)	4.3	1
From 3 to 7 July 2007	1 (disciplinary cell)	See above	
From 8 to 12 July 2007	13 (disciplinary cell)	See above	
From 13 July to 23 September 2007	1 (disciplinary cell)	See above	
From 24 September to 20 December 2007	13 (disciplinary cell)	See above	
From 14 February to 13 May 2008	63	13.2	2-3

Period of detention	Cell no.	Cell surface area (sq. m)	Number of inmates per cell
From 29 May to 29 June 2008	63	See above	
From 3 August to 8 September 2008	63	See above	

21. At all times the applicant was provided with an individual sleeping place and bedding. He received two bed sheets, a pillow case, two towels, a blanket, a mattress, a pillow, a spoon and a mug. The temperature in the cells was between +18°C and + 25°C. The heating system functioned properly. All cells in the remand prison were equipped with mandatory ventilation in good working order. In addition, the windows were equipped with vents to ensure natural ventilation of the premises. All cells had a sink, a water tap and a toilet which was separated by a 0.7-m partition from the living area. The dining table was located about 1.5 m away from the toilet. Window panes were installed for the winter. There were no gaps in the window frames. The applicant could take at least one shower per week for at least fifteen minutes. The inmates were also provided with water-heating devices and sinks for their laundry. During the day the lighting was on from 6 am to 10 pm. At night lower-voltage bulbs were used to maintain lighting in the lavatory. The cells were disinfected at least once every three months. No parasites or rodents were detected in the cells where the applicant was detained. The applicant was provided with three meals a day. All the food was subjected to quality checks.

2. Description provided by the applicant

22. According to the applicant, upon arrival at the remand prison he was placed in cell no. 78. The cell measured twenty-five square metres and housed fifteen inmates. There were not enough beds and the inmates took turns to sleep. The toilet was not separated from the living area of the cell. The lighting was not sufficient. The cell was infested with bed bugs. No bed sheets, pillows or blankets were provided. There were only old and dirty mattresses.

23. From October to December 2003 the applicant was held in cell no. 41. The cell measured ten square metres and housed thirteen to fifteen inmates. Sometimes their number reduced to nine or ten. The toilet was elevated from the floor by 0.6 metres and afforded no privacy. The dining table was about 0.8 metres away from the toilet. There was no sink and inmates had to wash themselves over the toilet. There were six bunk beds. Because of wide gaps around the windows the cell was very cold in the winter. The lighting was insufficient. The mattresses were old and smelly. No bed sheets, pillows or blankets were provided. There were no more than six mugs, cups and spoons. The cell was infested with lice, bed

bugs and cockroaches. It was not ventilated. The remand centre organised one laundry day per month. The inmates were allowed to submit to the laundry only bed-sheets, pillow cases and blankets received from their relatives. No other items were accepted. Medicine was rarely prescribed. The cell was not disinfected. The food was of poor quality. The newly arrived detainees underwent a medical examination only five days after their arrival. As a result, inmates suffering from tuberculosis, syphilis, gonorrhoea, scabies and fungal infections, and HIV-positive detainees, were on several occasions placed in the cell where the applicant was detained.

24. On an unspecified date the applicant was placed in a different cell while cell no. 41 was being renovated. On several occasions he was transferred to other cells. The conditions of detention, however, remained unchanged. In December 2004 the applicant was returned to the same cell, which was assigned a new number, no. 39. He was detained there until 7 August 2005.

25. The walls in the cell had been repainted and there were only four bunk beds left. However, at the relevant time there were nine inmates in the cell. A sink had been installed. The toilet had been separated from the living area by a metal partition. Despite the separation, the person using the toilet could still be seen by the inmates. Ventilation had been installed, but it was constantly out of order. Bed sheets and pillow cases were provided only once, allegedly before an inspection of the remand centre.

26. As regards the conditions of his detention between 29 June 2006 and 28 April 2009, in his submissions sent to the Court on 30 June 2010 the applicant indicated that at no time was he afforded more than three square metres of personal space.

II. RELEVANT DOMESTIC LAW

27. Section 23 of the Detention of Suspects Act of 15 July 1995 provides that detainees should be kept in conditions which satisfy sanitary and hygienic requirements. They should be provided with an individual sleeping place and given bedding, tableware and toiletries. Each inmate should have no less than four square metres of personal space in his or her cell.

28. Moreover, detainees should be given, free of charge, sufficient food for the maintenance of good health in line with the standards established by the Government of the Russian Federation (Section 22 of the Act).

III. RELEVANT INTERNATIONAL DOCUMENTS

29. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited the Russian Federation from 2 to 17 December 2001. The section of its Report to the Russian Government (CPT/Inf (2003) 30) dealing with the conditions of

detention in remand establishments and the complaints procedure read as follows:

“45. It should be stressed at the outset that the CPT was pleased to note the progress being made on an issue of great concern for the Russian penitentiary system: overcrowding.

When the CPT first visited the Russian Federation in November 1998, overcrowding was identified as the most important and urgent challenge facing the prison system. At the beginning of the 2001 visit, the delegation was informed that the remand prison population had decreased by 30,000 since 1 January 2000. An example of that trend was SIZO No 1 in Vladivostok, which had registered a 30% decrease in the remand prison population over a period of three years.

...

The CPT welcomes the measures taken in recent years by the Russian authorities to address the problem of overcrowding, including instructions issued by the Prosecutor General's Office, aimed at a more selective use of the preventive measure of remand in custody. Nevertheless, the information gathered by the Committee's delegation shows that much remains to be done. In particular, overcrowding is still rampant and regime activities are underdeveloped. In this respect, the CPT reiterates the recommendations made in its previous reports (cf. paragraphs 25 and 30 of the report on the 1998 visit, CPT (99) 26; paragraphs 48 and 50 of the report on the 1999 visit, CPT (2000) 7; paragraph 52 of the report on the 2000 visit, CPT (2001) 2).”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

30. The applicant complained that his detention in remand prison no. IZ-22/1 in Barnaul between 2001 and 2009 had been in contravention of Article 3 of the Convention, which reads as follows:

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

A. Admissibility

31. The Government noted that the applicant's detention in remand prison no. IZ-22/1 in Barnaul could not be regarded as a continuous situation given that the conditions of his detention had varied in different cells. Accordingly, they considered that it was incumbent on the Court to apply the six-month rule in respect of each such period. Furthermore, in their view the applicant had failed to exhaust domestic remedies in respect

of his grievances. He had not filed a claim for damages resulting from the poor conditions of his detention. They cited the following examples from domestic practice in support of their position. On 19 July 2007 the Novgorod Town Court of the Novgorod Region had awarded 45,000 Russian roubles (RUB) to D. in respect of non-pecuniary damage resulting from the domestic authorities' failure to ensure proper conditions during his detention from 3 November 2004 to 5 July 2005. On 26 March 2007 the Tsentralniy District Court of Kaliningrad had granted R.'s claims in respect of non-pecuniary damage on account of the prison administration's failure to provide proper medical assistance to him.

32. The applicant did not comment.

33. In so far as the Government argued that the applicant had failed to exhaust domestic remedies in respect of his complaint about the conditions of his detention in remand prison no. IZ-22/1, the Court observes that in the case of *Benediktov*, in which the circumstances were comparable, it found that the Government had failed to demonstrate what redress could have been afforded, *inter alia*, to the applicant by a court, taking into account that the problems arising from the conditions of the applicant's detention had apparently been of a structural nature and had not solely concerned the applicant's personal situation (see *Benediktov v. Russia* no. 106/02, §§ 29-30, 10 May 2007).

34. The Court also notes that the Government have previously raised the issue of non-exhaustion, referring to similar domestic case-law, in a number of cases concerning conditions of detention in Russia. The Court has examined and dismissed them, finding the said remedies ineffective (see, for example, *Aleksandr Makarov v. Russia*, no. 15217/07, §§ 76-91, 12 March 2009). The Court discerns nothing in the Government's submissions which would persuade it to depart from its earlier findings. It follows that the applicant was not required to exhaust the domestic remedies indicated by the Government, and the Government's objection must be dismissed.

35. In so far as the Government referred to the six months' rule, the Court observes that the applicant was detained in remand prison no. IZ-22/1 in Barnaul during the following periods:

- from 27 October 2001 to 27 June 2004;
- from 18 August 2004 to 7 August 2005;
- from 29 June 2006 to 20 December 2007;
- from 13 February to 13 May 2008;
- from 28 May to 29 June 2008;
- from 3 August to 8 September 2008; and
- from 13 to 28 April 2009.

36. The Court notes that at the end of each of the above periods of the applicant's detention in remand prison no. IZ-22/1, except for one ending on 20 December 2007, the applicant was transferred to a correctional colony to serve a prison sentence. The Court further notes that the applicant did not

allege before it that the conditions of his detention at the correctional colony were similar to those in the remand prison (see, by contrast, *Guliyev v. Russia*, no. 24650/02, §§ 31-33, 19 June 2008).

37. Having regard to the above, and given that significant time elapsed between the periods of the applicant's detention in remand prison no. IZ-22/1, the Court does not consider that the above periods constituted a continuing situation. It will accordingly consider whether the applicant complied with the six-month rule in respect of each such period.

(a) Detention from 27 October 2001 to 27 June 2004

38. The Court observes that the applicant introduced the complaint about the conditions of his detention on 7 April 2005. In this connection, it reiterates that the applicant had no remedy to exhaust (see paragraph 34 above). Thus, the complaint about the conditions of his detention from 27 October 2001 to 27 June 2004 should have been submitted no later than 27 December 2004. However, as it was introduced on 7 April 2005, it has been lodged out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

(b) Detention from 18 August 2004 to 7 August 2005

39. The Court observes that the applicant was again detained in remand prison no. IZ-22/1 in Barnaul from 18 August 2004 to 7 August 2005. It follows that no issue arises as regards compliance with the six months' rule in respect of this period. During the period in question the applicant was transferred from one cell to another on several occasions.

40. The Court notes, however, that the Government have not provided any information that would allow the Court to conclude that there was a significant change in the conditions of the applicant's detention after each such transfer.

41. In view of the above, and regard being had to the applicant's assertion that the conditions of his detention from 18 August 2004 to 7 August 2005 remained unchanged, the Court will examine the period in question as a whole.

42. The Court notes that the complaint in respect of the applicant's detention from 18 August 2004 to 7 August 2005 is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and that it is not inadmissible on any other grounds. It must therefore be declared admissible.

(c) Periods of detention between 29 June 2006 and 28 April 2009

43. As regards the applicant's detention between 29 June 2006 and 8 September 2008, when the applicant was placed five times in remand prison no. IZ-22/1 in Barnaul, the Court notes that the applicant complained for the first time about the conditions of the detention during the period in

question only on 30 June 2011. Accordingly, it considers that the complaint in respect of those five periods of the applicant's detention has been lodged out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

B. Merits

1. Submissions of the parties

44. Relying on the certificates and photographs issued by the remand prison administration on 31 December 2008, the Government submitted that the conditions of the applicant's detention in remand prison no. IZ-22/1 in Barnaul from 18 August 2004 to 7 August 2005 had been in compliance with Article 3 of the Convention. The applicant was afforded sufficient personal space, the cells were never overcrowded, and the inmates were provided with individual sleeping places.

45. The applicant maintained his complaint.

2. The Court's assessment

46. The Court reiterates that Article 3 enshrines one of the fundamental values of democratic society. The Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances or the victim's behaviour (see, among other authorities, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV). The Court has consistently stressed that the suffering and humiliation involved must go beyond that inevitable element of suffering or humiliation connected with a given form of legitimate treatment or punishment. Although measures depriving a person of his liberty may often involve such an element, in accordance with Article 3 of the Convention the State must ensure that a person is detained under conditions which are compatible with respect for his human dignity and that the manner and method of the execution of the measure do not subject him to distress or hardship exceeding the unavoidable level of suffering inherent in detention (see *Kudła v. Poland* [GC], no. 30210/96, §§ 92-94, ECHR 2000-XI).

47. Turning to the facts of the instant case, the Court notes that the parties disagreed as to most aspects of the conditions of the applicant's detention. However, there is no need for the Court to establish the veracity of each and every allegation, because it can find a violation of Article 3 on the basis of the facts presented to it by the applicant which the respondent Government failed to refute (see *Grigoryevskikh v. Russia*, no. 22/03, § 55, 9 April 2009).

48. In particular, the Court observes that even though the applicant did not directly contest the information provided by the Government concerning

the surface area of the cells where he had been detained, except for one cell, he maintained his assertion that the cells had been overcrowded and that he had not been provided with an individual bed and had had to take turns with other inmates to sleep.

49. As to the Government's reliance on the certificates and photographs issued by the remand prison's administration in December 2008, the Court observes that those documents were prepared more than three years after the period of the applicant's detention. No copies of the original records specifying the allocation of inmates to cells were submitted.

50. The Court observes that it has earlier held that documents prepared by the authorities after a considerable period of time cannot be viewed as sufficiently reliable given the time that has passed (see, among recent authorities, *Novinskiy v. Russia*, no. 11982/02, § 105, 10 February 2009). The Court opines that these considerations hold true in the present case in respect of the certificates prepared by the remand prison's administration and presented by the Government to substantiate their submissions on the issue.

51. In this connection, the Court reiterates that Convention proceedings such as the present application do not in all cases lend themselves to a rigorous application of the principle *affirmanti incumbit probatio* (he who alleges something must prove that allegation), as in certain instances the respondent Government alone have access to information capable of corroborating or refuting allegations. A failure on a Government's part to submit such information without a satisfactory explanation may give rise to the drawing of inferences as to the well-foundedness of the applicant's allegations (see *Timurtaş v. Turkey*, no. 23531/94, § 66 *in fine*, ECHR 2000-VI).

52. Having regard to the principles cited above and the fact that the Government did not submit any convincing relevant data, the Court accepts the applicant's argument that the cells where he was detained for a year were overcrowded.

53. The Court reiterates that, irrespective of the reasons for the overcrowding, it is incumbent on the respondent Government to organise their custodial system in such a way as to ensure respect for the dignity of detainees, regardless of financial or logistical difficulties (see *Mamedova v. Russia*, no. 7064/05, § 63, 1 June 2006, and *Benediktov*, cited above, § 37).

54. The Court has frequently found a violation of Article 3 of the Convention on account of the lack of personal space afforded to detainees (see, among other authorities, *Kalashnikov v. Russia*, no. 47095/99, §§ 97 et seq., ECHR 2002-VI; *Khudoyorov v. Russia*, no. 6847/02, §§ 104 et seq., ECHR 2005-X; *Labzov v. Russia*, no. 62208/00, §§ 44 et seq., 16 June 2005; *Mayzit v. Russia*, no. 63378/00, §§ 39 et seq., 20 January 2005; and *Novoselov v. Russia*, no. 66460/01, §§ 41 et seq., 2 June 2005).

55. Having regard to its case-law on the subject and the material in its possession, the Court notes that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case.

56. There has therefore been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in remand prison no. IZ-22/1 in Barnaul from 18 August 2004 to 7 August 2005, which the Court, due to overcrowding, considers to have been inhuman and degrading within the meaning of this provision.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

57. Lastly, the applicant made a number of complaints under Articles 3, 6, 13 and 34 of the Convention relating to his detention and the criminal proceedings against him. However, having regard to all the material in its possession, and in so far as these complaints fall within its competence, the Court finds that there is no appearance of a violation of the provisions invoked. It follows that this part of the application must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

59. The applicant claimed 21,000 euros (EUR) for pecuniary damage in respect of damage allegedly caused to his health, and EUR 264,000 in respect of non-pecuniary damage resulting from the violation of his rights as set out in Articles 3, 6 and 13 of the Convention.

60. The Government submitted that the applicant's allegations should not give rise to an award of compensation. In any event, they considered the applicant's claims excessive and unsubstantiated and suggested that the acknowledgement of a violation would constitute sufficient just satisfaction.

61. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, it observes that the applicant was detained for a year in inhuman and degrading conditions. In these circumstances, the Court considers that the applicant's suffering and frustration cannot be

compensated by a mere finding of a violation. Making its assessment on an equitable basis, the Court awards the applicant the amount sought, namely EUR 6,000, in respect of non-pecuniary damage.

B. Costs and expenses

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

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning the conditions of the applicant's detention from 18 August 2004 to 7 August 2005 in remand prison no. IZ-22/1 in Barnaul admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 3 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 6,000 (six thousand euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable on the date of settlement, plus any tax that may be chargeable;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 24 January 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Peer Lorenzen
President