



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

THIRD SECTION

CASE OF YEVGENIY DMITRIYEV v. RUSSIA

(Application no. 17840/06)

JUDGMENT

Art 8 • Respect for private life and home • Insufficient, ineffective and unduly protracted action taken to remedy noise and other nuisances emanating from police station situated under applicant's home • Disturbance lasting several years reaching minimum level of severity for Article 8 interference • Failure to strike a fair balance between interests of the local community and effective implementation of laws, and applicant's effective enjoyment of right to respect for private life and home

STRASBOURG

1 December 2020

FINAL

01/03/2021

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

In the case of Yevgeniy Dmitriyev v. Russia,

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

Paul Lemmens, *President*,

Helen Keller,

Dmitry Dedov,

Georges Ravarani,

María Elósegui,

Darian Pavli,

Anja Seibert-Fohr, *judges*,

and Milan Blaško, *Section Registrar*,

Having deliberated in private on 10 November 2020,

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

INTRODUCTION

1. The applicant complained, in particular, that the noise and other nuisances caused by the everyday activities of the police station and the temporary detention facilities in the basement of his apartment building violated his right to respect for his private life and his home, in breach of Article 8 of the Convention.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

2. The applicant was born in 1956 and lives in the city of Kostomuksha. The applicant was represented by Ms Tatiana Leonova, a lawyer who, at the relevant time, practised in the city of Kostomuksha. On 28 August 2008 the applicant's request for legal aid was granted. On 9 January 2009 the applicant's representative died.

3. The Russian Government ("the Government") were represented initially by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

A. Proceedings concerning noise nuisance

4. Between 10 February 1995 and 7 May 2008, the applicant lived with his family in an apartment building at 7 Gornyakov Street in Kostomuksha. A basement floor of that building was occupied by the local police station and by the cells for temporary detention of persons arrested by the police. The applicant complained to the local authorities about the noise and filth caused by the activities of the police station and asked them to relocate it

from his apartment building to another place. In the letter of 14 March 1996 the Head of the local police department apologised to the applicant for the disturbance caused to him and his family. He further accepted that the police station was located in a residential building not designated for such purpose; he however stated that the issues raised in the applicant's complaint could not be resolved and the relocation of the police station was not foreseen any time soon owing to the lack of a suitable vacant building. On 5 April 1996, he sent another letter to the applicant stating, in particular, as follows:

“... the relocation [of the police station] is not possible owing to the lack of any specially-equipped vacant building. Your complaint has been taken into account, and preventive measures have been taken in respect of the entrance doors ...”

In his new complaint of 8 April 1996 to the Head of the local police department, the applicant stated:

“...I request the restoration of normal living conditions at 7 Gornyakov Street.

On 7 April 1996 at 10.30 p.m. men could be heard shouting and yelling in the temporary detention cells. Cursing and demands to call the prosecutor, as well as banging on the cell doors continued [until 3 a.m.]. I was unable to sleep and had to go to work in a poor psychological state.

On 8 April 1996 at 6.45 a.m. the exhaust fumes from a police vehicle parked with its engine running started entering the flat through a tilted window, so I had to close it completely. The vehicle was parked in this manner at least until 7.45 a.m., when I left for work.

On the same day at 7.15 a.m. the first visitors came to the police station; they were standing under the window of my flat, cursing, smoking and talking...”

5. On 25 May 2000 the applicant and his neighbours submitted a collective complaint to the Mayor of the city and the Head of the city council. They received no reply.

6. On 17 July 2000 the applicant lodged a complaint in court against the Head of the local government and the Head of the city council demanding the relocation of the police station. In his complaint he requested the court, *inter alia*, as follows:

“...to order the Mayor and the Head of the city council to resolve the issue of the relocation of the police station from the apartment building located at 7 Gornyakov Street; to remove the police station car park; to refurbish the adjacent yard and the entry ways of the building; [and] to pay [the applicant] 50,000 roubles (RUB) in respect of non-pecuniary damage ...”

7. On 29 September 2000 the Kostomuksha City Court of the Republic of Kareliya partly allowed his claims, holding as follows:

“... the detainees' shouting, banging and other noise which had been constantly emanating from the detention cells had interfered with [the applicant's] right to peaceful rest in his home ... as for the allegation of violation of the right to health and a clean environment [the applicant] did not provide any evidence in support of this

claim ... [The applicant's] request to remove the police station car park cannot be allowed because he is not a party to the agreement in question ..."

The court ordered, in so far as relevant:

"...the Heads of the city council and the police station must find a solution for relocating the police station and the temporary detention facilities within a year ..."

8. The court also dismissed the applicant's claim for non-pecuniary damage. No appeal was brought against the judgment and it became enforceable. On 13 November 2000 the court issued a writ of execution.

B. The enforcement proceedings

9. On 4 April 2002 the bailiffs' service instituted enforcement proceedings.

10. On 30 May 2002 the head of the local government requested the court to stay the enforcement proceedings owing to the lack of funding.

11. On 21 June 2002 the Kostomuksha City Court allowed his request and stayed the enforcement proceedings until 31 December 2003. The applicant was not notified of this judgment.

12. On 12 March 2004 the head of the local police department informed the bailiff, in so far as relevant, as follows:

"...The agreement on relocation has been reached and the project documentation has been forwarded to [the Ministry of Internal Affairs of the Republic of Kareliya] with a view to drawing up a budget proposal for the redevelopment of the building ..."

13. On an unspecified date the applicant received a letter from the bailiffs' service dated 15 June 2004 informing him that the enforcement proceedings had been discontinued.

14. On 7 June 2005 the enforcement proceedings were resumed, after the bailiffs' service reported that the police station had not in fact been relocated from the applicant's building. The heads of the city council and the police department were ordered by the bailiff's service to comply with the court's judgment by 24 June 2005.

15. On 21 November 2005 the enforcement proceedings were discontinued by decision of the bailiff on the ground that the judgment "had been enforced".

16. The applicant challenged that decision before a court. On 26 December 2005 the Kostomuksha City Court held, in so far as relevant, as follows:

"...The writ of execution has been enforced *de facto*, the issue of relocation of the police station from the residential building has been resolved. The local administration proposed a vacant building and [the local] police department agreed to accept it ..."

17. On 29 December 2005 the applicant again complained to a court about the bailiffs' failure to enforce the judgment. On 16 January 2006 the Kostomuksha City Court returned the complaint to the applicant without

examination on the merits, having ruled that it had already been examined by the court and the relevant decision had been given.

18. On 17 February 2006 the Supreme Court of the Republic of Kareliya upheld both judicial acts (of 26 December 2005 and 16 January 2006) on appeal.

C. Housing inspection

19. Between 16 and 20 February 2006 the regional consumer protection agency conducted a housing inspection of the applicant's building. In respect of the applicant's flat it found as follows:

“[The applicant's] flat is located on the first floor of the apartment building, immediately above the police station. Part of the yard adjacent to the building serves as a designated area with “Police parking only” signs installed on it. Some [of the police cars] are parked immediately next to the walls of the residential building... [whereas] according to the current regulations such parking cannot be closer than 10 meters ... Part of the designated area is used for waste disposal. The rubbish bins and the designated waste collection area are absent... [and] some twenty filled bin bags are stockpiled within the limits of the designated police area. The air ventilation systems of the flat and of the police station are interconnected ... The entrance to the building is equipped with an exhaust vent which is connected to a temporary detention cell. Some of the detainees can spread infectious diseases (tuberculosis, syphilis and scabies) and it is impossible to rule out the spreading of these diseases in the absence of proper disinfection ... Litter is piled up immediately underneath the windows of the flat, where a vehicle is also parked with its engine running. According [to the applicant], the vehicles are usually parked like that, with engines working for hours, especially in winter. What appear to be banging noises from below the flat (the police station) were heard during the inspection... The court found during the examination of [the applicant's complaint] that the police station has no soundproofing, and it is impossible to have it installed ...”

The inspector also recorded statements from the applicant's four neighbours, who all confirmed the applicant's allegations. The inspector concluded that a violation of Regulation 9.1 of the sanitary and epidemiological norms and regulations concerning residential buildings (“SanPiN 2.1.2.1002-00” (СанПиН 2.1.2.1002-00)) had taken place in the building where the applicant lived.

D. Proceedings concerning the construction of a new building for the police station

20. In April 2004 the Head of the local administration asked the Minister of the Interior of the Russian Federation to assist the regional ministry of the interior in obtaining the necessary financial resources to construct a new police station in Kostomuksha.

21. On 1 December 2006 the local administration approved a plan delimiting the boundaries of the municipal plot of land designated for the construction of the new police station.

22. On 29 December 2006 the Head of the Republic of Kareliya approved a list of projects and objects, including the police station, the construction of which would be financed from a regional budget in 2007.

23. On 16 February 2007 the local administration instructed the police station to record information concerning the plot of land in the State land registry and to obtain a building permit following the approval of the project and the corresponding budgetary documentation.

24. On 25 January 2008 the Head of the Republic of Kareliya approved a list of construction projects and objects for 2008, which also included preparing the project and budget documentation for the construction of the police station.

25. No other information was submitted to the Court concerning the progress of these works and/or the actual relocation of the police station from the applicant's house.

E. The sale of the flat by the applicant and his relocation to alternative housing

26. On 4 April 2008 the applicant sold his flat, allegedly below the market price, and bought a new flat, having taken out loans from the bank and his family. In early May 2008 the applicant relocated to that new flat.

II. RELEVANT DOMESTIC LAW

27. Regulation 9.1 of the Sanitary Regulations and Rules Concerning Residential Buildings and Spaces no. 2.1.2.1002-00 (in force between 1 January 2001 and 20 June 2010) provided, in so far as relevant, as follows:

“9.1. It is prohibited:

- to use residential buildings for purposes not envisaged in [their] construction project[s];
- to keep and use substances and objects which cause air pollution in residential buildings and places designated for public use;
- to carry out works or perform other acts that cause elevated noise pollution, vibrations, air pollution or otherwise disturb living conditions of persons in the adjacent living places;
- to pile up garbage, to litter and cause inundation in basements and technical usage rooms, stairways and stair landings, attics and other places designated for public use...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

28. The applicant complained that the noise and other nuisances caused by the everyday activities of the police station and the temporary detention facility located in the basement of his apartment building breached his right to respect for his private life and his home. He relied on Article 8 of the Convention, which reads as follows:

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

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

A. Admissibility

1. Applicability of Article 8 in the present case

(a) The Government’s submissions

29. The Government submitted that the harm allegedly suffered by the applicant as a result of operations of police station in the basement of his apartment building was not such as to raise an issue under Article 8 of the Convention. In the Government’s opinion, the applicant had failed to substantiate, by means of relevant documentation or materials, his allegations that the level of noise in his flat had reached the severity threshold for the applicability of Article 8. The Government referred to the sanitary inspection that had been carried out of the applicant’s building on 20 February 2006, and pointed out that the inspection report had indicated that the applicable sanitary norms had been breached. They noted in respect of this that the judgment of the Kostomukshskiy City Court had been issued on 29 September 2000, that is to say six years prior to that inspection. The applicant did not submit any evidence that the circumstances revealed by the inspection had existed in 2000. The Government considered that owing to the significant lapse of time between the delivery of the judgment and the inspection, the findings of that inspection could not be applied retrospectively.

(b) The applicant’s submissions

30. The applicant submitted that the noise pollution from the activities of the police station seriously affected his private life and enjoyment of his home as to invoke the protection of Article 8. He also submitted that it had a significant negative impact on his physiological and psychological health

(see also the applicant's observations as summarised in paragraph 47 below).

(c) The Court's assessment

31. In the light of the parties' submissions, the Court has thus first to establish whether the situation complained of by the applicant falls to be examined under Article 8 of the Convention, that is to say, whether Article 8 is applicable in the present case and whether the Court has jurisdiction *ratione materiae* to examine the respective complaint on the merits.

32. The Court has held that there is no explicit right in the Convention to a clean and quiet environment, but where an individual is directly and seriously affected by noise or other pollution, an issue may arise under Article 8 (see *Hatton and Others v. the United Kingdom* [GC], no. 36022/97, § 96, ECHR 2003-VIII (with further references)). The Court further points out that the adverse effects of environmental pollution must attain a certain minimum level if they are to fall within the scope of Article 8. The assessment of that minimum is relative and depends on all the circumstances of the case, such as the intensity and duration of the nuisance and its physical or mental effects (see *Fadeyeva v. Russia*, no. 55723/00, §§ 68-9, ECHR 2005-IV (with further references), and *Oluć v. Croatia*, no. 61260/08, § 49, 20 May 2010). Furthermore, severe environmental pollution may affect individuals' well-being and prevent them from enjoying their homes in such a way as to affect their private and family life adversely, without, however, seriously endangering their health (see *López Ostra v. Spain* (judgment of 9 December 1994, Series A no. 303-C, § 51).

33. Accordingly, in making its analysis under Article 8, the Court must determine whether the nuisance caused by the day-to-day activities of the police station attained the minimum level of severity required for it to constitute interference under Article 8. In this regard, the Court notes that, with particular regard to the noise in his flat, the applicant has not submitted any direct evidence to show that it exceeded acceptable levels or that any relevant measurements were carried out. However, the Court takes note of the inspection report issued by the State-controlled consumer protection agency on 20 February 2006 attesting to the applicant's complaints. Its conclusions indicate the State authorities' failure to comply with applicable domestic regulations on noise specifically, and on other nuisances generally, such as unregulated garbage deposits and the poor sanitary state of the premises (see paragraph 19 above). The fact that this report was drafted in 2006 is not decisive for the present analysis because it only highlighted and formalised further the nuisances about which the applicant had consistently been notifying the authorities since 1996 in his complaints to various bodies. It affirmed the allegations made by him in 2000, and the Government did not show that the nuisances arose only in 2006.

Furthermore, the Kostomuksha City Court of the Republic of Kareliya, having heard the applicant and the witnesses, determined that the applicant's right to peaceful rest had been breached by the activities of the police station and the noise emanating from the detention cells. It follows from the case file that the State authorities themselves admitted that the police station had been located in a building which was not designated for housing it (see paragraph 4 above). The efforts of the authorities in enforcing the judgment focused on finding a suitable place for relocation of the police station, yet no tangible steps were taken to remedy the situation which lasted for more than ten years for the applicant. Lastly, even though it does not appear from the case material that the applicant's health was endangered at the relevant time, the Court nevertheless considers, on the basis of the applicant's submissions and material in the case file, that over the course of thirteen years the applicant suffered during day and night time from activities of the police station and the poor sanitary maintenance of its premises. Accordingly, considering this evidence, the Court finds that the disturbance, resulting from housing of the police station in the residential building, the unlawfulness of which was admitted by the local police department (see paragraph 4 above) and which continued over a number of years, had a compound and lasting effect on the applicant's private life and enjoyment of his home.

34. Therefore, the Court holds that the applicant's right to respect for his private life and enjoyment of his home was affected and Article 8 is, therefore, applicable in the present case and the Court has jurisdiction *ratione materiae* to examine the applicant's complaint under Article 8.

2. *The applicant's victim status*

35. The Government further submitted that the applicant lost his victim status because he had sold his flat to a third party.

36. The applicant pointed out that despite the sale of his flat and his "forced" relocation to another flat he continued to be a victim of the alleged violation.

37. The Court reiterates that favourable measures adopted by the domestic authorities will deprive the applicant of victim status only if the violation is acknowledged expressly, or at least in substance, and if it is subsequently redressed (see *Sakhnovskiy v. Russia* [GC], no. 21272/03, § 67, 2 November 2010, and *Scordino v. Italy* (no. 1) [GC], no. 36813/97, § 180, ECHR 2006-V (with further references)). The Court notes that in the present case, even though the domestic court expressly acknowledged the violation of the applicant's rights, he did not receive any redress. The applicant's claim for non-pecuniary damage was refused by the domestic court, and the Government have not shown that the applicant had received any other compensation. Nor does the Court agree with the Government's

argument that the applicant had ceased to be a victim of the alleged violation because he had sold his flat. The Court considers that the applicant's victim status in the present case can be compared to that of the applicant in the case of *López Ostra*, cited above (§§ 41-2), in which the Court held that someone who had been forced by adverse environmental conditions to abandon her home and subsequently to buy another house did not cease to be a victim. Therefore, the fact that the applicant had sold his flat, bought a new one with his own funds and moved there does not deprive him of victim status.

38. Having regard to the above considerations, the Court dismisses the Government's objection as to the loss of victim status by the applicant and finds that he remains a victim of the alleged violation of Article 8 of the Convention.

3. Exhaustion of domestic remedies

39. The Government submitted that the applicant had not exhausted the domestic remedies in respect of his complaint because he had not brought a civil complaint about the continuing presence of the police station and temporary detention cells in the basement of the building in which he resided and had not specifically requested their relocation.

40. The applicant disagreed and submitted that he had exhausted all domestic remedies available to him.

41. The Court notes that on 29 September 2000 the Kostomuksha City Court of the Republic of Kareliya examined the complaint that the applicant subsequently brought before it. The domestic court found a violation of the applicant's right "to peaceful rest" and gave a concrete and clear order to the local authorities to remedy the situation of which the applicant had complained. The applicant also twice complained about the non-enforcement of this judgment, but his complaints were dismissed by the domestic courts (see paragraphs 16-18 above).

42. The Court reiterates that an applicant is required to make normal use of domestic remedies which are effective, sufficient and accessible. It also notes that in the event of there being a number of remedies which an individual can pursue, that person is entitled to choose a remedy which addresses his or her essential grievance (see *Oluić*, cited above, § 35, and the references therein). Accordingly, the Court considers that the lodging by the applicant of an additional more specific complaint would be a remedy which, according to its case-law, he was not required to exhaust. He clearly formulated his main grievance concerning noise pollution and other nuisances and his demands in the civil proceedings before the Kostomuksha City Court of the Republic of Kareliya, and the domestic court examined them accordingly (see paragraph 7 above). The Court therefore does not accept the Government's argument that the applicant ought to have

specifically demanded the actual relocation of the police station in a separate set of proceedings.

43. Accordingly, the Court is satisfied that the applicant exhausted domestic remedies in respect of his complaint and dismisses the Government's objection in that regard.

4. Conclusion

44. The Court notes that this complaint 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

1. The applicant's submissions

45. The applicant stated that his apartment building was designated only for ordinary residential use by its inhabitants, and that the basement floor was to be used as storage for bicycles and skis or as space for laundry facilities. The house had been built by Finnish construction workers on the model of similar houses in Finland. The regulations governing the construction of police stations ("SP 12-95 of the Ministry of the Interior") provided that they should not be located in the proximity of residential buildings and that they should have all necessary fencing, noise-isolation, and sanitary facilities, which was possible only in a separate building. According to the applicable building regulations ("Annex 1 to SNiP 2.08.02-89"), the list of "institutions of public interest" included educational and scientific research institutions, day-care centres, human resources training facilities, project proposal and management agencies, civic organisations, and health and recreational centres. Police stations were not on that list. Nor were they institutions of public interest allowed to occupy the basement floors of the buildings ("Annex 4 to SNiP 2.08.02-89").

46. According to the applicant, at the time of the purchase of the flat he had not, and could not have, been aware that any temporary detention cells were located in the building. The seller of the flat had not informed him of the nuisances associated with the presence of the police station, and when he finally learned of them, the cooling-off period during which he could have cancelled the contract of sale of the flat had already elapsed.

47. The applicant further submitted that he had substantiated the fact that the noise from the police station had been having a detrimental impact on his health for more than thirteen years. In particular, he could constantly hear police vehicles come and go, persons being brought to the police station in a state of alcoholic or narcotic intoxication and detainees shouting and banging on doors. He could not rest or sleep well, had to go to work

exhausted, and was in a poor psychological state. The 20 February 2006 report drawn by the inspector of the consumer protection agency confirmed the applicant's allegations. The applicant further asserted that the noise had had a significant negative impact on his physiological and psychological health. The applicant submitted medical certificates that show that in August 2004 he had been diagnosed with depressive-hypochondriac syndrome (illness anxiety disorder) and in June 2006 with sinus bradycardia and chronic gastritis.

48. Lastly, the applicant stated that "the issue of relocation" had not been resolved, as it was unclear where and when the police station would actually be relocated. In 2008 it had still been located in the same building, continuing its everyday activities.

2. The Government's submissions

49. The Government submitted that the placing of shops, companies and offices in residential buildings was customary worldwide and was considered as "an objective necessity". They further submitted that the placement of the police station in the building was in conformity with the building and housing regulations of 1971, which were in force in 1979, when the police station was moved to the applicant's building. In particular, these regulations had allowed for the placement, *inter alia*, of "institutions of public interest" in the basement floors of residential buildings, and police stations were not listed among the organisations that were expressly not allowed to be housed in the residential buildings.

50. According to the Government, when the applicant had been buying his flat, he knew or ought to have known (as a local resident, or after seeing the corresponding plaque on the building, or on inspecting the flat) that the police station was located in the building. As a party to a contract, he had accepted this condition of his own will and had purchased the flat. Even if he had discovered the nuisances after the sale, he could have requested the cancellation of the sales contract under the respective provisions of the Civil Code of Russia. However, he had not done so.

51. Furthermore, the Government insisted that the authorities had taken proactive measures to enforce the judgment of 29 September 2000. In particular, they had considered several possibilities for relocating the police station and had eventually proposed a vacant building to the police department, which had agreed to the relocation there. The judgment of 29 September 2000 had been enforced because it had stated that the local authorities were only under the obligation "to resolve the issue of relocation of the police station" to another place, and that that had been accomplished. The domestic courts had not specifically required the police station to "actually vacate the premises or relocate elsewhere". Those demands were considered as a separate civil claim, and the applicant should have

specifically brought them before the domestic courts, but he had failed to do so.

52. Lastly, the Government submitted that the measures to ensure the actual relocation of the police station were being taken by the authorities, but that it would take some time as the new building required complete renovation, for which the authorities needed to obtain funding by submitting the relevant requests to the bodies responsible for the management of the municipal and federal budget (see paragraphs 20-23 above). Referring to the cases of *Osman v. the United Kingdom* [GC], no. 23452/94, 28 October 1998, § 116, ECHR 1998-VIII and *Hatton and Others*, cited above, §§ 100-01, the Government argued that they had to be allowed a wide margin of appreciation in making its operational choices in terms of priorities and available resources. Therefore, the relocation of the police station was not possible until all the financial and organisational matters had been resolved “in accordance with domestic legislation” and in a manner “which [the Government] consider[ed] most acceptable”.

3. *The Court’s assessment*

53. The Court notes that the day-to-day activities of the police station in the present case directly interfered with the applicant’s rights under Article 8 of the Convention and that interference therefore had to be justified in accordance with paragraph 2 of this provision. The State authorities enjoyed a wide margin of appreciation in determining the steps to be taken to solve this problem and to strike the required balance between the competing interests of the public and the applicant and, in any case, they were better placed than an international court to evaluate local needs and conditions (see *Hatton and Others*, cited above, § 98 and § 97, respectively). However, the Court considers that the measures ordered by the domestic authorities in the present case were either insufficient, not having been applied in a timely and effective manner, or not taken at all.

54. In particular, as far back as 1996 the applicant had alerted the authorities to the problems in his residential building caused by the activities of the police station. However, even though the head of the local police department admitted in his reply to the applicant that the police station was housed in a building “not designated for such purpose”, no further action in this connection was taken, the applicant having been informed that the relocation of the police station was not in fact possible (see paragraph 4 above). Furthermore, it appears that the authorities failed to react in any way to a collective complaint brought by the applicant and his neighbours in May 2000 (see paragraph 5 above).

55. The Court further refers to the judgment of 20 September 2000, in which the domestic court acknowledged a violation of the applicant’s right to peaceful rest owing to the presence of the police station in his residential building. However, the Court considers that the State authorities took a

formalistic approach to interpreting the operative part of that judgment (see paragraphs 16, 18 and 51 above), thereby causing significant delays in the enforcement proceedings, which only prolonged the applicant's suffering from the noise and other nuisances (see, for similar reasoning, *Cuenca Zarzoso v. Spain*, no. 23383/12, §§ 50-1, 16 January 2018, and *Moreno Gómez v. Spain*, no. 4143/02, § 61, ECHR 2004-X). In this regard, the Court is mindful of the difficulties and time delays which are typically encountered by the authorities in finding and allocating relevant resources and securing the necessary funding for public projects such as the one in the present case. However, in the applicant's case it took the authorities almost seven years from the day on which the judgment in the applicant's favour was issued merely to approve the project and the corresponding budget for the construction of a new police station (see paragraphs 21 and 23 above). The Court has not received any information on the reasons for that delay, on whether any inter-agency work and negotiations were carried out in this respect in the meantime or whether any temporary solution (that is to say the temporary relocation of the police station or temporary municipal housing for the applicant) could have been proposed pending the final resolution of the problem. In the Court's view, and in the absence of a reasonable explanation from the Government, that process took an unconscionably long time, which rendered the measures taken by the State authorities ineffective and incapable of effectively protecting the applicant's rights.

56. Lastly, it appears that a police station was not designated among "institutions of public interest" that could be located in residential buildings (see the applicant's submissions in paragraph 45 above and also paragraph 27 above). Even if the Government are correct in stating that the placement of the police station in the basement of the applicant's residential building was lawful at the time of its construction (pursuant to the building regulations of 1971), and assuming that that arrangement was indeed in accordance with the applicable regulations, in 2006 the State authorities were made aware by one of their own organs (regional consumer protection agency) that they were in violation of the sanitary norms and regulations applicable at the time (see paragraph 19 above); yet no real action was taken in order to reduce the nuisances from which the applicant suffered, and the process of relocation of the police station mandated by the Kostomuksha City Court of the Republic of Kareliya as a solution was unduly protracted until 2008. This situation continued for thirteen years in respect of the applicant and resulted in the applicant's having considered himself obliged to sell his flat in 2008 and move to another flat which he had bought with his own finances.

57. In these circumstances, the Court considers that the State did not succeed in striking a fair balance between the interest of the local community in benefiting from the protection of public peace and security

and the effective implementation of laws by the police force, and the applicant's effective enjoyment of his right to respect for his private life and his home. There has accordingly been a violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 AND ARTICLE 13 OF THE CONVENTION

58. The applicant further complained under Article 6 § 1 of the Convention about the non-enforcement of the judgment issued in his favour. He also alleged a breach of Article 13 of the Convention in that regard in that he had no effective remedy at his disposal in respect of his complaint under Article 8.

59. However, having regard to the facts of the case, the submissions of the parties and its above finding under Article 8 of the Convention, the Court considers that there is no need to examine separately these two complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014, with further references).

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

60. Lastly, the applicant raised certain additional complaints with reference to Article 3 of the Convention and Article 1 of Protocol No. 1 to the Convention. However, having regard to all the material in its possession, and in so far as it has jurisdiction to examine the allegations, the Court has not found any indication of a breach of the rights and freedoms guaranteed by the Convention or its Protocols regarding that part of his application. It follows that that part must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

61. Article 41 of the Convention provides:

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

A. Damage

62. The applicant claimed 146,590.90 euros (EUR) in respect of non-pecuniary damage for violation of Article 8 of the Convention.

63. The Government found that claim excessive and unreasonable.

64. The Court considers that the effects that the nuisances had on the applicant's right to respect for his private life and his home cannot be compensated for by the mere finding of a violation; however, the sum claimed by him appears to be excessive. Making its assessment on an equitable basis and having regard to the nature of the violation found, the Court awards the applicant EUR 5,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

65. The applicant also claimed EUR 65,122 for the costs and expenses incurred before the domestic courts and the Court.

66. The Government replied that the applicant had not submitted any proof of the costs and expenses incurred.

67. The Court notes that on 28 August 2008 the applicant's request for legal aid was granted.

68. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and to the fact that the applicant has been granted legal aid, the Court rejects the applicant's additional claim for costs and expenses.

C. Default interest

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

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 8 of the Convention concerning nuisances caused by the activities of the police station in the applicant's residential building admissible;
2. *Holds* that there has been a violation of Article 8 of the Convention;
3. *Holds* that there is no need to examine separately the complaint under Article 6 § 1 of the Convention concerning the non-enforcement of the judgment issued in the applicant's favour and the complaint under Article 13 taken in conjunction with Article 8 of the Convention;
4. *Declares* the remainder of the application inadmissible;

5. *Holds*

- (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 5,000 (five thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State 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;

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

Done in English, and notified in writing on 1 December 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Paul Lemmens
President