



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

FIRST SECTION

CASE OF ANDREY FROLOV v. RUSSIA

(Application no. 205/02)

JUDGMENT

STRASBOURG

29 March 2007

FINAL

24/09/2007

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Andrey Frolov v. Russia,

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

Mr C.L. ROZAKIS, *President*,

Mr L. LOUCAIDES,

Mrs N. VAJIĆ,

Mr A. KOVLER,

Mrs E. STEINER,

Mr K. HAJIYEV,

Mr D. SPIELMANN, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 8 March 2007,

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

PROCEDURE

1. The case originated in an application (no. 205/02) 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, Mr Andrey Leonidovich Frolov (“the applicant”), on 26 November 2001.

2. The Russian Government (“the Government”) were represented by Mr P. Laptev, the Representative of the Russian Federation at the European Court of Human Rights.

3. On 9 September 2005 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

4. The Government objected to the joint examination of the admissibility and merits of the application. Having examined the Government's objection, the Court dismissed it.

THE FACTS

5. The applicant was born in 1967 and lived until his arrest in St. Petersburg. He is now serving a prison sentence in the Leningrad Region.

I. THE CIRCUMSTANCES OF THE CASE

A. Criminal proceedings against the applicant

6. On 18 November 1998 the applicant was arrested by police officers, taken to a police station and allegedly beaten up. He was released on the same day. The applicant says that he complained to a prosecutor about the beatings on 7 December 1998.

7. On 14 January 1999 the applicant was arrested on suspicion of robbery and taken to police station no. 43 in St. Petersburg, where he alleges he was seriously assaulted by police officers.

8. From 14 to 21 January 1999 the applicant was detained in a cell in police station no. 43. On 21 January 1999 he was transferred to detention facility no. IZ-47/1 in St. Petersburg, known as “Kresty”.

9. In June 2001 the applicant asked the St. Petersburg City Court to grant him an amnesty and discontinue the criminal proceedings. On 4 July 2001 the City Court refused his request, holding that it was for the trial court to examine whether the applicant qualified for an amnesty.

10. On 4 June 2001 the St. Petersburg City Court appointed the applicant's mother to represent him. Following her appointment, she had several meetings with the applicant in the detention facility. Prison warders were always present at the meetings.

11. At the trial the applicant was represented by his mother and Ms S., of counsel. They submitted evidence and made a successful application to the St. Petersburg City Court to call additional witnesses and exclude certain items of evidence presented by the prosecution.

12. On 20 September 2001 the St. Petersburg City Court found the applicant guilty of several counts of robbery, establishing a criminal enterprise and the aggravated offence of selling criminally acquired property and sentenced him to sixteen years' imprisonment. It based its judgment on the applicant's partial confession in open court, the oral evidence of the co-defendants, victims and witnesses at the trial, expert opinions and real evidence. In determining the sentence, the City Court took into consideration the assistance the applicant had given to the investigating authorities in solving the case and identifying other participants in the criminal enterprise.

13. The applicant appealed against the judgment of 20 September 2001, complaining, in particular, that the City Court had not applied an amnesty law.

14. On 9 December 2002 the Supreme Court of the Russian Federation upheld the judgment of 20 September 2001, endorsing the reasons given by the City Court. It also held that the St. Petersburg City Court had lawfully

refused to apply the amnesty law of 28 June 2002 to the applicant because of the especially serious nature of his offences.

B. Conditions of the applicant's detention

15. From 21 January 1999 to 16 February 2003 the applicant was held in detention facility no. IZ-47/1 in St. Petersburg.

1. Number of inmates per cell

16. According to a certificate issued on 11 November 2005 by the facility governor, and produced by the Government, the applicant was held in eleven different cells during the reference period. Each cell measured 8 square metres and had 6 bunks. According to the Government, no information on the number of inmates in the cells was available as the documents had been destroyed. They further submitted that the applicant had at all times had eight hours' sleep.

17. The applicant did not dispute the cell measurements or the number of bunks. However, he alleged that he had usually shared the cells with 12 to 14 detainees. Given the lack of beds, inmates slept in shifts.

2. Sanitary conditions and installations, temperature and water supply

18. The Government, relying on further certificates issued on 11 November 2005 by the facility governor, submitted that all cells were equipped with a lavatory pan and sink. The pan was separated from the living area by a curtain. According to the Government, the pan was "in a satisfactory sanitary condition". The cells were disinfected once a week. Inmates were allowed to take a shower once a week. They were provided with bedding at the same interval. The cells were naturally ventilated through the windows which were not covered with metal shutters. Each cell also had a ventilating shaft. The Government further stated that the temperature in the cells was "normal". Additional window-frames with glass were inserted in winter. Central heating devices were installed in the cells, which were also equipped with lamps which functioned day and night.

19. The applicant disagreed with the Government's description and submitted that the sanitary conditions were unsatisfactory. Inmates had to dry their laundry indoors, creating excessive humidity in the cells. The cells were dimly lit. Relatives provided inmates with lamps. Windows were not glazed and were covered with thick metal bars that blocked access to natural light and fresh air. It was cold in winter and in summer it was hot, stuffy and excessively damp inside. The artificial ventilation system was blocked with stones and garbage and was never cleared up.

20. The applicant also contested the Government's description of the toilet facilities. According to him, inmates had to make curtains to separate

the lavatory pan from the rest of the cell. The curtains were frequently removed by warders. Inmates were allowed to take a shower once a week but no toiletries were distributed. The entire cell was afforded six minutes to shower, although there was only six shower heads. The applicant added that he had been provided with bedding when he had entered the facility on 21 January 1999, but it had not been changed since. The applicant's mother had provided him with replacement bedding when it had worn out.

3. Food

21. The Government asserted that “the applicant was fed in accordance with the established legal norms”. Medical personnel at the facility checked the quality of the food three times a day and made entries in registration logs.

22. The applicant submitted that the food was of an extremely low quality and in scarce supply. Meat and eggs were not provided despite the fact that they had been included in the detainees' daily diet under Government regulations.

4. Outdoor exercise

23. The Government submitted that the applicant had at least a one-hour walk daily.

24. The applicant did not comment on this.

5. Medical assistance

25. On his admission to the detention facility the applicant was given an X-ray examination. In the course of a check-up, tuberculosis changes in the right lung were detected. The applicant was placed in a special cell for further examinations and treatment and then, after being diagnosed with infiltrative tuberculosis of the upper lobe of the right lung, was transferred to the tuberculosis division.

26. The parties disputed the treatment that the applicant had received in the facility. According to a certificate of 11 November 2005 issued by the facility governor and submitted by the Government, the applicant was examined by a doctor at ten-day intervals and had chest X-rays every three months. The Government gave a detailed description of the treatment the applicant had been provided with, including the type of medicine, dose and frequency. They also furnished a copy of the applicant's medical record and medical certificates. The medical certificates indicate that the applicant is now considered to have clinically recovered from the tuberculosis.

27. The applicant argued that he was not adequately treated after he was discovered to be suffering from tuberculosis. His mother provided the necessary medicines because they had not been available in the facility.

Following several complaints to various officials, the applicant started to receive treatment and his health improved.

6. Complaints about the conditions of the applicant's detention

28. On 19 June 2001 the applicant complained to the Constitutional Court of the Russian Federation about the inadequate conditions of his detention, his poor state of health and the authorities' failure to grant him an amnesty. The Constitutional Court sent the applicant's complaint to the Ministry of Justice.

29. On 22 April 2002 the Main Department of the Ministry of Justice for Execution of Sentences sent a letter to the applicant informing him that his complaints had been examined and found to be unsubstantiated.

30. On 22 May 2002 the applicant complained to the St. Petersburg Department of the Ministry of Justice that he was being held in appalling conditions. The outcome of those proceedings is unclear.

II. RELEVANT DOMESTIC LAW

A. Criminal liability

31. Article 161 § 1 of the Russian Criminal Code establishes the offence of robbery. Article 161 § 3 makes it an aggravating factor for the robbery to be committed by a criminal enterprise or a person who has already been convicted of theft or extortion. Robbery under Article 161 § 3 is punishable by a maximum sentence of twelve years' imprisonment and confiscation of property. Article 162 § 1 establishes criminal liability for the use of actual or threatened force against another in order to commit a theft. Under Article 162 § 3 such an offence committed by a criminal enterprise or a person who has been convicted of extortion or theft is punishable by a maximum sentence of fifteen years' imprisonment. Under Article 175 § 2 the unlawful sale of criminally acquired property by a group of individuals or a person who has been convicted of a theft, extortion or the sale of criminally acquired property is punishable by up to five years' imprisonment. Establishing a criminal enterprise is punishable under Article 209 § 1 by a maximum of fifteen years' imprisonment.

32. Under Article 69 § 1 of the Russian Criminal Code consecutive sentences are imposed upon a defendant who is convicted at the same time of several distinct offences (cumulative offences). Article 69 § 3 provides that the final sentence for cumulative offences, should not exceed twenty-five years' imprisonment.

B. Conditions of detention

33. Section 22 of the Detention of Suspects Act (Federal Law no. 103-FZ of 15 July 1995) provides that detainees should be given free food sufficient to maintain them in good health according to standards established by the Government of the Russian Federation. Section 23 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 4 square metres of personal space in his or her cell.

C. Complaints procedure

34. Under Article 17 of the Detention of Suspects Act (Federal Law no. 103-FZ of 15 July 1995) detainees are entitled to lodge, *inter alia*, with a court, petitions and complaints concerning violations of their rights. Article 21 provides that such complaints addressed to various State and municipal bodies and NGOs must be sent through the detention facility authorities. Complaints addressed to a prosecutor, a court or any other State body supervising the detention facility are not subjected to censorship and are sent to the addressee in a closed envelope.

III. RELEVANT INTERNATIONAL DOCUMENTS

35. 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).

...

125. As during previous visits, many prisoners expressed scepticism about the operation of the complaints procedure. In particular, the view was expressed that it was not possible to complain in a confidential manner to an outside authority. In fact, all complaints, regardless of the addressee, were registered by staff in a special book which also contained references to the nature of the complaint. At Colony No 8, the supervising prosecutor indicated that, during his inspections, he was usually accompanied by senior staff members and prisoners would normally not request to meet him in private "because they know that all complaints usually pass through the colony's administration".

In the light of the above, the CPT reiterates its recommendation that the Russian authorities review the application of complaints procedures, with a view to ensuring that they are operating effectively. If necessary, the existing arrangements should be modified in order to guarantee that prisoners can make complaints to outside bodies on a truly confidential basis."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

36. The applicant complained that the conditions of his detention in facility no. IZ-47/1 in St. Petersburg were in breach 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

37. The Government argued that the applicant had not exhausted the domestic remedies available to him. In particular, he had not complained about the conditions of his detention to any prosecutor in the Russian Federation.

38. The applicant submitted that he had unsuccessfully complained about the appalling conditions of his detention to various domestic

authorities. He had not complained to any prosecutor's office because he considered that such a complaint would not have any prospect of success.

39. The Court observes that it has already on a number of occasions examined the same objection by the Russian Government and dismissed it. In particular, the Court held in the relevant cases that the Government had not demonstrated what redress could have been afforded to the applicant by a prosecutor, a court or other State agency, taking into account that the problems arising from the conditions of the applicant's detention were apparently of a structural nature and did not only concern the applicant's personal situation (see *Moiseyev v. Russia* (dec.), no. 62936/00, 9 December 2004; *Kalashnikov v. Russia* (dec.), no. 47095/99, 18 September 2001, and, most recently, *Mamedova v. Russia*, no. 7064/05, § 57, 1 June 2006). The Court sees no reason to depart from that finding in the present case and therefore considers that this complaint cannot be rejected for a failure to exhaust domestic remedies.

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

B. Merits

1. The parties' submissions

41. The Government submitted that the applicant had been detained in the satisfactory sanitary conditions. He had been given bedding and at all times had enjoyed at least eight hours' sleep. The food met the applicable standards. The applicant had been provided with adequate medical assistance and his health had improved in detention. The Government annexed to their submissions copies of certificates showing the results of a sanitary inspection of detention facility no. IZ-47/1 carried out in November 2004. The certificates indicated that when the inspection was performed, the temperature, lighting and humidity levels were satisfactory, although below the norms established for detention facilities. The Government further submitted that they were not in possession of any documents showing the number of inmates in the cells in which the applicant had been detained. However, they considered that the fact that the applicant had been detained in overcrowded cells could not by itself serve as a basis for finding a violation of Article 3 of the Convention because the remaining aspects of the applicant's detention were satisfactory. The Government pointed out that overcrowding was a general problem in many member States of the Council of Europe.

42. The applicant challenged the Government's description of the conditions in the detention facility as factually inaccurate. He indicated that the placement and partitioning of the lavatory pan had offered no privacy

whatsoever and contributed to further infestation of the cell. The quality of food was wholly unsatisfactory. Bedding had only been provided once in the entire period of his detention. He had only been provided with adequate medical assistance after numerous complaints to the facility administration. As regards the number of inmates, he insisted that the cells had at all times been severely overcrowded. According to the applicant, the problem of overcrowding had been acknowledged by many Russian officials.

2. The Court's assessment

43. The parties have disputed the actual conditions of the applicant's detention in facility no. IZ-47/1 in St. Petersburg. However, there is no need for the Court to establish the veracity of each and every allegation, because it finds a violation of Article 3 on the basis of the facts that have been presented and, in principle, are undisputed by the respondent Government.

44. The main characteristic which the parties have agreed upon is the measurements of the cells. However, the applicant claimed that the cell population severely exceeded their design capacity; the Government were unable to indicate the exact number of inmates in the cells, alleging the destruction of the relevant documents.

45. In this respect, the Court observes 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) because in certain instances the respondent Government alone have access to information capable of corroborating or refuting these 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 *Ahmet Özkan and Others v. Turkey*, no. 21689/93, § 426, 6 April 2004).

46. Having regard to the abovementioned principles, the fact that the Government did not offer any convincing explanation for their failure to submit relevant information and that they, in principle, agreed that the cells could have been overcrowded (see paragraph 41 above), the Court will examine the issue concerning the number of inmates in the cells on the basis of the applicant's submissions.

47. The applicant argued that the cells measured 8 sq. m, were equipped with 6 bunks and usually accommodated 12 to 14 inmates. It follows that the detainees, including the applicant, had to share the sleeping facilities, taking turns to rest. Inmates were afforded less than 0.7 sq. m of personal space. For more than four years the applicant was confined to his cell day and night, save for one hour of daily outdoor exercise.

48. Irrespective of the reasons for the overcrowding, the Court considers that it is incumbent on the respondent Government to organise its penitentiary system in such a way as to ensure respect for the dignity of

detainees, regardless of financial or logistical difficulties (see *Mamedova*, cited above, § 63).

49. The Court has frequently found a violation of Article 3 of the Convention on account of a lack of personal space afforded to detainees (see *Khudoyorov v. Russia*, no. 6847/02, § 104 et seq., ECHR 2005-... (extracts); *Labzov v. Russia*, no. 62208/00, § 44 et seq., 16 June 2005; *Novoselov v. Russia*, no. 66460/01, § 41 et seq., 2 June 2005; *Mayzit v. Russia*, no. 63378/00, § 39 et seq., 20 January 2005; *Kalashnikov v. Russia*, no. 47095/99, §§ 97 et seq., ECHR 2002-VI; and *Peers v. Greece*, no. 28524/95, §§ 69 et seq., ECHR 2001-III).

50. Having regard to its case-law on the subject and the material submitted by the parties, 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. Although in the present case there is no indication that there was a positive intention to humiliate or debase the applicant, the Court finds that the fact that the applicant was obliged to live, sleep and use the toilet in the same cell with so many other inmates for more than four years was itself sufficient to cause distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention, and arouse in him feelings of fear, anguish and inferiority capable of humiliating and debasing him.

51. There has therefore been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in facility no. IZ-47/1.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

52. The applicant complained under Article 6 § 1 of the Convention that the judgments of the domestic courts were wrong as the courts had wrongly interpreted and applied the law and incorrectly assessed evidence. The relevant part of this Convention provision reads as follows:

“In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal...”

53. With regard to the applicant's complaints about the judicial decisions given in his cases, the Court 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, it is not competent to deal with an application alleging that errors of law or of fact have been committed by domestic courts, except where it considers that such errors may have involved a possible violation of any of the rights and freedoms set out in the Convention.

54. In so far as the applicant complained about the incorrect assessment of evidence, the Court reiterates that the admissibility of evidence is

primarily a matter for regulation by national law. As a rule, it is for the national courts to assess the evidence before them, whereas it is the Court's task to ascertain whether the proceedings considered as a whole, including the way in which evidence was taken, were fair (see *Asch v. Austria*, judgment of 26 April 1991, Series A no. 203, p. 10, § 26).

55. The Court notes that the domestic courts carefully evaluated the evidence at their disposal, including statements by witnesses and the documentary evidence. The applicant was able to present his case and submit evidence and to challenge evidence presented by the prosecution. He had an opportunity to present his case to a court under conditions which did not place him at a disadvantage vis-à-vis the prosecution. The applicant appealed against the trial court's judgment to a higher-instance court. The reasoning in the courts' judgments properly reflected their assessment of the circumstances that militated for and against the conclusion reached. As a result, the Court has not found any indication that the applicant's right to a fair hearing was not respected.

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

III. ALLEGED VIOLATION OF ARTICLE 7 OF THE CONVENTION

57. The applicant further complained under Article 7 of the Convention that the amnesty law had not been applied in his case. The relevant part of Article 7 provides:

“No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed...”

58. The Court reiterates that it is not its task to rule on the applicant's individual criminal responsibility or facts disputed by the applicant, those being primarily matters for the assessment of the domestic courts. From the standpoint of Article 7 § 1 of the Convention, it must consider whether the applicant's acts, at the time when they were committed, constituted offences defined with sufficient accessibility and foreseeability by domestic law (see *Streletz, Kessler and Krenz v. Germany* [GC], nos. 34044/96, 35532/97 and 44801/98, § 51, ECHR 2001-II). In this connection, the Court observes that the applicant did not dispute that the Criminal Code of the Russian Federation provided a statutory basis for the offences of which he was convicted, both at the time of their commission and at the time of the trial. These provisions were publicly accessible and their application should have been sufficiently clear and foreseeable to the applicant. The penalty imposed by the trial court did not exceed the maximum penalty laid down in the Criminal Code for the offences of which the applicant was found guilty. Furthermore, the Court notes that the Convention does not guarantee a right

to the application of an amnesty law (see *Puzinas v. Lithuania* (dec.), no. 63767/00, 13 December 2005).

59. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

60. In his letter of 16 September 2004 to the Court the applicant complained under Articles 3, 5 § 3, 6 §§ 1 and 3 (b), (c) and (d) of the Convention that he had been assaulted by the police on 18 November 1998 and 14 January 1999 and unlawfully arrested on 14 January 1999, that the criminal proceedings had been excessively long, that he had not had sufficient time for the preparation of his defence because the meetings with his mother had been held at irregular intervals and they had never been left alone, that he had not had enough time to prepare his grounds of appeal, that he had not been provided with legal assistance after his arrest and that his counsel had been ineffective.

61. The Court observes that the applicant's complaints relate to the period when the criminal proceedings were pending against him. Those proceedings ended on 9 December 2002 when the Supreme Court of the Russian Federation delivered the final judgment in the case. The applicant did not dispute that he had been aware of the ruling from the outset and that he had not raised these complaints with the Russian authorities after 9 December 2002. The first time he made these complaints to the Court was in his letter of 16 September 2004.

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

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

63. 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

64. The applicant claimed compensation in respect of pecuniary damage, without specifying the amount. As to the non-pecuniary damage, he left the determination of the amount to the Court's discretion.

65. The Government argued that the applicant had not substantiated his claims and that the Court should not, therefore, make any award.

66. As regards pecuniary damage, the Court observes that the applicant did not indicate the amount claimed. Nor did he submit any receipts or vouchers or other documents on the basis of which such amount could be established. In this respect, the Court points out that under Rule 60 of the Rules of Court any claim for just satisfaction must be itemised and submitted in writing together with the relevant supporting documents or vouchers, “failing which the Chamber may reject the claim in whole or in part”. Accordingly, the Court does not make any award under this head.

67. As to the claims in respect of non-pecuniary damage, the Court accepts that the applicant suffered humiliation and distress because of the degrading conditions of his detention. Making its assessment on an equitable basis and, taking into account, in particular, the term of the applicant's detention, the Court awards the applicant EUR 15,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

68. The applicant did not make any claims for the costs and expenses incurred before the domestic courts and the Court.

69. Accordingly, the Court does not award anything under this head.

C. Default interest

70. 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 in facility no. IZ-47/1 in St. Petersburg 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 from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 15,000 (fifteen thousand euros)

in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of the 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 29 March 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President