



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

FIRST SECTION

CASE OF DYULDIN AND KISLOV v. RUSSIA

(Application no. 25968/02)

JUDGMENT

STRASBOURG

31 July 2007

FINAL

31/10/2007

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 Dyuldin and Kislov 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 S.E. JEBENS,

Mr G. MALINVERNI, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 10 July 2007,

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

PROCEDURE

1. The case originated in an application (no. 25968/02) 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 two Russian nationals, Mr Viktor Gavrilovich Dyuldin and Mr Aleksandr Ivanovich Kislov (“the applicants”), on 30 October 2001.

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

3. The applicants alleged, in particular, a violation of their right to freedom of expression.

4. By a decision of 13 May 2004 the Court declared the application partly admissible.

5. The applicants and the Government filed observations on the merits (Rule 59 § 1).

6. On 3 March 2005 the President of the Chamber granted the Lawyers for Constitutional Rights and Freedoms (JURIX) and the Glasnost Defence Foundation leave to intervene as a third party (Rule 44 § 2). On 1 April 2005 the third party submitted their written comments. On 14 May 2005 the Government submitted their observations on the third-party comments.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicants were born in 1944 and 1948, and live in Penza. At the material time the first applicant was a trade-union leader, the second applicant a journalist. They also co-chaired the Penza Regional Voters' Association "Civic Unity" (*Grazhdanskoye yedinstvo*).

A. Adoption and publication of the open letter to President Putin

8. On 15 August 2000 the Co-ordination Council of the Penza Regional Voters' Association Civic Unity adopted at its meeting the draft text of an open letter, entitled "Media coverage of the reforms of President Putin in the Penza Region" (*"Informatsionnoye obespecheniy reform Prezidenta V.V. Putina v Penzenskoy oblasti"*).

9. On 16 August 2000 the text was discussed at a round table attended by the applicants, the editors-in-chief of local newspapers and journalists. The draft was amended and elaborated. The discussion concluded with the adoption of the open letter by the Co-ordination Council of Civic Unity and managers of the independent media in the Penza Region to the President of the Russian Federation, the Security Council of the Russian Federation, the Journalists' Union of Russia, the plenipotentiary representative of the President for the Volga Federal District, and the Minister for Press and Information of the Russian Federation. The open letter was signed by the applicants and four editors-in-chief.

10. On 24 August 2000 the *Novaya birzhevaya gazeta* newspaper published the open letter on its front page. The relevant extracts of the letter, translated from Russian, read as follows:

"We (authors of the open letter) subscribe to various political views but are unanimous in our support of the President's drive to curb corruption in the country, bring order to the economy, and assert the rule of law and democratic standards in all sectors of society. We have gathered at the round table because of our common concern for the fate of the President's reforms in the Penza Region. **The Penza Region is gradually transforming into a private holding controlled by** Governor V. Bochkaryov and **his close circle** ... [emphasis added, see below]

Today we (the independent media) embarrass the regional authorities because we openly disagree with **the selfish and destructive policy** of the governor and **his team**, we publish materials denouncing bribe-takers and officials who abuse their position ...

Once again, as in early 1991 when the [Communist] Party's nomenclature feared their imminent dismissal, **the regional authorities have started reprisals against the independent media. Journalists are subjected to threats and beatings, our publications are prohibited from being printed and distributed in the region** ...

On the other side – the independent media, **whose attempts to stand for the rule of law, human rights, to talk about bringing order to the economy and to expose corruption are routinely suppressed by the governor and his acolytes ...**¹

11. The remainder of the open letter harshly criticised the Governor of the Penza Region personally and contained allegations of serious wrongdoings.

B. Civil defamation action against the applicants

12. On 3 February 2001 twelve members of the Penza Regional Government lodged a civil action with the Leninskiy District Court of Penza for the protection of their honour, dignity and professional reputation and for compensation for non-pecuniary damage allegedly sustained as a result of the publication of the open letter. They named the applicants and other signatories to the letter, as well as the newspaper that published it, as co-defendants.

13. On 3 March 2001 the original plaintiffs were joined by fourteen other members of the Penza Regional Government with identical claims.

14. On 30 March 2001 one of the original plaintiffs, Mr D., withdrew his claim. Speaking to the *Novaya birzhevaya gazeta* newspaper, he described the proceedings as “an attempt to bring the media under control”. In April 2001 Mr D. was dismissed from his position in the Government.

15. The applicants brought a counterclaim against the plaintiffs, alleging that they had violated civil-service law in that they had used their official

1. The Russian text read as follows:

“Мы (авторы Обращения) исповедуем разные политические взгляды, но при этом едины в поддержке курса президента на обуздание коррупции в стране, наведение порядка в экономике, утверждение законности и демократических норм во всех сферах жизни общества. За «Круглым столом» нас собрала общая тревога за судьбу президентских реформ в Пензенской области. **Пензенская область постепенно превращается в частный холдинг, контролируемый губернатором В. Бочкаревым и его ближайшим окружением...**

Сегодня все мы (СМИ) неуютны областной власти, поскольку открыто выражаем несогласие с **корыстной и разрушительной политикой** губернатора и **его команды**, публикуем разоблачительные материалы о коррупционерах и должностных махинаторах...

Опять, как и в начале 1991 года, когда партийные бонзы чувствовали скорую отставку, **областная власть начала гонения на независимую прессу. Журналистов подвергают угрозам, избиениям, наши издания запрещают печатать и распространять в регионе...**

С другой (стороны) – независимые (СМИ), **попытки которых отстаивать законность, права человека, говорить о наведении порядка в экономике, разоблачать коррупцию, постоянно пресекаются губернатором и его подручными...**”

position to discredit and adversely affect the functioning of the Civic Unity association. The applicants claimed compensation for non-pecuniary damage allegedly caused by a violation of their rights and freedoms, in particular, the right to freedom of opinion guaranteed by the Constitution.

16. On 15 May 2001 the Leninskiy District Court of Penza gave judgment. It carried out at the outset a detailed analysis of federal and regional laws on the structure of the Penza Regional Government and reached the following conclusion on the plaintiffs' standing in the defamation suit:

“... any State official in the Penza Region wields a certain power and authority that is essential to the performance of his functional duties; hence, he falls into the category of 'regional authority'. Considering that the 'regional authority' is made up of individuals, that is, State officials, the term 'regional authority' applies to each plaintiff who is, by virtue of his position, a State official in the Penza Region.

The words 'the close circle of Governor Bochkaryov', 'the governor's acolytes', and 'the governor's team' used in the impugned publication are – in the court's opinion, and despite the defendants' and their representatives' assertions to the contrary – applicable to all State officials [working in] the executive body of the Penza Regional Government and, therefore, to the plaintiffs.”

17. The District Court then examined the truthfulness of the applicants' statements referring to the “destructive” policy of the governor's team. It found that the applicants had not used any “scientific methodology for a comprehensive assessment of the social and economic development of the region” for the preparation of the open letter and that their evaluation had been entirely based on their personal views. The court rejected the statement by Mr D. on the economic decline in the Penza Region in 2001 because he had been dismissed from the Government and therefore, in the court's opinion, he was on the defendants' side. The court concluded that the statements referring to the “selfish and destructive policy” were untrue.

18. Likewise, the District Court found no evidence to support the statements referring to the persecution of journalists in the Penza Region. It pointed out that one of the signatories, the editor-in-chief of a local newspaper, could not prove that an attack on one of his journalists had been politically motivated. In the court's opinion, the fact that certain members of the Government had put pressure on local officials to subscribe to the newspapers controlled by the governor to the detriment of all others was lawful and could not be interpreted as “prohibition on distribution”.

19. The District Court held that the extracts of the open letter bold-faced in the text above were not true and damaged the honour and dignity of the plaintiffs as the members of the Penza Regional Government. It ordered that all the plaintiffs be jointly compensated for non-pecuniary damage: the defendant newspaper was to pay 50,000 Russian roubles (RUR) and each of the applicants and four of their co-defendants was to pay RUR 2,500. The court also ordered the defendant newspaper to publish a rectification.

20. The District Court dismissed the applicants' counterclaim on the ground that the plaintiffs had exercised their right to a court and, therefore, had not violated any of the applicants' rights.

21. On 24 July 2001 the Penza Regional Court examined an appeal by the applicants and upheld the judgment of 15 May 2001.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Constitution of the Russian Federation

22. Article 29 guarantees freedom of thought and expression, together with freedom of the mass media.

B. Civil Code of the Russian Federation

23. Article 152 provides that an individual may apply to a court with a request for the rectification of statements (*svedeniya*) that are damaging to his or her honour, dignity or professional reputation if the person who disseminated such statements does not prove their truthfulness. The aggrieved person may also claim compensation for losses and non-pecuniary damage sustained as a result of the dissemination of such statements.

C. Resolution of the Plenary Supreme Court of the Russian Federation, no. 11 of 18 August 1992 (amended on 25 April 1995)

24. The Resolution (in force at the material time) provided that, in order to be considered damaging, statements had to be untrue and contain allegations of a breach of laws or moral principles (commission of a dishonest act, improper behaviour at the workplace or in everyday life, etc.). Dissemination of statements was understood as the publication of statements or their broadcasting (section 2). The burden of proof was on the defendant to show that the disseminated statements had been true and accurate (section 7).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

25. The applicants complained under Article 10 of the Convention of a violation of their right to impart information. Article 10 provides as follows:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers ...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others ...”

A. Submissions by the parties

1. The applicants

26. The applicants submitted that the open letter had not disseminated any untrue information. The main point of the letter was to allege that coverage of reforms in the region by the State television channels controlled by the regional government was biased. The authors of the letter were concerned about the curtailing of the freedom of the press by the regional governor and his team. The letter did not contain allegations of unlawful actions or criminal offences.

27. The applicants asserted that they had had no intention to disseminate untrue information, as they firmly believed in the accuracy of their statements, which were founded on data collected by the independent trade union “Sotsprof” in Penza and a human-rights organisation working in the region. The purpose of their open letter to the President and senior State officials was to have a comprehensive investigation opened into the alleged wrongdoings in the Penza Region.

28. The applicants pointed out that the defamation claim had not been lodged by the Penza Regional Government, the Penza Legislative Assembly and the Penza Regional Court as collective entities but rather by a group of individuals. However, the publication did not identify any State official by name or by other characteristics. The applicants maintained that these twenty-five members of the regional government had had no standing to sue in defamation. Rather, they should have exercised their right to reply provided for in the Russian Mass Media Act.

2. The Government

29. The Government submitted that the interference with the applicants' right to impart information had been prescribed by law and pursued the legitimate aim of the protection of the reputation and rights of others.

30. The Government claimed that the applicants had neglected their duties and responsibilities, which consisted of providing accurate and reliable information on matters of public interest. In their view, in the present case there had been a “pressing social need” to protect the reputation

of the State officials of the Penza Region because the applicants had disseminated information alleging that they had committed criminal offences. The interference had been proportionate to the legitimate aim because the courts had clearly identified defamatory statements and granted the claim in part. The Government concluded that the necessity of the interference had been “obvious” and that the applicants' complaint was manifestly ill-founded.

31. Commenting on the submissions by the third party (see below), the Government pointed out that these submissions were of a general nature and did not take into account the particular circumstances of the case.

3. *The third party*

32. The third party submitted that the restrictions listed in paragraph 2 of Article 10 should not be interpreted as conferring standing to sue in defamation on individual public officials who had not been specifically identified, who would then act as surrogates or alter egos for the State. The common law in the United States has long protected journalists against claims for defamation brought by unnamed members of a group based upon criticism voiced about the group under the “group libel” doctrine (*Abramson v. Pataki*, 278 F.3d 93 – no libel claim for unnamed union members based on statement accusing certain employees of criminal behaviour; *Anyanwu v. Columbia Broad. Sys., Inc.*, 887 F. Supp 690 – no libel claim for a Nigerian doing business in the USA based on defamatory reference to all Nigerians doing business in the USA). The doctrine holds that an allegedly false statement about a group is not “of and concerning” any individual member of the group (*Restatement [Second] of Torts*, § 564A). Not only individual members but even elected leaders of an organisation are barred by the “group libel” doctrine from asserting individual defamation claims based on statements critical of the group (*McMillen v. Arthritis Foundation*, 432 F. Supp. 430; *Provisional Government of the Republic of New Afrika v. American Broad. Cos.*, 609 F. Supp. 104).

33. The third party further pointed out that in Britain, the House of Lords had warned of the “chilling effect” of defamation on free speech if public bodies could sue their critics (in the case of *Derbyshire County Council v. Times Newspaper* [1993] A.C. 534). The Law Lords considered that elected bodies should not be entitled to sue in defamation because any reputation they might have would belong to the public as a whole, which on balance benefits from uninhibited criticism. Allowing public bodies to sue was therefore an inappropriate use of taxpayers' money, one which may well be open to abuse by governments intolerant of criticism (*Die Spoorbond and Anor. v. South African Railways* [1946] AD 999).

34. The third party finally insisted that in each case involving a conflict between freedom of expression and other individual or collective interests, the court must weigh both interests and explain the grounds for its conclusion as to which interest prevails over the other. When politicians

deployed defamation actions against the media allegedly to protect their honour, dignity and reputation, a more realistic view held that their real purpose was to stifle criticism. What suffered was the free flow of information that was vital to vigorous political discourse.

B. The Court's assessment

35. It is common ground between the parties that the judgments pronounced in the defamation action constituted an interference with the applicants' right to freedom of expression within the meaning of Article 10 § 1 of the Convention.

36. It is not contested that the interference was “prescribed by law”, namely Article 152 of the Civil Code, and pursued a legitimate aim, that of protecting the reputation or rights of others, for the purposes of Article 10 § 2. The dispute in the case relates to whether the interference was “necessary in a democratic society”.

37. The Court reiterates that freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress. Subject to paragraph 2 of Article 10, it is applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness, without which there is no “democratic society” (see *Handyside v. the United Kingdom*, judgment of 7 December 1976, Series A no. 24, p. 23, § 49, and *Jersild v. Denmark*, judgment of 23 September 1994, Series A no. 298, p. 26, § 37).

38. The press fulfils an essential function in a democratic society. Although it must not overstep certain bounds, particularly as regards the reputation and rights of others, its duty is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest (see *De Haes and Gijssels v. Belgium*, judgment of 24 February 1997, *Reports of Judgments and Decisions* 1997-I, pp. 233-34, § 37, and *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, § 59, ECHR 1999-III). Freedom of the press affords the public one of the best means of discovering and forming an opinion of the ideas and attitudes of their political leaders. In particular, it gives politicians the opportunity to reflect and comment on the preoccupations of public opinion; it thus enables everyone to participate in the free political debate which is at the very core of the concept of a democratic society (see *Castells v. Spain*, judgment of 23 April 1992, Series A no. 236, p. 23, § 43 *in fine*).

39. The Court's task in this case has to be seen in the light of these principles. It has to satisfy itself that the Russian authorities did apply standards which were in conformity with these principles and, moreover, that in doing so they based themselves on an acceptable assessment of the

relevant facts (see *Oberschlick v. Austria (no. 1)*, judgment of 23 May 1991, Series A no. 204, p. 26, § 60).

40. The Court observes that the publication at issue represented a collective open letter to the highest officials of the Russian State. Its text had been finalised and approved in a public discussion organised by a regional non-governmental organisation. Signatories to the letter included several editors-in-chief and a trade-union leader (the first applicant) acting in their professional capacity (see paragraph 9 above). They admitted having different political leanings, but the letter reflected their common position: they were unanimous in the expression of their apprehension that the regional powers were hindering the implementation of the President's policy to assert the rule of law and curb corruption. They felt that the media were being repressed by the regional authorities that sought to deter them from publishing material exposing corrupt practices among State officials.

41. The Court notes that the open letter concerned the possibility of conducting an open and unhindered public discussion on the issues that inconvenienced the regional authorities, that is, the possibility for the regional press to play the role essential for ensuring the proper functioning of a political democracy (see *Sürek and Özdemir v. Turkey* [GC], nos. 23927/94 and 24277/94, § 58, 8 July 1999). The publication thus focused on the very substance of the freedom of the press and the issues raised therein were undeniably part of a political debate on a matter of general and public concern. The Court reiterates in this connection that it has been its constant approach to require very strong reasons for justifying restrictions on political speech, as broad restrictions imposed in individual cases would undoubtedly affect respect for the freedom of expression in general in the State concerned (see *Feldek v. Slovakia*, no. 29032/95, § 83, ECHR 2001-VIII, and *Sürek v. Turkey (no. 1)* [GC], no. 26682/95, § 61, ECHR 1999-IV).

42. The Court further notes that the plaintiffs in the defamation claim were individual State officials, members of the Penza Regional Government. Not one of them was mentioned by name or otherwise identified in the letter. In fact, the only person who was expressly identified in the document was the regional governor. Although a significant part of the letter was devoted to exposing his alleged wrongdoings, he was nevertheless not among the plaintiffs, who were collectively described as his “close circle”, “team”, “acolytes” or simply as “the regional authorities”.

43. The domestic courts accepted that the plaintiffs had been affected by the publication and could therefore sue in defamation because the terms “regional authorities”, “team” etc. had been broad enough to cover any State official who worked in the executive branch of the Penza Regional Government, as the plaintiffs did (see paragraph 16 above). The Court is not convinced that in reaching this finding the domestic courts applied standards which were in conformity with the principles embodied in Article 10 (see, for example, *Grinberg v. Russia*, no. 23472/03, § 27,

21 July 2005). It reiterates that a fundamental requirement of the law of defamation is that in order to give rise to a cause of action the defamatory statement must refer to a particular person. If all State officials were allowed to sue in defamation in connection with any statement critical of administration of State affairs, even in situations where the official was not referred to by name or in an otherwise identifiable manner, journalists would be inundated with lawsuits. Not only would that result in an excessive and disproportionate burden being placed on the media, straining their resources and involving them in endless litigation, it would also inevitably have a chilling effect on the press in the performance of its task of purveyor of information and public watchdog (see, *mutatis mutandis*, *Radio Twist, A.S. v. Slovakia*, no. 62202/00, § 53, ECHR 2006-...).

44. The Court considers that, for an interference with the right to freedom of expression to be proportionate to the legitimate aim of the protection of the reputation of others, the existence of an objective link between the impugned statement and the person suing in defamation is a requisite element. Mere personal conjecture or subjective perception of a publication as defamatory does not suffice to establish that the person was directly affected by the publication. There must be something in the circumstances of a particular case to make the ordinary reader feel that the statement reflected directly on the individual claimant or that he was targeted by the criticism. Thus, in a freedom-of-expression case against Luxembourg, the Court noted the size of the country as a special feature to be taken into account, before accepting that the claimants in the defamation action were easily identifiable to listeners even though they had not been mentioned by name in the applicant's radio programme (see *Thoma v. Luxembourg*, no. 38432/97, § 56, ECHR 2001-III). In the present case, however, the Court does not discern any elements which could have warranted extending to all officials of a regional government the same protection that was appropriately afforded to a small group of employees of a named department in a particular ministry.

45. In any event, the Court reiterates that the limits of permissible criticism are wider with regard to a government than in relation to a private citizen, or even a politician. In a democratic system the actions or omissions of the government must be subject to the close scrutiny not only of the legislative and judicial authorities but also of the press and public opinion. Furthermore, the dominant position which the government occupies makes it necessary for it to display restraint in resorting to libel proceedings, particularly where other means are available for replying to the unjustified attacks and criticisms of its adversaries or the media (see *Incal v. Turkey*, judgment of 9 June 1998, *Reports of Judgments and Decisions* 1998-IV, pp. 1567-68, § 54, and *Castells*, cited above, pp. 23-24, § 46).

46. A further aspect relevant to the Court's determination in the present case is the distinction between statements of fact and value judgments. It has been the Court's constant view that, while the existence of facts can be

demonstrated, the truth of value judgments is not susceptible of proof. The requirement to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10 (see *Lingens v. Austria*, judgment of 8 July 1986, Series A no. 103, p. 28, § 46, and *Oberschlick*, cited above, pp. 27-28, § 63.).

47. In the present case the Court observes that the domestic courts considered all terms employed by the applicants in their publication to be statements of fact without examining the question whether they could be considered to be value judgments. Their failure to embark on that analysis was accounted for by the state of the Russian law on defamation at the material time. As the Court has already found, it made no distinction between value judgments and statements of fact, referring uniformly to “statements” (“*svedeniya*”), and proceeded from the assumption that any such “statement” was amenable to proof in civil proceedings (see *Grinberg*, cited above, § 29; *Zakharov v. Russia*, no. 14881/03, § 29, 5 October 2006; and *Karman v. Russia*, no. 29372/02, § 38, 14 December 2006, and the domestic law cited in paragraphs 23 and 24 above).

48. The Court considers that the expressions used in the letter should be characterised as value judgments rather than statements of fact. However, since under the Court's case-law a value judgment must be based on sufficient facts in order to constitute a fair comment under Article 10, the difference between a value judgment and a statement of fact finally lies in the degree of factual proof which has to be established (see *Scharsach and News Verlagsgesellschaft v. Austria*, no. 39394/98, § 40, ECHR 2003-XI). The Court observes that the document at issue was the product of a collective effort reflecting, as it did, the concerns about the curtailing of the freedom of the press expressed by a representative sample of regional editors-in-chief, journalists and human-rights activists at a public round table. It was founded on their first-hand knowledge of the situation and experience of working in the media. The Court notes with concern that the domestic courts adopted an unusually high standard of proof, finding that a description of the governor's policy as “destructive” would only be true if it was based on a scientifically sound comprehensive assessment of the social and economic development of the region (see paragraph 17 above). It stresses that the degree of precision which ought to be observed by a journalist when expressing his opinion on a matter of public concern could hardly be compared with that for making economic forecasts.

49. The Court would in any event observe that the distinction between statements of fact and value judgments is of less significance in a case such as the present one, where the impugned statement was made in the course of a lively political debate at local level and where elected officials and journalists should enjoy a wide freedom to criticise the actions of a local authority, even where the statements made may lack a clear basis in fact (see *Lombardo and Others v. Malta*, no. 7333/06, § 60, 24 April 2007).

50. In conclusion, the Court finds that the Russian authorities overstepped the margin of appreciation afforded to member States under the Convention. Accordingly, the interference complained of was not “necessary in a democratic society” within the meaning of Article 10 § 2 of the Convention.

51. There has therefore been a violation of Article 10 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

52. 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

53. The applicants claimed RUR 600,000 (equivalent to 17,140 euros (EUR)) each in respect of compensation for non-pecuniary damage.

54. The Government considered that the applicants' claim was excessive and unreasonable.

55. The Court considers that the applicants have suffered non-pecuniary damage as a result of the domestic judgments which were incompatible with the Convention principles. The damage cannot be sufficiently compensated by the finding of a violation. The Court considers, however, that the particular amount claimed by the applicants is excessive. Making its assessment on an equitable basis, the Court awards each applicant EUR 1,000, plus any tax that may be chargeable on that amount.

B. Costs and expenses

56. The applicants claimed RUR 286.45 for postal expenses. The Government did not comment.

57. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. Having regard to the material in its possession, the Court is satisfied that the postal expenses had been actually incurred and that the amount is not excessive. It awards each applicant EUR 5 in respect of costs and expenses, plus any tax that may be chargeable on that amount.

C. Default interest

58. 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. *Holds* that there has been a violation of Article 10 of the Convention;
2. *Holds*
 - (a) that the respondent State is to pay each applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:
 - (i) EUR 1,000 (one thousand euros) in respect of non-pecuniary damage;
 - (ii) EUR 5 (five euros) in respect of costs and expenses;
 - (iii) 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 amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
3. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 31 July 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President