



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

FIRST SECTION

**CASE OF MATSKUS v. RUSSIA**

*(Application no. 18123/04)*

JUDGMENT

STRASBOURG

21 February 2008

**FINAL**

***21/05/2008***

*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 Matskus v. Russia,**

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

Christos Rozakis, *President*,

Nina Vajić,

Anatoli Kovler,

Khanlar Hajiyeu,

Dean Spielmann,

Sverre Erik Jebens,

Giorgio Malinverni, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 31 January 2008,

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

## PROCEDURE

1. The case originated in an application (no. 18123/04) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Mr Igor Rishardovich Matskus (“the applicant”), on 28 April 2004.

2. The applicant was represented before the Court by his wife Mrs T. Matskus, a lawyer practising in St Petersburg. 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 applicant alleged that the duration of his detention and the length of criminal proceedings against him had been excessive.

4. On 14 October 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.

5. 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

### I. THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1963 and lives in St Petersburg.

### **A. Criminal proceedings against the applicant and Mr R.**

7. On 20 March 2002 an investigation against the applicant and another person (Mr R.) was opened on suspicion of extortion and corruption. The applicant and R. were police officers. On the following day the applicant was arrested and taken into custody.

8. On 29 March 2002 the applicant was charged with an attempt to receive a bribe in a particularly large amount, an offence under Articles 30 § 3 and 290 § 4 of the Criminal Code.

9. On 8 May 2002 the applicant was dismissed from the police.

10. On 29 May 2002 the charge against the applicant was amended to that of aggravated fraud, an offence under Article 159 §§ 2 and 3 of the Criminal Code.

11. On 20 June 2002 a deputy prosecutor of the Frunzenskiy District approved the bill of indictment and submitted the case for trial.

12. On 28 June 2002 the Frunzenskiy District Court of St Petersburg examined counsel's requests concerning evidence and witnesses and fixed the trial date for 25 October 2002.

13. On 25 October 2002 the hearing was adjourned owing to absence of lay judges. The applicant asked the court to hear the case in a single-judge formation, in order to expedite proceedings. R. insisted on the presence of lay judges. The trial was adjourned until 20 December 2002.

14. On 20 December 2002 the District Court decided to sit in a single-judge formation and granted the defence's request for additional time required for viewing photo and video recordings. The trial was postponed until 6 March 2003.

15. At the hearing of 6 March 2003 the District Court determined that the trial could not proceed because the defendants had not been afforded an opportunity to view photo and video recordings. It adjourned the hearing until 24 April 2003.

16. The hearings fixed for 24 April and 16 June 2003 were adjourned because the case file was with the City Court. On 21 August 2003 the hearing was adjourned owing to absence of counsel for Mr R. On 3 November 2003 the trial hearing was adjourned because the judge had fallen ill.

17. On 18 December 2003 the District Court began examination of the merits of the case. The victim was interrogated.

18. On 22 December 2003 a witness for the prosecution was examined. As the other witnesses did not appear, the hearing was adjourned until 5 February 2004.

19. Of three hearings listed in February 2004, two were postponed. On 2 March 2004 counsel for the applicant and Mr R. did not appear.

20. On 1 and 8 April 2004 the District Court examined two witnesses for the prosecution and read out depositions by five other witnesses who had not appeared.

21. Of six hearings fixed between 20 April and 17 June 2004, three were adjourned because the judge was ill.

22. On 22 June 2004 the District Court ordered an expert examination of audio and video materials and refused the applicant's petition for release.

23. On 30 June 2004 the judge, presiding over the trial, was dismissed and the case was assigned to another judge. On 14 September 2004 the Frunzenskiy District Court, sitting in a new single-judge formation, ordered to start the trial from the beginning.

24. On 25 October 2004 the victim and a witness were examined.

25. Between 16 December 2004 and 30 May 2005 five hearings were listed and then adjourned because of the absence of witnesses, counsel for R. or R. himself. A further hearing was scheduled for 5 September 2005.

26. On 12 October, 2 and 28 November 2005 hearings took place.

27. On 30 January 2006 the Frunzenskiy District Court issued the judgment by which it acquitted the applicant and R. of all charges.

28. On 13 July 2006 the St Petersburg City Court quashed the acquittal on procedural grounds and ordered a new trial.

29. Between 5 September and 31 October 2006 five hearing had been listed, of which four were adjourned for various reasons.

30. It appears that the proceedings are now pending.

## **B. Decisions concerning the application of a custodial measure**

31. On 22 March 2002 a prosecutor ordered the applicant's arrest and placement in custody. On 17 May 2002 the prosecutor extended the applicant's detention until 20 June 2002.

32. On 31 May 2002 the Frunzenskiy District Court of St Petersburg dismissed the applicant's appeal against the initial detention order and the subsequent extension. It noted that the detention order had not been procedurally defective and that the investigator had reasonably believed that, if released, the applicant would interfere with the establishment of the truth because he was charged with a particularly serious criminal offence.

33. On 28 June 2002 the Frunzenskiy District Court held that the applicant and R. should remain in custody because they were charged with particularly serious offences.

34. On 20 December 2002 the District Court extended the applicant's and R.'s detention until 20 March 2003 on the ground that they were charged with a particularly serious crime and that their release "would substantially impede comprehensive, complete and objective examination of the case". On 28 January 2003 the St Petersburg City Court, on an appeal by

the applicant's counsel and R., upheld the extension order, finding as follows:

"The defendants Matskus and R. are accused of a serious crime committed through the use of their official position. Taking into account that fact and also the specific charge against the defendants, the court considers that the [District] court has reached the justified conclusion that release of the defendants would substantially impede comprehensive, complete and objective examination of the case. The existence of a permanent place of residence, positive work references, family connections and the absence of a criminal record are not incompatible with the decision on placing and holding of the defendants in custody."

35. On 6 March 2003 the District Court extended the defendants' detention for three more months, reproducing verbatim the grounds for extension in the decision of 20 December 2002. On 3 June 2003 the St Petersburg City Court rejected the appeals by the applicant, R. and their counsel, and upheld the extension order in the following terms:

"The [District] court noted in its decision that each defendant had a permanent place of residence and a family, they had positive work references and no criminal record. However, the specific circumstances of the case – the nature of the charges and the official position of the defendants at the time the crime had been committed – gave the [District] court grounds to believe that their release from custody would substantially impede the examination of the case. The defendants' removal from their office, which fact was confirmed by the order produced to the court, did not guarantee that they would not exercise pressure on witnesses".

36. On 16 June 2003 the District Court extended the applicant's and R.'s detention until 20 September 2003, using the same wording as before. On 21 August 2003 the District Court approved a further extension for three months, that is until 20 December 2003, founded on the same grounds.

37. On 16 September 2003 the City Court quashed the extension order of 16 June 2003 because the District Court had issued the order in the absence of the case-file (which had been in the City Court at that time). On 19 September 2003 the District Court issued a new detention order in respect of the period from 20 June to 20 September 2003, which was founded on the same grounds as before.

38. On 18 November 2003 the City Court upheld the extension order of 21 August 2003, but quashed the decision of 19 September 2003 on procedural grounds and remitted the remand issue for a new examination.

39. On 18 December 2003 the District Court issued two detention orders. The first one covered the period from 20 June to 20 September 2003, and the second order extended the applicant's and R.'s detention by three more months, that is until 20 March 2004. Both orders were founded on the same grounds as before.

40. On 2 March 2004 the District Court, in the absence of defence counsel, extended the applicant's and R.'s detention by three more months, that is until 20 June 2004, using the same stereotyped wording.

41. On 17 June 2004 the District Court extended the applicant's and R.'s detention until 20 September 2004, referring solely to the gravity of the charge against them. On 10 September 2004 the City Court upheld that decision.

42. On 21 July 2004 the Presidium of the St Petersburg City Court, acting on a request of the St Petersburg prosecutor, quashed the extension order of 2 March 2004 because the remand measure had been decided upon in the absence of the defendants' counsel.

43. On 14 September 2004 the Frunzenskiy District Court issued a new detention order covering the period from 20 March to 20 June 2004. However, it refused a further extension of the applicant's and R.'s detention for the following reasons:

“Matskus and R. are accused of having committed a serious crime using their office. By an order of 8 May 2002... Matskus and R. were removed from their offices... Matskus was dismissed from the police... Under these circumstances, the court considers that the defendants cannot use their official position to obstruct justice.

Matskus and R. have no criminal record, they have a permanent and registered place of residence in St Petersburg. Besides, the court also notes that the defendants have remained in custody for a long time, more than two years. The case will be examined by a new formation which calls for re-examination of all pieces of evidence...

In these circumstances, the court considers it necessary to vary the preventive measure in respect of Matskus and R. and to replace detention on remand with an undertaking not to leave the town...”

The applicant and R. were released in the courtroom.

44. On 7 October 2004 the Frunzenskiy District Court authorised the applicant to leave St Petersburg and pay a visit to his relations in the Novgorod Region.

## II. RELEVANT DOMESTIC LAW

45. Since 1 July 2002 detention matters have been governed by the Code of Criminal Procedure of the Russian Federation (Law no. 174-FZ of 18 December 2001).

46. “Preventive measures” or “measures of restraint” (*меры пресечения*) include an undertaking not to leave a town or region, personal surety, bail and detention on remand (Article 98). If necessary, the suspect or accused may be asked to give an undertaking to appear (Article 112).

47. When deciding on a preventive measure, the court is required to consider whether there are “sufficient grounds to believe” that the accused would abscond during the investigation or trial, re-offend or interfere with the establishment of the truth (Article 97). It must also take into account the gravity of the charge, information on the accused's character, his or her

profession, age, state of health, family status and other circumstances (Article 99).

48. Detention may be ordered by a court if the charge carries a sentence of at least two years' imprisonment, provided that a less restrictive preventive measure cannot be applied (Article 108 § 1).

49. After arrest the suspect is placed in custody "during the investigation". The maximum permitted period of detention "during the investigation" is two months but it can be extended for up to six months. Further extensions for up to twelve or eighteen months may be authorised only if the accused is charged with serious or particularly serious criminal offences (Article 109 §§ 1-3).

50. From the date the prosecutor forwards the case to the trial court, the defendant's detention is "during the trial". The term of detention "during the trial" is calculated to the date the judgment is given. It may not normally exceed six months, but if the case concerns serious or particularly serious criminal offences, the trial court may approve one or more extensions of no longer than three months each (Article 255 §§ 2 and 3).

## THE LAW

### I. ALLEGED VIOLATIONS OF ARTICLE 3 AND ARTICLE 5 § 1 OF THE CONVENTION

51. The applicant enclosed with his observations submitted on 19 May 2005, a document entitled "Addition to application no. 18123/04", in which he raised for the first time the complaints under Article 3 and Article 5 § 1 of the Convention about the conditions of his detention and the lawfulness of deprivation of liberty.

52. The Court notes that these complaints were lodged more than six months from the date on which the applicant's detention had ended. It follows that they have been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

### II. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

53. The applicant complained under Article 5 § 3 of the Convention that the duration of his pre-trial detention had been in breach of the reasonable-time requirement. Article 5 § 3 provides as follows:

"Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

## A. Admissibility

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

## B. Merits

### 1. Submissions by the parties

55. The Government claimed that, in addition to the gravity of the charges, the domestic authorities had also taken into account “other circumstances” which had justified the applicant’s detention. Thus, the domestic decisions had referred to the risk that the applicant could hinder the criminal proceedings because, as a police officer, he could exercise pressure on the victim and witnesses. Admittedly, the release decision of 14 September 2004 had mentioned the applicant’s dismissal from the police. However, it had not undermined the validity of the previous detention orders which had been founded not on the applicant’s continued employment by the police but rather on the fact that he had abused his office for committing the crime.

56. The applicant pointed out that all the detention orders had been founded on the gravity of the charges against him and the alleged risk of obstruction of justice. The courts had refused to take into account that he had had a permanent place of residence, positive work references, family ties and a clean criminal record. The decision to release him had been grounded on the same circumstances which had been previously relied upon for reaching the opposite conclusions. Furthermore, only one month after his release from custody the District Court had authorised him to visit relatives in another region which showed that the authorities had had no reasons to fear that he would abscond. The applicant pointed out that the domestic decisions had been stereotypically worded and unelaborated.

### 2. The Court’s assessment

57. Under the Court’s case-law, the issue of whether a period of detention is reasonable cannot be assessed *in abstracto*. Whether it is reasonable for an accused to remain in detention must be assessed in each case according to its special features. Continued detention can be justified in a given case only if there are specific indications of a genuine requirement of public interest which, notwithstanding the presumption of innocence, outweighs the rule of respect for individual liberty (see, among other authorities, *W. v. Switzerland*, judgment of 26 January 1993, Series A

no. 254-A, p. 15, § 30; *Kudła v. Poland* [GC], no. 30210/96, § 110, ECHR 2000-XI).

58. The presumption is in favour of release. As the Court has consistently held, the second limb of Article 5 § 3 does not give judicial authorities a choice between either bringing an accused to trial within a reasonable time or granting him provisional release pending trial. Until his conviction, the accused must be presumed innocent, and the purpose of the provision under consideration is essentially to require his provisional release once his continuing detention ceases to be reasonable (see, among many authorities, *Castravet v. Moldova*, no. 23393/05, § 30, 13 March 2007; *McKay v. the United Kingdom* [GC], no. 543/03, § 41, ECHR 2006-...; *Jablonski v. Poland*, no. 33492/96, § 83, 21 December 2000; and *Neumeister v. Austria*, judgment of 27 June 1968, Series A no. 8, § 4).

59. The applicant was held in custody from 21 March 2002 to 14 September 2004 when he was released on an undertaking not to leave the town. Such a length of pre-trial detention – over two years and six months – is a matter of grave concern for the Court. It observes that until 14 September 2004 the domestic authorities never considered whether the length of his detention had already exceeded a “reasonable time”. The fact that the maximum time-limits permitted by the domestic law were not exceeded may not be a decisive element for the Court’s assessment. The calculation of the domestic time-limits depended solely on the gravity of the charges which was decided upon by the prosecution and was not subject to a judicial review (see *Shcheglyuk v. Russia*, no. 7649/02, § 43, 14 December 2006, and paragraphs 49 and 50 above). The Court reiterates that the Russian authorities were required to put forward very weighty reasons for keeping the applicant in detention for such a long time (see *Korchuganova v. Russia*, no. 75039/01, § 71, 8 June 2006).

60. The Court observes that the applicant was apprehended on suspicion that he had extorted a bribe using his official position in the police. It accepts therefore that his detention could have initially been warranted by a reasonable suspicion of his involvement in the commission of a criminal offence and considered necessary to bring him before the competent legal authority. However, with the passage of time those grounds inevitably became less and less relevant. Nevertheless, over the following years the courts’ reasoning did not evolve to reflect the developing situation and to verify whether these grounds remained sufficient at the advanced stage of the proceedings. Even though the applicant had been dismissed from the police already in May 2002 and this fact had been promptly brought to the attention of the domestic courts, for more than one year and a half they continued to refer to his police employment as a factor warranting his holding in custody. Those findings had no basis in fact and could not obviously serve as a justification for the applicant’s continued detention.

61. During the entire period of the applicant's detention the District Courts extended the custodial measure, relying on the gravity of the charges against him and his co-defendant as a decisive element. The Court has repeatedly held that, although the severity of the sentence faced is a relevant element in the assessment of the risk of absconding, the need to continue the deprivation of liberty cannot be assessed from a purely abstract point of view, taking into consideration only the gravity of the offence. Nor can continuation of the detention be used to anticipate a custodial sentence (see *Belevitskiy v. Russia*, no. 72967/01, § 101, 1 March 2007; *Ilijkov v. Bulgaria*, no. 33977/96, § 81, 26 July 2001; and *Letellier v. France*, judgment of 26 June 1991, Series A no. 207, § 51). This is particularly relevant in the Russian legal system where the characterisation in law of the facts – and thus the sentence faced by the applicant – is determined by the prosecution without judicial review of the issue whether the evidence that has been obtained supports a reasonable suspicion that the applicant has committed the alleged offence (see *Khudoyorov v. Russia*, no. 6847/02, § 180, 8 November 2005).

62. The applicant constantly invoked the facts mitigating the risk of his absconding after a long time he had spent in detention. The domestic courts, however, posited that the gravity of the charges carried such a preponderant weight that no other circumstances could have obtained the applicant's release. Until September 2004 the District and City Courts had regard solely to the gravity of the charges and/or nature of the offence but explicitly refused to consider the applicant's arguments that he had a permanent place of residence, positive work references, family connections and clear criminal record. In this connection the Court reiterates that any system of mandatory detention is incompatible *per se* with Article 5 § 3 of the Convention, it being incumbent on the domestic authorities to establish and demonstrate the existence of concrete facts outweighing the rule of respect for individual liberty.

63. The Court has previously found a violation of Article 5 § 3 of the Convention in several Russian cases where the domestic courts prolonged an applicant's detention relying essentially on the gravity of the charges and using stereotyped formulas paraphrasing the reasons for detention provided for by the Code of Criminal Procedure, without explaining how they applied in the applicant's case or considering alternative preventive measures (see the *Belevitskiy*, *Shcheglyuk* and *Khudoyorov* judgments, cited above, and also *Khudobin v. Russia*, no. 59696/00, §§ 103 et seq., ECHR 2006-... (extracts); *Dolgova v. Russia*, no. 11886/05, §§ 38 et seq., 2 March 2006; *Rokhlina v. Russia*, no. 54071/00, §§ 63 et seq., 7 April 2005; *Panchenko v. Russia*, no. 45100/98, §§ 91 et seq., 8 February 2005; and *Smirnova v. Russia*, nos. 46133/99 and 48183/99, §§ 56 et seq., ECHR 2003-IX (extracts)).

64. Having regard to its case-law on the subject and the above considerations, the Court concludes that the domestic authorities did not adduce “relevant and sufficient” reasons to justify the applicant’s detention exceeding a “reasonable time”. In these circumstances it is not necessary to examine whether the proceedings were conducted with “special diligence”.

65. There has therefore been a violation of Article 5 § 3 of the Convention.

### III. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

66. The applicant further complained that the length of the criminal proceedings against him had been in breach of the reasonable-time requirement in Article 6 § 1 of the Convention which reads:

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

#### **A. Admissibility**

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

#### **B. Merits**

##### *1. Submissions by the parties*

68. The Government submitted that the preliminary investigation had been carried out in a prompt manner. There had been, however, substantial delays following the submission of the case for trial, and long intervals between hearings. Those had been caused by objective reasons, such as the need to locate witnesses or to carry out an additional forensic study. On the other hand, significant delays had been caused by the applicant, Mr R. and their counsel because they had challenged every extension order on appeal. The Government considered that the length of the proceedings had not exceeded a “reasonable time”.

69. The applicant claimed that a delay in 2002 had been due to the absence of lay judges. In 2003 the District Court had fixed only three hearings in eight months. The trial had not begun until December 2003. The applicant pointed out that a hearing had never been adjourned on account of his absence. He insisted that the duration of the trial had already exceeded a “reasonable time”.

## 2. *The Court's assessment*

70. The Court reiterates that in criminal matters, the “reasonable time” referred to in Article 6 § 1 begins to run as soon as a person is “charged”; this may occur on a date prior to the case coming before the trial court (see, for example, *Deweert v. Belgium*, judgment of 27 February 1980, Series A no. 35, § 42), such as the date of arrest, the date when the person concerned was officially notified that he would be prosecuted, or the date when preliminary investigations were opened (see *Wemhoff v. Germany*, judgment of 27 June 1968, Series A no. 7, § 19; *Neumeister v. Austria*, judgment of 27 June 1968, Series A no. 8, § 18; and *Ringeisen v. Austria*, judgment of 16 July 1971, Series A no. 13, § 110).

71. The Court takes the date of the applicant’s arrest, 21 March 2002, as the starting date of the proceedings. These proceedings are now pending before the trial court. They have thus lasted to date more than five years and nine months.

72. The Court reiterates that the reasonableness of the length of the proceedings is to be assessed in the light of the particular circumstances of the case, regard being had to the criteria laid down in the Court’s case-law, in particular the complexity of the case, the applicant’s conduct and the conduct of the competent authorities (see, among many other authorities, *Nakhmanovich v. Russia*, no. 55669/00, § 95, 2 March 2006).

73. The Court notes that the applicant does not appear to have caused any delays in the proceedings. Moreover, the fact that he was held in custody required particular diligence on the part of the authorities dealing with the case to administer justice expeditiously (see *Panchenko*, cited above, § 133, and *Kalashnikov v. Russia*, no. 47095/99, § 132, ECHR 2002-VI).

74. On the other hand, the proceedings were delayed owing to the conduct of the domestic authorities. Although the preliminary investigation had been carried out in a reasonably prompt manner, the trial would not be able to begin for one year and a half because the domestic courts were unable to settle various procedural matters. This delay is attributable to the domestic authorities. A further substantial delay was caused by the removal of the presiding judge with the result that the trial had to be started anew.

75. The Court observes that almost six years after the beginning of the criminal proceedings against the applicant there is still no final judgment in his case. It also notes that the applicant spent a significant part of that period in custody. In these circumstances, it considers that the length of the proceedings has exceeded a “reasonable time”.

76. There has therefore been a violation of Article 6 § 1 of the Convention.

#### IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

77. 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**

78. The applicant claimed 70,000 euros (EUR) in respect of non-pecuniary damage sustained through the excessively long detention and criminal proceedings in his case.

79. The Government submitted that the just-satisfaction issue was premature because the acquittal pronounced in the applicant’s case had not yet been examined on appeal.

80. The Court observes that the applicant spent a long period of time in custody without relevant and sufficient grounds and that the criminal proceedings against him have not been completed within a “reasonable time”. In these circumstances, his suffering and frustration cannot be compensated for by a finding of a violation. The particular amount claimed is, however, excessive. Making its assessment on an equitable basis, the Court awards the applicant EUR 8,000 under this head, plus any tax that may be chargeable.

##### **B. Costs and expenses**

81. The applicant did not claim any costs and expenses. Accordingly, there is no call to award him anything under this head.

##### **C. Default interest**

82. 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 complaints concerning the length of the applicant’s detention and the length of the proceedings in the applicant’s case admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 5 § 3 of the Convention;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *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 8,000 (eight thousand euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement, plus any tax that may be chargeable;
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 21 February 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen  
Registrar

Christos Rozakis  
President