



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

FIRST SECTION

CASE OF FEDCHENKO v. RUSSIA

(Application no. 33333/04)

JUDGMENT

STRASBOURG

11 February 2010

FINAL

28/06/2010

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

In the case of Fedchenko v. Russia,

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

Christos Rozakis, *President*,

Nina Vajić,

Anatoly Kovler,

Khanlar Hajiyeu,

Dean Spielmann,

Sverre Erik Jebens,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 21 January 2010,

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

PROCEDURE

1. The case originated in an application (no. 33333/04) 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 Oleg Dmitriyevich Fedchenko (“the applicant”), on 26 July 2004.

2. The applicant was represented by Ms A. K. Soboleva, a lawyer practising in Moscow. The Russian Government (“the Government”) were represented by Ms V. Milinchuk, the former Representative of the Russian Federation at the European Court of Human Rights.

3. On 24 November 2006 the President of the First Section decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 3).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Publication of the article

4. The applicant was born in 1968 and lives in the village of Suponevo, in the Bryansk Region.

5. The applicant has been the editor of a weekly newspaper, *Bryanskiye Budni* (Брянские будни), since he founded it in 1999.

6. In 2003 a leaflet was distributed in Bryansk and the Bryansk Region concerning a member of parliament (MP), Mr Shandybin, who was going to stand in the forthcoming elections. The leaflet read as follows:

“Enough of telling fairy tales!!! Let us turn to the facts! Read the Israeli weekly newspaper *Beseder*. The fortune of the member of the State Duma Vasiliy Shandybin is estimated by the newspaper at 13,123,400 dollars!! You do not believe it? Where does the money come from??? Vasiliy Shandybin charges 1,000 US dollars for a letter with the letterhead of a member of the State Duma, and 5,000 dollars for an MP's inquiry concerning a delicate matter!!! Lobbying on behalf of Vladimir Bryntsalov's interests in the State Duma – 300,000 dollars per year. The profit from trading in medicines and from the sale of overpriced medicines to the Bryansk Region – 600,000 dollars per year. Vote for our fellow countryman Vasiliy Shandybin and you will surely turn him into a billionaire!!!”

7. The leaflet was either quoted or its contents were described in a number of newspapers including *Desnyanskaya Pravda* (Деснянская правда) of 8 October 2003 and *Komsomolets Bryanska* (Комсомолец Брянска) of 14 October 2003 and internet news sites, including posts on www.news.nashbryansk.ru, www.gazeta.ru, www.vlasti.net and www.sem40.ru of 3 October 2003, a post on www.sobesednik.ru of unspecified date in October 2002 and a post on www.globalrus.ru of 20 October 2003. The applicant has provided copies of the newspaper articles and printouts from the internet sites.

8. On 9 October 2003 in *Bryanskiye Budni* no. 206 (no. 41) the applicant published an article entitled “Vasya and Israel” (“Вася и Израиль”). The article reads as follows:

“Vasya was slandered. Ivanych. Shandybin. The hand reaches for an axe. Revenge! For our workers' conscience!

The circulation of the leaflet distributed through towns and villages, according to Vasiliy himself and his associates, is half a million copies, and it says that Shandybin scraped up a fortune of more than 13 million dollars. An angry rebuff of this allegation was made by the *Bryanskaya Pravda*. He did not take it, says *Pravda*, Bryntsalov did not chuck him 300,000 dollars for assistance in the sale of medicines either, and 5,000 bucks for an MP's inquiry is unheard of.

Actually, when we are talking about Vasya, it is appropriate to say that one should not look a gift horse in the mouth. Vasya gave medical equipment as a present to two outpatient clinics, and it is impossible to count how many music boxes he gave to schools and orphans' homes. It is clearly improper to ask the donor where he got the money for all these goods. The benefactors paid for Shandybin's pretty haircut, and he justly distributed the catch among those in need.

If there are doubts, they are caused by the unsightly history of Russian 'parliamentarism'. Recently, in connection with the events of 1993, we were reminded how cynically Yeltsin bought MPs who had not yet decided which side of the barricades to run to. He promised them a rich piece of cake, and they slyly ran for this

piece, swallowing their spittle. Zhirinovskiy's party was accused of bribery many times, but all our elected representatives take [bribes] (except Vasya, of course), if we mean not only money but also greyhound puppies: favours from Western patrons, from Khodorkovskiys or Abramovichs residing in Russia. And this is a serious school, a school of venality. This is why the accusation against Shandybin in the clandestine leaflet fell on fertile ground. Whether Vasiliy Ivanovich took bribes or not, he will have to account for all his colleagues, for the fact that he has sat next to venal MPs in the venal Duma for many years. In a way, the retribution is legitimate.

Who is the author? He is closer to the body of Vasiliy Ivanovich than the MP himself thinks. Of course, the easiest answer is: the one who intends to stand against him in the same electoral district. We have no doubts that Vasya's ill-wishers from this camp will scribble too, but the leaflet containing a reference to the Israeli source was in fact made in a different camp. Which one? Remember who recently visited Israel. Thus, nominally these forces are Shandybin's allies, but effectively they consider him a serf. And serfs need to be reminded from which barn they originate, so that they do not put on airs and are obedient.

Unfortunately, Shandybin is looking for ill-wishers in the wrong camp. They should be searched for among the people who cover themselves with red rags. Their handwriting is recognisable. Their latest provocation in the press was, in fact, a supplement to *Bryanskiye Budni*. They published a fake edition of *Budni* that criticised the opposition to Lodkin, *inter alia*, to test their undercover printing works. Although the editors lodged an official complaint, the law-enforcement authorities did not try to find the publisher. And now here is a new volley, and surely not the last one, from the underground regional committee [of the Communist Party].”

B. First set of proceedings

9. On 15 October 2003 the Election Committee of the Bryansk Region issued a decree declaring that the applicant's article was intended to agitate the electorate and to encourage a negative attitude towards Mr Shandybin. The applicant appealed to a court against the decree.

10. On 26 November 2003 the Bryansk Regional Court found that the decree was unlawful. The court held:

“...[T]he article was published on 9 October 2003 ... before the election campaign had started ... [T]he article contains information about the distribution of a leaflet saying that V.I. Shandybin had made a fortune of more than 13 million dollars, and speculations by the author concerning the existence of this money and its sources. The contents of the leaflet are not quoted in the article. The text of the article contains neither information about the forthcoming elections to the State Duma ..., about V.I. Shandybin as a candidate for the State Duma, his political views and ideas, nor agitational calls to vote for or against V.I. Shandybin or other candidates.

... [Mr] Fedchenko stated at the hearing that in the article he had not sought to agitate but had merely stated his opinion concerning the distributed leaflet and the information contained therein. The [defendant] did not produce any proof to the contrary ...”

11. The Election Committee of the Bryansk Region appealed.

12. On 18 February 2004 the Supreme Court of Russia upheld the judgment.

C. Second set of proceedings

13. On 20 October 2003 Mr Shandybin brought an action for defamation against the applicant in the Bryanskiy District Court of the Bryansk Region and sought damages in the amount of 500,000 Russian roubles (RUB). He claimed, in particular, that the following passages were untrue and damaging to his honour and reputation:

“Shandybin scraped up a fortune of more than 13 million dollars.”

“He did not take it, says *Pravda*, Bryntsalov did not chuck him 300,000 dollars for assistance in the sale of medicines either, and 5,000 bucks for an MP's inquiry is unheard of.”

“Thus, nominally these forces are Shandybin's allies, but effectively they consider him a serf. And serfs need to be reminded from which barn they originate, so that they do not put on airs and are obedient.”

14. On 31 May 2004 the Bryanskiy District Court found for the claimant. The court held:

“...[T]he article *Vasya and Israel* as a whole, as well as particular phrases and words (the subject of the dispute) in it, are strongly indicative of a negative judgment and contain direct emotional judgments which constitute insulting attacks and indirect judgments.

...[T]he [first] assertion as such, in the context of the article, is insulting, and damaging to the honour and dignity of the claimant and ... to his reputation. The defendant failed to prove the contrary. The claim is well-founded.

...The author ironically uses [slang words] in the [second] assertion so as to give it a cynical, insulting character and describes the claimant in negative terms. The assertion is beyond the limits of civilised communication and is in breach of moral standards. Accordingly, the claimant's assertion ... concerning the disparaging character of the above quotation is well-founded.

...The [third] assertion has an emotionally expressive tone of contempt and humiliation and presents the [MP] to the readers in a negative light, as a person capable of doing bad things for society. If used metaphorically, the words are disapproving in tone. The claimant has grounds to perceive the assertions as insulting and slanderous. The court considers this information damaging to the honour, dignity and reputation of the claimant.”

15. The court held the applicant liable for RUR 5,000 in respect of non-pecuniary damage sustained by the claimant. The applicant was also ordered to provide Mr Shandybin with an opportunity to publish his response in *Bryanskiye Budni*. The applicant appealed.

16. On 1 July 2004 the Bryansk Regional Court reversed the judgment in the part relating to the publication of the claimant's response in *Bryanskiye Budni* and upheld it in the remaining part. The court found that since Mr Shandybin had not applied directly to *Bryanskiye Budni* for the publication of the response within a year of the publication of the defaming information, under Sections 45 and 46 of the Law on Mass Media he was estopped from applying to a court in this respect. The court further held:

“On the basis of the evidence described in the judgment the [first-instance] court reached the correct conclusion that the assertions at issue did not correspond to the truth and discredited the honour, dignity and reputation of the claimant.”

II. RELEVANT DOMESTIC LAW

A. Constitution of the Russian Federation

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

B. Civil Code of the Russian Federation

18. Article 152 provides that an individual may apply to a court with a request for the rectification of information (*сведения*) that is damaging to his honour, dignity or professional reputation unless the disseminator of that information proves that it “corresponds to reality” (Paragraph 1). The defamatory information must be refuted in the same media source that disseminated it (Paragraph 2). The aggrieved person also has a right to publish a response in the same media source (Paragraph 3). He may also claim compensation for losses and non-pecuniary damage sustained as a result of the dissemination of the information (Paragraph 5).

C. Law on Mass Media

19. Under Section 45 of the Law on Mass Media no. 2124-I of 27 December 1991 a media source may refuse to publish a response to defamatory information if the aggrieved person did not apply for the publication of the response within a year of the publication of the defamatory information. Under Section 46 a refusal to publish a response may be appealed against to a court within a year of the publication of the defamatory information.

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

20. The Resolution (in force at the material time) provided that, in order to be considered damaging, information (*сведения*) 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 such information was understood as the publication of the information or its broadcasting, inclusion in professional references, public speeches, applications to State officials and communication in other forms, including oral, to at least one other person (Section 2). The burden of proof was on the defendant to show that the disseminated information had been true and accurate (Section 7).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

21. The applicant complained under Article 10 of the Convention that the Bryanskiy District Court's judgment of 31 May 2004, upheld on appeal by the Bryanskiy Regional Court on 1 July 2004, had violated his right to express his opinion protected by Article 10 of the Convention. He submitted that the domestic courts had failed to draw a distinction between statements of fact and value judgments and held him responsible for failing to prove the truth of value judgments. Article 10 of the Convention reads 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. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

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, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

A. Admissibility

22. The Government argued that the applicant had failed to exhaust the domestic remedies available to him as he did not apply for supervisory review of the domestic courts' decision.

23. The Court reiterates that an application for supervisory review is not a remedy to be used for the purposes of Article 35 § 1 of the Convention (see *Denisov v. Russia* (dec.), no. 33408/03, 6 May 2004). Therefore, the Government's objection as to the non-exhaustion of domestic remedies must be dismissed.

24. 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

25. The Government submitted that the domestic courts were right to find that the assertions at issue constituted negative judgments and contained insulting passages. At the same time the Government stated that the interference with the applicant's freedom of expression had been justified since the assertions at issue were not value judgments but statements of fact the veracity of which had not been proved by the author.

26. The applicant argued that the Government, like the domestic courts, failed to draw a distinction between statements of fact and value judgments and held him responsible for failing to prove the truth of a value judgment. In particular, the turn of speech "scrape up a fortune" is an idiomatic expression characterised by expressive emotional and metaphorical nature. "... [D]id not chuck him ..." is a sarcastic remark. Finally, the assertion "... they consider him a serf. And serfs need to be reminded from which barn they originate ..." is a value judgment that cannot be true or false.

27. The Court notes that it is common ground between the parties that the judgments adopted by domestic courts in the defamation proceedings constituted an interference with the applicant's right to freedom of expression guaranteed by Article 10 § 1. It is not contested that the interference was prescribed by law, notably Article 152 of the Civil Code, and pursued a legitimate aim, that of protecting the reputation or rights of others, within the meaning of Article 10 § 2. What remains to be established is whether the interference was "necessary in a democratic society".

28. The Court reiterates that the right to freedom of expression enshrined in Article 10 constitutes one of the essential foundations of a democratic society. Subject to paragraph 2, it is applicable not only to "information" or "ideas" which are favourably received or regarded as inoffensive, but also to those which offend, shock or disturb (see, among many other authorities,

Castells v. Spain, 23 April 1992, Series A no. 236, § 42, and *Vogt v. Germany*, 26 September 1995, Series A no. 323, § 52). It comprises, among other things, the right to impart, in good faith, information on matters of public interest, even where this involves damaging statements about private individuals (see, *mutatis mutandis*, *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, ECHR 1999-III). The Court emphasised that the limits of acceptable criticism are wider still where the target is a politician (see *Oberschlick v. Austria (no. 1)*, 23 May 1991, Series A no. 204, § 59).

29. The test of necessity requires the Court to determine whether the interference corresponded to a “pressing social need”, whether it was proportionate to the legitimate aim pursued and whether the reasons given by the national authorities to justify it were relevant and sufficient (see *Lindon, Otchakovsky-Laurens and July v. France* [GC], nos. 21279/02 and 36448/02, § 45, ECHR 2007-...). In assessing whether such a need exists and what measures should be adopted to deal with it, the national authorities are left a certain margin of appreciation. In cases concerning the press, it is circumscribed by the interest of a democratic society in ensuring and maintaining a free press (see *Dalban v. Romania* [GC], no. 28114/95, § 49, ECHR 1999-VI).

30. The Court's task in exercising its supervisory function is not to take the place of the national authorities, but rather to review under Article 10, in the light of the case as a whole, the decisions they have taken pursuant to their margin of appreciation. In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 10 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (see *Dichand and Others v. Austria*, no. 29271/95, § 38, 26 February 2002).

31. In examining the particular circumstances of the case, the Court will take the following elements into account: the position of the applicant, the position of the plaintiff in the defamation claim, the subject matter of the publication and the qualification of the contested statement by the domestic courts (see *Jerusalem v. Austria*, no. 26958/95, § 35, ECHR 2001-II).

32. As regards the applicant's position, the Court observes that he was a journalist and founder of a newspaper. It reiterates in this connection that the press fulfils an essential function in a democratic society. Although it must not overstep certain bounds, particularly in respect of 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. Journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation (see *Dalban*, cited above, § 49).

33. The plaintiff was a member of parliament, who was going to stand in the forthcoming elections. The Court reiterates that the limits of acceptable criticism are wider as regards a politician than as regards a private

individual. Therefore, he was obliged to display a greater degree of tolerance in this context (see, *mutatis mutandis*, *Oberschlick v. Austria* (no. 2), 1 July 1997, *Reports of Judgments and Decisions*, 1997-IV, §§ 31-33).

34. The subject matter of the publication was a leaflet distributed in Bryansk and the Bryansk Region which alleged that the plaintiff, Mr Shandybin, accumulated a fortune by dubious means. The applicant described the contents of the leaflet, speculated on its possible authorship and made his observations on bribery among members of the parliament. The publication was thus part of a political debate on a matter of general and public concern, which is further supported by the fact that the leaflet was discussed in numerous other newspapers and internet news sites (see paragraph 7 above). The Court recalls in this connection that it has been its constant approach to require very strong reasons for justifying restrictions on political speech, since 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 *Süreker v. Turkey* (no. 1) [GC], no. 26682/95, § 61, ECHR 1999-IV).

35. The Court notes that the scope of the defamation proceedings extended not to the publication in its entirety but to the following passages:

“Shandybin scraped up a fortune of more than 13 million dollars.”

“He did not take it, says *Pravda*, Bryntsalov did not chuck him 300,000 dollars for assistance in the sale of medicines either, and 5,000 bucks for an MP's inquiry is unheard of.”

“Thus, nominally these forces are Shandybin's allies, but effectively they consider him a serf. And serfs need to be reminded from which barn they originate, so that they do not put on airs and are obedient.”

36. The Court notes that the Bryanskiy District Court in its judgment of 31 May 2004, which was upheld on appeal in the relevant part by the Bryansk Regional Court on 1 July 2004, observed that the article as a whole and the passages at issue were “strongly indicative of a negative judgment and contain direct emotional judgments which constitute insulting attacks and indirect judgments”. The Court notes in this regard that Russian law on defamation in force at the material time made no distinction between value judgments and statements of fact, as it referred uniformly to “information” («сведения») and proceeded from the assumption that any such information was amenable to proof in civil proceedings (see paragraphs 18 and 20 above). Irrespective of the actual contents of the “information”, the person who disseminated it had to satisfy the courts as to its truthfulness (see *Grinberg v. Russia*, no. 23472/03, § 29, 21 July 2005). Having regard to these legislative provisions, the domestic courts did not embark on an

analysis of whether the applicant's contested statement could have been a value judgment.

37. The Court reiterates in this regard that, according to its established case-law, a distinction has to be drawn between statements of fact and value judgments. 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 *Oberschlick (no. 1)*, cited above, § 63).

38. As regards the first impugned passage, the domestic courts found that it was insulting and damaging to the honour and dignity of the plaintiff and that the applicant failed to prove the contrary. The Court observes that the passage at issue formed part of a phrase where the applicant expressly referred to the leaflet distributed in Bryansk, which stated that Mr Shandybin had made a fortune of more than 13 million dollars, and described its content. The Court is satisfied that the applicant's description corresponded to the substance of the leaflet's contents. In so far as the domestic courts appear to have referred particularly to the expression "scraped up" used by the applicant, the Court finds that this is a colloquial term apparently employed with a view to adding a sarcastic tone to the description.

39. As for the second impugned passage, which described an article published in the newspaper *Pravda* apparently as a response to the leaflet, it was not alleged that the description of its content was inaccurate. It was the form and the tone of the description by the applicant that the domestic courts found to be defamatory, stating that the applicant had ironically used slang words in order to give the assertion a cynical and insulting character and to describe the claimant in a negative light.

40. The Court reiterates in this regard that Article 10 protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed (see *Oberschlick (no. 1)*, cited above, § 57). In the Court's view, the use by the applicant of particular turns of phrase, colloquial expressions or slang words in the passages at issue did not go beyond the degree of exaggeration or provocation permitted by Article 10 (see paragraph 32 above) and consequently did not justify an imposition of restrictions on his right to freedom of expression. Furthermore, the Court notes that whereas Article 152 of the Civil Code refers to "information", the domestic courts held the applicant liable not for the "information" contained in the passages at issue but for the language and style that he had chosen to use. The Court thus finds that their decisions with regard to the first two passages constituted an unjustified restriction of the applicant's freedom of expression.

41. As regards the third impugned passage, the domestic courts held the applicant liable for employing a disapproving and contemptuous tone which

presented Mr Shandybin to the readers in a negative light. The Court observes that in the passage at issue the applicant expressed his personal view on the attitude of other members of parliament towards Mr Shandybin. His personal opinion clearly constituted a value judgment the truthfulness of which could not be proved. The domestic courts thus failed to distinguish between a statement of fact and a value judgment. The word “serf”, obviously used figuratively, was ironically employed by the applicant to add a particular, admittedly rather provocative, colouration to his observations. However, like the figures of speech used in the first two passages, the Court does not find that the boundaries of the protection afforded by Article 10 were exceeded by the applicant in this regard either.

42. In the light of the above considerations the Court finds that the domestic courts failed to establish convincingly any pressing social need for putting the politician's personality rights above the applicant's rights and the general interest in promoting the freedom of the press where issues of public interest are concerned. The fact that the proceedings were civil rather than criminal in nature and that the final award was relatively small does not detract from the fact that the standards applied by the domestic courts were not compatible with the principles embodied in Article 10 since they did not adduce “sufficient” reasons justifying the interference at issue. Therefore, the Court considers that the domestic courts overstepped the narrow margin of appreciation afforded to them for restrictions on debates of public interest and that the interference was disproportionate to the aim pursued and not “necessary in a democratic society”.

43. There has been, accordingly, a violation of Article 10 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

44. 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

45. The applicant claimed 5,000 Russian roubles (RUB) which at the time when the claim was submitted equalled approximately 143 euros (EUR), in respect of pecuniary damage and EUR 5,800 in respect of non-pecuniary damage.

46. The Government contested the claim. In their view, a finding of a violation would constitute sufficient just satisfaction.

47. The Court finds that in the circumstances of the case there is a causal link between the violation found and the alleged pecuniary damage claimed. Consequently, the Court awards the applicant EUR 143 in respect of pecuniary damage, plus any tax that may be chargeable on that amount.

48. The Court accepts that the applicant has also suffered distress and frustration resulting from the judicial decisions incompatible with Article 10 which cannot be sufficiently compensated solely by the finding of a violation of the Convention. Making its assessment on an equitable basis, the Court awards the applicant EUR 5,800 under this head, plus any tax that may be chargeable on that amount.

B. Costs and expenses

49. The applicant did not claim costs and expenses. Accordingly, there is no call to make an award under this head.

C. Default interest

50. 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 application admissible;
2. *Holds* that there has been a violation of Article 10 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, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:
 - (i) EUR 143 (one hundred and forty-three euros) in respect of pecuniary damage;
 - (ii) EUR 5,800 (five thousand eight hundred euros) in respect of non-pecuniary damage;
 - (iii) any tax that may be chargeable on the above amounts;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount[s] at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

Done in English, and notified in writing on 11 February 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President