



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

FIRST SECTION

CASE OF MEDVEDEV v. RUSSIA

(Application no. 9487/02)

JUDGMENT

STRASBOURG

15 July 2010

FINAL

15/10/2010

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

In the case of Medvedev v. Russia,

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

Christos Rozakis, *President*,

Nina Vajić,

Anatoly Kovler,

Elisabeth Steiner,

Khanlar Hajiyev,

Dean Spielmann,

Sverre Erik Jebens, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 24 June 2010,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 9487/02) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Aleksandr Vyacheslavovich Medvedev (“the applicant”), on 27 January 2002.

2. The applicant was represented by Mr A.Y. Yablokov, a lawyer practising in Moscow. The Russian Government (“the Government”) were represented by Mr P. Laptev, former Representative of the Russian Federation at the European Court of Human Rights.

3. Under Articles 3, 5 and 6 of the Convention, the applicant complained of ill-treatment by the police, lack of medical care in pre-trial detention, lack of information about the reasons for his arrest, delay by the court in reviewing the lawfulness of his detention, and unfairness of the criminal proceedings in his criminal case.

4. On 4 May 2006 the Court declared the application partly inadmissible and decided to communicate to the Government the complaints concerning the alleged ill-treatment of the applicant while in police custody and the delay in reviewing his application for release. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. The alleged ill-treatment

5. The applicant was born in 1978 and lives in Moscow.

6. In the early morning of 22 February 2001 the applicant entered the grounds of a furniture depot, where he was spotted by security guards. The guards called the police, and, soon after, the applicant was arrested. He claimed that he had been beaten by the police officers and the guards when he was being arrested. After searching the premises, the police discovered a handgun, allegedly belonging to the applicant. The applicant was taken to Vidnovo police station (Moscow Region) for questioning.

7. The applicant alleges that in the course of the questioning police officers M. and E. tortured him: they put a gas mask over his head and blocked air access, so that he started suffocating. They also hit him with a rubber stick. The applicant agreed to confess to theft and, moreover, to give them money so that they would stop. At about 4 a.m. the applicant went to his flat, accompanied by two police officers, where, at gunpoint, he handed over 5,000 US dollars. Then the police officers returned to the police station with him and he was locked in a cell. However, the policemen promised him that if he confessed to the alleged crimes the town prosecutor would soon release him on bail. The applicant wrote a statement in which he confessed to attempted theft and illegal possession of a handgun.

8. The Government produced an extract from the police station record of arrests. Entry no. 296 concerned the applicant; it read as follows: “22.02.2001/[the applicant] made no complaints [about his condition]/no visible injuries [on him]”.

9. In the afternoon the police instituted criminal proceedings against the applicant on suspicion of theft and illegal possession of a firearm (criminal case no. 39697). In connection with these proceedings the town prosecutor authorised the applicant's pre-trial detention.

10. On 23 February 2001 the applicant met with his lawyer. Through him the applicant transmitted to the town prosecutor a written statement in which he described the circumstances of his arrest, the ill-treatment and extortion of money. According to the applicant, his complaint of ill-treatment was handed to the investigator in charge of his case on that date; however, the case file does not contain any proof of that.

11. On 5 March 2001 the applicant lodged a formal complaint with the town prosecutor about the ill-treatment and extortion, seeking the criminal prosecution of the police officers involved. He also requested to be released

on the grounds that he might easily be subjected to further pressure and physical violence by those police officers while in the pre-trial detention facility.

12. The applicant claimed that, as a result, officers M. and E. had been dismissed from service. The Government confirmed that M. had been dismissed for underperformance and E. had been transferred to another unit. However, neither of these disciplinary measures was related to the events at issue.

13. On 21 May 2001, after a preliminary inquiry into the applicant's allegations of ill-treatment, the town prosecutor decided not to proceed with the investigation. The materials of the inquiry were added to the file in the applicant's case.

14. On 25 May 2001 the Vidnovo town prosecutor issued a bill of indictment in the applicant's case and transmitted it with the case-file to the Vidnovo Town Court for examination on the merits.

15. In July 2001 the applicant's lawyer lodged similar complaints of ill-treatment with the Regional Prosecutor and the Prosecutor General, seeking further investigation into the alleged ill-treatment and extortion. It is unclear whether those complaints were ever examined on the merits. The applicant's complaint in similar terms lodged with the Internal Security Department of the Ministry of the Interior was forwarded to the Moscow Regional Court "for further inquiries". On 5 September 2001 this complaint was forwarded to the Vidnovo Town Court, where it was "added to the case file".

16. After the applicant's conviction on 10 September 2001, his lawyer lodged a new complaint with the prosecutor of the Vidnovo district, seeking the institution of criminal proceedings against officers M. and E. As can be seen from the applicant's submissions, he received no reply to this complaint.

17. On 19 March 2002 the applicant lodged a civil-law complaint about the inaction of the prosecutor of the Vidnovo district before the Vidnovo Town Court, under the provisions of the Judicial Appeals Act (see the "Relevant domestic law" part below).

18. On 29 March 2002 the court returned his complaint unexamined. The Town Court indicated that the complaint had been lodged under the provisions of the Code of Civil Procedure, whereas it should have been lodged in accordance with the provisions of the Code of Criminal Procedure. The Town Court referred to the position of the Plenary Session of the Supreme Court of the Russian Federation, expressed in its Ruling of 21 December 1993 in which the Supreme Court held that decisions of the prosecuting authorities should be challenged by way of a criminal-law complaint.

19. The applicant appealed, claiming that the Town Court's refusal to examine his complaint was unlawful and breached his constitutional right of

access to court. However, on 22 May 2002 the Moscow Regional Court upheld the decision of the Vidnovo Town Court of 29 March 2002. The Court of Appeal confirmed that the decision of the prosecutor not to proceed with the case should have been challenged under the provisions of the Code of Criminal Procedure.

B. Applications for release

20. During the pre-trial investigation of criminal case no. 39697 and the trial of his case before the Vidnovo Town Court the applicant remained in the remand prison. On several occasions he requested the investigator in charge of his case and the town prosecutor to release him. In particular, on 22 March 2001 he lodged an application with the Vidnovo town prosecutor. However, it was refused on the ground that the applicant might abscond or interfere with the course of justice.

21. On 17 April 2001¹ the applicant lodged another application for release with the court. In his application he described the alleged ill-treatment and extortion of money by the police officers. He also referred to various defects in the investigation proceedings and to his poor health and personal circumstances.

22. On 11 May 2001 the Kashira Town Court of the Moscow Region rejected his application, putting forward the following arguments:

“[The applicant] has committed several intentional crimes, including serious ones. This fact is not disputed either by [the applicant] or by his defence counsel. There is no information that the state of his health is incompatible with detention pending investigation. Given this fact and taking into account the fact that Mr Medvedev committed the impugned crime in another district, the Court holds that the investigative authorities have rightly applied detention pending investigation as a preventive measure.”

The applicant was informed in that ruling that he had seven days to lodge an appeal with the Moscow Regional Court.

23. The applicant's lawyer appealed. The applicant indicated that his appeal had been lodged on 14 May 2001; the Government did not dispute that assertion. On 13 June 2001 the appeal was dismissed by the Moscow Regional Court. It appears that neither the applicant nor his lawyer was present at the appeal court hearing. The ruling of the appeal court was very short and dealt with the applicant's arguments summarily.

1. The case file contains two identical applications for release, both addressed to the Kashira Town Court and dated 14 and 17 April 2001 respectively. The Court retains the later date as the date of introduction of the application for release because this is the date indicated in the applicant's submissions.

24. The applicant indicated that he had received a copy of the appeal court's decision in February 2002¹. The Government did not dispute that; they claimed, however, that the case file concerning the application for release before the Kashira Town Court had been destroyed after the expiry of the time-limits established by domestic legislation for the storage of documents in the court's archives. The applicant indicated that under the applicable rules on document management in the Russian courts the case file concerning his application for release should have been kept in the Moscow Regional Court until 2007, so these documents should have been in the possession of the authorities.

C. Trial of the applicant's case

25. On 22 May 2001 the prosecution forwarded the applicant's case, together with the bill of indictment, to the Vidnovo Town Court of the Moscow Region. In the course of the trial the applicant raised the issue of ill-treatment and extortion of money by the police officers before the court as an argument in support of his innocence.

26. On 10 September 2001 the Vidnovo Town Court delivered its judgment. As to the alleged ill-treatment, the court rejected this argument, referring to the inquiry conducted by the Vidnovo town prosecutor at the applicant's request. The court further noted that the security guards at the furniture depot, who had been present at the time of the applicant's arrest, had testified that the applicant had confessed to the alleged theft immediately. So there had been no need to put further pressure on him in order to extort a confession.

27. The court found the applicant guilty of attempted theft but acquitted him of illegal possession of firearms. He was sentenced to eight months' imprisonment.

28. The judgment of 10 September 2001 was subject to appeal to the Moscow Regional Court. However, the applicant did not appeal, allegedly out of fear of reprisals by the police officers implicated in the ill-treatment. Therefore, the conviction became final on 17 September 2001. A supervisory-review appeal by the applicant was rejected by the Moscow Regional Court on 13 December 2001.

29. On 24 October 2001 the applicant was released from prison.

1. From the letter from the Kashira Town Court it appears that copies of the decisions of 11 May and 13 June 2001 were dispatched to the applicant at his request on 30 January 2002

II. RELEVANT DOMESTIC LAW

30. The RSFSR Code of Criminal Procedure (in force until 1 July 2002, “the old CCrP”) established that a criminal investigation could be initiated by an investigator following a complaint by an individual, or on the investigating authorities' own initiative where there was a reason to believe that a crime had been committed (Articles 108 and 125). A prosecutor was responsible for the overall supervision of the investigation (Articles 210 and 211). He could order specific investigative actions, transfer the case from one investigator to another or order an additional investigation. If there were no grounds to initiate a criminal investigation, the prosecutor or investigator issued a reasoned decision to that effect which had to be notified to the interested party. The decision was amenable to appeal to a higher-ranking prosecutor or to a court of general jurisdiction (Article 113 of the old CCrP).

31. Federal Law N 4866-1 on Judicial Review of Acts and Decisions Infringing Individual Rights and Freedoms dated 27 April 1993 (hereinafter “the Judicial Review Act”), provided for a judicial avenue for claims against public authorities. It stated that any act, decision or omission by a state body or official could be challenged before a court of general jurisdiction if it encroached on an individual's rights or freedoms. Such complaints had to be introduced and examined under the rules of the Code of Civil Procedure. Section 3 of the Act provided that this did not apply to situations for which the law established another legal avenue of judicial review. The Ruling of the Plenary Session of the Supreme Court of the Russian Federation of 21 December 1993 (no. 10) specified that a civil-law complaint, provided for by the Judicial Review Act, was not an appropriate legal remedy against decisions of the prosecution authorities taken within the criminal proceedings. Such decisions were to be challenged under the provisions of the Code of Criminal Procedure.

32. On 29 April 1998 the Constitutional Court of the Russian Federation invalidated Article 113 § 4 of the Code because it did not allow for judicial review of a prosecutor's or investigator's refusal to institute criminal proceedings. The Constitutional Court ruled that Parliament should amend the legislation on criminal procedure by inserting a possibility of review. It also held that until such amendments were enacted, the national authorities, including courts, should directly apply Article 46 of the Constitution requiring a judicial review of administrative acts. The ruling was published in May 1998.

33. Under the old CCrP a decision to detain someone pending investigation or trial could be taken by a prosecutor or a court (Articles 11, 89 and 96). If the detention order was issued by a prosecutor, the detainee or his counsel could challenge the detention order before a court. The judge was required to review an order for detention or its extension no later than

three days after receipt of the relevant papers. The review had to be conducted in camera in the presence of a prosecutor and the detainee's counsel (Article 220-1). An appeal against a decision of a first-instance court (including an order authorising, confirming or extending pre-trial detention) lay to a higher court. It had to be lodged within ten days and examined within the same time-limit as an appeal against a judgment on the merits (Article 331 of the CCrP).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

34. The applicant claimed that after his arrest police officers had ill-treated him in order to make him confess to the alleged crimes and pay them money. His complaints to the prosecutor and the courts in that connection had been left without proper examination. Article 3 of the Convention, referred to by the applicant on that account, reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

35. The Government put forward two objections. Firstly, they claimed that the applicant had failed to exhaust domestic remedies. He had submitted his appeal against the alleged inaction of the Vidnovo town prosecutor as a civil-law claim instead of a criminal-law complaint (see the ruling of the Vidnovo Town Court of the Moscow Region of 29 March 2002). Secondly, the Government claimed that the applicant had not been ill-treated and that his allegations in that respect were completely unsubstantiated. They stated that the applicant had not sought medical aid during his detention at the police station.

36. The applicant submitted that a civil-law complaint was a valid attempt to avail himself of a remedy in the circumstances and that his complaint should have been examined by the Vidnoye Town Court on the merits. He further insisted that his account of the events of 22-23 February 2001 was accurate. In support he referred to the written submissions of his relatives and neighbours.

37. The Court will examine the Government's objection on non-exhaustion first. The Court observes that the applicant's allegations of ill-treatment were considered by the town prosecutor, who did not find a *prima facie* case of ill-treatment, and by decision of 21 May 2001 decided not to institute criminal proceedings. Pursuant to Article 113 of the old Code of Criminal Procedure, which was in force at the material time, that

decision was amenable to appeal to a higher prosecutor or a court of general jurisdiction.

38. As regards an appeal to a higher prosecutor, the Court recalls its well-established case-law according to which in the Russian legal context a hierarchical appeal to a higher prosecutor is not an effective remedy for complaints about beatings by the police (see *Belevitskiy v. Russia*, no. 72967/01, § 60, 1 March 2007; see *Slyusarev v. Russia* (dec.), no. 60333/00, 9 November 2006). On the other hand, challenging before a court of general jurisdiction a prosecutor's decision not to investigate complaints of ill-treatment, as provided by Article 113 of the old CCrP, was regarded by the Court as an effective remedy to be exhausted in order to comply with the requirements of Article 35 of the Convention (see *Belevitskiy*, cited above, § 61).

39. In the present case the applicant did not make use of the criminal-law complaint provided for by Article 113 of the CCrP. Instead, he preferred to raise the ill-treatment issue before the trial court which had determined the criminal charge against him and to bring a civil-law complaint under the Judicial Review Act (see “Relevant Domestic Law”, above). It remains to be seen whether he was thereby dispensed from pursuing an ordinary judicial appeal against the prosecutor's decision not to investigate the ill-treatment complaints.

40. As to the first legal avenue, even assuming that the trial court was capable of addressing the issues raised by the applicant under Article 3 of the Convention (see *Akulinin and Babich v. Russia*, no. 5742/02, §§ 25 et seq., 2 October 2008), the Court notes that the applicant failed to lodge an appeal against the judgment of 10 September 2001 (see in this respect the partial inadmissibility decision of 4 May 2006 in the present case).

41. As to the civil-law complaint lodged by the applicant, the Court observes that on 29 March 2002 the Vidnovo Town Court indicated to the applicant that it was not an appropriate remedy. The position of the Vidnovo Town Court was based on the Judicial Review Act of 27 April 1993 and the Ruling of the Supreme Court of 21 December 1993 which provided that decisions of a prosecutor should be challenged by way of a criminal-law complaint. The Town Court advised the applicant of the proper legal avenue. The Court notes that the applicant was not at that moment of time detained and was legally represented. In such circumstances it is unclear why he preferred not to lodge a criminal-law complaint under Article 113 of the old CCrP, but to insist on examination of his civil-law complaint.

42. In sum, having regard to the fact that the applicant neither brought a criminal-law complaint under Article 113 of the old CCrP, nor challenged the findings of the trial court in his case before the Court of Appeal, the Court concludes that the applicant did not use the appropriate remedies and the Government's objection should therefore be upheld.

43. It follows that the complaint under Article 3 about the alleged ill-treatment of the applicant by the police officers must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

II. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

44. Under Article 5 § 4 the applicant complained that it had taken the Kashira Town Court and the Moscow Regional Court too long to hear his appeal against the detention order. Article 5 § 4, referred to by the applicant, reads as follows:

“4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. ...”

A. The parties' submissions

45. The Government put forward two objections. Firstly, they claimed that the complaint about the length of the bail proceedings should be dismissed for non-exhaustion. In their opinion, the applicant should have appealed against the judgment on the merits of the case against him (judgment of the Vidnovo Town Court of 10 September 2001). Secondly, they claimed that the length of the proceedings in which the application for release had been examined was not excessive.

46. The applicant maintained his original complaints. He claimed that he had lodged his application for release on 22 March 2001 – first before the Vidnovo town prosecutor and then before the Kashira Town Court of Moscow, and then the Moscow Regional Court. His applications to the court were examined with a substantial delay. He maintained that he had not received a copy of the ruling of the Moscow Regional Court of 13 June 2001 until February 2002.

B. The Court's assessment

1. Admissibility

47. As for the Government's non-exhaustion plea, the Court does not agree with the Government that the judgment of 10 September 2001 on the merits of the charges against the applicant should be regarded as the “final decision” in the context of the bail proceedings (the examination of his application for release). The purpose of that judgment was to determine the applicant's guilt, not to review the lawfulness of his detention pending trial or the speediness of the examination of the applications for release.

Therefore, the fact that the applicant did not appeal against the judgment on the merits is irrelevant and the Government's objection should therefore be dismissed.

48. The Court notes that the complaint about the length of the examination of the application for release 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.

2. Merits

49. The Court notes that the applicant's contention that the first application for release was made on 22 March 2001 is not supported by any documentary evidence. On that date the defence lawyer made an application to the Vidnovo town prosecutor seeking the applicant's release. The Court observes that Article 5 § 4 deals with judicial proceedings; it does not guarantee access to non-judicial forms of review of the lawfulness of detention. A prior complaint to the prosecutor under Russian law was not a pre-requisite for the judicial review of the lawfulness of the detention: those remedies could have been pursued in parallel. In such a situation Article 5 § 4 starts to apply from the time when the applicant has recourse to judicial remedies – in the present case, that starting point was 17 April 2001, when the applicant lodged his application for release with the Kashira Town Court.

50. The application for release was finally rejected by the Moscow Regional Court on 13 June 2001. Therefore, it took the domestic authorities fifty-four days to examine the application for release. Furthermore, the Court takes into account the fact that the applicant was not informed about the decision taken on his application until February 2002 (see, *mutatis mutandis*, *Zaytsev and Others v. Russia*, no. 42046/06, § 38, 25 June 2009, with further references).

51. The Court reiterates that Article 5 § 4 provides that “the lawfulness of the detention shall be decided *speedily*” (emphasis added). There are two aspects to this “speediness” requirement: firstly, an opportunity for legal review must be provided soon after the person is taken into detention and, if necessary, at reasonable intervals thereafter (see *Herczegfalvy v. Austria*, September 1992, § 75, Series A no. 244). Secondly, the review proceedings must be conducted with due expedition (see *Lebedev v. Russia*, no. 4493/04, § 78, 25 October 2007). The applicant's complaint in the present case concerns this second aspect of the “speediness” requirement.

52. The question whether a person's right to a “speedy review” of his applications for release has been respected will be determined in the light of the circumstances of each case; in complex cases the examination of an application for release may take more time than in simple ones. In *Baranowski v. Poland* (no. 28358/95, ECHR 2000-III), it took the domestic

courts five months to examine an application for release. In that case the Government showed that the domestic court had commenced the examination of the first application for release as early as the day after it had been submitted and that, subsequently, it had on five occasions adjourned the examination of the relevant applications because evidence had to be taken from three experts. However, despite these arguments, the Court found a violation of Article 5 § 4. In the *Samy v. the Netherlands* case (no. 36499/97, decision of 4 December 2001) concerning the detention of aliens for the purposes of expulsion, the Court found that a period of twenty-five days was compatible with Article 5 § 4. By contrast, in the *Rehbock v. Slovenia* case (no. 29462/95, § 85, ECHR 2000-XII), the Court found that the application for release had been examined twenty-three days after it had been introduced before the first-instance court, and that that was not a “speedy” examination as required by Article 5 § 4. A delay of seventeen days has also been declared incompatible with this provision (see *Kadem v. Malta*, no. 55263/00, § 43, 9 January 2003).

53. Turning to the present case, the Court notes that it took the first-instance court twenty-four days to examine the application for release. This delay cannot be explained by the complexity of the case: the court's ruling on the application for release was very short and did not address most of the arguments raised by the defence. The Government did not refer to any factors which might account for the delay. Furthermore, it took the Moscow Regional Court another thirty days to examine the appeal (if calculated from the date when the appeal was lodged). For want of any explanation from the Government, this period by itself raises an issue under Article 5 § 4 of the Convention (see *Lebedev*, cited above, §§ 97 and 102). Finally, the Court notes that it took the domestic authorities over seven and a half months to notify the applicant of the decision taken.

54. The Court concludes, having regard to the overall duration of the proceedings in the present case, that the review of the application for release was unduly delayed. Accordingly, there has been a violation of Article 5 § 4 on that account.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

55. 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

56. Under the head of pecuniary damage the applicant claimed 5,000 US dollars - the amount allegedly taken from him by police officers M. and E. after his arrest in 2001. He further claimed 40,000 euros (EUR) in respect of non-pecuniary damage caused by the alleged ill-treatment, unjust criminal prosecution and unlawful detention.

57. The Government considered those claims irrelevant to the Court's findings on admissibility and, in any event, unsubstantiated and excessive.

58. The Court notes that it found most of the applicant's allegations unfounded or inadmissible on formal grounds. It found a violation of the applicant's Convention rights solely under the head of excessive length of bail proceedings (Article 5 § 4 of the Convention). In the light of the above, the amounts claimed by the applicant are irrelevant to the violation found by the Court and in any event excessive. Ruling on an equitable basis, and in the light of all the material in its possession, the Court awards the applicant EUR 600 (six hundred euros) under the head of non-pecuniary damage plus any tax that may be chargeable to the applicant on that amount.

B. Costs and expenses

59. The applicant claimed EUR 4,700 for legal costs incurred in the Strasbourg proceedings and 23,386 Russian Roubles (RUR) for postal expenses and translation costs. He submitted documents supporting those claims.

60. The Government considered that the claims were excessive and unsubstantiated.

61. The Court reiterates that, according to its established case-law, an award can be made in respect of costs and expenses only in so far as they have been actually and necessarily incurred by the applicant and are reasonable as to quantum (see, among other authorities, *Nikolova v. Bulgaria* [GC], no. 31195/96, § 79, ECHR 1999-II, and *Smith and Grady v. the United Kingdom* (just satisfaction), nos. 33985/96 and 33986/96, § 28, ECHR 2000-IX). Furthermore, legal costs are only recoverable in so far as they relate to the violation found (see, for example, *Beyeler v. Italy* (just satisfaction) [GC], no. 33202/96, § 27, 28 May 2002, and *Sahin v. Germany* [GC], no. 30943/96, § 105, ECHR 2003-VIII).

62. In the light of its findings on the admissibility and merits of the present application, the documents submitted by the applicant in support of his claims, and other relevant information and material, the Court considers it appropriate to award the applicant EUR 600 (six hundred euros) in respect of costs and expenses, plus any tax that may be chargeable to the applicant on that amount.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint under Article 5 § 4 of the Convention concerning the speediness of the judicial review of the applicant's application for release admissible, and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 5 § 4 of the Convention on account of the delayed judicial review of the applicant's application for release;
3. *Holds*:
 - (a) that the respondent State is to pay the applicant, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 600 (six hundred euros) in respect of non-pecuniary damage, and EUR 600 (six hundred euros) in respect of costs and expenses, to be converted into Russian roubles at the rate applicable on the date of settlement, plus any tax that may be chargeable to the applicant on those amounts;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 15 July 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President