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

THIRD SECTION

DECISION

Application no. 39630/03
Gennadiy Borisovich RUSAKOV
against Russia

The European Court of Human Rights (Third Section), sitting on 17 January 2017 as a Committee composed of:

Branko Lubarda, *President,*
Pere Pastor Vilanova,
Georgios A. Serghides, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 25 October 2003,

Having regard to the declaration submitted by the respondent Government on 18 March 2016 requesting the Court to strike the application out of the list of cases,

Having regard to the parties' observations,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Gennadiy Borisovich Rusakov, is a Russian national who was born in 1960 and lives in Khlebnoye, in the Voronezh Region. He was represented before the Court by Mr D. Saprykin, a lawyer practising in Voronezh.

2. The Russian Government ("the Government") were initially represented by Ms V. Milinchuk, and subsequently by Mr G. Matyushkin, the former and current Representatives of the Russian Federation to the European Court of Human Rights.

3. The applicant alleged, in particular, that his pre-trial detention had been unjustified and too long, and the conditions of his pre-trial detention had been appalling. He also stated that: his detention between 19 and 21 February 2003 had not had any legal basis; the domestic authorities had not ensured his attendance at the first-instance hearing of 21 February 2003

and at several sets of appeal proceedings concerning the extension of his detention; the criminal proceedings against him had been excessively lengthy; and his correspondence with the Court and other addressees had been delayed and inspected by the remand prison authorities.

4. This part of the application was communicated to the Government.

A. The applicant's arrest, detention and criminal proceedings

5. On 25 May 2001 the Abdulinskiy District Department of the Interior of the Orenburg Region instituted criminal proceedings against the applicant in relation to fraud. On 3 September 2001 he was arrested in the Voronezh Region. His detention was extended first by a prosecutor and then by domestic courts on several occasions. In particular, by the decision of 16 January 2003, as amended on 20 January 2003, the first-instance court extended the applicant's detention for three months. On 19 February 2003 the appeal court quashed that extension. On 21 February 2003 the first-instance court issued a new decision ordering the extension of the detention as of 16 January 2003. On 24 May 2004 the Leninskiy District Court of Voronezh convicted the applicant of six counts of fraud and sentenced him to three years' imprisonment. On 26 August 2004 the Voronezh Regional Court upheld the conviction on appeal. On 2 September 2004 the applicant was released from detention, as his term of imprisonment had expired.

6. Between 21 September 2001 and 26 March 2002 the applicant was detained in remand centre IZ-56/1 in Orenburg. Between 5 and 21 September 2001, and between 26 March 2002 and 2 September 2004, he was held in remand centre IZ-36/1 in Voronezh. Along with several other documents, the Government submitted a list of cells in which the applicant had been detained. In particular, between 18 November 2002 and 24 May 2003 he was held in cell no. 189, and between 17 July and 17 September 2002 he was held in cell no. 188 of remand centre IZ-36/1 in Voronezh.

B. The applicant's state of health and medical assistance in detention

1. Remand centre IZ-56/1 in Orenburg

7. According to the applicant, he had to share cells with inmates who suffered from various contagious diseases. In October 2001 he contracted scabies. From 25 September 2001 until February 2002 he shared a cell with inmates who were HIV-positive.

8. The Government submitted that the detention facility's book which recorded medical examinations had been destroyed, owing to the expiry of storage time-limits. They submitted certificates dated 2 August 2007 from the local office of the Federal Prison Service confirming that, in the period

2001-2002, the Orenburg detention facility had had all necessary equipment, and at no point had the applicant shared a cell with either HIV-positive inmates or people suffering from syphilis, tuberculosis or hepatitis.

2. Remand centre IZ 36/1 in Voronezh

(a) The applicant's version of events

9. According to the applicant, he suffered from polyarthritis, headaches and hypertension, as well as from unspecified bowel and spleen diseases when detained in the Voronezh remand prison. He had not suffered from any of those diseases before his arrest. His eyesight deteriorated during his detention. He had to buy medicines at his own expense, owing to a lack of funds at the remand centre. He submitted a written statement from his parents to the effect that they had had to buy medicines, such as painkillers and medicines to treat allergies, for the applicant during his detention in Voronezh. Except for aspirin and analgesics, nothing had been available at the remand centre medical unit.

10. A medical certificate of 27 May 2002 reveals that the applicant was suffering from chronic bronchitis, gastritis and a pilonidal cyst. He was placed in "outpatient supervision" by the remand centre doctors. He did not approach the medical units with any complaints or requests for medical care, and had no need of surgery.

11. On 12 September 2002 the prosecutor's office held an inquiry into a complaint by the applicant's lawyer regarding inadequate medical assistance, and established that on 3 July 2002 the applicant had been diagnosed with scabies. He had been isolated from the other prisoners and had undergone medical treatment. Some of his medicines had been bought by his mother. He had also requested an examination by a dermatologist on 5 and 9 August 2002, but had refused to undergo such an examination on all subsequent occasions. The prosecutor interviewed the applicant. The applicant did not maintain his complaint and there were no visual traces of scabies on him. The prosecutor concluded that the applicant had received requisite and prompt medical treatment.

(b) Information provided by the Government

12. Upon arriving at the Voronezh Remand Centre following his arrest, the applicant underwent a comprehensive medical examination by a general practitioner, a dentist and a dermatologist, who did not diagnose him with any conditions.

13. In November 2001 the applicant received treatment for bronchitis. On 2 July 2003 and on three more occasions on 17, 19 and 20 December 2003 he received treatment for tracheitis. Each time, prison doctors gave him medication and he felt better. On 19 November and 14, 24, 26 and

29 December 2001 he was examined by a dermatologist and received medical treatment for eczema, scabies and dermatitis. On 3 January 2002 the dermatologist examined the applicant and observed that his condition had improved. On 11 March 2002 he was again seen by a dermatologist in connection with dermatitis, and on 2 July 2002 he complained to the medical unit about scabies. Each time, he was prescribed medical treatment and his condition improved. On 11 March 2003 he was seen by a general practitioner, who concluded that he was in good health. On 4 September 2003 he was examined by a surgeon in connection with a complaint regarding pain in his left knee. On an unknown date the applicant was diagnosed with arthrosis of his left knee joint. On 29 September 2003 he requested an examination by a surgeon, but refused to undergo the examination.

14. Between 4 and 8 April 2003, and between 10 and 25 March 2004, the applicant went on two hunger strikes. He was supervised by a general practitioner, an infectious disease specialist, and a psychiatrist. On 12 April 2004 he attempted to slit his wrists, and was immediately taken to the remand prison's medical unit. He received preliminary surgical treatment and haemostasis, and an antiseptic bandage was applied. He received treatment until 28 April when the injuries had completely healed.

15. With reference to a letter from the Federal Prison Service, the Government submitted that the medical unit of the Voronezh Remand Centre had been supplied with all necessary medicines at the relevant time.

C. The applicant's correspondence

1. The applicant's version of events

(a) Remand centre IZ-56/1 in Orenburg

16. According to the applicant, his correspondence, including his complaints regarding his unlawful arrest and the conditions of his detention, was destroyed by the remand centre officers, and almost none of the letters and complaints which he sent from the detention facility reached their addressees. He did not provide further details in support of these submissions.

(b) Remand centre IZ-36/1 in Voronezh

17. According to the applicant, the authorities of remand centre IZ-36/1 censored his correspondence, and on several occasions refused to dispatch his letters to his relatives, lawyers and other addressees. Without giving any specific examples of such censorship or failures to post correspondence, he provided his own handwritten record of his complaints, including outgoing correspondence and follow-up letters. It appears from his notes that he made dozens of complaints to various domestic authorities. It is unclear which of

them were sent by post, or given to relatives or lawyers for dispatching, or raised during the trial.

18. At some point in October 2003 the applicant submitted his preliminary letter addressed to the Court to the remand centre authorities for dispatching. On two occasions the authorities returned the letter to him without any explanation. On 25 October 2003 he sent a copy of his preliminary letter to the Court, apparently through an informal channel. That letter reached the Registry.

19. On the same date the applicant again submitted his letter addressed to the Court for dispatching. On 27 October 2003 the remand centre authorities opened the letter and returned it to him, accompanied by a short handwritten note signed by an unspecified person. The note read:

> "[You are] held in custody lawfully. [We] do not send complaints to this institution."

20. The envelope was damaged. The applicant has submitted copies of the letter, the envelope and the note.

21. On 28 October 2003 the applicant sent a new letter to the Court through an informal channel, and enclosed, among other things, a copy of the refusal note of 27 October 2003. The Registry received the letter and the enclosures. On 15 January 2004 the applicant received the Court's application form, which had been sent to the remand centre, and completed it. He submits that the authorities refused to accept the completed application form for dispatching, arguing that they did not have the right to send any correspondence to the Court. On 17 March 2004 the application form with enclosures, dated 19 January 2004, was dispatched through an informal channel, and on 1 April 2004 the documents reached the Court.

22. The applicant submitted the following statements dated 2007 from his inmates in support of his submissions:

- Witness G. stated that for two months in 2003 he had shared cell no. 189 with the applicant, and had subsequently been detained in cells nearby, that "it had been in summer 2003", and that "on one occasion [the applicant had] received a letter from the Court in [his] presence, and the envelope had been opened".

- Witness S. made identical submissions, to the effect that he had shared cell no. 189 with the applicant, and had then been transferred to different cells, and that on one occasion he had seen the applicant receiving an envelope from the Court which had already been opened.

- Witness M. stated that he had shared cells nos. 188 and 189 with the applicant, and "remembered how on one occasion the applicant's letter to the Court had been returned to him" with a note saying that he was being detained in accordance with law, and that the complaint would not be dispatched.

23. All those witnesses, as well as cellmates Ch. and Z., the applicant's parents, and the parents of some other inmates submitted, in general terms and using the same stereotyped formulae, that the prison authorities routinely opened the detainees' outgoing letters, and did not accept for dispatch complaints regarding the conditions of detention.

2. The Government's version of events

24. According to the Government, the applicant sent fifty-nine complaints to various domestic authorities throughout his detention period. That correspondence was not censored and was promptly dispatched to the relevant addressees. The Government submitted a copy of the prison logs of incoming and outgoing correspondence in support of their submissions, as well as copies of the authorities' replies to the applicant's many complaints.

25. The applicant did not send any correspondence to the European Court through official channels during his detention in IZ-36/1. With reference to certificates from the remand centre authorities, there was no information on any delays in dispatching the correspondence, or any refusal to accept letters to the Court. The authorities were not involved in the incident of 27 October 2003.

THE LAW

A. Alleged violations of Article 3, Article 5 § 1, Article 5 § 3, Article 5 § 4, Article 6 § 1 and Article 13 of the Convention

26. The applicant complained under: Article 3 of the Convention regarding the unsatisfactory conditions of his detention in the remand centres in Voronezh and Orenburg; Article 5 § 1 regarding his detention between 19 and 21 February 2003 in the absence of a judicial decision; Article 5 § 3 regarding the excessive length of his pre-trial detention; Article 5 § 4 regarding several hearings concerning the extension of his detention which were held in his absence; Article 6 § 1 of the Convention regarding the excessive length of the criminal proceedings against him; and Article 13 regarding the lack of effective remedies in respect of his complaints under Article 3 and Article 6 § 1 of the Convention.

27. By a letter of 24 August 2016 the Government proposed to make a unilateral declaration, with a view to resolving various issues raised under the Convention, which read as follows:

> "I ..., the Representative of the Russian Federation at the European Court of Human Rights, hereby declare that the Russian authorities acknowledge that, between 4 September 2001 and 2 September 2004, Gennadiy Borisovich Rusakov was detained in IZ-56/1 facility of the Orenburg Region and IZ-36/1 facility of the

> Voronezh Region in the conditions, which did not comply with the requirements of Article 3 of the Convention; between 19 and 21 February 2003, he was detained without a judicial decision in violation of Article 5 § 1 of the Convention; between 4 September 2001 and 24 May 2004, he was detained in violation of Article 5 § 3 of the Convention; the judicial decisions extending his detention were delivered in his absence in violation of Article 5 § 4 of the Convention; the duration of the criminal proceedings against him did not comply with the "speediness" requirement of Article 6 § 1 of the Convention; as well as he did not have effective remedies as required by Article 13 of the Convention.
>
> The Government are ready to pay the applicant a sum of EUR 14,500 as just satisfaction.
>
> The Government therefore invite the Court to strike the present case out of the list of cases. They suggest that the present declaration might be accepted by the Court as 'any other reason' justifying the striking the case out of the Court's list of cases as referred to in Article 37 § 1 (c) of the Convention.
>
> The sum referred to above, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the Convention. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.
>
> This payment will constitute the final resolution of the case."

28. The applicant, who was invited to comment, did not submit a reply.

29. The Court reiterates that Article 37 § 1 (c) of the Convention enables it to strike a case out of its list if:

> "... for any other reason established by the Court, it is no longer justified to continue the examination of the application."

30. The Court also points out that, in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government, even if the applicant wishes the examination of the case to be continued.

31. To this end, the Court will examine the declaration carefully in the light of the principles established in its case-law, in particular the judgment in *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI.

32. The Court is satisfied that the Government did not dispute these allegations made by the applicant, and explicitly acknowledged the breaches of Article 3, Article 5 § 1, Article 5 § 3, Article 5 § 4, Article 6 § 1 and Article 13 of the Convention as claimed by him.

33. As to the intended redress to be provided to the applicant, the Government have undertaken to pay 14,500 euros in respect of pecuniary and non-pecuniary damages, costs and expenses. The Court notes that the amount proposed corresponds to the awards made by the Court in similar

cases. The Government have committed themselves to effecting payment of that sum within three months of the Court's decision, with default interest to be payable in the event of a delay in settlement.

34. The Court notes that it has repeatedly found violations of: Articles 3 and 13 of the Convention on account of inadequate conditions of detention in Russian custodial facilities (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 200, 10 January 2012); Article 5 § 1 in respect of detention in the absence of a judicial decision and *ex post facto* extension of a detention period (see *Khudoyorov v. Russia*, no. 6847/02, §§ 141-43, ECHR 2005-X (extracts)); Article 5 § 3 on account of the excessively long pre-trial detention of applicants in the absence of relevant and sufficient reasons (see, among many other authorities, *Dirdizov v. Russia*, no. 41461/10, § 108, 27 November 2012); Article 5 § 4 in respect of the delayed examination of appeals against extensions of detention (see, among others, *Mamedova v. Russia*, no. 7064/05, § 96, 1 June 2006); Article 6 § 1 in respect of the excessive length of criminal proceedings (see, among others, *Nakhmanovich v. Russia*, no. 55669/00, 2 March 2006); and Article 13 regarding the lack of an effective domestic remedy in respect of length-of-proceedings complaints at the material time (see *Kormacheva v. Russia*, no. 53084/99, § 64, 29 January 2004) and the conditions of detention (see *Ananyev*, cited above, §§ 100-19 and numerous follow-up cases). It follows that the complaints raised in the present application are based on the clear and extensive case-law of the Court.

35. The Court further notes that the Committee of Ministers remains competent to supervise, in accordance with Article 46 § 2 of the Convention, the implementation of judgments concerning the same issues. Therefore, the Court is satisfied that the respect for human rights, as defined in the Convention (Article 37 § 1 *in fine*), does not require it to continue the examination of this part of the application. In any event, the Court's decision is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, this part of the application to its list of cases should the Government fail to comply with the terms of their unilateral declaration (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008, and *Aleksentseva and 28 Others v. Russia* (dec.), nos. 75025/01 and 28 others, 23 March 2006). The Court therefore considers that it is no longer justified to continue the examination of this part of the case.

36. In view of the above, it is appropriate to strike out of the list this part of the case in so far as it concerns the complaint under: Article 3 regarding the unsatisfactory conditions of the applicant's detention in remand centre IZ-36/1 in Voronezh and remand centre IZ-56/1 in Orenburg; Article 5 § 1 regarding the applicant's detention in the absence of a judicial decision between 19 and 21 February 2003; Article 5 § 3 regarding the excessive length of his pre-trial detention until 24 May 2004; Article 5 § 4 regarding the extension of his detention in his absence; Article 6 § 1 of the

Convention regarding the excessive duration of the criminal proceedings against him; and Article 13 regarding the lack of effective remedies in respect of his above complaints under Article 3 and Article 6 § 1 of the Convention.

B. Other alleged violations of the Convention

1. Alleged violation of Article 3 of the Convention on account of the lack of medical assistance in detention

37. The applicant complained under Article 3 of the Convention that he had not been provided with adequate medical assistance in detention. Article 3 of the Convention reads:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

38. The Government insisted that the applicant had been regularly examined by the prison doctor and specialist doctors in both detention facilities, and had received treatment. His state of health had been monitored by medical staff and had remained satisfactory during his entire stay in the detention centres. The doctors had reacted without delay to all of his complaints and symptoms by providing adequate treatment. His complaint to a prosecutor had been examined and dismissed as unfounded. Furthermore, he could have claimed compensation for health damage in civil proceedings after his release from detention, but had not done so.

39. As regards the non-exhaustion argument, the Court reiterates that the Russian legal system does not offer an effective remedy for an alleged violation or its continuation in respect of allegedly inadequate medical assistance in detention, which could provide the applicant with adequate and sufficient redress. Accordingly, the Court dismisses the objection in this respect (see *Dirdizov*, cited above, §§ 80-90). In any event, and having regard to the relevant general principles as summarised in *Ivko v. Russia* (no. 30575/08, §§ 89-95, 15 December 2015), the Court is bound to conclude that this part of the complaint is manifestly ill-founded, for the following reasons.

40. As regards the period of the applicant's detention in remand centre IZ-56/1 in Orenburg, it ended on 26 March 2002, that is more than six months before his application to this Court. In any event, his submissions concerning the alleged lack of medical care during the impugned period are extremely vague, and he did not submit any details or documents in support of those submissions. Similarly, his submissions to the effect that he had to share cells with people who were HIV-positive and inmates suffering from various contagious diseases lack any substantiation. The Court concludes that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

41. As regards the applicant's detention in Voronezh remand prison, the medical records show that, during the relevant period of his detention, he regularly sought and obtained medical attention. He was regularly examined by specialists, including a psychiatrist, a dermatologist, and a surgeon, and furthermore on several occasions he refused to undergo the examinations which he had requested. Each time he was unwell he was examined by a doctor and was prescribed treatment which was effective (see paragraphs 13-14 above). There is no reason to believe that the treatment administered to him was inadequate. As regards the certificate of 27 May 2002, provided by the applicant, which mentioned a pilonidal cyst (see paragraph 10 above), that diagnosis was not corroborated subsequently in any other medical documents and, in any event, at no stage did the applicant raise any specific complaint as regards the medical treatment of that condition. Rather, he disputed the adequacy of his treatment in general. However, he did not provide any medical opinion confirming his point of view. Given that his health was monitored by medical professionals and that he received regular treatment, the Court considers that the applicant was provided with the requisite medical assistance during the entire period of his detention (see *Ivakhnenko v. Russia*, no. 12622/04, §§ 46-50, 4 April 2013).

42. Finally, as regards the complaint concerning an alleged lack of medicines in the detention facilities, the unavailability of necessary medicines may only raise an issue under Article 3 if it has negative effects on an applicant's state of health, or causes suffering of a certain intensity (see *Mirilashvili v. Russia* (dec.), no. 6293/04, 10 July 2007). The applicant failed to explain how he had been affected by the alleged shortage of medicines in the detention facility, and the Court cannot conclude that his state of health was affected by a lack of certain unspecified medicines in detention to an extent which caused him suffering reaching the level of severity amounting to inhuman or degrading treatment (see *Ivakhnenko*, cited above, § 51).

43. It follows that this part of the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

2. Alleged violation of Article 8 of the Convention and hindrance of the exercise of the right of individual petition under Article 34

44. The applicant complained under Article 8 § 1 that the prison staff of the remand centres in Orenburg and Voronezh had censored his correspondence with various domestic authorities, and had on several occasions refused to dispatch his unspecified letters to authorities, relatives, lawyers and other addressees. He further complained under Article 8 that in the period 25-27 October 2003 the remand centre authorities had refused to dispatch his letters to the Court.

The relevant Convention provisions read:

Article 8

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 34

"The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

45. The Government argued that there had been no interference with the applicant's right to correspondence. They submitted that his allegations were inaccurate and his correspondence had been posted promptly. The remand centre officers acted in strict compliance with the internal rules of remand prisons (enacted by Decree no. 148 of the Ministry of Justice of 12 May 2000) providing that letters to public authorities were not subject to censorship. The applicant had been able to lodge complaints about several aspects of his detention with various domestic authorities, and had made use of this opportunity effectively. Throughout the whole period of his detention in the two remand centres he had sent fifty-nine letters to different recipients, including the prosecutor's office and various courts, and had received replies in good time. The Government submitted copies of the correspondence logs of the respective remand centres. They denied hindering the effective exercise of the applicant's right of petition in either of the two detention facilities in question. They stated that the authorities had in no way been involved in the incident of 27 October 2003.

46. The applicant did not comment on the Government's submissions. He provided witness statements from his inmates, which were summarised in paragraph 22 above.

(a) Article 34

47. The Court will first examine the allegations regarding the hindrance of the exercise of the applicant's right of individual petition. Turning to the circumstances of the present case, the Court notes that his allegations about the failure to dispatch his first letter in October 2003 are not sufficiently substantiated. They are directly contested by the arguments and evidence submitted by the Government. Above all, the evidence submitted by the applicant appears inconsistent. Indeed, the applicant complains of the alleged failure to accept his application form during the period 25-27 October 2003, and refers to his inmates' corroborating testimonies in

support of this complaint. However, it is apparent both from the documents submitted by the Government, which are not disputed by the applicant, and from the witnesses' own submissions, that the inmates shared cells nos. 188 and 189 with the applicant until 24 May 2003 (see paragraph 6 above). It is therefore unclear how they could have witnessed the events of 27 October 2003. Similarly, at least two inmates claiming to have shared the above cells with the applicant until May 2003 or "summer 2003" (see paragraph 22 above) made corroborating statements that they had seen the authorities giving the applicant a letter from the Court which had already been opened. However, the Court did not send any correspondence to him before 17 December 2003. Regard being had to those apparent inconsistencies, the Court is unable to accept the witness statements as reliable. Finally, the Court notes that it received the application form and all other letters referred to by the applicant without any undue delay.

48. Therefore, in relation to the present application, the Court considers that there is an insufficient factual basis on which to conclude that there has been any unjustified interference by the State authorities with the applicant's exercise of the right of petition in the proceedings before it.

49. In the light of the above, the Court considers that an alleged breach of the State's obligation under Article 34 of the Convention has not been established.

(b) Article 8

50. As regards the alleged refusals of the officials of the remand centre in Orenburg to accept the applicant's letters and complaints for dispatch, the Court notes that the applicant's detention in Orenburg ended on 29 March 2002, more than six months before the date of his complaint to the Court. It follows that this complaint has been lodged out of time and must be dismissed in accordance with Article 35 §§ 1 and 4 of the Convention.

51. As regards the allegations concerning censorship and the failure of the officials of remand centre IZ-36/1 to accept his unspecified complaints to the domestic authorities for dispatch, the Court notes that this part of the complaint lacks substantiation. Witness statements provided to the Court contain apparent inconsistencies (see paragraph 47 above) casting strong doubt on their reliability and accuracy. In any event, it was demonstrated by the Government – and not disputed by the applicant – that dozens of his letters and complaints were dispatched by the remand centre officers. Further, the applicant himself submitted to the Court copies of the authorities' several replies to his complaints received by him throughout the detention period. In these circumstances, it is significant that neither the witnesses nor the applicant himself were able to cite any specific example of either censorship or a refusal to accept and dispatch his complaints or letters, apart from the alleged episode of 27 October 2003 examined in paragraph 47 above. The applicant's own record of his numerous

complaints does not contain further details in respect of his allegations (see paragraph 17 above), as it is unclear which of those complaints were actually sent via the detention facility, let alone delayed or stopped by the prison officers. Further, it has not been alleged by the applicant that he had in any way been precluded from obtaining proof of dispatch of his letters. In such circumstances, the Court finds that there is not a sufficient factual basis for considering that the authorities delayed or stopped the applicant's letters, or that his letters to authorities were inspected (see *Alekseyenko v. Russia*, no. 74266/01, § 75, 8 January 2009).

52. It follows that this part of the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

C. Remaining complaints submitted by the applicant

53. Lastly, the Court has examined the other complaints submitted by the applicant under Article 3, Article 5 §§ 1 (a), (b) and (c) and 2, Article 6 §§ 1-3, Article 8, Article 14, Article 13 and Article 17 of the Convention, as well as Article 1 of Protocol No.1 to the Convention. Having regard to all the material in its possession and in so far as these complaints fall within the Court's competence, it finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration under Article 3, Article 5 §§ 1, 3 and 4, Article 6 § 1 and Article 13 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases, in accordance with Article 37 § 1 (c) of the Convention, in so far as it concerns the complaint under: Article 3 regarding the unsatisfactory conditions of the applicant's detention in remand centre IZ-36/1 in Voronezh and remand centre IZ-56/1 in Orenburg; Article 5 § 1 regarding the applicant's detention in the absence of a judicial decision between 19 and 21 February 2003; Article 5 § 3 regarding the excessive length of his pre-trial detention until 24 May 2004; Article 5 § 4 regarding the extensions of his detention in his absence; Article 6 § 1 of the Convention regarding the excessive duration of the criminal proceedings against him; and Article 13 regarding the lack of effective remedies in

respect of his complaints under Article 3 concerning the conditions of detention and Article 6 § 1 of the Convention concerning the length of the criminal proceedings.

Decides not to pursue the complaint raised under Article 34 of the Convention;

Declares the remainder of the application inadmissible.

Done in English and notified in writing on 9 February 2017.

Fatoş Aracı
Deputy Registrar

Branko Lubarda
President