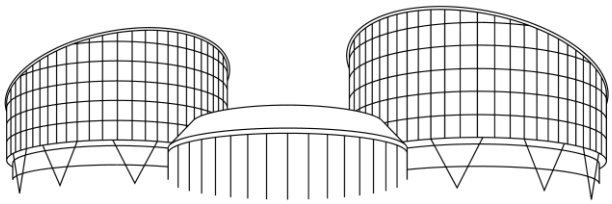

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF KAZANTSEV v. RUSSIA

(Application no. 14880/05)

JUDGMENT

STRASBOURG

3 April 2012

FINAL

03/07/2012

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

In the case of Kazantsev v. Russia**,**

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

Nina Vajić, *President,*
Anatoly Kovler,
Peer Lorenzen,
Elisabeth Steiner,
Mirjana Lazarova Trajkovska,
Linos-Alexandre Sicilianos,
Erik Møse, *judges,*

and André Wampach, *Deputy Section Registrar,*

Having deliberated in private on 13 March 2012,

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

PROCEDURE

1. The case originated in an application (no. 14880/05) 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 Aleksandr Sergeyevich Kazantsev ("the applicant"), on 28 March 2005.

2. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

3. The applicant alleged that he had been subjected to ill-treatment in police custody, and that there had been no effective investigation into his allegations of ill-treatment.

4. On 21 October 2009 the application was communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1966 and lives in the town of Pokachi, Tyumen Region.

6. On 1 July 1999 the applicant was arrested and charged with sexual assault of a minor. Immediately upon his arrest, at 3.15 a.m., the applicant

was subjected to a body search at the police station. The report stated, *inter alia*, that no injuries were found on the applicant.

7. On the same day at 5 a.m. the applicant underwent a physical examination in the presence of attesting witnesses A.T. and P. No injuries were noted in the examination report. The applicant alleges that during the examination the officer of the detention facility of the Interior of Pokachi (*ИВС Покаческого ГОВД*), T., beat him up with a police truncheon and that investigator B. abused him verbally.

8. On the same day at 9 a.m. the applicant was assigned legal counsel.

9. On the same day at 1 p.m. a forensic examination of the applicant was carried out in connection with the criminal charges against him. He was examined by a forensic expert who found two bruises on the right side of the applicant's back. The report stated that the bruises were inflicted with a "blunt, hard, long object with a round or oval cross-section, such as a police truncheon or a baton", and that they dated back to less than twenty-four hours before the forensic examination.

10. According to the applicant, on 2 June 1999 he complained about his ill-treatment to K., the investigator of the Pokachi prosecutor's office, who was investigating his case. She allegedly promised to register his complaint and to bring the matter to the prosecutor's attention. The applicant claimed that he had complained to the prosecutor's office again a number of times, but received no reply.

11. On 24 September 1999 the applicant was given access to the results of the forensic examination.

12. On 27 December 1999 the applicant sent a written complaint to the prosecutor's office of Pokachi complaining about the ill-treatment he allegedly received on the day of his arrest.

13. Having received no reply, on 20 January 2000 the applicant wrote to the Pokachi prosecutor's office asking for news on his complaint of ill-treatment.

14. On 28 February 2000 and on 31 May 2000 the applicant complained to the Prosecutor's Office of the Khanty-Mansiyskiy Autonomous Circuit about the lack of response to his complaint of ill-treatment. On 1 June 2000 they replied that his letter had been forwarded to the Pokachi prosecutor's office for a decision.

15. On 3 July 2000 investigator K. decided not to investigate the applicant's allegations in criminal proceedings. The parties have not provided any information about this part of the inquiry. The Government stated, in particular, that the relevant files had been destroyed after having reached the time-limit of their storage in archives.

16. The applicant complained about the decision of 3 July 2000 to the superior prosecutor's office and also challenged it before a court.

17. On 6 September 2000 the Prosecutor's Office of the Khanty-Mansiyskiy Autonomous Circuit replied to the applicant that the

inquiry into his allegations had been sufficient. It was considered, in particular, that no breach of domestic law arose from the fact that investigator K. had been in charge of the inquiry, because she had not been personally implicated in the alleged ill-treatment.

18. On 12 January 2001 the Langepasskiy Town Court of the Khanty-Mansiyskiy Autonomous Circuit convicted the applicant as charged. Having noted that the applicant had committed the offence while on parole following a previous criminal conviction, the court lifted the parole and sentenced him to an aggregate prison term of fourteen years.

19. On the same date the court examined the applicant's complaint about a lack of an effective investigation into his allegations of ill-treatment. It quashed the decision of the prosecutor's office dispensing with criminal proceedings on the grounds that investigator K., who had taken the decision, was also an investigator in the applicant's criminal case and could therefore be regarded as an interested party; she was therefore precluded from conducting the inquiry into the applicant's allegations of ill-treatment.

20. The prosecutor's office resumed the inquiry and assigned the file to Ms I., an investigator of the Pokachi Prosecutor's Office. On 15 October 2001 Ms I. questioned A.T., who had acted as an attesting witness during the applicant's physical examination. He explained that on that night he had been remanded in custody, and that he had been in the state of alcoholic intoxication when he was requested by the facility officers to act as an attesting witness during the applicant's physical examination. He said that the applicant had been "anxious", but he had not been beaten with a truncheon or otherwise ill-treated. He did not remember much about the events at issue because of the time that had elapsed since; however, he remembered that the applicant had made no complaints of having been beaten. On the same day Ms I. questioned the implicated policemen, T. and B., and they denied the allegations of having used force in general and a truncheon in particular. They admitted that there had been a police truncheon in the room, hanging on the wall, but stated that it had not been used. Ms K., the investigator of the applicant's criminal case who had formerly conducted the inquiry, was also questioned. She stated that she had not seen any injuries and had not received any complaints from the applicant.

21. On 16 October 2001 the prosecutor's office decided not to open a criminal investigation into the applicant's allegations of ill-treatment. The decision referred to the statements of A.T., T., B. and K. and concluded that there was no evidence in support of the applicant's claims.

22. On 17 October 2001 the prosecutor's office sent the applicant a letter, attaching a copy of the above-mentioned decision. The applicant claimed that he did not receive this notification and did not know about the decision until February 2002. He therefore sent several complaints to the

prosecutor's office about their failure to comply with the court order and investigate his ill-treatment. He also requested access to the inquiry file.

23. On 25 April 2002 investigator I. replied to the applicant that she had conducted an inquiry into his allegations of ill-treatment within the statutory time-limit of ten days. She indicated that the inquiry file was with the prosecutor's office of the Khanty-Mansiyskiy Autonomous Circuit.

24. On 22 May 2002 the applicant lodged a complaint with the Court of the Khanty-Mansiyskiy Autonomous Circuit about the failure to investigate his ill-treatment in criminal proceedings. He requested that the court find the refusal to open criminal proceedings unlawful, grant him access to the inquiry file and award him compensation for non-pecuniary damage on account of the authorities' alleged failure to provide him redress for a violation of his Convention rights. The court returned the applicant's complaint, stating that it fell under the jurisdiction of the Pokachi Town Court, and instructed the applicant to apply to that court under the procedure provided for by the Code of Criminal Procedure.

25. On 12 August 2002 the applicant submitted his complaint to the Pokachi Town Court and requested it to consider his complaint under the rules of civil procedure.

26. On 19 August 2002 the Court of the Khanty-Mansiyskiy Autonomous Circuit sent the applicant another reply to his complaint, advising him that his action against the decision of the prosecutor's office had to be lodged under the rules of criminal procedure.

27. On 27 August 2002 the Pokachi Town Court returned the applicant's complaint and indicated that he had to specify his claims and to distinguish the grounds for his request under civil procedure from those under criminal procedure. On 2 October 2002 it again refused, by letter, to accept the complaint for examination, stating that it could not be considered in civil proceedings. The applicant had to challenge the decision of the prosecutor's office in criminal proceedings first and then, on the basis of that decision, claim damages under the civil procedure. On 26 December 2002 the same court took a formal decision refusing to accept the applicant's complaint, citing the aforementioned grounds.

28. The applicant reformulated his complaint under the rules of criminal procedure, and on 20 January 2003 it was accepted for examination.

29. On 2 July 2004 the Pokachi Town Court examined the applicant's complaint and decided that the decision of 16 October 2001 was lawful and well-founded. It found that the initial decision dispensing with a criminal investigation had been quashed because the investigator had been an interested party, and that in the new inquiry no shortfalls could be found. It noted that the investigator had questioned the police officers implicated, T. and B., as well as the attesting witness, all of whom had denied that the applicant had been subjected to violence or verbal assault. The court found that the prosecutor's office had sent the applicant a copy of the decision of

16 October 2001 and rejected the applicant's claims that he should have been informed about the course of the inquiry as lacking any basis in law.

30. The applicant appealed, claiming, *inter alia*, that he had not been duly informed of the decision dispensing with a criminal investigation, that he had not been given access to the inquiry file, that neither the investigator nor the court had commented on the injuries recorded in the forensic report and that the date of his first complaint to the prosecutor's office was 27 December 1999 and not 14 February 2000, as stated in the judgment.

31. On 1 September 2004 the Court of the Khanty-Mansiyskiy Autonomous Circuit upheld the judgment of 2 July 2004. It found, in particular, that the existence of injuries, in the absence of other evidence supporting the applicant's allegations, was not sufficient to find T. guilty of having inflicted them. The court also stated that the failure to notify the applicant of the decision did not render it unlawful, and that during the first-instance hearing the applicant had not requested access to the inquiry file.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

32. The applicant complained that he was ill-treated on 1 June 1999 and that no effective investigation was conducted into his allegations. He referred to Article 3 of the Convention, which reads as follows:

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

A. Admissibility

1. Government's objection as to the date of the lodging of the application

33. The Government submitted that there was no proof that this application had been lodged on 28 March 2005, as indicated in the Statement of Facts prepared by the Registry. They pointed out that the date of the application form was 10 August 2005, that is, more than six months from 1 September 2004, the date of the final domestic decision taken in the applicant's case. They therefore requested the Court to dismiss the application as having been lodged out of time.

34. The applicant disagreed with this objection. He firstly stated that his preliminary letter to the Court had been submitted on 28 March 2005, and it contained a succinct statement of the facts and complaints. He therefore considered that the running of the six-month limitation period had been interrupted by the sending of the letter. He also disagreed with the Government that the six-month period in his case had run from 1 September 2004. He pointed out that he had not been present at the appeal hearing, and had only received that judgment later. He referred to the Pokachi Town Court's cover letter accompanying a copy of that decision, which was sent to the prosecutor's office on 27 September 2004 and forwarded to the applicant on 6 October 2004.

35. The Court finds, on the basis of the documentary evidence produced by the applicant, that he was notified of the final domestic decision on 6 October 2004 or later. It also notes that the Government was in possession of the cover letter of 27 September 2004 referred to by the applicant. The Court further observes that the applicant's first letter was indeed submitted to the Court on 28 March 2005, and considers that the applicant thus lodged the application within six months of the receipt of the final domestic decision. The Government's objection must therefore be dismissed.

2. The Court's conclusion on the admissibility of this complaint

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

B. Merits

37. The Government contested the allegation that the applicant had been ill-treated while in police custody. They suggested that the bruises noted in the forensic report could have been caused before his arrest, for example, at the crime scene, a construction site; they stated that he had been in a state of alcoholic intoxication at the time of the arrest and therefore could have sustained the injuries accidentally.

38. The Government further pointed out that the applicant did not complain about the alleged ill-treatment for several months, and when he did, an inquiry was conducted that found no proof of police violence. They further stated that the injuries in question were so minor that they were not capable of proving any ill-treatment reaching the minimum level of severity laid down by Article 3 of the Convention. As regards the obligation to conduct an effective investigation, they contended that the inquiry into the applicant's allegations of ill-treatment had been prompt, thorough and conclusive on the point that the applicant's claims could not be proved.

39. The applicant maintained his complaints, claiming that he had been beaten by the police and that the authorities had failed to conduct an effective investigation following his complaints. He contested, in particular, the assertion that he had waited for several months before lodging his complaint, claiming that he had complained to the investigator but that his complaints had not been transmitted to the prosecutor's office.

1. Alleged ill-treatment in police custody

40. The Court reiterates that allegations of ill-treatment must be supported by appropriate evidence. In assessing evidence, the Court has generally applied the standard of proof "beyond reasonable doubt" (see *Ireland v. the United Kingdom*, 18 January 1978, § 161, Series A no. 25). However, such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact. Where the events in issue lie wholly or in large part within the exclusive knowledge of the authorities, as in the case of persons under their control in custody, strong presumptions of fact will arise in respect of injuries occurring during such detention. Indeed, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation (see *Salman v. Turkey* [GC], no. 21986/93, § 100, ECHR 2000-VII).

41. Turning to the circumstances of the present case, the Court observes that, according to the applicant, on 1 July 1999 he was brought to the police station at 3.15 a.m., and the body search conducted immediately after that did not establish any injuries on him. Later on the same day, a forensic expert found two fresh bruises on him that looked like marks left by a police truncheon. The applicant claimed that between the two events he was subjected to another physical examination, during which he was beaten in the presence of two attesting witnesses.

42. The Government challenged the credibility of these allegations claiming that the applicant had waited for too long before filing an ill-treatment complaint. The Court observes that the alleged ill-treatment took place on 1 July 1999. It also observes that the expert report which recorded the injuries was only made available to the applicant on 24 September 1999. The applicant claimed that even before he saw the report he had complained to the investigator about the ill-treatment, although he did not submit any proof of that. However, even assuming that the applicant first lodged a complaint on 27 December 1999, that is, three months after he received the forensic report, the Court considers that this delay was not so excessively long as to allow any negative conclusions to be drawn as regards the credibility of the applicant's account of events. The Court further observes that once the applicant had lodged this complaint with the prosecutor's office, he consistently maintained his allegations in the proceedings before the domestic authorities, as well as before the Court.

43. The Court further observes that neither the authorities conducting the inquiry into the applicant's allegations nor the Government have provided a plausible explanation of the origin of injuries established by the forensic expert. In particular, the Court cannot accept that the bruises had already existed at the time of arrest because such a finding would be inconsistent with the report on the body search conducted immediately upon his arrest, at 3.15 a.m., or with the report on the applicant's physical examination which took place at 5 a.m. on the same day, both of which expressly stated that he had no injuries.

44. The Court also notes that the policemen had confirmed having been in possession of a police truncheon that was present in the room where the applicant claimed to have been beaten, although they denied having used it.

45. It follows that on 3.15 a.m. the applicant was taken into custody with no traces of injuries and ten hours later he was found with bruises that, in the expert's words, looked like traces of a police truncheon, and that the authorities have failed to account for their occurrence. The Court will therefore accept the applicant's allegation that the police truncheon had indeed been used on him at the police station.

46. As to the nature of the ill-treatment at issue, the Court cannot share the Government's view that the injuries in question were so slight that the treatment causing them could not possibly attain the minimum level of severity proscribed by Article 3 of the Convention. It reiterates its well-established case-law that in respect of a person deprived of his liberty, any recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is in principle an infringement of the rights set forth in Article 3 of the Convention (see *Tomasi v. France*, 27 August 1992, § 115, Series A no. 241-A, and *Ribitsch v. Austria*, 4 December 1995, §§ 38-40, Series A no. 336). The Court observes that the applicant claimed to have been beaten on the police premises during a physical examination. The authorities did not claim that the police were compelled to resort to the use of a truncheon in self-defence or to discipline the applicant, and, in the absence of any indication to the contrary, the Court finds that they used it unnecessarily.

47. Therefore, the Court cannot but conclude that the applicant was subjected to inhuman and degrading treatment by the police. Accordingly, there has been a violation of Article 3 of the Convention under its substantive limb.

2. Alleged failure to carry out an effective investigation

48. The Court reiterates that where an individual makes a credible assertion that he has suffered treatment infringing Article 3 at the hands of the police or other similar agents of the State, that provision, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within their jurisdiction the rights and freedoms

defined in ... [the] Convention", requires by implication that there should be an effective official investigation. As with an investigation under Article 2, such an investigation should be capable of leading to the identification and punishment of those responsible. Otherwise, the general legal prohibition of torture and inhuman and degrading treatment and punishment would, despite its fundamental importance, be ineffective in practice and it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity (see *Jasar v. the former Yugoslav Republic of Macedonia*, no. 69908/01, § 55, 15 February 2007; *Matko v. Slovenia*, no. 43393/98, § 84, 2 November 2006; *Assenov and Others v. Bulgaria*, 28 October 1998, § 102, *Reports of Judgments and Decisions* 1998-VIII; and *Labita v. Italy* [GC], no. 26772/95, § 131, ECHR 2000-IV).

49. An obligation to investigate "is not an obligation of result, but of means": not every investigation should necessarily be successful or come to a conclusion which coincides with the claimant's account of events; however, it should in principle be capable of leading to the establishment of the facts of the case and, if the allegations prove to be true, to the identification and punishment of those responsible (see *Paul and Audrey Edwards v. the United Kingdom*, no. 46477/99, § 71, ECHR 2002-II; *Mahmut Kaya v. Turkey*, no. 22535/93, § 124, ECHR 2000-III; and *Mikheyev v. Russia*, no. 77617/01, § 107, 26 January 2006).

50. The minimum standards of "effectiveness" defined by the Court's case-law also require that the investigation must be independent, impartial and subject to public scrutiny, and that the competent authorities must act with exemplary diligence and promptness (see *Isayeva and Others v. Russia*, nos. 57947/00, 57948/00 and 57949/00, §§ 208-13, 24 February 2005, and *Menesheva v. Russia*, no. 59261/00, § 67, ECHR 2006-III).

51. Turning to the circumstances of the present case, the Court has found above (see paragraph 42) that the applicant complained to the prosecutor's office without excessive delay and presented them with a forensic report corroborating his allegations. It considers that the matter was appropriately brought before the competent authorities at a time when they could reasonably have been expected to investigate the circumstances in question. The domestic authorities were thus placed under an obligation to conduct an effective investigation satisfying the above requirements of Article 3 of the Convention.

52. The Court notes that the prosecution authorities, who were made aware of the applicant's alleged beating, carried out a preliminary inquiry which did not result in the criminal prosecution of the policemen. In the Court's opinion, the issue is consequently not so much whether there was an investigation, since the parties did not dispute that there was one, but whether it was conducted diligently, whether the authorities were determined to identify and prosecute those responsible and, accordingly, whether the investigation was "effective".

53. The Court observes that six months after the applicant's complaint to the prosecutor's office a decision was taken, allegedly after appropriate checks, not to investigate the issue further. It is not clear what measures this inquiry involved, as the relevant documents had apparently been destroyed when the time-limit for keeping them in the archives expired. However, it is clear that the person in charge of that inquiry was the same official who investigated the applicant's criminal case, and the Court finds it striking that in the present case the initial investigative steps, which usually prove to be crucial for establishing the truth in cases of brutality committed by State officials, were conducted by the official in charge of the applicant's prosecution. It was later established by the Langepasskiy Town Court in its decision of 12 January 2001 that Ms. K. had failed to meet the objective criteria of independence (see paragraph 19 above), and the Court cannot but endorse this conclusion. In this connection the Court reiterates its finding, made on a number of occasions, that the investigation should be carried out by competent, qualified and impartial experts who are independent of the suspected perpetrators and the agency they serve (see *Ramsahai and Others v. the Netherlands* [GC], no. 52391/99, § 325, ECHR 2007-II, and *Oğur v. Turkey* [GC], no. 21594/93, §§ 91-92, ECHR 1999-III).

54. The Court further observes that after the aforementioned decision of the Langepasskiy Town Court, another inquiry was conducted by another investigator of the Pokachi prosecutor's office. The investigator this time questioned both implicated policemen and A.T., one of the attesting witnesses who had been present during the alleged ill-treatment. The latter admitted, however, that he had been in a state of alcoholic intoxication at the time of the applicant's physical examination and that after the passage of time he could remember very little of what had happened. He was confident, however, that the applicant had not been ill-treated. Despite his reduced ability to remember the events in question the authorities did not seek evidence from the second attesting witness in order to obtain a more detailed account. There is nothing in the file to suggest that any attempts were made to question him, and the reasons for that remain unclear. The Court, on its part, cannot overlook the unexplained failure to question that person, because he was one of the only two people, apart from the implicated policemen, with first-hand knowledge of what had happened, and possibly the only one who could make up for the deficiencies in A.T.'s account.

55. Even more fundamental is the failure of the inquiry to address the crucial question of the cause of the applicant's injuries recorded by the forensic expert. It appears from the witness statements that this question was not specifically raised at any point, and the inquiry conclusions do not contain any explanation on steps taken to establish the origin of the bruises. The Court considers the investigators' failure to pursue this central point in

an ill-treatment case to be incompatible with the notion of an effective investigation.

56. In addition to that, the Court finds that the inquiry conducted by Ms I. took place two years after the events complained of and thus lacked the requisite promptness. It further notes that the applicant was not involved in the inquiry, that he had difficulties in receiving the relevant decisions and was virtually denied access to the inquiry file, a fact confirmed, and even endorsed by, the judicial decision of 2 July 2004. It follows that the inquiry also fell short of the guarantees of public scrutiny.

57. The foregoing considerations are sufficient to enable the Court to conclude that the authorities have failed to carry out an effective investigation into the applicant's allegations of ill-treatment. There has accordingly been a violation of Article 3 of the Convention under its procedural limb.

II. ALLEGED VIOLATION OF ARTICLES 6 AND 13 OF THE CONVENTION

58. The applicant further complained that the judicial proceedings did not provide him with an effective domestic remedy for his complaints as regards the authorities' failure to conduct an effective investigation into his allegations of ill-treatment by the police. He relied on Article 6 of the Convention and Article 13 in conjunction with Article 3 of the Convention.

59. The Government disagreed and asked the Court to reject this part of the application.

60. The Court observes that in making this complaint the applicant essentially alleged that the domestic courts had wrongfully upheld the decisions dispensing with a criminal investigation into his allegations of ill-treatment. Since this relates to the same factual circumstances as those leading to a violation of Article 3 of the Convention the Court accepts this complaint as admissible. However, having regard to its finding of a violation of Article 3 on account of the lack of an effective investigation (see paragraph 57 above), the Court does not consider it necessary to examine this complaint separately.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

61. 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

62. The applicant requested the Court to award him compensation for non-pecuniary damage and asked the Court to decide on an appropriate amount.

63. The Government contested the applicant's eligibility for an award of compensation because they considered the application manifestly ill-founded. They claimed that an acknowledgement of a violation, if any were found by the Court, would by itself constitute sufficient just satisfaction.

64. The Court notes that it has found a violation under the substantive and the procedural limbs of Article 3 of the Convention on account of the applicant's ill-treatment and the authorities' failure to carry out an effective investigation into the matter. In these circumstances, the Court considers that the anguish and frustration caused to the applicant cannot be compensated for by the mere finding of a violation. Having regard to the nature of the violation and making its assessment on an equitable basis, the Court awards the applicant 7,500 euros (EUR) in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

65. The applicant stated that he was unable to estimate the costs and expenses incurred in the proceedings before the Court. Accordingly, the Court makes no award under this head.

C. Default interest

66. The Court considers it appropriate that the default interest rate 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 3 of the Convention under its substantive aspect;

3. *Holds* that there has been a violation of Article 3 of the Convention under its procedural aspect;

4. *Holds* that it is not necessary to examine the complaints under Articles 6 and 13 of the Convention;

5. *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 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement;
   (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.

Done in English, and notified in writing on 3 April 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach	Nina Vajić
Deputy Registrar	President