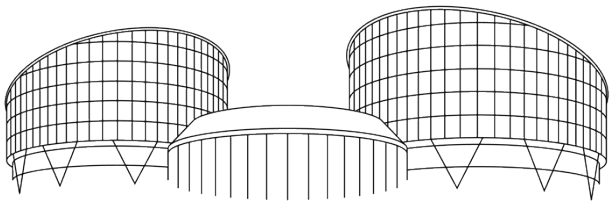

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF BEZRUKOVY v. RUSSIA

(Application no. 34616/02)

JUDGMENT

This version was rectified on 14 May 2012
under Rule 81 of the Rules of Court.

STRASBOURG

10 May 2012

FINAL

10/08/2012

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

In the case of Bezrukovy v. Russia,

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

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

and André Wampach, *Deputy Section Registrar*,

Having deliberated in private on 17 April 2012,

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

PROCEDURE

1. The case originated in an application (no. 34616/02) 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 two Russian nationals, Ms Lyudmila Vitalyevna Bezrukova ("the first applicant") and Ms Irina Sergeyevna Bezrukova ("the second applicant"), on 9 September 2002. The first and second applicants are together referred to as "the applicants".

2. The applicant was represented by Mr V. Shakhlarov, a lawyer practising in Voronezh.[1] The Russian Government ("the Government") were represented by Mr P. Laptev and Mr G. Matyushkin, the successive Representatives of the Russian Federation at the European Court of Human Rights.

3. The applicants alleged, in particular, that the final and enforceable domestic judgment in their favour had not been enforced in a timely manner and that the time-limit for appealing against that judgment had been extended, thus allowing its subsequent quashing.

4. On 15 September 2005 the application was communicated to the Government. It was also decided to consider the admissibility and merits of the case together.

5. On 24 November 2009, in view of the developments in the case, the Government was invited to submit additional observations pursuant to Rule 54 § 2 (c) of the Rules of Court. The applicants submitted their observations in reply.

1. This sentence was inserted on 14 May 2012.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The first applicant was born in 1950. The second applicant is the first applicant's daughter, born in 1976. They live in Voronezh.

A. The applicants' lawsuit against the SBS-AGRO Bank

7. In July and August 1998 the applicants made various monetary deposits with the Voronezh branch of the SBS-Agro Bank ("*СБС-Агро*"). In September 1998, during a financial crisis in Russia and rapid currency devaluation, they requested the bank to refund the capital with interest, but the bank refused. On 4 August 1999 the Zheleznodorozhniy District Court of Voronezh ("the District Court") allowed the applicants' claim against the bank. The first and second applicant were awarded 24,490 and 32,931 United States dollars (USD) respectively.

8. The bailiffs started enforcement proceedings on 22 August 2000. Meanwhile, the bank became insolvent. On 10 July 2001 the enforcement proceedings were discontinued. The judgment of 4 August 1999 remained unenforced.

B. The applicants' lawsuit against the ARKO and the Central Bank

9. On 16 August and 15 September 1999 the Central Bank of Russia ("the Central Bank") declared a moratorium until 17 November 1999 on the execution of all creditors' demands against the SBS-Agro Bank ("the bank"). The moratorium was later prolonged. On 16 November 1999 the management of the bank was taken over temporarily by the "Agency on Restructuring of Lending Agencies" ("ARKO"), set up by the State in accordance with the Law on Restructuring of Lending Agencies.

10. On 9 November 2001 the applicants sued the Central Bank and the ARKO for damages on the ground that the bank remained under the ARKO's effective control since 16 November 1999. The District Court held a hearing in the applicants' case on 5 December 2001. The ARKO filed written observations but was not represented at the hearing. The Central Bank did not file observations, nor was it represented at the hearing. In its judgment delivered on the same date the District Court noted that the bank was being managed by the ARKO at the material time and found the latter responsible for the bank's obligations, including its debt owed to the applicants. It held that the ARKO was to pay the first and second applicants USD 24,490 and USD 32,931 respectively.

11. The Voronezh Regional Court ("the Regional Court") allowed the ARKO's appeal on 12 March 2002 and set aside the District Court's judgment of 5 December 2001.

12. Following another remittal, on 20 December 2004 the District Court again found for the applicants, in terms similar to those of its judgment of 5 December 2001. The applicants were awarded the same amounts, payable by the ARKO. The judgment also held that the ARKO had to pay an amount of USD 20,841.68 to another plaintiff, Mr Kravchenko. The judgment specified that it was subject to appeal before the Voronezh Regional Court within ten days.

13. The ARKO lodged an appeal against the judgment of 20 December 2004. The Central Bank joined the appellate proceedings. On 25 February 2005 the ARKO was closed.

14. On 19 July 2005 the Regional Court heard the ARKO's appeal against the District Court's judgment of 20 December 2004. The representative of the Central Bank took part in the hearing as a co-defendant. The Regional Court observed that the ARKO had been closed and discontinued the appellate proceedings. The District Court's judgment of 20 December 2004 in the applicants' favour accordingly became binding and enforceable.

15. On 2 August 2005 the District Court issued a writ of execution in respect of its judgment of 20 December 2004, which had acquired legal force on 19 July 2005.

16. On 6 December 2005 the Central Bank lodged an appeal with the Regional Court against the judgment of 20 December 2004. They also requested that the ten-day time-limit for appeal be extended on the ground that they had been deprived of the opportunity to have the lawfulness of the judgment of 20 December 2004 reviewed by the Regional Court.

17. On 2 March 2006 the Regional Court extended the time-limit for appeal as requested by the Central Bank. It noted that the Central Bank "had joined" the ARKO's appeal against the judgment of 20 December 2004 which had been dismissed without being considered on its merits. The Regional Court concluded that the Central Bank had been deprived of its statutory right to appeal against the judgment of 20 December 2004.

18. On 9 March 2006 the Regional Court considered the Central Bank's appeal against the District Court's judgment of 20 December 2004. It heard the same representative of the Central Bank who took part in the hearing held by the same court on 19 July 2005 to consider the ARKO's appeal which was then joined by the Central Bank. The court observed that both the ARKO and the Central Bank were co-defendants in the case and that the ARKO had been closed. The Regional Court concluded that its earlier decision of 19 July 2005 was based on an incorrect application of the relevant legal provisions, set aside the judgment of 20 December 2004 in the applicants' favour and discontinued the proceedings.

C. The Court's judgment in the case of Kravchenko and subsequent developments

19. On 2 April 2009 the European Court of Human Rights delivered a judgment in respect of Mr Kravchenko (*Kravchenko v. Russia*, no. 34615/02, 2 April 2009), who was at a certain stage the applicants' co-plaintiff in the domestic proceedings (see paragraph 12 above). In February 2002 he had obtained a separate judgment awarding him an amount of 30,919.40 Russian roubles (RUB), payable by the ARKO (see *Kravchenko*, cited above, §§ 44-49). The Court found a violation of Article 6 of the Convention and Article 1 of Protocol No. 1 in that the Regional Court had quashed in May 2002 the binding and enforceable judgment in Mr Kravchenko's favour by way of supervisory review.

20. Following the Court's judgment of 2 April 2009, the applicants lodged an application for review of the Regional Court's judgment of 9 March 2006, relying on Articles 392-394 of the Code of Civil Procedure. On 15 June 2011 the Presidium of the Voronezh Regional Court dismissed their application.

II. RELEVANT DOMESTIC LAW

21. Under the Russian Code of Civil Procedure ("the CCP"), a competent court may extend an expired time-limit for procedural actions, such as lodging an appeal, if the court finds that a party has a valid excuse for failure to comply with that time-limit (Article 112).

22. An appellate court shall set aside the judgments and discontinue the proceedings if a legal entity which is a party to the proceedings has been liquidated (Article 365 in conjunction with Article 220 of the CCP).

23. A final judgement in a case may be reviewed, *inter alia*, on the ground that the European Court of Human Rights found a violation of the Convention on account of the domestic judicial proceedings or decisions taken in that case (Article 392 of the CCP). Articles 393-394 set out a procedure for reopening of domestic judicial proceedings in any such case.

24. The ARKO was a State corporation (Article 28 of the Law No. 144-FZ of 8 July 1999 on Restructuring of Lending Agencies), that is, a non-commercial organisation established by the Russian State in order to exercise certain social, administrative or other socially beneficial functions (Article 7.1 of the Law No. 7-FZ of 12 January 1996 on Non-Commercial Organisations, as amended by the Law No. 144-FZ of 8 July 1999).

THE LAW

I. ALLEGED VIOLATION OF THE CONVENTION ON ACCOUNT OF THE NON-ENFORCEMENT AND QUASHING OF THE JUDGMENT OF 20 DECEMBER 2004

25. The applicants complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 of the unjustified extension of the time-limit for appeal which led to the quashing of the binding and enforceable judgment of 20 December 2004 in their favour. They also complained under the same provisions of the authorities' failure to enforce that judgment in a timely manner. The respective provisions, in so far as relevant, read as follows:

> "In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...
>
> Every natural or legal person is entitled to the peaceful enjoyment of his possessions"

A. The parties' submissions

26. The Government contended that the relevant procedure had fully complied with the requirements of both Article 6 § 1 of the Convention and Article 1 of Protocol No. 1. They emphasised that the Central Bank had duly joined the appeal initially lodged by the ARKO. The closing of the ARKO, in the Government's submission, should have, under the applicable procedural rules, led to the setting aside of the District Court's judgment and the discontinuation of the proceedings as a whole and not simply the discontinuation of the appellate proceedings effectively leading to the District Court's judgment against a now non-existent ARKO acquiring binding force.

27. In their additional observations, the Government extensively relied on the Court's decision in the *Shestakov* case (*Shestakov v. Russia* (dec.), no. 48757/99, 18 June 2002), arguing that the applicants' situation as creditors of the SBS-Agro Bank was very similar and their complaints should likewise be declared ill-founded. They insisted *inter alia* that the State was unable to pay the SBS-Agro bank's debts to its creditors in the context of the acute financial crisis starting from August 1998. The Government concluded that the District Court's judgment of 20 December 2004 in the applicants' favour had been flawed and rightly quashed on appeal. The applicants' complaints under the Convention should, therefore, be rejected as should have been those brought by other applicants in two previous cases (*Kravchenko*, cited above, and *Margushin v. Russia,* no.

11989/03, 1 April 2010). They emphasised, finally, that the domestic judgment at issue in the present case was quashed by way of ordinary appeal and not through supervisory review as in *Kravchenko* and *Margushin*.

28. The applicants disagreed with the Government's interpretation of the Court's decision in *Shestakov*. They argued that the situation of the latter applicant was quite different and so was the domestic judgment delivered in his favour. They insisted that the Court's position in *Kravchenko* should be followed in the present case and regretted that the Voronezh Regional Court had failed to grant their application for review following the *Kravchenko* judgment.

B. The Court's assessment

1. *Admissibility*

29. The Court considers that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. Nor is it inadmissible on any other grounds. It must therefore be declared admissible.

2. *Merits*

30. At the outset, the Court will distinguish the Convention issue at stake in the present case from that raised in the *Shestakov* case relied upon by the Government. While the original facts relating to the SBS-Agro Bank's failure to pay back the applicants' deposits during the financial crisis of 1998 were similar, the issue brought by the applicants before the Court in the present case is different. In *Shestakov* the central issue was the State's failure to discharge its positive obligations to assist in enforcement of a domestic judgment in the applicant's favour against a private debtor. In the present case the applicants complained of a breach of the legal certainty requirement on account of the quashing of the final judgment in their favour a long time after the expiry of the statutory time-limit for appeal.

31. The Court reiterates that the principles insisting that a final judicial decision must not be called into question and should be enforced represent two aspects of the same general concept, namely the right to a court (see *Kondrashov and Others v. Russia*, nos. 2068/03 et al., § 27, 8 January 2009). This does not mean, however, that those respective issues are identical or necessarily overlapping. Indeed, the Court's finding that the State has done what it could and should to assist in enforcement of a final judgment in favour of one creditor as in *Shestakov* (cited above), did not lead it to conclude that the quashing of another final judgment in favour of another creditor by way of supervisory review complied with the legal certainty requirement (see *Kravchenko*, cited above). The Court observes

that the issue raised by the present case is similar to the latter as the applicants' reliance on a final judgment was allegedly frustrated by its quashing, which they found to be abusive. This issue must be considered by the Court on its merits and cannot be discarded on account of the findings made in the context of the enforcement proceedings in the *Shestakov* case.

32. The right to a fair hearing before a tribunal as guaranteed by Article 6 § 1 of the Convention must be interpreted in the light of the Preamble to the Convention, which declares, among other things, the rule of law to be part of the common heritage of the Contracting States. One of the fundamental aspects of the rule of law is the principle of legal certainty, which requires, *inter alia*, that where the courts have finally determined an issue, their ruling should not be called into question (see *Brumărescu v. Romania* [GC], no. 28342/95, § 61, ECHR 1999-VII). A departure from that principle is justified only when made necessary by circumstances of a substantial and compelling character, such as correction of fundamental defects or miscarriage of justice (see, among numerous authorities, *Ryabykh v. Russia*, no. 52854/99, § 52, ECHR 2003-IX, and *Margushin*, cited above, § 31).

33. In previous cases against Russia the Court has upheld the principle of legal certainty in so far as legal procedures of supervisory review (see *Ryabykh*, cited above) and reconsideration owing to newly discovered circumstances (see *Pravednaya v. Russia*, no. 69529/01, 18 November 2004) were concerned. Furthermore, the Court has considered it appropriate to follow the same logic when this fundamental principle was undermined through other procedural mechanisms, such as the extension of the time-limit for an appeal. Thus, the Court found a violation of Article 6 in a case against Ukraine as the time-limit for an appeal was extended after a considerable lapse of time without any need for correction of serious judicial errors, but merely for the purpose of a rehearing and a fresh decision of the case (see *Ponomaryov v. Ukraine*, no. 3236/03, §§ 41-42, 3 April 2008).

34. The Court has no doubt that it is reasonable to provide for a possibility of extending procedural time-limits, including the time-limits for lodging an appeal, and notes that the legal systems of the States parties contain special provisions to that effect. While the extension of the time-limit for an appeal remains primarily within the domestic courts' discretion, they should, in the Court's view, verify whether the reasons for any such extension justify the interference with the principle of *res judicata*, especially when the domestic legislation does not limit the courts' discretion either on the length or the grounds for the renewal of the time-limits (ibid., § 41).

35. The Court notes that Russian law does not contain any prohibitive limit in this respect (see paragraph 18 above). In these circumstances, an allegation of abusive extension of the time-limit for an appeal against a final

judgment calls for close supervision by the Court. Its task is thus to assess the particular circumstances of the case at hand and the manner in which the pertinent domestic regulations were actually applied (see *Ashingdane v. the United Kingdom*, 28 May 1985, § 57, Series A no. 93).

36. Furthermore, the Court considers that, as in the case of quashing by way of supervisory review, a successful litigant's legitimate reliance on *res judicata* may be frustrated in a very similar manner by waiving the time-limits for appeal (see, *mutatis mutandis*, *Kulkov and Others v. Russia*, nos. 25114/03 *et al.*, § 27, 8 January 2009). Such departures from the principle of legal certainty are justified only when made necessary by circumstances of a substantial and compelling character (see *Salov v. Ukraine*, no. 65518/01, § 93, ECHR 2005-VIII; *Protsenko v. Russia*, no. 13151/04, § 26, 31 July 2008; and *Kravchenko v. Russia*, cited above, § 45). In particular, legal certainty can be set aside not for the sake of legal purism but in order to rectify "an error of fundamental importance to the judicial system" (*Sutyazhnik v. Russia*, no. 8269/02, § 38, 23 July 2009).

37. Turning to the circumstances of the present case, the Court observes at the outset that the District Court's judgment of 20 December 2004 in the applicants' favour became final on 19 July 2005 following the Voronezh Regional Court's decision to discontinue the appeal proceedings (see paragraph 14 above). However, on 2 March 2006 the Regional Court granted the Central Bank's application for extension of the statutory time-limit for appeal and on 9 March 2006 quashed the judgment (see paragraphs 17 and 18 above).

38. The Court observes that the Central Bank had previously "joined" the appeal lodged by the defendant ARKO against the District Court's judgment of 20 December 2004 in the applicants' favour and that the representative of the Central Bank had attended the appellate hearing of 19 July 2005. However, there is no indication that the Central Bank's representative raised at that time any objection against the Regional Court's decision to discontinue the appellate proceedings on the ground that the ARKO had been closed. It was only four months later that the Central Bank came back to the same court and challenged the final judgment of 20 December 2004. The Court finds no explanation for this behaviour, noting especially that the Central Bank was constantly involved in the proceedings as a co-defendant (see, *mutatis mutandis*, *Margushin*, cited above, § 34).

39. Moreover, the Court notes that the Regional Court granted the request for extension of the time-limit by reference to the Central Bank's initial intention to "join" the appeal lodged by the ARKO and the ensuing failure to lodge its own appeal against the judgment within the statutory time-limit. The Government on their part argued that the Regional Court's decision to discontinue the appeal proceedings should never have led to the upholding of the judgment of 20 December 2004 in the applicants' favour

as the respondent agency had been closed by the time of the appeal hearing (see paragraph 26 above). However, even assuming that the Regional Court's judgment contained an error, the Court does not discern in the above explanations any circumstance of substantial and compelling character which would justify the Regional Court's extension of the time-limit for appeal and the subsequent quashing of the final judgment in the applicants' favour.

40. First, the Court does not find that the procedural reasons referred to by the Regional Court and by the Government were of a fundamental nature. It considers it unfair that possible procedural errors by the Central Bank or the Regional Court itself were corrected solely to the applicants' detriment a long time after the judgment in their favour became final.

41. Second, the mere fact that the judicial award was payable by the ARKO which was later closed, does not necessarily relieve the State of its responsibility to enforce that judgment, given both the ARKO's status as a State corporation (see paragraph 24 above) and the role of co-defendant played by the Central Bank in the proceedings at issue. The Court notes in this connection that the applicants consistently directed their action against both the ARKO and the Central Bank in view of the latter's implication in the matters concerned and that the Regional Court consistently associated the Central Bank to the proceedings as a co-defendant. At the same time, the domestic courts have never clarified the Central Bank's responsibility, either direct or subsidiary, in respect of the applicants' grievances. This issue became crucial after the closing of the ARKO on 25 February 2005 but still remained unresolved by the Regional Court.

42. In this context the Court considers that the applicants could reasonably rely on the final judgment in their favour and expect that the judgment debt would be honoured even after the closing of the ARKO. This attitude is also in line with the Court's constant view that the closure of a respondent State organ does not, in principle, absolve the State of the obligation to pay its debts under a binding and enforceable judgment, especially taking into account that changing needs force the State to make frequent changes in its organisational structure, including by forming new organs and closing old ones (*mutatis mutandis, Nikitina v. Russia*, no. 47486/07, § 19, 15 July 2010). The Court cannot, therefore, accept the argument that the closure of the ARKO constituted in itself a circumstance justifying the departure from the principle of legal certainty in the applicants' case.

43. Finally, as regards the Government's argument concerning the objective obstacles to payment of the Bank's debts in the context of a large-scale financial crisis, the Court does not put it into question that a comprehensive solution for repayment of debts to the creditors was needed. However, this could not prevent the applicants from bringing their claims to domestic courts and it was open to the authorities including the Central

Bank to defend their position in court proceedings before the judgment became final and enforceable. As to the need to correct judicial errors and to ensure a uniform application of the domestic law, the Court considers that these must not be achieved at any cost and notably with disregard for the applicants' legitimate reliance on *res judicata*. The authorities must strike a fair balance between the interests of the applicants and the need to ensure the proper administration of justice (see *Nikitin v. Russia*, no. 50178/99, § 59, ECHR 2004-VIII, and *Kulkov and Others*, cited above, § 27).

44. In view of the foregoing, the Court concludes that by extending the time-limit for the Central Bank's appeal against the District Court's judgment of 20 December 2004 the Regional Court infringed the principle of legal certainty and the applicants' right to court under Article 6 § 1 of the Convention.

45. Turning to Article 1 of Protocol No. 1, the Court reiterates that a judgment debt may be regarded as a "possession" for the purposes of that provision and that setting such a judgment aside in violation of Article 6 may also constitute an interference with the judgment beneficiary's right to the peaceful enjoyment of his possession (see *Ryabykh*, cited above, § 61). As the Court has already found that the applicants were arbitrarily deprived of their right to court (see paragraph 44 above), it follows that there has also been a violation of Article 1 of Protocol No. 1 in that respect (see *Margushin*, cited above, § 40).

46. To sum up, the Court concludes that the extension of the time-limit for an appeal against the final judgment in the applicants' favour and the subsequent quashing of that judgment by the Regional Court violated Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

47. Having regard to that finding, the Court does not find it necessary to examine separately the issue of non-enforcement of the judgment of 20 December 2004 by the authorities (see *Boris Vasilyev v. Russia*, no. 30671/03, §§ 41-42, 15 February 2007; *Sobelin and Others v. Russia*, nos. 30672/03 et al., §§ 67-68, 3 May 2007; *Kulkov and Others*, cited above, § 35; and *Kazakevich and 9 other "Army Pensioners" cases v. Russia*, nos. 14290/03 et al., § 32, 14 January 2010).

II. ALLEGED VIOLATION OF THE CONVENTION ON ACCOUNT OF THE NON-ENFORCEMENT OF THE JUDGMENT OF 4 AUGUST 1999

48. The applicants complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 that there had been no full and timely enforcement of the District Court's judgment of 4 August 1999.

49. The Court observes that the judgment in issue was rendered in the applicants' favour against a commercial bank which was declared insolvent and that the enforcement proceedings were discontinued on 10 July 2001.

The application was lodged with the Court on 9 September 2002, that is more than six months after those events. The complaint is therefore inadmissible pursuant to Article 35 § 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

50. 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

51. The applicants claimed repayment of the judgment debts they had legitimately expected to receive before the judgment in their favour was quashed, i.e. the amounts of 24,490 United States dollars (USD) and USD 32,931 respectively. They further claimed 583,548.24 Russian roubles (RUB) and RUB 784,680.56 respectively representing interest on the judgment debts (*lucrum cessans*) for the period from 5 December 2001 to 29 July 2011. They also claimed 5,000 euros (EUR) each for non-pecuniary damage.

52. The Government submitted that the applicants' claims were excessive and ill-founded. They contested the method of calculation of interest on the judgment debts, including the rate applied by the applicants and the period of time for which interest was due. As regards non-pecuniary damage, the Government argued that in any event the Court should not grant more than EUR 2,000, an amount awarded in the *Kravchenko* case.

53. The Court notes that in the present case it has found a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 in that the final judgment in the applicants' favour had been quashed in breach of the legal certainty requirement and that the applicants had not been able to receive the judicial awards as a result of the quashing of that judgment. The most appropriate form of redress in respect of a violation of Article 6 is to ensure that the applicant is put, as far as possible, in the position he would have been had the requirements of Article 6 not been disregarded (see *Piersack v. Belgium* (Article 50), judgment of 26 October 1984, Series A no. 85, p. 16, § 12, and, *mutatis mutandis*, *Gençel v. Turkey*, no. 53431/99, § 27, 23 October 2003). The Court finds that in the present case this principle applies as well, having regard to the nature of the violations found (see *Kravchenko*, cited above, § 56). The Court therefore considers it appropriate to award the applicants the amounts which they would have

received, had the final judgment of 20 December 2004 not been quashed, i.e. USD 24,490 and USD 32,931 respectively.

54. As to the claim concerning interest on the judgment debts, the Court, like the Government, has doubts as to the method of calculation used by the applicants. They did not provide sufficient factual elements to substantiate their approach. The Court further notes that the depreciation of the judgment debt over the relevant period was limited since the awards were made in the US currency which was not affected by inflation at the same rate as the Russian national currency. In these circumstances the Court dismisses the applicants' claim for interest.

55. The Court further considers that the applicants must have suffered distress and frustration resulting from the quashing of the final judgment in breach of the legal certainty requirement. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards EUR 2,000 to each applicant in respect of non-pecuniary damage, plus any tax that may be chargeable on those amounts.

B. Costs and expenses

56. The applicants claimed RUB 35,000 for legal costs and attached the lawyer's bill in support of their claims. The Government did not dispute the amount paid to the lawyer and considered that it could be granted, should the Court find a violation of the Convention. The Court therefore awards the applicants EUR 880 for costs and expenses.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints concerning the quashing of the judgment of 20 December 2004 in the applicants' favour after the extension of the time-limit for appeal and the non-enforcement of that judgment admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 of the Convention and Article 1 of Protocol No. 1 on account of the quashing of the judgment in the applicants' favour;

3. *Holds* that it is not necessary to examine separately the issue of non-enforcement of that judgment;

4. *Holds* that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention:

(a) the awards made by the domestic court in the applicants' favour, that is USD 24,490 (twenty-four thousand four hundred and ninety United States dollars) to the first applicant and USD 32,931 (thirty-two thousand nine hundred and thirty-one United States dollars) to the second applicant in respect of pecuniary damage;
(b) EUR 2,000 (two thousand euros) to each applicant in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of the settlement, plus any tax that may be chargeable to the applicants on that amount;
(c) EUR 880 (eight hundred and eighty euros) jointly to both applicants in respect of costs and expenses, to be converted into Russian roubles at the rate applicable at the date of the settlement, plus any tax that may be chargeable on that amount;
(d) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 10 May 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Nina Vajić
President