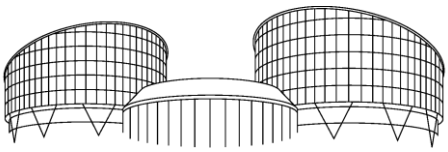

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF ALEKSANDR DEMENTYEV v. RUSSIA

(Application no. 43095/05)

JUDGMENT

STRASBOURG

28 November 2013

FINAL

28/02/2014

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Aleksandr Dementyev v. Russia,

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

Isabelle Berro-Lefèvre, *President,*
Elisabeth Steiner,
Khanlar Hajiyev,
Linos-Alexandre Sicilianos,
Erik Møse,
Ksenija Turković,
Dmitry Dedov, *judges,*

and Søren Nielsen, *Section Registrar,*

Having deliberated in private on 5 November 2013,

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

PROCEDURE

1. The case originated in an application (no. 43095/05) 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 Leonidovich Dementyev ("the applicant"), on 14 September 2005.

2. The applicant, who had been granted legal aid, was represented by Ms O.V. Preobrazhenskaya, a lawyer practising in Moscow. 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, in particular, that he had been unable to attend a sentencing hearing.

4. On 29 June 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

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1978 and is serving a prison sentence in Kotlas, Arkhangelsk region.

6. On 23 September 2003 the applicant was arrested on suspicion of murder. He remained in custody pending investigation and trial.

7. On 9 April 2004 the Solombalskiy District Court of Arkhangelsk found the applicant guilty of battery and sentenced him to six months' community work. The applicant was represented by a State-appointed lawyer. On 28 May 2004 the Arkhangelsk Regional Court upheld the applicant's conviction on appeal. It is apparent from the text of the appeal judgment that the applicant was not represented before the appeal court.

8. On 8 July 2004 the Regional Court found the applicant guilty of murder and sentenced him to 13 years' imprisonment. The applicant was again represented by a State-appointed lawyer. The applicant appealed against his conviction, alleging that the trial court had erred in its assessment of the evidence. On 20 October 2004 the Supreme Court of Russia upheld the applicant's conviction on appeal. It is apparent from the text of the appeal judgment that the applicant was not represented before the appeal court.

9. On an unspecified date, the correctional facility where the applicant was serving the prison sentence asked the Regional Court to advise as to the execution of the sentence for battery of 9 April 2004. The court fixed the hearing for 18 March 2005.

10. On 5 March 2005 the Regional Court forwarded to the correctional facility a request to inform the applicant of the date, time and place of the hearing. The applicant signed a statement acknowledging receipt of the notice on 17 March 2005. The relevant part of his statement read as follows:

> "I, Aleksandr Leonidovich Dementyev, hereby acknowledge that I have been notified about the hearing to be held at the Arkhangelsk Regional Court concerning the execution of the sentence imposed by the Solombalskiy District Court on 9 April 2004. I have been informed that my attendance at the hearing is not mandatory and that I have a right to participate through a legal representative."

11. On 18 March 2005 at 11 a.m. the administrative office of the correctional facility where the applicant was serving a prison sentence informed the Regional Court by phone that the applicant had chosen not to be represented at the hearing. The message was worded as follows:

> "[The applicant] has chosen not to be represented by a lawyer at the hearing on 18 March 2005 concerning the execution of the sentence imposed by the Solombalskiy District Court on 9 April 2004."

12. On 18 March 2005 at 2 p.m. the Regional Court reconsidered the term imposed on the applicant sentence by the verdict of 9 April 2004. The court converted it into a prison sentence and added it, in part, to the term of imprisonment imposed on the applicant by the murder verdict. As a result, the applicant's overall prison sentence was increased by one month to take into account his conviction for battery of 9 April 2004. After having examined the applicant's statement - confirming that he had been apprised of the hearing and his right to attend - and the transcript of the telephone message from the correctional facility stating that the applicant had chosen not to be represented at the hearing by a lawyer, the court decided to hold

the hearing in the applicant's absence. The prosecutor and a representative of the regional department of corrections who attended the hearing considered it acceptable to proceed in the applicant's absence.

13. On 31 March 2005 the applicant received a copy of the decision of 18 March 2005 whereby he was also advised of his right to lodge an application for supervisory review of the said decision. No possibility of lodging an appeal was mentioned.

II. RELEVANT DOMESTIC LAW AND PRACTICE

14. When determining an aggregate sentence, the court takes into account the terms of all sentences imposed and adds them up in full or in part (Article 69 § 3 of the Criminal Code of the Russian Federation, hereinafter the "CC"). When so doing, the court takes into account the nature and degree of the danger each of the crimes committed pose to the public, the offender's character, and any mitigating or aggravating circumstances surrounding each of the crimes committed, as well as any cumulative aggravating effect resulting from the repeated crimes (Ruling no. 40 adopted by the Plenary of the Supreme Court of the Russian Federation on 11 June 1999, § 14, in force at the relevant time).

15. For the purposes of calculating an aggregate sentence, three days of community work correspond to one day of a prison sentence (Article 71 of the CC). The CC does not provide for any possibility of performing the community work either before or after serving a prison sentence.

16. The offender has the right to attend the hearing concerning the execution of the sentence imposed on him (Article 47 § 4 of the Code of Criminal Procedure of the Russian Federation in force at the relevant time, hereinafter the "CCP"). The provisions of the CCP (Article 399) left it to the court's discretion to decide whether the offender's attendance at the hearing was necessary. They further provided for the convict's right to be represented by a lawyer at the hearing.

17. It was open to the parties to the proceedings, including the offender, to lodge an appeal against the court's decision on aggregate sentencing (Article 410 of the CCP).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

18. The applicant complained about his non-attendance at the hearing of 18 March 2005. The Court will examine the applicant's allegations under

Article 6 §§ 1 and 3 (c) of the Convention, which, in so far as relevant, reads as follows:

> "1. In the determination ... of any criminal charge against him, everyone is entitled to a fair and public hearing ... by [a] ... tribunal ... .
>
> ...
>
> 3. Everyone charged with a criminal offence has the following minimum rights:
>
> ...
>
> (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require."

A. Admissibility

1. Compatibility ratione materiae

(a) The parties' submissions

(i) The Government

19. The Government submitted that the applicant's complaint did not fall within the ambit of Article 6 of the Convention. The court hearing held on 18 March 2005 concerned the execution of two sentences imposed earlier on the applicant. Under Russian law, a hearing of this type was not considered to be part of the proceedings concerning determination of the criminal charge within the meaning of Article 6 of the Convention. A hearing of this type was of a formal character. The court was not competent to decide the question of the guilt or innocence of the accused, or to establish the circumstances of the case, or to assess evidence, or to verify the lawfulness or well-foundedness of the verdict. It was incumbent on the domestic court to determine only the way in which the applicant was to serve the two criminal sentences imposed on him consecutively in accordance with the "arithmetical" rules set out in the Criminal Code of the Russian Federation.

20. In the Government's view, the present case was to be distinguished from the case of *Eckle* (*Eckle v. Germany*, 15 July 1982, § 77, Series A no. 51) where the German courts, when determining the applicants' sentence, had to evaluate the seriousness of all the crimes committed by them, assess their character and take into account as a mitigating circumstance the time that had passed since the date of the verdict.

21. The Government further referred to an earlier case, against Russia (see *Nurmagomedov v. Russia*, no. 30138/02, §§ 40-51, 7 June 2007). In *Nurmagomedov* the Court had held that the proceedings concerning the bringing of an offender's sentence in line with the amendments to the Criminal Code of the Russian Federation fell outside the scope of Article 6 of the Convention. The Government considered that the present case bore a close resemblance to *Nurmagomedov* and it should, accordingly, be dismissed as being incompatible *ratione materiae* with the Convention provisions.

(ii) The applicant

22. The applicant contested the Government's argument. Relying on the Court's case-law, he argued that Article 6 of the Convention applied to all stages of criminal proceedings, including the proceedings whereby a sentence is fixed (see *Phillips v. the United Kingdom*, no. 41087/98, § 39, ECHR 2001-VII). In the applicant's view, the hearing was in any event decisive for the determination of his civil rights and obligations within the meaning of Article 6 of the Convention. The question to be decided by the domestic court concerned the determination of the aggregate prison sentence to be served by him. Accordingly, it was the applicant's right to liberty, which was a civil right, that was at stake (see *Aerts v. Belgium*, 30 July 1998, § 59, *Reports of Judgments and Decisions* 1998-V).

(b) The Court's assessment

23. The Court reiterates that, in criminal matters, Article 6 § 1 of the Convention covers the whole of the proceedings in question, including appeal proceedings and the determination of sentence (see, among other authorities, *Eckle v. Germany*, 15 July 1982, §§ 76-77, Series A no. 51, and *T v. the United Kingdom* [GC], no. 24724/94, § 108, 16 December 1999).

24. Turning to the circumstances of the present case, the Court observes that, after two guilty verdicts had been rendered and taken effect in respect of the applicant, it still remained necessary for the domestic judicial authorities to fix the aggregate sentence combining those previously imposed on the applicant in the course of two sets of criminal proceedings against him.

25. The Court cannot accept the Government's argument that the determination of the aggregate sentence was a mere "formality" and an "arithmetical" exercise (see, by contrast, *Nurmagomedov*, cited above, § 48, where the domestic court was solely called upon to match the constituent elements of a crime as established in the original conviction with the definitions of offences contained in the new Criminal Code and to replace the old references with the new). When determining the aggregate sentence in respect of the applicant, the domestic judicial authorities were to take into account his character, as well as the mitigating and aggravating

circumstances of the crimes committed. It was for the court to decide whether the terms of both sentences were to be added up in full or in part (see paragraph 14 above).

26. Accordingly, the Court considers that the applicant's case should be distinguished from the case of *Nurmagomedov*. In the Court's view, it bears a close resemblance to the case of *Eckle* where the Court held, in the context of determining the length of the criminal proceedings, that there is no "determination ... of any criminal charge", within the meaning of Article 6 of the Convention, as long as the sentence is not definitively fixed (see *Eckle*, cited above, § 77). In the Court's view, the applicant was not in a position to calculate the aggregate term of the sentences on his own. While the conversion of the term of community work into the prison term was indeed an arithmetical exercise, the judicial authorities still had discretion to decide whether the converted sentence would be added in full or in part, regard being had to the particular circumstances of the case. Accordingly, the Court concludes that the applicant's complaint concerning the hearing for determination of his aggregate criminal sentence is compatible *ratione materiae* with the provisions of the Convention. It falls within Article 6 of the Convention under its criminal head.

2. Exhaustion of domestic remedies

(a) The parties' submissions

(i) The Government

27. The Government submitted that the applicant's complaint was to be dismissed for his failure to exhaust effective domestic remedies. In particular, it was open to the applicant to appeal against the decision of 18 March 2005. The applicant had been duly informed of the decision and his right to lodge an appeal against it. He had also had access to legal advice. At all the previous stages of the proceedings he had been duly represented by a professional lawyer.

(ii) The applicant

28. The applicant alleged that he had been prevented from lodging an appeal because of the authorities' belated service of process on him. According to the applicant, he could only have lodged an appeal against the decision of 18 March 2005 within ten days of the date of the decision, that is to say no later than 28 March 2005. However, he received his copy of the decision only on 31 March 2005 and could not comply with the statutory time-limit. Furthermore, according to the text of the decision, the only option open to the applicant would have been to lodge a request for supervisory review. However, according to the Court's jurisprudence,

supervisory review was not considered an effective remedy within the meaning of the Convention and the applicant was not required to lodge an application for supervisory review in order to comply with the requirement of exhaustion of effective domestic remedies for the purposes of lodging the complaint before the Court.

(b) The Court's assessment

29. While the Court is doubtful as to the applicant's assertion that the belated receipt by him of his copy of the decision of 18 March 2005 precluded his appealing against it, it nevertheless accepts the applicant's argument that it was not incumbent on him to appeal against the decision in question in order to comply with the requirements set forth in Article 35 § 1 of the Convention.

30. In this connection the Court observes that, while it is true that the applicant received - albeit belatedly - a copy of the decision of 18 March 2005, the text of the decision remained silent as to the possibility of appealing against it. In its decision, the court had advised the applicant that he could lodge an application for supervisory review against it (see paragraph 13 above).

31. The Court further notes that the Government did not furnish any evidence to demonstrate that the applicant had indeed had access to a lawyer - either of his own choosing or State-appointed - who would have been able to provide legal advice as to the proper avenue of appeal against the decision of 18 March 2005. On the contrary, according to the text of the appeal judgments of 28 May and 20 October 2004 (see paragraphs 7 and 8 above), the applicant was not represented even before the Regional and Supreme Courts which examined his appeals against the guilty verdicts on the charges of battery and murder. In such circumstances it appears that the applicant could not have become aware that the option was open to him - as claimed by the Government - to lodge an ordinary appeal against the decision of 18 March 2005.

32. Nevertheless, even assuming - for the sake of argument - that it was possible for the applicant to seek legal advice on the issue, the presiding judge, being the ultimate guardian of the fairness of the proceedings, cannot be absolved of his or her responsibility to explain to the defendant the procedural rights and obligations and secure their effective exercise (see *Kononov v. Russia*, no. 41938/04, § 43, 27 January 2011).

33. Regard being had to the omission on the part of the presiding judge to duly explain to the applicant the process regarding the possibility of appealing against the decision of 18 March 2005, the Court holds that, in the circumstances of the case, it cannot be said that the applicant received clear and comprehensible instructions as to the proper avenue for exhausting remedies. Accordingly, the applicant was exempt from the obligation to lodge an appeal against the decision of 18 March 2005. Nor was he obliged

to lodge an application for supervisory review, which, according to the Court's well-established case-law, is not a remedy to be exhausted under Article 35 § 1 of the Convention (see *Berdzenishvili v. Russia* (dec.), no. 31697/03, 29 January 2004). Accordingly, the Government's objection as to the alleged failure by the applicant to exhaust effective domestic remedies should be dismissed.

3. Conclusion

The Court notes that the 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

1. The parties' submissions

(a) The Government

34. The Government submitted that the applicant had been informed of the date, time and place of the hearing. The domestic court had explained to him that the rules of criminal procedure did not require his presence at the hearing and that he could authorise his lawyer to attend the hearing on his behalf. It was open to the applicant to ask the court to ensure his presence at the appeal hearing or to authorise a lawyer to attend the hearing on his behalf. However, he chose neither to attend nor to ensure his participation through legal representation.

(b) The applicant

35. The applicant took the view that his attendance at the hearing of 18 March 2005 was an essential requirement. It had been incumbent on the domestic court not only to calculate the length of the prison sentence to be imposed on him as a result of the two verdicts but also, when doing so, to take into account the information concerning the applicant's character and other extenuating circumstances. When deciding the length of the sentence to be imposed, the court should also have taken into account the prospects for the applicant's rehabilitation. The sentencing had not been a mere arithmetical exercise. Replacement of community work with a prison sentence had not been the only option available. The court could have allowed the applicant to serve a prison sentence and then, following release, do the community work.

36. The applicant submitted that he had been notified of the date and time of the hearing of 18 March 2005 only one day in advance, which meant

that there had been clearly insufficient time for him to make the arrangements necessary to ensure that his lawyer could attend the hearing. As regards the information transmitted by phone by the administrative office of the correctional facility to the Regional Court, in the applicant's opinion, the Regional Court should have verified the authenticity of his decision not to be represented at the hearing.

2. The Court's assessment

General principles

37. The Court notes at the outset that the requirements of Article 6 § 3 are to be seen as particular aspects of the right to a fair trial guaranteed by Article 6 § 1, and the applicant's complaints under Article 6 §§ 1 and 3 should therefore be examined together (see *Vacher v. France*, 17 December 1996, § 22, *Reports of Judgments and Decisions* 1996-VI).

38. The Convention leaves Contracting States wide discretion as regards the choice of the means intended to ensure that their legal systems comply with the requirements of Article 6. The Court's task is to determine whether the result called for by the Convention has been achieved. In particular, the procedural means offered by domestic law and practice must be shown to be effective where a person charged with a criminal offence has neither waived his right to appear and defend himself nor sought to escape trial (see *Sejdovic v. Italy* [GC], no. 56581/00, § 83, ECHR 2006-II).

(i) Right to participate in a hearing

39. The general principles concerning the right of an accused to attend a hearing are well established in the Court's case-law and have been summarised as follows (see *Hermi v. Italy* [GC], no. 18114/02, ECHR 2006-XII):

> "58. In the interests of a fair and just criminal process it is of capital importance that the accused should appear at his trial (see *Lala v. the Netherlands*, judgment of 22 September 1994, Series A no. 297-A, p. 13, § 33; *Poitrimol v. France*, judgment of 23 November 1993, Series A no. 277-A, p. 15, § 35; and *De Lorenzo v. Italy* (dec.), no. 69264/01, 12 February 2004), and the duty to guarantee the right of a criminal defendant to be present in the courtroom – either during the original proceedings or in a retrial – ranks as one of the essential requirements of Article 6 (see *Stoichkov v. Bulgaria*, no. 9808/02, § 56, 24 March 2005). ...
>
> 60. However, the personal attendance of the defendant does not take on the same crucial significance for an appeal hearing as it does for the trial hearing (see *Kamasinski*, cited above, p. 44, § 106). ...
>
> 62. ... even where the court of appeal has jurisdiction to review the case both as to facts and as to law, Article 6 does not always require a right to a public hearing, still less a right to appear in person (see *Fejde v. Sweden*, judgment of 29 October 1991, Series A no. 212-C, p. 68, § 31). In order to decide this question, regard must be had,

among other considerations, to the specific features of the proceedings in question and to the manner in which the applicant's interests were actually presented and protected before the appellate court, particularly in the light of the nature of the issues to be decided by it (see *Helmers v. Sweden*, judgment of 29 October 1991, Series A no. 212-A, p. 15, §§ 31-32) and of their importance to the appellant (see *Kremzow*, cited above, p. 43, § 59; *Kamasinski*, cited above, pp. 44-45, § 106 *in fine*; and *Ekbatani*, cited above, p. 13, §§ 27-28). ...

64. However, where an appellate court has to examine a case as to the facts and the law and make a full assessment of the issue of guilt or innocence, it cannot determine the issue without a direct assessment of the evidence given in person by the accused for the purpose of proving that he did not commit the act allegedly constituting a criminal offence (see *Dondarini v. San Marino*, no. 50545/99, § 27, 6 July 2004). ...

...

76. In view of the prominent place held in a democratic society by the right to a fair trial (see, among many other authorities, *Delcourt v. Belgium*, judgment of 17 January 1970, Series A no. 11, pp. 14-15, § 25 *in fine*), Article 6 of the Convention imposes on every national court an obligation to check whether the defendant has had the opportunity to apprise himself of the date of the hearing and the steps to be taken in order to take part where... this is disputed on a ground that does not immediately appear to be manifestly devoid of merit (see, *mutatis mutandis*, *Somogyi v. Italy*, no. 67972/01, § 72, ECHR 2004-IV). ..."

(ii) Legal representation in criminal cases

40. The Court reiterates that the Convention requires that a person charged with a criminal offence who does not wish to defend himself in person must be able to have recourse to legal assistance of his own choosing (see *Ezeh and Connors v. the United Kingdom* [GC], nos. 39665/98 and 40086/98, § 131, ECHR 2003-X). Although not absolute, the right of everyone charged with a criminal offence to be effectively defended by a lawyer, assigned officially if need be, is one of the fundamental features of a fair trial (see *Poitrimol v. France*, 23 November 1993, § 34, Series A no. 277-A). A person charged with a criminal offence does not lose the benefit of this right merely on account of not being present at the trial (see *Mariani v. France*, no. 43640/98, § 40, 31 March 2005). It is of crucial importance for the fairness of the criminal justice system that the accused be adequately defended, both at first instance and on appeal (see *Lala v. the Netherlands*, 22 September 1994, § 33, Series A no. 297-A, and *Pelladoah v. the Netherlands*, 22 September 1994, § 40, Series A no. 297-B).

(iii) Waiver

41. Neither the letter nor the spirit of Article 6 of the Convention prevents a person from waiving of his own free will, either expressly or tacitly, the entitlement to the guarantees of a fair trial. However, such a waiver must, if it is to be effective for Convention purposes, be established

in an unequivocal manner and be attended by minimum safeguards commensurate with its importance. In addition, it must not run counter to any important public interest (see *Hermi*, cited above, § 73).

42. The Court has also held that before an accused can be said to have implicitly, through his conduct, waived an important right under Article 6 of the Convention, it must be shown that he could reasonably have foreseen what the consequences of his conduct would be (see *Jones v. the United Kingdom* (dec.), no. 30900/02, 9 September 2003).

3. Application of the above principles to the instant case

43. The Court observes that under Russian law, defendants have the right to attend hearings concerning aggregate sentences. They may also appoint a lawyer to represent them before the sentencing court (see paragraph 16 above).

44. This does not necessarily imply, however, that the presence of the applicant at the sentencing hearing is required by Article 6 § 1 of the Convention, as the requirements of that provision are autonomous in relation to those of national legislation.

45. In the instant case, the Court deems it appropriate to proceed on the basis of the following facts. The Regional Court had jurisdiction to rule solely on the conversion of the applicant's sentence to six months' community work into a prison sentence according to an arithmetical formula established by law, whereby three days of community work should be replaced by one day of a prison sentence (see paragraph 15 above). The recalculated and converted sentence was then to be added in full or in part to the thirteen years' imprisonment the applicant was to serve following his other conviction. While it is true that the Regional Court, in carrying out the sentencing exercise, was to take into account, *inter alia*, the applicant's character and the mitigating and aggravating circumstances of each of the crimes committed, its task was purely to decide what period - ranging from one day to two months - was to be served by the applicant following his conviction for battery.

46. Given the limited scope of the issue to be dealt with by the Regional Court and the fact that the applicant was present and represented during both trials and was able to appeal against his convictions, the Court considers that the Regional Court, could - as a matter of fair trial - have properly examined the issue on the basis of the case-file and the parties' written submissions without a direct assessment of the evidence given by the applicant in person.

47. That finding is sufficient basis for concluding that there has not been a violation of Article 6 of the Convention. In any event, the Court observes that, even assuming that the applicant had a right under the Convention to appear at the hearing of 18 March 2005, he was duly informed of the date of that hearing and waived his right to appear.

48. In this connection the Court observes that the domestic authorities informed the applicant of the date and purpose of the sentencing hearing and advised him of his right to be represented by counsel. At the hearing, the sentencing court examined the situation and the applicant's decision not to be represented and decided to proceed with the sentencing in his absence.

49. The Court further observes that the applicant did not submit any written statement in response to the correctional facility's application for conversion of his sentence. Nor did he take any steps to ensure his representation before the sentencing court by a State-appointed lawyer or a lawyer of his own choosing. The domestic judicial authorities took the view that the applicant had waived his right to attend the sentencing hearing and conducted it in his absence. The Court does not discern anything in the material before it to cause it to hold otherwise.

50. The Court accepts - and the applicant did not argue to the contrary - that the applicant was well aware of his rights and the steps needed to ensure his attendance at the hearing of 18 March 2005. He did not at any point alert the authorities to any difficulties encountered in coming to a decision or any need for further legal advice or clarification. The domestic authorities were therefore not obliged to intervene or take steps to ensure that the applicant was adequately represented. Nor did he claim that the procedural formalities he was to comply with were excessive or unclear to him.

51. While the Court finds it regrettable that the applicant was provided with the information pertaining to the sentencing hearing only one day before it was actually held, it has no reason to find that such belated notice prejudiced the applicant's position to such an extent as to render the proceedings against him unfair.

52. In the light of the above, the Court considers that the Russian judicial authorities were entitled to conclude that the applicant had waived, tacitly and unequivocally, his right to attend the hearing.

53. It follows that there has been no violation of Article 6 §§ 1 and 3 (c) of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

54. Lastly, the applicant complained under Article 3 of the Convention that he had been subjected to ill-treatment and that he had not been provided with meals while in custody from 23 to 25 September 2003. He further complained, under Article 6 § 3 (c) of the Convention, of the poor quality of the defence provided by the State-appointed lawyers who represented him in the course of the criminal proceedings against him.

55. Having regard to all the material in its possession and in so far as it falls within its competence, the Court finds that the evidence before it discloses no 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 being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning the applicant's non-attendance at the sentencing hearing admissible and the remainder of the application inadmissible;

2. *Holds* that there has been no violation of Article 6 §§ 1 and 3 (c) of the Convention.

Done in English, and notified in writing on 28 November 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen Registrar	Isabelle Berro-Lefèvre President