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

FIRST SECTION

CASE OF BENEDIKTOV v. RUSSIA

(Application no. 106/02)

JUDGMENT

STRASBOURG

10 May 2007

FINAL

24/09/2007

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Benediktov v. Russia,

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

Mr C.L. ROZAKIS, *President,*
Mr L. LOUCAIDES,
Mrs N. VAJIĆ,
Mr A. KOVLER,
Mrs E. STEINER,
Mr K. HAJIYEV,
Mr S.E. JEBENS, *judges,*
and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 10 April 2007,

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

PROCEDURE

1. The case originated in an application (no. 106/02) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Russian national, Mr Vladimir Aleksandrovich Benediktov ("the applicant"), on 23 November 2001.

2. The applicant, who had been granted legal aid, was represented by Ms M. Arutyunyan and Ms O. Preobrazhenskaya, lawyers practising in Moscow. The Russian Government ("the Government") were represented Mr P. Laptev, the Representative of the Russian Federation at the European Court of Human Rights.

3. On 2 September 2005 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

4. The Government objected to the joint examination of the admissibility and merits of the application. Having examined the Government's objection, the Court dismissed it.

THE FACTS

5. The applicant was born in 1973 and lived until his arrest in Moscow. He is now serving his sentence in a correctional colony in the Mordoviya Republic of the Russian Federation.

I. THE CIRCUMSTANCES OF THE CASE

A. Criminal proceedings against the applicant

6. On 16 December 1999, at approximately 11 a.m., the applicant was arrested on suspicion of robbery. The report of his arrest was drawn up six hours later. He was issued with a copy of the report only in April 2000.

7. An investigator informed the applicant of his statutory defence rights. The applicant countersigned a record indicating that he had voluntarily refused legal assistance and decided to answer the investigator's questions. On the same day he was confronted with the victim, the co-defendant and a witness.

8. On 17 December 1999 a prosecutor authorised the remand of the applicant in custody, without the latter being present.

9. In December 1999 and January 2000 an investigator ordered three expert examinations. According to the applicant, he was notified of these examinations in April 2000.

10. On 24 November 2000 the Zyuzinskiy District Court of Moscow found the applicant guilty of robbery and sentenced him to nine years' imprisonment in a high-security colony. The District Court based its judgment on statements by the victim, several eyewitnesses, expert reports and other material evidence. On 23 May 2001 the Moscow City Court upheld the conviction, but remitted the decision concerning the colony type for re-examination. On 3 July 2001 the Zyuzinskiy District Court ordered that the applicant should serve his sentence in a high-security colony.

B. Conditions of the applicant's detention

11. From 19 December 1999 to November 2001 the applicant was detained in facilities nos. IZ-77/2 and IZ-77/3 in Moscow.

1. Facility no. IZ-77/2

(a) Number of inmates per cell

12. According to certificates issued on 19 October 2005 by the acting facility director, and produced by the Government, the applicant was kept in three cells. From 19 to 22 December 1999 he was detained in cell no. 148 which measured 57.4 square metres. From 22 December 1999 to 10 March 2000 he was kept in a 12.7 sq. m cell, no. 85. According to the Government, the information on the number of inmates in cells nos. 85 and 148 was not available as the documents had been destroyed. From 10 March to

28 November 2000 the applicant remained in cell no. 101, which measured 55.2 square metres. Between 22 September and 28 November 2000 that cell housed approximately 58 detainees. The Government, relying on the certificates of 19 October 2005, further submitted that at all times the applicant had had an individual bunk and bedding. However, the facility was not able to produce the applicant's record confirming the latter submission as it had been sent to another detention facility in Moscow.

13. The applicant did not dispute the cell measurements. He, however, alleged that he had shared cell no. 85 with five detainees. That cell had five bunks. Cell no. 101 accommodated 70 to 80 inmates. Given the lack of beds, inmates slept in shifts.

(b) Sanitary conditions, installations and temperature

14. The Government, relying on the information provided by the office of the Prosecutor General of the Russian Federation, submitted that all cells were disinfected on a "regular basis". Inmates were allowed to take a shower once a week. The applicant was provided with bedding. The cells were ventilated naturally through the windows. Each cell also had a ventilating shaft. The Government further argued that the temperature in the cells had been "normal". Additional window-frames with glass were inserted in winter. The cells were equipped with lamps which functioned day and night.

15. The applicant disagreed with the Government's description and submitted that the sanitary conditions had been unsatisfactory. The cells were infected with bed-bugs and lice but the administration did not provide any insecticides. Windows were not glazed and were covered with thick metal bars that blocked access to natural light and fresh air. It was extremely cold in winter and in summer it was hot, stuffy and excessively damp inside. Inmates had an hour-long walk daily. On admission to the facility the applicant was provided with bedding which was dirty and smelt badly. The bedding was seized when he was transferred to a hospital in the end of December 1999. When he returned, he was not provided with bedding at all. No toiletries were distributed.

2. Facility no. IZ-77/3

16. According to the applicant, from November 2000 to November 2001 he was kept in detention facility no. IZ-77/3 in Moscow. He was detained in six different cells, which were severely overcrowded. At all times the number of detainees was greater than that of the available bunks. The general conditions of his detention in that facility were similar to those in facility no. IZ-77/2, save for one aspect. In summer detainees were afforded a one-hour walk at night because it was extremely hot and many inmates had suffered heart attacks.

17. The Government did not comment on this.

C. State of the applicant's health and medical assistance

18. According to a certificate of the head of correctional colony no. 1 in the Mordoviya Republic, in January 2000 the applicant was diagnosed with viral hepatitis of type B and on the following day he was admitted to an isolation ward in the facility hospital. The Government submitted that he had undergone treatment until March 2000 and had been transferred back to a cell after his full recovery. The Government gave a detailed description of the treatment the applicant had been provided with, including the type of medicine, dose and frequency. They also furnished a copy of the applicant's medical record and medical certificates. The Government further noted that the applicant had never complained to the facility administration or any other authority that medical assistance was lacking or was of poor quality.

19. The applicant argued that in late December 1999 he had been transferred to the facility hospital because he had contracted hepatitis. He was placed on a drip five or six times during his treatment and provided with medication that did not help. Dietetic food was not provided and he refused to eat the hospital food because it was too greasy. He unsuccessfully complained to the head of the hospital about inadequate medical assistance. The latter encouraged him to ask his relatives to bring the necessary medicines because the hospital did not have them. According to the applicant, he was released from the hospital although he did not fully recover. On a number of occasions he complained to a doctor in facility no. IZ-77/2 about a pain in his liver. The doctor allegedly told him that the facility did not have the necessary medicines and that he should ask relatives to buy them.

II. RELEVANT DOMESTIC LAW

20. Section 22 of the Detention of Suspects Act (Federal Law no. 103-FZ of 15 July 1995) provides that detainees should be given free food sufficient to maintain them in good health according to standards established by the Government of the Russian Federation. Section 23 provides that detainees should be kept in conditions which satisfy sanitary and hygienic requirements. They should be provided with an individual sleeping place and given bedding, tableware and toiletries. Each inmate should have no less than 4 square metres of personal space in his or her cell.

III. RELEVANT INTERNATIONAL DOCUMENTS

21. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited the Russian Federation from 2 to 17 December 2001. The section of its Report to the Russian Government (CPT/Inf (2003) 30) dealing with the conditions of detention in remand establishments and the complaints procedure read as follows:

> 45. It should be stressed at the outset that the CPT was pleased to note the progress being made on an issue of great concern for the Russian penitentiary system: overcrowding.
>
> When the CPT first visited the Russian Federation in November 1998, overcrowding was identified as the most important and urgent challenge facing the prison system. At the beginning of the 2001 visit, the delegation was informed that the remand prison population had decreased by 30,000 since 1 January 2000. An example of that trend was SIZO No 1 in Vladivostok, which had registered a 30% decrease in the remand prison population over a period of three years.
>
> ...
>
> The CPT welcomes the measures taken in recent years by the Russian authorities to address the problem of overcrowding, including instructions issued by the Prosecutor General's Office, aimed at a more selective use of the preventive measure of remand in custody. Nevertheless, the information gathered by the Committee's delegation shows that much remains to be done. In particular, overcrowding is still rampant and regime activities are underdeveloped. In this respect, the CPT reiterates the recommendations made in its previous reports (cf. paragraphs 25 and 30 of the report on the 1998 visit, CPT (99) 26; paragraphs 48 and 50 of the report on the 1999 visit, CPT (2000) 7; paragraph 52 of the report on the 2000 visit, CPT (2001) 2).
>
> ...
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> 125. As during previous visits, many prisoners expressed scepticism about the operation of the complaints procedure. In particular, the view was expressed that it was not possible to complain in a confidential manner to an outside authority. In fact, all complaints, regardless of the addressee, were registered by staff in a special book which also contained references to the nature of the complaint. At Colony No 8, the supervising prosecutor indicated that, during his inspections, he was usually accompanied by senior staff members and prisoners would normally not request to meet him in private "because they know that all complaints usually pass through the colony's administration".
>
> In the light of the above, the CPT reiterates its recommendation that the Russian authorities review the application of complaints procedures, with a view to ensuring that they are operating effectively. If necessary, the existing arrangements should be modified in order to guarantee that prisoners can make complaints to outside bodies on a truly confidential basis."

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION

22. The applicant complained that his detention from 19 December 1999 to November 2001 in appalling conditions, leading to hepatitis, was in breach of Article 3 of the Convention which reads as follows:

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

He also claimed that he did not have at his disposal an effective remedy for the violation of the guarantee against ill-treatment, which is required under Article 13 of the Convention:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority ...."

A. Submissions by the parties

23. The Government argued that the applicant had not exhausted the domestic remedies available to him. In particular, he had not complained about the conditions of his detention to a prosecutor or court. The Government further commented on the conditions of the applicant's detention, but only in facility no. IZ-77/2. In particular, they submitted that the applicant had been detained in satisfactory sanitary conditions. The Government noted that the fact that the applicant had been detained in the overcrowded cells could not serve on its own as the basis for finding a violation of Article 3 of the Convention because the remaining aspects of the applicant's detention had been satisfactory. The Government pointed out that overcrowding was a general problem in many member States of the Council of Europe.

24. The applicant submitted that he had not applied to a prosecutor or court because he had considered that such a complaint would not have any prospect of success. On numerous occasions, however, he had complained to the administrations about the appalling conditions of his detention. Thus they were sufficiently aware of his situation but no changes followed. He further challenged the Government's description of his conditions of detention as factually inaccurate. He insisted that the cells had at all times been severely overcrowded. According to the applicant, the overcrowding problem had been acknowledged by many Russian officials.

B. The Court's assessment

1. Admissibility

25. The Government raised the objection of non-exhaustion of domestic remedies by the applicant. The Court considers that the issue of exhaustion of domestic remedies is closely linked to the merits of the applicant's complaint that he did not have at his disposal an effective remedy for complaining about inhuman and degrading conditions of his detention. Thus, the Court finds it necessary to join the Government's objection to the merits of the applicant's complaint under Article 13 of the Convention.

26. The Court further notes that the applicant's complaints under Article 3 and 13 of the Convention are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and that they are not inadmissible on any other grounds. They must therefore be declared admissible.

2. Merits

(a) Article 13 of the Convention

27. The Court points out that Article 13 of the Convention guarantees the availability at national level of a remedy to enforce the substance of Convention rights and freedoms in whatever form they might happen to be secured in the domestic legal order. The effect of Article 13 is thus to require the provision of a domestic remedy to deal with the substance of an "arguable complaint" under the Convention and to grant appropriate relief (see, among many other authorities, the *Kudła v. Poland* [GC], no. 30210/96, § 157, ECHR 2000-XI).

28. The scope of the obligation under Article 13 varies depending on the nature of the applicant's complaint under the Convention. Nevertheless, the remedy required by Article 13 must be effective in practice as well as in law.

29. Turning to the facts of the present case, the Court considers that the Government did not demonstrate what redress could have been afforded to the applicant by a prosecutor, a court or other State agencies, taking into account that the problems arising from the conditions of the applicant's detention were apparently of a structural nature and did not only concern the applicant's personal situation (cf. *Moiseyev v. Russia* (dec.), no. 62936/00, 9 December 2004; *Kalashnikov v. Russia* (dec.), no. 47095/99, 18 September 2001; and, most recently, *Mamedova v. Russia*, no. 7064/05, § 57, 1 June 2006). The Government have failed to submit evidence as to the existence of any domestic remedy by which the applicant could have complained about the general conditions of his detention, in particular with

regard to the structural problem of overcrowding in Russian detention facilities, or that the remedies available to him were effective, that is to say that they could have prevented violations from occurring or continuing, or that they could have afforded the applicant appropriate redress (see, to the same effect, *Melnik v. Ukraine*, no. 72286/01, §§ 70-71, 28 March 2006; *Dvoynykh v. Ukraine*, no. 72277/01, § 72, 12 October 2006; and *Ostrovar v. Moldova*, no. 35207/03, § 112, 13 September 2005).

30. Accordingly, the Court rejects the Government's argument as to the exhaustion of domestic remedies and concludes that there has been a violation of Article 13 of the Convention on account of the lack of an effective and accessible remedy under domestic law for the applicant to complain about the general conditions of his detention.

(b) Article 3 of the Convention

31. The Court observes that the continuous nature of the applicant's detention, his identical descriptions of the general conditions of his detention in both facilities and the lack of arguments on the Government's behalf concerning that assertion warrant the examination of the applicant's detention from 19 December 1999 to November 2001 without dividing it into separate periods.

32. The parties disagreed as to the specific conditions of the applicant's detention. However, there is no need for the Court to establish the truthfulness of each and every allegation, because it finds that there has been a violation of Article 3 on the basis of the facts which have been presented and which, in principle, are not disputed by the respondent Government, for the following reasons.

33. The main characteristic, which the parties did agree upon, is the size of the cells. However, the applicant claimed that the cell population severely exceeded the capacity for which they were designed; the Government were unable to indicate the exact number of inmates in certain cells, alleging that the relevant documents had been destroyed. They also failed to provide any information concerning the number of detainees in cell no. 101, save for the period from 22 September to 28 November 2000, and they did not describe the conditions of the applicant's detention after 28 November 2000.

34. In this connection, the Court observes that Convention proceedings, such as the present application, do not in all cases lend themselves to a rigorous application of the principle *affirmanti incumbit probatio* (he who alleges something must prove that allegation) because in certain instances the respondent Government alone have access to information capable of corroborating or refuting allegations. A failure on a Government's part to submit such information without a satisfactory explanation may give rise to the drawing of inferences as to the well-foundedness of the applicant's allegations (see *Ahmet Özkan and Others v. Turkey*, no. 21689/93, § 426, 6 April 2004).

35. Having regard to the abovementioned principles, together with the fact that the Government did not offer any convincing explanation for their failure to submit relevant information and that they, in principle, agreed that the cells could have been overcrowded (see paragraph 23 above), the Court will examine the issue concerning the number of inmates in the cells on the basis of the applicant's submissions.

36. According to the applicant, in the smallest cell of 12.7 sq. m, inmates were afforded less than 2.2 sq. m of personal space. In a bigger 55.2 sq. m cell, detainees had less than 1 sq. m of personal space, even during the period when there were 58 inmates, as submitted by the Government. The number of detainees was greater than that of available bunks. It follows that the detainees, including the applicant, had to share the sleeping facilities, taking turns to rest. Thus, for approximately two years the applicant was confined to his cell day and night, save for one hour of outdoor exercise.

37. Irrespective of the reasons for the overcrowding, the Court considers that it is incumbent on the respondent Government to organise its penitentiary system in such a way as to ensure respect for the dignity of detainees, regardless of financial or logistical difficulties (see *Mamedova*, cited above, § 63).

38. The Court has frequently found a violation of Article 3 of the Convention on account of lack of personal space afforded to detainees (see *Khudoyorov v. Russia*, no. 6847/02, § 104 et seq., ECHR 2005-... (extracts); *Labzov v. Russia*, no. 62208/00, § 44 et seq., 16 June 2005; *Novoselov v. Russia*, no. 66460/01, § 41 et seq., 2 June 2005; *Mayzit v. Russia*, no. 63378/00, § 39 et seq., 20 January 2005; *Kalashnikov v. Russia*, no. 47095/99, §§ 97 et seq., ECHR 2002-VI; and *Peers v. Greece*, no. 28524/95, §§ 69 et seq., ECHR 2001-III).

39. Having regard to its case-law on the subject and the material submitted by the parties, the Court notes that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Although in the present case there is no indication that there was a positive intention to humiliate or debase the applicant, the Court finds that the fact that the applicant was obliged to live, sleep and use the toilet in the same cell as so many other inmates for almost two years was itself sufficient to cause distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention, and to arouse in him feelings of fear, anguish and inferiority capable of humiliating and debasing him.

40. Furthermore, while in the present case it cannot be established "beyond reasonable doubt" that the ventilation, heating, lighting or sanitary conditions in the facilities were unacceptable from the standpoint of Article 3, the Court nonetheless notes that the Government did not dispute that the cell windows had been covered with metal shutters blocking access to fresh air and natural light. In addition, the Court observes that the

applicant was diagnosed with hepatitis after his admission to facility no. IZ-77/2 and that it appears to be most probable that he was infected while in detention. Although this fact in itself does not imply a violation of Article 3, given, in particular, the fact that the applicant received treatment (see *Alver v. Estonia*, no. 64812/01, § 54, 8 November 2005 and, *mutatis mutandis*, *Khokhlich v. Ukraine*, no. 41707/98, 29 April 2003) and that he fully recovered, the Court considers that these aspects, while not in themselves capable of justifying the notion of "degrading" treatment, are relevant in addition to the focal factor of the severe overcrowding, to show that the applicant's detention conditions went beyond the threshold tolerated by Article 3 of the Convention (cf. *Novoselov*, cited above, § 44).

41. There has therefore been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention from 19 December 1999 to November 2001 in facilities nos. IZ-77/2 and IZ-77/3.

II. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

42. The applicant further complained under Article 5 § 1 (c) and § 3 of the Convention that the report of his arrest had not been promptly drawn up and notified to him and thus he had not been duly informed of the reasons for his arrest, that the prosecutor had authorised his detention on remand in his absence, and that the same prosecutor had extended his remand period and taken other procedural actions. Article 5, in so far as relevant, reads as follows:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> ...
>
> (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
>
> ...
>
> 3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

43. The Court observes that it is not required to decide whether or not the applicant's complaints concerning his detention on remand disclose an appearance of a violation of Article 5 of the Convention. It reiterates that,

according to Article 35 of the Convention, the Court may only deal with the matter within a period of six months from the date on which the final decision was taken. It observes that the applicant's detention on remand ended on 24 November 2000 when the Zyuzinskiy District Court of Moscow convicted him (see *Labita v. Italy* [GC], no. 26772/95, § 147, ECHR 2000-IV). After that date his detention no longer fell within the ambit of Article 5 § 1 (c), but within the scope of Article 5 § 1 (a) of the Convention (see, for instance, *B. v. Austria*, judgment of 28 March 1990, Series A no. 175, pp. 14-16, §§ 36-39). The applicant lodged his application with the Court on 23 November 2001, which is more than six months after his detention on remand had ended.

44. It follows that this part of the application was lodged out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

45. The applicant complained under Article 6 § 3 (c) and (d) of the Convention that he had not been informed of his statutory rights as an accused after his arrest, that he had not been assisted by counsel during the first interrogation and the confrontation with the victim, and that he had not been promptly notified of expert examinations.

46. However, having regard to all the material in its possession, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

47. 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

48. The applicant claimed 15,000 euros in respect of non-pecuniary damage.

49. The Government averred that the claim was unsubstantiated because there had been no violation of the applicant's Convention rights.

50. The Court accepts that the applicant suffered humiliation and distress because of the degrading conditions of his detention and the absence of an effective remedy in respect of his complaints about those conditions. Making its assessment on an equitable basis, having regard to its case-law on the subject and, taking into account, in particular, the length of the applicant's detention, the Court awards the applicant EUR 10,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

51. The applicant also claimed EUR 1,590 for his representation before the Court and EUR 100 for his lawyers' postal expenses and charges for telephone communications.

52. The Government argued that the applicant's lawyers had worked for him for free and that he was not under any legal obligation, by virtue of a contract or any other document, to pay them for their services.

53. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum.

54. As regards the fees for the legal representation in the Strasbourg proceedings, the Court observes that the applicant was granted EUR 850 in legal aid. It considers that the applicant did not justify having incurred any expenses exceeding that amount. Therefore the Court makes no award under this head.

55. As regards the postal expenses and telephone charges, the Court notes that neither the applicant nor his lawyers submitted any evidence (bills, receipts, etc.) in support of that claim. Accordingly, the Court rejects it.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to join to the merits the Government's objection as to the exhaustion of domestic remedies in respect of the applicant's complaint

about the inhuman and degrading conditions of his detention and rejects it;

2. *Declares* the complaints concerning the conditions of the applicant's detention from 19 December 1999 to November 2001 and the absence of an effective remedy in respect of his complaint about the conditions of his detention admissible and the remainder of the application inadmissible;

3. *Holds* that there has been a violation of Article 13 of the Convention;

4. *Holds* that there has been a violation of Article 3 of the Convention;

5. *Holds*
(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 10,000 (ten thousand euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement, plus any tax that may be chargeable;
(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;

6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 10 May 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President