FIRST SECTION

**CASE OF ALEKSANDR DMITRIYEV v. RUSSIA**

*(Application no. 12993/05)*

JUDGMENT

STRASBOURG

7 May 2015

FINAL

07/08/2015

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

In the case of Aleksandr Dmitriyev v. Russia,

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

Isabelle Berro, *President,* Elisabeth Steiner, Khanlar Hajiyev, Mirjana Lazarova Trajkovska, Julia Laffranque, Ksenija Turković, Dmitry Dedov, *judges,*  
and Søren Nielsen, *Section Registrar,*

Having deliberated in private on 14 April 2015,

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

PROCEDURE

1.  The case originated in an application (no. 12993/05) 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 Viktorovich Dmitriyev (“the applicant”), on 18 February 2005.

2.  The applicant, who had been granted legal aid, was represented by Ms A. Polozova, 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 held in poor conditions of detention and that his pre-trial detention had been unreasonably long.

4.  On 16 February 2009 the application was communicated to the Government.

THE FACTS

I.  THE CIRCUMSTANCES OF THE CASE

5.  The applicant was born in 1980 and lives in the town of Kozelsk, the Kaluga region.

A.  Criminal proceedings against the applicant and his detention

6.  On 20 April 2003 the applicant was arrested on suspicion of involvement in infliction of bodily injuries leading to death.

7.  On 22 April 2003 the Kozelskiy district court of the Kaluga region (“the district court”) authorised the applicant’s continued detention with reference to the gravity of the charges against him and his previous conviction of theft. The court considered that if at large the applicant could obstruct the proceedings and continue his criminal activities. On 7 May 2003 the Kaluga regional court (“the regional court”) upheld the decision.

8.  On 18 June 2003 the district court extended the applicant’s detention in view of the gravity of the charges, the fact that the applicant had a criminal record, was not employed and, if released, could reoffend or obstruct the criminal proceedings against him. The judge also noted that the materials adduced by the prosecution disclosed that there was a serious case against the applicant. The applicant did not appeal.

9.  On 20 July 2003, upon completion of certain investigative measures, the prosecutor’s office decided to release the applicant from custody.

10.  On 22 July 2003 the applicant was released under an undertaking not to leave his place of residence.

11.  On 19 May 2004 the district court convicted the applicant as charged and sentenced him to ten years and six months’ imprisonment. The period of detention from 20 April to 22 July 2003 was counted towards the sentence. The applicant was immediately taken into custody.

12.  On 20 July 2004 the Kaluga regional court quashed the conviction on appeal and ordered a re-trial. It also held that the applicant should remain in custody; the court cited no legal ground for the preventive measure and set no time-limit.

13.  On 8 October, 9 December 2004 and 20 January 2005 the district court repeatedly returned the case to the prosecutor, *inter alia*, in view of certain deficiencies in the bill of indictment. On all occasions the judge found that the applicant should remain in custody without citing any legal grounds for it. The decisions of 8 October 2004 and 20 January contained no reasons for extending the detention while that of 9 December 2004 dismissed the applicant’s request for release with a reference to the gravity of charges. The applicant did not appeal.

14.  On 20 January 2005 the district court extended the applicant’s detention until 20 April 2005. It gave no reasons except for the fact that the trial was pending.

15.  On 5 February 2005 the applicant pleaded guilty while being questioned in the presence of his lawyer and signed the record. Later he withdrew his plea.

16.  On 7 April 2005 the district court convicted the applicant of inflicting bodily injuries leading to death. The defence and the prosecution lodged their respective appeals.

17.  On 10 June 2005 the regional court sitting on appeal found that the first-instance court should have excluded testimonies given without counsel, quashed the judgment of 7 April 2005 and ordered a re-trial. The regional court also held without any reasons being given that the applicant should remain in custody, and extended the applicant’s detention until 1 August 2005.

18.  In July 2005 counsel requested that the applicant be released pending the re-trial. On 25 July 2005 the district court rejected that request, *inter alia,* with reference to the gravity of the charges and the applicant’s previous conviction. The court extended his detention until 1 November 2005. The applicant appealed arguing that on 22 July 2003 he had already been released upon an undertaking not to leave his place of residence, which he had complied with. On 2 September 2005 the regional court upheld the order of 25 July 2005.

19.  On 26 October 2005 the district court ordered the applicant’s release under an undertaking not to leave the place of his residence. The applicant was immediately released.

20.  On 20 December 2005 the district court convicted the applicant as charged and sentenced him to seven years’ imprisonment. The applicant was immediately taken into custody.

21.  On 21 February 2006 the regional court upheld the judgment of 20 December 2005 thus making it final.

22.  On 20 November 2008 the Zheleznodorozhny district court of Penza decided to apply to the applicant measures of compulsory psychiatric treatment. The applicant was then transferred to a psychiatric hospital in the town of Sychevka in the Smolensk region.

B.  Conditions of detention in IZ-16/1 of Kazan between 15 August and 24 October 2008

1.  The applicant’s version

23.  In the applicant’s initial submission, he submitted that he was kept in IZ-16/1 of Kazan between 15 July and 24 September 2008. During that period (except for two weeks) the applicant had no individual bed in the cell and had to sleep in shifts with two or three other inmates, which deprived him of an opportunity to have a sufficient time for sleep.

24.  In his observations on the admissibility and merits of the application of 5 October 2009 the applicant clarified that he had stayed in the facility in question between 15 August and 24 October 2008.

2.  The Government’s version

25.  The applicant was kept in IZ-16/1 during two periods of time: (a) between 15 August and 24 September 2008; and (b) between 22 and 24 October 2008. He was transferred there temporarily from the post‑conviction detention facility in which he had been serving his sentence so that he could undergo a psychiatric expert assessment. Between 24 September and 22 October 2008 the applicant stayed in a psychiatric hospital.

26.  The applicant was kept in cells nos. 5 (from 15 until 17 August 2008), 6 (from 17 August until 19 September 2008), 11 (from 19 until 24 September 2008), and 46 (from 22 until 24 October 2008).

27.  The cells presented the following characteristics:

-  cell no. 5: 20.06 square metres and five sleeping places;

-  cell no. 6: 16.2 square metres and four sleeping places;

-  cell no. 11: 20.98 square metres and five sleeping places;

-  cell no. 46: 12.4 square metres and three sleeping places.

28.  The temperature in the cells was around +20 degrees Celsius. There was a ventilation system in each cell. There were windows that let in enough light. Lavatories were separated from the rest of the cells with partitions.

29.  The Government, relying on the certificates issued by the prison governor on 12 May 2009, submitted that the number of inmates kept in each of the above cells had not exceeded the number of sleeping places and that, while in IZ-16/1, the applicant at all times had had an individual sleeping place; he had been provided with a set of bed linen. They also produced three statements by detainees kept in IZ-16/1 in cells nos. 6 and 11 from December 2008 and April 2009, respectively. Finally, they enclosed the applicant’s cell register and extracts from the prison population register of IZ-16/1 covering each day in the periods from 15 until 25 August 2008; from 27 August until 23 September 2008; and from 23 until 24 October 2008. The extracts showed that during the respective periods of the applicant’s stay cell no. 5 had housed four to five persons, cell no. 6 – two to four persons, cell no. 11 - five persons, and cell no. 46 – three persons.

II.  RELEVANT DOMESTIC LAW AND INTERNATIONAL MATERIALS

30.  The relevant provisions of domestic and international law on conditions of detention are set out in the Court’s judgment in the judgment of *Ananyev and Others v. Russia* (nos. 42525/07 and 60800/08, §§ 25-65, 10 January 2012).

31.  The Russian legal regulations for detention are explained in the judgment of *Isayev v. Russia* (no. 20756/04, §§ 67-80, 22 October 2009).

THE LAW

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

32.  The applicant complained that the conditions of his detention in IZ‑16/1 of Kazan from 15 August to 24 October 2008 violated 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 further implied that he did not have at his disposal effective domestic remedies for the alleged violation of Article 3 as required by Article 13 of the Convention, which reads as follows:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

A.  The parties’ submissions

33.  The Government argued, firstly, that the applicant had failed to exhaust domestic remedies in respect of his complaint as he could have applied to a court for compensation of damages caused by allegedly poor conditions of detention. The procedure for making claims was established in Chapter 25 of the Russian Code of Civil Procedure, as clarified by the Supreme Court’s Ruling no. 2 of 10 February 2009. They further claimed that the conditions of the applicant’s detention in IZ-16/1 of Kazan had been fully compatible with the standards of Article 3 of the Convention. They also asserted that the applicant, in their opinion, had failed to substantiate his allegations by any evidence, such as, for example, statements of other inmates who had shared the cells with him.

34.  The applicant maintained his complaint and insisted that he had to sleep on a bed in turns with two or three other inmates. However, he did not submit any evidence in support of his claims. Further, the applicant argued that in any event it followed from the Government’s submissions that the floor surface divided by number of beds in the cells in which he had been kept had afforded only four square metres per person, less than seven square metres, which, in the applicant’s view, was the minimum recommended by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (“CPT”).

B.  The Court’s assessment

1.  Conditions of detention complaint

35.  The Court does not lose sight of the Government’s non-exhaustion objection, but it does not consider it necessary to examine the issue at this juncture because the applicant’s complaint about the conditions of his detention is in any event inadmissible for the following reasons.

36.  The Court reiterates that poor conditions of detention in the Russian detention facilities of the same type as IZ-16/1, which normally serves as a remand prison, have been acknowledged to represent a structural problem of non-compliance with the standards of Article 3 of the Convention (see *Ananyev and Others*, cited above, §§ 184‑90). However, it emphasises that, in order to enable the Court to examine the merits of a complaint about conditions of detention under Article 3 of the Convention, an applicant must provide an elaborate and consistent account of the conditions of his or her detention mentioning the specific elements, such as for instance the dates of his or her transfer between facilities, which would enable the Court to determine that the complaint is not manifestly ill-founded or inadmissible on any other grounds (ibid., § 122). The Court points out in this connection that the applicant’s initial description of his grievance was limited to a statement that he had shared a sleeping place with two or three inmates and that the dates mentioned by him were erroneous (see paragraph 23 above).

37.  The Government, in their turn, provided extracts from the inmate population register for the majority of the days that the applicant spent in IZ-16/1 and a copy of the applicant’s cell register (see paragraph 29 above). Given that the applicant did not contest their authenticity, the Court is satisfied that those extracts were the original documents which had been prepared during the periods under examination and which showed the number of sleeping places in the cells where the applicant had stayed and the actual number of inmates who had been present in those cells on those dates. The Court, accordingly, lends credence to the primary documents produced by the Government (see *Fetisov and Others v. Russia*, nos. 43710/07, 6023/08, [11248/08](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"appno":["11248/08"]}), [27668/08](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"appno":["27668/08"]}), [31242/08](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"appno":["31242/08"]}) and [52133/08](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"appno":["52133/08"]}), § 134, 17 January 2012, and *Sergey Chebotarev* *v. Russia*, no. 61510/09, §§ 41-42, 7 May 2014). It follows from the extracts in question that in every cell in which the applicant was kept the number of inmates did not exceed the number of sleeping places available.

.  The Court further notes that it was not contested by the parties that, while in IZ-16/1, the applicant disposed of at least four square meters of personal space. The applicant did not invoke any other elements lack of which was considered as grounds for finding a violation of Article 3 of the Convention in the cases previously examined by the Court where detention facilities had not been overcrowded, such as access to natural light or air, availability of ventilation, adequacy of heating arrangements, the possibility of using the toilet in private, and compliance with basic sanitary and hygienic requirements (see, by contrast, *Vlasov v. Russia*, no. [78146/01](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"appno":["78146/01"]}), § 84, 12 June 2008; *Babushkin v. Russia*, no. [67253/01](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"appno":["67253/01"]}), § 44, 18 October 2007; and *Trepashkin v. Russia*, no. [36898/03](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"appno":["36898/03"]}), § 94, 19 July 2007).

39.  Given that the applicant failed to elaborate his description of the allegedly inhuman and/or degrading conditions of his detention in IZ-16/1 and to support his claims of overcrowding with any relevant materials, such as, for example, written statements by other inmates who had shared the cells with him, the Court has been unable to establish that there was a shortage of sleeping places in the applicant’s cells (see *Sergey Chebotarev*, cited above, § 103). It is thus bound to conclude that the applicant’s complaint about lack of an individual sleeping place was not sufficiently substantiated.

40.  Having considered all available materials before it, the Court cannot establish that the overall conditions of the applicant’s detention in IZ-16/1 of Kazan reached the threshold of severity required to characterise the treatment as inhuman or degrading within the meaning of Article 3 of the Convention.

41.  The Court thus concludes that the applicant’s complaint under Article 3 of the Convention is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

2.  Complaint about lack of an effective remedy

42.  The applicant also vaguely alleged that he had not had an effective domestic remedy for his complaints pertaining to the conditions of his detention, in breach of Article 13 of the Convention. The Court reiterates that a complaint may only be made under Article 13 in connection with a substantive claim which is “arguable” (see, for example, *Hatton and Others v. the United Kingdom* [GC], no. [36022/97](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"appno":["36022/97"]}), § 137, ECHR 2003‑VIII, with further references, and *Ashworth and Others v. the United Kingdom* (dec.), no. 39561/98, 20 January 2004). The Court has found that the applicant’s complaints under Article 3 of the Convention concerning the conditions of his detention in remand prison no. 16/1 are manifestly ill-founded and therefore inadmissible. It accordingly finds that that claim cannot be said to be “arguable” within the meaning of the Convention case-law (see *Novikov v. Russia* (dec.), no. 11303/12, § 40, 10 December 2013).

43.  It follows that the corresponding complaint under Article 13 is also manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

II.  ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

44.  The applicant complained that the length of his pre-trial detention was in breach of the requirements of Article 5 § 3 of the Convention, which reads as follows:

“Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

A.  The parties’ submissions

45.  The Government contested that argument. They argued that the domestic courts had extended the applicant’s pre-trial detention owing to the gravity of the crime that he had been charged with and the need to complete the criminal proceedings against him. The applicant had had a prior criminal record as he had been convicted of theft and thus could have continued his criminal activities if released. Moreover, the Government claimed that the applicant had threatened a witness.

46.  The applicant submitted that he had been detained pending trial within the meaning of Article 5 § 3 of the Convention from 20 April until 22 July 2003; from 20 July 2004 until 7 April 2005; and from 11 June until 26 October 2005. In his submission, the overall length of his pre-trial detention amounted to one year, four months and four days in breach of the “reasonable time” requirement. The domestic authorities had failed to give specific reasons for his prolonged detention using instead stereotypical formulae and relying heavily on the gravity of the charges. Moreover, they had not taken into account that the applicant had not absconded while at liberty under an undertaking not to leave his place of residence.

B.  The Court’s assessment

1.  Admissibility

47.  The Court reiterates that, generally speaking, when determining the length of detention pending trial under Article 5 § 3 of the Convention, the period to be taken into consideration begins on the day the accused is taken into custody and ends on the day when the charge is determined, even if only by a court of first instance, or, possibly, when the applicant is released from custody pending criminal proceedings against him (see, with further references, *Idalov v. Russia* [GC], no. 5826/03, § 112, 22 May 2012).

48.  In the present case, the applicant’s pre-trial detention within the meaning of Article 5 § 3 of the Convention consisted of three non‑consecutive periods: (a) between 20 April and 22 July 2003 when the applicant was released under an undertaking not to leave his place of residence (see paragraph 9 above); (b) between 20 July 2004 when the regional court ordered a re-trial and 7 April 2005 when the district court again convicted him (see paragraphs 12 and 16 above); and (c) between 10 June 2005 when the regional court again quashed the first‑instance judgment and 26 October 2005 when the applicant was again released from custody (see paragraphs 17 and 23 above). After 20 December 2005 the applicant’s detention “after conviction by a competent court” was covered by Article 5 § 1 (a) of the Convention.

49.  The Court reiterates that, for the purposes of application of the six‑month rule, in circumstances where an accused person’s pre-trial detention is broken into several non-consecutive periods and where applicants are free to lodge complaints about pre-trial detention while they are at liberty, those non-consecutive periods should not be assessed as a whole, but separately (see *Idalov*, cited above, § 129, 22 May 2012).

50.  The Court notes in this connection that the Government did not raise the issue of the applicant’s compliance with the six-month rule before it. Nonetheless, the Court has already considered that the six-month rule is a public policy rule and that, consequently, it has jurisdiction to apply it of its own motion (see *Assanidze v. Georgia* [GC], no. 71503/01, § 160, ECHR 2004‑II), even if the Government have not raised that objection (see *Walker v. the United Kingdom* (dec.), no. 34979/97, ECHR 2000‑I).

51.  The applicant raised the complaint about the excessive length of his detention pending trial for the first time in his initial letter to the Court sent on 18 February 2005, that is to say, more than six months after the first period of his detention had ended on 22 July 2003. The Court finds accordingly that it cannot consider whether or not the period between 20 April and 22 July 2003 was compatible with the Convention. The applicant’s complaint in this part should be declared inadmissible as being lodged out of time (see *Idalov*, cited above, § 135) and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

52.  However, the Court considers that the applicant’s complaint under Article 5 § 3 of the Convention in respect of his detention from 20 July 2004 until 7 April 2005 and from 10 June and 26 October 2005 is not inadmissible due to non-compliance with the six-month rule, nor is it manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

2.  Merits

53.  The Court reiterates that the question whether a period of time spent in pre-trial detention is reasonable cannot be assessed in the abstract. Whether it is reasonable for an accused to remain in detention must be assessed on the facts of each case and according to its specific features. Continued detention can be justified in a given case only if there are actual indications of a genuine requirement of the public interest which, notwithstanding the presumption of innocence, outweighs the rule of respect for individual liberty laid down in Article 5 of the Convention (see, among other authorities, *Kudła v. Poland* [GC], no. 30210/96, §§ 110 et seq., ECHR 2000‑XI).

54.  The existence and persistence of a reasonable suspicion that the person arrested has committed an offence is sine qua non for the lawfulness of the continued detention. However, after a certain lapse of time it no longer suffices. In such cases, the Court must establish whether the other grounds given by the judicial authorities continue to justify the deprivation of liberty. Where such grounds are “relevant” and “sufficient”, the Court must also ascertain whether the competent national authorities displayed “special diligence” in the conduct of the proceedings (see *Labita v. Italy* [GC], no. 26772/95, §§ 152-53, ECHR 2000‑IV). Justification for any period of detention, no matter how short, must be convincingly demonstrated by the authorities (see *Shishkov v. Bulgaria*, no. 38822/97, § 66, ECHR 2003‑I (extracts)). When deciding whether a person should be released or detained, the authorities are obliged to consider alternative measures of ensuring his appearance at trial (see *Jablonski v. Poland*, no. 33492/96, § 83, 21 December 2000).

55.  The responsibility falls in the first place on the national judicial authorities to ensure that, in a given case, the pre-trial detention of an accused person does not exceed a reasonable length. To this end they must, paying due regard to the principle of the presumption of innocence, examine all the arguments for or against the existence of a public interest which justifies a departure from the rule in Article 5, and must set them out in their decisions on applications for release. It is essentially on the basis of the reasons given in these decisions and of the established facts stated by the applicant in his appeals that the Court is called upon to decide whether or not there has been a violation of Article 5 § 3 (see, for example, *McKay v. the United Kingdom* [GC], no. 543/03, § 43, ECHR 2006‑X).

56.  The Court has already, on a large number of occasions, examined applications against Russia raising similar complaints under Article 5 § 3 of the Convention in respect of the Russian courts’ failure to provide sufficient and relevant grounds for applicants’ detention. Each time, having found a violation of Article 5 § 3 of the Convention, the Court noted the fragility of the reasoning employed by the Russian courts to authorise an applicant’s remaining in custody. From case to case it pointed out the following major defects in the courts’ argumentation: reliance on the gravity of the charges as the primary source to justify the risk of the applicant’s absconding; reference to the applicant’s travel passport, his financial resources and the fact that his alleged accomplices are on the run as the basis for the assumption that the applicant would follow suit; a suspicion, in the absence of any evidentiary basis, that the applicant would tamper with witnesses or use his connections in state bodies to obstruct justice, and a failure to thoroughly examine the possibility of applying another, less rigid, measure of restraint, such as bail (see, with further references, *Dirdizov v. Russia*, no. 41461/10, § 108, 27 November 2012).

57.  The Court observes that the domestic courts did not avoid that pattern of reasoning in the present case. They emphasised repeatedly that the applicant’s previous conviction for a non-violent crime had served as a justification to his pre-trial detention. They consistently relied on the gravity of the charges against the applicant and the likelihood that the applicant would abscond or obstruct justice. Moreover, on several occasions the courts gave no grounds for extending the detention, merely stating that the applicant should remain in custody (see paragraphs 12‑14 and 17 above). The applicant’s reference to the fact that he had not absconded while at liberty during the period between 22 July 2003 and 20 July 2004 was disregarded. In these circumstances, the Court cannot but conclude that the domestic courts failed to assess the applicant’s personal situation and to give specific reasons, supported by evidentiary findings, for holding him in custody.

58.  The Government’s allegation that the applicant was kept in custody because of an attempt at intimidating an unnamed witness is not supported by any evidence as the domestic courts when extending the detention made no reference to the alleged intimidation and thus cannot serve as justification for the applicant’s prolonged detention from 20 July 2004 until 7 April 2005 and from 10 June until 26 October 2005.

59.  Having regard to the above, the Court considers that by failing to address specific facts or consider alternative “preventive measures” and by relying essentially and routinely on the gravity of the charges, the authorities extended the applicant’s detention pending trial on grounds which, although “relevant”, cannot be regarded as “sufficient” to justify its duration.

60.  There has therefore been a violation of Article 5 § 3 of the Convention.

III.  OTHER ALLEGED VIOLATIONS OF THE CONVENTION

61.  The Court has examined the other complaints submitted by the applicant. However, having regard to all the material in its possession, and in so far as those complaints fall within its competence, 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 manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

IV.  APPLICATION OF ARTICLE 41 OF THE CONVENTION

62.  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

63.  The applicant claimed 29,200 euros (EUR) in respect of non‑pecuniary damage.

64.  The Government considered the amount claimed to be excessive.

65.  The Court, having regard to its finding of a violation of Article 5 § 3 of the Convention, finds it appropriate to award the applicant EUR 1,100 in respect of non-pecuniary damage.

B.  Default interest

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

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1.  *Declares* the complaint about excessive length of the applicant’s detention pending trial during the periods from 20 July 2004 until 7 April 2005 and from 10 June until 26 October 2005 admissible and the remainder of the application inadmissible;

2.  *Holds* that there has been a violation of Article 5 § 3 of the Convention;

3.  *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 1,100 (one thousand and one hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage,to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b)  that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4.  *Dismisses* the remainder of the applicant’s claim for just satisfaction.

Done in English, and notified in writing on 7 May 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen Isabelle Berro  
 Registrar President