



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

THIRD SECTION

CASE OF DANILEVICH v. RUSSIA

(Application no. 31469/08)

JUDGMENT

Art 8 • Respect for family life • Unjustified and disproportionate general ban on telephone calls for life prisoners under strict regime in special-regime correctional colonies • Imposition of ban solely on account of applicant's life sentence irrespective of any other relevant factors • Importance of preventing breakdown of prisoners' family ties by maintaining all forms of contact, including by telephone
Art 6 § 1 (civil) • Fair hearing • Applicant's inability to attend hearing in civil proceedings which he had instituted to challenge the refusal of telephone calls to his family
Art 37 § 1 (b) (+ Art 3) • Striking out applications • Matter before Court resolved • Applicant no longer subjected to routine handcuffing and complaint adequately and sufficiently remedied by measures ordered by domestic courts

STRASBOURG

19 October 2021

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 Danilevich v. Russia,

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

Georges Ravarani, *President*,

Georgios A. Serghides,

Dmitry Dedov,

María Elósegui,

Anja Seibert-Fohr,

Andreas Zünd,

Frédéric Krenc, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the application (no. 31469/08) 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 Danil Aleksandrovich Danilevich (“the applicant”), on 23 April 2008;

the decision to give notice to the Russian Government (“the Government”) of the complaints concerning restrictions on the applicant’s telephone calls to his relatives, the examination of his civil case in his absence, as well as his other complaints under Articles 3, 5, 6 and 13 of the Convention, and to declare inadmissible the remainder of the application;

the parties’ observations;

Having deliberated in private on 28 September 2021,

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

INTRODUCTION

1. The case concerns a ban on telephone calls for prisoners serving life sentences under the strict regime and the inability for prisoners to appear in court in civil proceedings.

THE FACTS

2. The applicant was born in 1982 and lived in Naberezhnyye Chelny, Tatarstan. He is currently serving a life sentence in the Orenburg Region. He was represented by Ms O.A. Sadovskaya, a lawyer practising in Nizhniy Novgorod.

3. The Government were represented by Mr G. Matyushkin, the then Representative of the Russian Federation to the European Court of Human Rights, and lately by Mr M. Vinogradov, his successor in that office.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

I. LIFE IMPRISONMENT

5. On 27 August 2007 the Supreme Court of Tatarstan convicted the applicant of banditry, illegal possession of firearms, kidnapping, extortion, murder and other crimes committed while a member of an organised criminal group that operated in Tatarstan and other Russian regions from the 1990s to the early 2000s. He was sentenced to life imprisonment. The start of his sentence was backdated to the date of his arrest on 27 September 2003.

6. On 19 March 2009 the Supreme Court upheld the judgment on appeal.

7. Between 28 July 2009 and 12 December 2011 the applicant served his sentence in the IK-5 special-regime correctional colony in the Belozerskiy district of the Vologda Region. He maintained written correspondence with his relatives living in Naberezhnyye Chelny, in particular his aunt Ms Z. and his wife.

8. On 14 December 2010 the applicant asked the head of IK-5 for permission to telephone his relatives, stating that they lived more than 1,000 km away and had financial difficulties, and could not therefore visit him. His request was refused.

9. On 11 January 2011 the applicant complained to the Belozerskiy District Court of the Vologda Region that, by refusing to allow telephone calls to his relatives, the prison administration had been preventing him from maintaining contact with his family, in breach of Article 8 of the Convention. He reiterated, in particular, that his relatives lived more than 1,000 km away from the prison and, owing to their financial hardship, were unable to visit him. In view of the young age of his son, born on 18 December 2002, it was impossible to correspond with him by letter and communication by telephone would be the only way of maintaining a family relationship with him. He argued that the prison had the technical means to set up telephone calls.

10. On 25 January 2011 a summons was served on the applicant for a hearing in his case to be held on 28 January 2011.

11. Relying on Article 6 of the Convention, on 26 January 2011 the applicant requested that the Belozerskiy District Court ensure his participation in the hearing in person. He also requested that he be provided with free legal representation. His requests were not answered.

12. On 28 January 2011, at the opening of the hearing, the court noted that the applicant had received the summons. It heard the respondent's representative, who argued that the hearing should proceed without the applicant, because domestic law did not provide for convicted prisoners to appear in court in civil cases. The court examined the case in the applicant's absence.

13. It dismissed his complaint, noting that he was serving a life sentence in a special-regime correctional colony under a strict regime, under which

telephone conversations were allowed only in exceptional circumstances, in accordance with Article 92 of the Code of Execution of Criminal Sentences (“the CES”) and section 89 of the Internal Rules of Penal Facilities (see paragraph 24 below). The court considered that neither the remoteness of the prison from the applicant’s relatives nor their poor financial situation could be regarded as exceptional circumstances.

14. On 13 April 2011, following an appeal by the applicant, the Vologda Regional Court upheld the judgment at a hearing held in the absence of the parties. As to his complaint about the first-instance court’s failure to ensure his participation in the hearing in person, the appellate court found no breach of the rules of civil procedure, noting that he had been serving time in prison, had been notified of the hearing and could have presented his case through a representative.

15. According to submissions to the Court by the applicant’s aunt, Ms Z., she had been the applicant’s guardian until he had reached the age of majority, as he had lost his father as a child and his mother had distanced herself from his upbringing. Ms Z. stated that she had close ties with him, treated him like a son and was willing to support him. Owing to her financial hardship and state of health, she was unable to make the difficult journey (with several changes of transport) to the prison situated more than 1,000 km away. Consequently, their communication was limited to written correspondence, which was complicated by delays in the postal delivery service. She wished to communicate with the applicant more frequently, which would be possible by telephone, a means of communication widely available. She also submitted that his young son had sought contact with him. As he was not yet able to write letters, telephone conversations with his father would be an appropriate means of communicating with him.

16. Since 15 December 2011 the applicant has been serving his sentence in correctional colony IK-6 in the Orenburg Region, situated approximately 600 to 700 km from his relatives.

17. According to a document from the administration of IK-6, life prisoners detained there are allowed to make telephone calls, in accordance with Article 92 of the CES. Between the time of his arrival in IK-6 and March 2016 the applicant, detained under the strict regime, was thus allowed to telephone his family (aunt Z., see paragraph 15 above) on the following dates: 30 September 2012, 29 September 2013, 2 February 2014, 4 May 2014, 21 December 2014, 29 April 2015, 27 October 2015 and 17 January 2016. The applicant maintained written correspondence with his aunt Z., his son, his mother and other relatives.

18. According to the Government’s latest submissions, as at 16 March 2016 the applicant was still serving his sentence under the strict regime.

II. HANDCUFFING

19. Between 14 November 2008 and 15 April 2009 the applicant was detained in remand prison SIZO-2 in Moscow pending appeal. He was handcuffed each time he was taken from his cell for a walk in the prison yard, on the grounds that he had been sentenced to life imprisonment and was under surveillance as a prisoner who could abscond. While in SIZO-2, he did not commit any breach of prison rules punishable by solitary confinement.

20. In his observations of 20 June 2016 the applicant informed the Court of the following developments. In 2011 the applicant lodged a court action in respect of his routine handcuffing in the correctional colony IK-5, arguing that he had been unlawfully placed under surveillance as a risk of escape. He requested that the administration of the colony be ordered not to subject him to routine handcuffing within the prison grounds. He did not claim any compensation. On 6 June 2011 the Belozerskiy District Court held that domestic law provided for the use of handcuffs on life prisoners only if their behaviour indicated that they could abscond or harm themselves or others. Handcuffs had been used on the applicant following a decision by the prison administration on 6 August 2009 to place him under surveillance as a risk of escape, taken based on a report by the deputy head of the prison security unit. The court found that the report was not supported by any evidence. There was no information in the applicant's personal prison file that he had ever absconded, attempted or intended to abscond, or behaved improperly. As to the fact that he had already been placed under surveillance as a risk of escape before his transfer to IK-5, that had been because of his attempt to flee at the time of his initial arrest (on 27 September 2003), that is, before his detention and before being informed of his obligations as a detainee. It should not therefore have served as a ground for his placement under surveillance as a prisoner who could abscond. The District Court ordered that the decision of 6 August 2009 be declared unlawful and that the prison administration not subject the applicant to handcuffing within the prison grounds unless his behaviour indicated that he could abscond or harm himself or others. On 20 July 2011 the Vologda Regional Court upheld that judgment on appeal.

RELEVANT LEGAL FRAMEWORK

I. RELEVANT DOMESTIC LAW

21. All those sentenced to life imprisonment have to serve their sentences in special-regime correctional colonies, in which they are placed under a strict regime for at least the first ten years of their sentence. The ten-year term starts running, as a general rule, from the beginning of

pre-trial detention, unless a prisoner misbehaved seriously during that period and was placed in solitary confinement, in which case the ten-year term starts running from placement in the special-regime correctional colony (Article 58 of the Criminal Code of the Russian Federation and Article 127 § 3 of the Code of Execution of Criminal Sentences (“the CES”)).

22. Under the strict regime, prisoners are entitled to receive and send, at their own expense, an unlimited number of letters, postcards and telegrams, which are subject to automatic monitoring by colony staff (Article 91 § 1 of the CES). They are entitled to two short-term visits per year, and since 17 November 2016 one long-term visit per year (Article 125 § 3 of the CES).

23. Convicted prisoners have the right to telephone calls. The duration of each conversation should not exceed fifteen minutes. The costs are borne by prisoners, their relatives or other persons, and calls may be monitored by colony staff (Article 92 §§ 1 and 5).

24. Telephone calls for prisoners under the strict regime may take place only in exceptional personal circumstances (Article 92 § 3 of the CES). The Internal Rules of Penal Facilities (Chapter XV), approved by the Ministry of Justice on 3 November 2005 (no. 205), in force at the material time, provided as follows:

“89. Convicted prisoners who are detained under the strict regime ... are only allowed telephone calls in exceptional personal circumstances (death or serious life-threatening illness of a close relative; a natural disaster which has caused serious pecuniary damage to the prisoner or his family; and other [circumstances]).”

25. For Ruling no. 248-O of 9 June 2005 of the Constitutional Court of the Russian Federation, see *Khoroshenko v. Russia* ([GC], no. 41418/04, § 57, ECHR 2015).

26. In Ruling no. 24-II of 15 November 2016 (which entered into force on 17 November 2016) the Constitutional Court declared the provisions of the CES – in so far as they banned long-term visits for life-sentenced prisoners during the first ten years of their imprisonment – incompatible with the relevant provisions of the Constitution in conjunction with Article 8 of the Convention as interpreted by the Court in the above-cited case of *Khoroshenko*, and introduced the right to a long-term visit (a visit of up to three days) for those prisoners. Article 125 § 3 of the CES was subsequently amended by Federal Law no. 292-FZ of 16 October 2017, to provide for one long-term visit per year for prisoners in special-regime correctional colonies serving their sentences under the strict regime.

27. According to Order no. 1138-r on the Concept for the Development of the Russian Penal System for the period up to 2030, adopted by the government on 29 April 2021, prisoners’ loss of social ties leading, along with other factors, to recidivism on release represents one of the challenges before the Russian penal system and requires additional measures aimed at

the resocialisation and social adaptation of convicted persons along with their reform. The Concept indicates as one of its aims the improvement of legal regulation concerning the execution of sentences, taking into account the international obligations of the Russian Federation and the humanisation of conditions of detention in penal facilities. It is proposed, *inter alia*, that the number of telephone calls between convicted persons and their relatives be increased. One of the tasks set is ensuring that conditions of detention take into account the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Court's case-law, the European Prison Rules and other international standards.

II. RELEVANT COUNCIL OF EUROPE INSTRUMENTS

A. Committee of Ministers

28. The relevant part of Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules, adopted on 11 January 2006 and revised and amended on 1 July 2020, reads as follows:

Part II

“...

24.1 Prisoners shall be allowed to communicate as often as possible – by letter, telephone or other forms of communication – with their families, other persons and representatives of outside organisations, and to receive visits from these persons.

24.2 Communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offences and protection of victims of crime, but such restrictions, including specific restrictions ordered by a judicial authority, shall nevertheless allow an acceptable minimum level of contact.”

29. The relevant part of Recommendation Rec(2003)23 of the Committee of Ministers to member States on the management by prison administrations of life sentence and other long-term prisoners, adopted on 9 October 2003, states as follows:

“22. Special efforts should be made to prevent the breakdown of family ties. To this end:

– prisoners should be allocated, to the greatest extent possible, to prisons situated in proximity to their families or close relatives;

– letters, telephone calls and visits should be allowed with the maximum possible frequency and privacy. If such provision endangers safety or security, or if justified by risk assessment, these contacts may be accompanied by reasonable security measures, such as monitoring of correspondence and searches before and after visits. ...”

30. The relevant part of Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States concerning children with imprisoned parents, adopted on 4 April 2018, states as follows:

“26. Rules for making and receiving telephone calls and other forms of communication with children shall be applied flexibly to maximise communication between imprisoned parents and their children. When feasible, children should be authorised to initiate telephone communications with their imprisoned parents.”

31. Commentary Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules by the European Committee on Crime Problems specifies in respect of contact with the outside world as follows:

“Loss of liberty should not entail loss of contact with the outside world. On the contrary, all prisoners are entitled to some such contact and prison authorities should strive to create the circumstances to allow them to maintain it as best as possible. Traditionally, such contact has been by way of letters, telephone calls and visits, but prison authorities should be alert to the fact that modern technology offers new ways of communicating electronically ... Contact with the outside world is vital for counteracting the potentially damaging effects of imprisonment ...

The reference to families should be interpreted liberally to include contact with a person with whom the prisoner has established a relationship comparable to that of a family member even if the relationship has not been formalised ...

An additional specific limit on restrictions is contained in Rule 24.2, which is intended to ensure that even prisoners who are subjected to restrictions are still allowed some contact with the outside world. It may be good policy for national law to lay down a minimum number of visits, letters and telephone calls that must always be allowed.”

B. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

32. The relevant part of the Memorandum of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of 27 June 2007 [CPT (2007) 55] entitled “Actual/real life sentences” reads as follows:

Contact with the outside world

“Life sentences and long terms of imprisonment tend to break up marital and family relationships. If their impairment can be prevented an important step has been taken to maintain the prisoner’s mental health and, often, motivation to use time in prison positively. Marital and family relationships derive their strength from emotional ties. It is important, therefore, to try to ensure that the circumstances of life sentences and long-term imprisonment do not result in these ties withering away.

The maintenance of family relationships is facilitated if family visits can be easily undertaken.

Liberal opportunities to receive and send letters are essential. Frequent visits and visits of long duration under conditions that allow for privacy and physical contact are

equally essential. Telephoning offers further opportunities to maintain contact with families. Opportunities to make telephone calls should be made widely available to long-term and life sentenced prisoners. If it is feared that telephone conversations are being used to organise crime, plan escape or in some other way disturb security and order, they can be monitored, but prisoners should be informed that monitoring can be ordered if necessary ...”

33. The CPT Standards 2002 (revised in 2011) contain the following provisions (Extract from the 2nd General Report [CPT/Inf (92) 3]):

“51. It is also very important for prisoners to maintain reasonably good contact with the outside world. Above all, a prisoner must be given the means of safeguarding his relationships with his family and close friends. The guiding principle should be the promotion of contact with the outside world; any limitations upon such contact should be based exclusively on security concerns of an appreciable nature or resource considerations.

The CPT wishes to emphasise in this context the need for some flexibility as regards the application of rules on visits and telephone contacts *vis-à-vis* prisoners whose families live far away (thereby rendering regular visits impracticable). For example, such prisoners could be allowed to accumulate visiting time and/or be offered improved possibilities for telephone contacts with their families.”

34. The relevant extract from the 25th General Report of the CPT (CPT/Inf(2017)5) entitled “Situation of life-sentenced prisoners” states as follows:

“Concentrating life-sentenced prisoners in a specialised prison also necessarily results in many such prisoners being kept very far from their families and outside contacts. A life sentence will in any event put a good deal of pressure on these relationships; compounding that by locating the prisoner a significant distance away from home reduces the possibility of maintaining what is a crucial element in promoting resocialisation. Further, no additional restrictions should be imposed on life-sentenced prisoners as compared to other sentenced prisoners when it concerns the possibilities for them to maintain meaningful contact with their families and other close persons. During the first years of imprisonment in particular, restrictions on contacts are likely to disrupt or even destroy such relationships. It is also important that life-sentenced prisoners have genuine access on as regular a basis as possible to visits, telephone calls, letters, newspapers, radio and television to maintain their sense of contact with the outside world.”

35. The relevant extracts from the 26th General Report of the CPT (CPT/Inf(2017)5) read as follows:

“59. As regards contact with the outside world, the CPT considers that remand prisoners should in principle be allowed to communicate with their family and other persons (correspondence, visits, telephone) in the same way as sentenced prisoners. All inmates should benefit from a visiting entitlement of at least one hour every week and have access to a telephone at the very least once a week (in addition to the contacts with their lawyer(s)). Moreover, the use of modern technology (such as free-of-charge Voice over Internet Protocol (VoIP) services) may help prisoners to maintain contact with their families and other persons.

60. In certain countries, the CPT observed that, according to the applicable rules, certain restrictions were imposed on all remand prisoners as a matter of policy, for

instance, a total ban on telephone calls, visits or the obligation to receive visits only under closed conditions (i.e. through a glass partition). In the CPT's view, applying such restrictions indiscriminately to all remand prisoners is not acceptable; any restrictions must be based on a thorough individual assessment of the risk which prisoners may present."

The 30th General Report of the CPT (CPT/Inf(2021)5) provides further guidance on prisoners' access to telephone calls.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

36. The applicant complained (in his application form of 31 May 2011) that the ban by the prison administration on him maintaining contact with his relatives by telephone had breached his right to respect for his private and family life guaranteed by Article 8 of the Convention. He pointed to the importance of detainees' contact with the outside world, in particular with their close relatives, as recognised in the European Prison Rules and the Court's case-law. Article 8 reads as follows:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

37. The Government stated that the case had not disclosed a violation of Article 8.

38. The applicant submitted that the ban on telephone calls with his family, in particular with his only child, his aunt Z. and his wife, had severely hindered his contact with them. For many years he had been unable to communicate with his son, who had been too young for written correspondence.

39. The Court notes, with regard to the scope of the present case, that the applicant did not complain about the remoteness of the penal facilities in which he had been serving his sentence (contrast *Chernenko and Others v. Russia* (dec.), nos. 4246/14 and 4 others, §§ 36-37, 5 February 2019).

40. In *Chernenko and Others*, faced with complaints about a multitude of restrictions on life prisoners' contacts with the outside world (affecting family visits, telephone calls and parcels, *ibid.*, § 30), the Court, with a reference to the case of *Khoroshenko v. Russia* ([GC], no. 41418/04, ECHR 2015), considered it appropriate to examine the alleged interference

with the applicants' right to respect for their private and family life "from the standpoint of their ability to receive family visits; all other restrictions (lack of telephone communications and a limited number of parcels) being marginal factors that will only be taken into account for the assessment of the overall cumulative effect of the restrictions on the family visits" (see *Chernenko and Others*, cited above, §§ 38-40). It should be noted that the only complaint raised by the applicant in *Khoroshenko* (and declared by the Court admissible) concerned the restrictions affecting family visits (see *Khoroshenko*, cited above, §§ 85, 87, 91 and 92). It is in examining that complaint that the Court took into account such relevant circumstances as to whether the applicant had access to other means of maintaining contact with his family (ibid., §§ 107 and 128). Unlike in *Chernenko and Others*, in examining Article 8 in the present case the Court does not have to give weight to various restrictions on the applicant's contacts with the outside world because the only complaint raised by him concerns the restriction of telephone calls with his family. As in *Khoroshenko*, the applicant's access (or the lack thereof) to other means of maintaining contact with his family is a factor to be taken into account. The Court is satisfied that the applicant, by maintaining written correspondence with his family (see paragraphs 7 and 17 above), has demonstrated that he had relatives with whom he genuinely wished and attempted to maintain contact in detention (see *Chernenko and Others*, cited above, § 45).

41. The Court further notes that the applicant lodged his application while serving his life sentence under the strict regime in correctional colony IK-5 (see paragraph 7 above), and that he was later transferred to correctional colony IK-6 (see paragraph 16 above). It is clear from the facts of the case that the alleged violation of his rights under Article 8 stemmed from the general ban on telephone calls save in "exceptional personal circumstances" in respect of prisoners under the strict regime set out in Article 92 of the CES and the relevant regulations, notably the Internal Rules of Penal Facilities, under which "exceptional personal circumstances" included death or serious life-threatening illness of a close relative, or a natural disaster which had caused serious pecuniary damage to the prisoner or his family (see paragraphs 13, 14 and 24 above). After his transfer to IK-6, the prison regime for serving his sentence, and the restrictions flowing from it, did not change until at least 16 March 2016 (see paragraph 18 above). In the first four years and three months of his detention there he made eight telephone calls to his relatives. Those calls were allowed in accordance with Article 92 of the CES (see paragraph 24 above), that is, given the strict regime applicable to him, in "exceptional personal circumstances" or emergency situations as indicated above. The applicant did not complain that he had not been allowed to call his relatives in such circumstances. Since the general ban on telephone calls in normal circumstances, at issue in the present case, applied to him in both

correctional colonies as a direct effect of the legislation, it gave rise to a continuous situation within the meaning of the Court's case-law (see *Parrillo v. Italy* [GC], no. 46470/11, §§ 109-11, ECHR 2015, and *Khoroshenko*, cited above, § 91). This also signifies that a complaint challenging that ban, which was imposed directly as a result of the prison regime applicable to the applicant in accordance with national law, would not have stood any prospect of success (see *Manolov v. Bulgaria*, no. 23810/05, §§ 34-36, 4 November 2014). Indeed, the applicant's choice to lodge a complaint with the courts only demonstrates the courts' inability to afford him redress in respect of the alleged violation (see paragraphs 13-14 above). Where the alleged violation constitutes a continuous situation against which no domestic remedy is available, the six-month period starts to run from the end of the continuous situation (see *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, § 86, ECHR 2014 (extracts)). The applicant lodged his application in May 2011, while his situation remained unchanged until at least March 2016. He therefore complied with the six-month time-limit.

42. The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. It therefore concludes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. No other grounds for declaring it inadmissible have been established. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

43. The applicant maintained that the ban on telephone calls with his family had been a gross violation of Article 8.

44. The Government stated that convicted prisoners in Russia had the right to telephone calls (see paragraph 23 above). They submitted that, in introducing the restrictions to that right in Article 92 of the CES – in respect of prisoners serving their sentences under the strict regime (see paragraph 24 above) – the legislature had pursued pedagogical purposes, as had been clarified in Ruling no. 248-O of 9 June 2005 of the Constitutional Court (see the reference in paragraph 25 above). The Government pointed out that the applicant had had an unlimited right to communicate with his family by written correspondence, which he had used without any hindrance in both correctional colonies in which he had been serving his sentence. He had also been allowed to make telephone calls in IK-6, in accordance with Article 92 of the CES (see paragraphs 7 and 17 above).

2. *The Court's assessment*

(a) **General principles**

45. It is well established in the Court's case-law that during their imprisonment individuals continue to enjoy all fundamental rights and freedoms, save for the right to liberty (see *Khoroshenko*, cited above, §§ 116-17, with references to *Dickson v. the United Kingdom* [GC], no. 44362/04, § 67, ECHR 2007-V and other cases). Accordingly, on imprisonment a person does not forfeit his or her Convention rights, including the right to respect for family life (*ibid.*).

46. Detention, like any other measure depriving a person of his liberty, entails inherent limitations on his private and family life. However, it is an essential part of a prisoner's right to respect for family life that the prison authorities assist him in maintaining contact with his close family (*ibid.*, § 106).

47. Any restriction on a prisoner's rights under Article 8 must be justified in each individual case, although such justification may well be found in the considerations of security, in particular the prevention of crime and disorder, which inevitably flow from the circumstances of imprisonment (see *Hirst v. the United Kingdom* (no. 2) [GC], no. 74025/01, § 69, ECHR 2005-IX). Furthermore, the approach to assessment of proportionality of State measures taken with reference to "punitive aims" has evolved over recent years, with a heavier emphasis now having to be placed on the need to strike a proper balance between the punishment and rehabilitation of prisoners (see *Khoroshenko*, cited above, § 121, with further references). Rehabilitation, that is, the reintegration into society of a convicted person, is required in any community that established human dignity as its centrepiece. Article 8 of the Convention requires the State to assist prisoners as far as possible to create and sustain ties with people outside prison in order to promote prisoners' social rehabilitation (see *Polyakova and Others v. Russia*, nos. 35090/09 and 3 others, § 88, 7 March 2017, with further references).

(b) **Approach adopted by the Court in previous cases concerning prisoners' right to communicate with their families by telephone**

48. As regards communication by telephone, the Court has stated that Article 8 does not in itself guarantee prisoners a right to make telephone calls, especially if there are adequate possibilities for written correspondence (see *A.B. v. the Netherlands*, no. 37328/97, § 92, 29 January 2002). In the case concerned, there was no allegation of interference with the right to respect for family life. The applicant complained rather generally that the limited telephone facilities had prevented him from establishing contact with those outside prison, and the Court examined the restrictions from the point of view of an interference with "private life" or

“correspondence”, notions considered to cover telephone conversations (ibid., § 75; *Klass and Others v. Germany*, 6 September 1978, § 41, Series A no. 28; and *X. v. the United Kingdom*, no. 7990/77, Commission decision of 11 May 1981).

49. The Court has since had the opportunity to assess the compatibility of various restrictions on prisoners’ telephone communications in the context of their family life within the meaning of Article 8. While noting that that provision does not in itself guarantee prisoners the right to make telephone calls, the Court regarded such a means of communication as a way for them to maintain contact with their families. It examined whether such restrictions were justified within the meaning of the second paragraph of Article 8. In doing so it had regard, *inter alia*, to security risks, the stage of proceedings and the accessibility of such other means of maintaining regular contact with prisoners’ families as visits and written correspondence (see, for example, *Van der Ven v. the Netherlands*, no. 50901/99, §§ 69-72, ECHR 2003-II, and *Baybaşın v. the Netherlands* (dec.), no. 13600/02, 6 October 2005, concerning, respectively, the monitoring of and ban on using Kurdish in telephone conversations in a maximum-security detention facility with special measures for preventing escape, in which it was possible to contact relatives by telephone twice a week; *Ciszewski v. Poland* (dec.), no. 38668/97, 6 January 2004, concerning the monitoring of telephone calls in a detention facility for dangerous delinquents; *Davison v. the United Kingdom* (dec.), no. 52990/08, 2 March 2010, concerning the cost of regular telephone calls which the applicant was allowed to make to his family; *Hagyó v. Hungary*, no. 52624/10, §§ 75-90, 23 April 2013, concerning the applicant being denied unlimited telephone access to his child and contact with his common-law wife; *Nusret Kaya and Others v. Turkey*, nos. 43750/06 and 4 others, §§ 35-62, ECHR 2014 (extracts), concerning the compatibility of the restriction on using Kurdish in telephone communications with the applicants’ right to maintain meaningful contact with their families; and *Bădulescu v. Portugal*, no. 33729/18, §§ 35-37, 20 October 2020, concerning the limitation of the duration of daily telephone calls; see also *Messina v. Italy* (no. 2), no. 25498/94, §§ 45 and 66, ECHR 2000-X, concerning a special prison regime designed to cut links between prisoners and the criminal environment to which they belonged with special emphasis on restricting contact with family members, which allowed for one telephone call per month; and *Öcalan v. Turkey* (no. 2), nos. 24069/03 and 3 others, §§ 155 and 163, 18 March 2014, concerning a regime for serving life imprisonment in a high-security prison, in which at some point telephone calls were authorised every fortnight).

50. In the case of *Hagyó*, having examined the ban on all in-person or telephone contact between the applicant and his common-law wife (on account of a perceived intention to break visiting rules) for three months, during which the couple’s contact had been reduced to monitored written

correspondence, the Court found a violation of Article 8, considering that the authorities could have used less stringent measures, such as by authorising supervised meetings or telephone calls. It found that the measure in question had reduced the applicant's enjoyment of family life to a degree that could only be regarded as disproportionate in the circumstances (see *Hagyó*, cited above, §§ 87-90). It is important to note that in *Hagyó* the restrictions had been applied in order to ensure non-interference with the ongoing investigation. The Court reiterates in this regard that a distinction must be drawn between the application of a special prison regime during the investigation, where measures could reasonably be considered necessary in order to achieve the legitimate aim pursued, and the extended application of such a regime, the necessity of which needs to be assessed with the greatest care by the relevant authorities (see *Khoroshenko*, cited above, § 124).

(c) Application to the present case

(i) Whether there was an interference with the applicant's rights under Article 8

51. The Court previously held that subjection of a detainee to a prison regime which involved more restrictions on his private and family life than a regular prison regime, such as, *inter alia*, the monitoring of his telephone conversations, constituted an interference with his right to respect for his private and family life within the meaning of Article 8 § 1 (see *Van der Ven*, cited above, § 69). As the Government pointed out in the present case, convicted prisoners in Russia have the right to telephone calls under domestic law. The applicant, however, is a life prisoner who has been subject to the strict regime, a special prison regime which involves, among other things, such restrictions on private and family life as a complete ban on telephone calls except in emergency situations (see *Khoroshenko*, cited above, § 107). The Government did not contest that the application of the above-mentioned prison regime in the applicant's case constituted an interference with his rights to private and family life protected by Article 8 of the Convention, and the Court too sees no reason to hold otherwise. It remains to be seen whether the interference was justified under paragraph 2 of that provision, that is, whether it was "in accordance with the law", pursued one or more of the legitimate aims listed in paragraph 2 and was "necessary in a democratic society". As to the latter criterion, the Court reiterates that the notion of "necessity" for the purposes of Article 8 means that the interference must correspond to a pressing social need, and, in particular, be proportionate to the legitimate aim pursued (see *Hagyó*, cited above, § 85).

(ii) Whether the interference was justified

52. As noted above, the restrictions complained of were based on the provisions of Article 92 of the CES and the relevant regulations (see paragraph 41 above). They thus had a legal basis in Russian law, and the law itself (in so far as it imposed the general ban on telephone calls for life prisoners, at issue in the present case) was clear, accessible and sufficiently precise.

53. As regards the question whether the restrictions pursued a “legitimate aim”, in view of the Government’s submissions and the Constitutional Court’s findings (see paragraphs 25 and 44 above) in respect of such aims as “the restoration of justice, reform of the offender and the prevention of new crimes”, the Court considers that it is not necessary to decide this point in view of its findings below (see *Khoroshenko*, cited above, §§ 113-15, which left that question open).

54. The Court notes that the justification relied on by the Government in the present case (see paragraphs 25 and 44 above) appears to imply that the restrictions were part of the consequences of the very serious crimes committed by the applicant, for which he had not only been deprived of his liberty but also restricted in the exercise of his other rights related to his private and family life. However, as noted at paragraph 45 above, it is well established in the Court’s case-law that, during their imprisonment, individuals continue to enjoy all fundamental rights and freedoms, save for the right to liberty.

55. Having had the opportunity to examine the compatibility with Article 8 of such restrictions on prisoners’ telephone communications with their families (including under high-security prison regimes) as monitoring, frequency, duration, language that can be used and cost (see paragraph 49 above), the Court is struck by the severity of the total ban on life-sentenced prisoners’ telephone communications with their relatives, except in an emergency, under the conditions of the strict regime, at issue in the present case.

56. The applicant in the present case did not receive any visits from his relatives living a significant distance away (see paragraphs 7-9, 15 and 17 above), which left him – in the absence of any possibility of communicating by telephone – with written correspondence as the only way of maintaining contact with them. The Court notes that this means of communication was seemingly insufficient for a number of reasons, including the time it took for letters to be delivered and the difficulty for the applicant to have an effective contact with his only child, who was for many years too young for written correspondence. Given the child’s age (seven years old at the beginning of the applicant’s imprisonment in the special-regime correctional colony under the strict regime), those years were crucial for developing a family relationship between them. The very scarce occasions on which the applicant was allowed to telephone his family in “exceptional personal

circumstances” under Article 92 of the CES (see paragraph 17 above) did not appear to change that situation.

57. As in *Khoroshenko*, the ban on telephone calls was imposed directly by law and concerned the applicant solely on account of his life sentence and irrespective of any other factors. The regime was imposed for a fixed period of ten years, which could be extended in the event of poor behaviour while serving the sentence but could not be shortened (*ibid.*, § 129).

58. Thus, the applicant’s arguments concerning the difficulties for his relatives to visit him in view of the remoteness of the prison and their lack of financial means, the age of his son and the availability of technical means for telephone calls from the prison were dismissed as irrelevant (see paragraphs 9 and 13-14 above). The Court further notes the domestic courts’ finding in the context of the handcuffing complaint that the applicant did not present a risk of escape (see paragraph 20 above). Nor is there any indication that he presented any other specific security concerns. It reiterates that the State does not have a free hand in introducing restrictions in a general manner without affording any degree of flexibility for determining whether limitations in specific cases are appropriate or indeed necessary, and that the principle of proportionality requires a discernible and sufficient link between the application of such measures and the conduct and circumstances of the individual concerned (*ibid.*, §§ 126 and 141).

59. The Court found in *Khoroshenko* that the very strict nature of the regime concerned prevented life-sentence prisoners from maintaining contact with their families and thus seriously complicated their social reintegration and rehabilitation instead of fostering and facilitating it. In this connection, the Court also attached considerable importance to the recommendations of the CPT, which noted that long-term prison regimes “should seek to compensate for [the desocialising effects of imprisonment] in a positive and proactive way” (*ibid.*, §§ 144-45).

60. The Court notes that the relevant instruments of the Council of Europe highlight the importance of preventing the breakdown of prisoners’ family ties by maintaining all forms of contact, in particular by written correspondence, telephone and visits (see paragraphs 29, 32 and 33 above). They stress, in respect of prisoners in general and life-sentenced prisoners in particular, that communication by telephone, along with written correspondence and visits, should be “as often as possible” (see paragraph 28 above), “with the maximum possible frequency and privacy” (see paragraph 29 above), “on as regular a basis as possible” (see paragraph 34 above) and that opportunities to make telephone calls should be made widely available (see paragraph 32 above). They may be accompanied by reasonable security measures where necessary (see paragraph 29 above). An emphasis is placed on the flexible application of rules for making and receiving telephone calls in order to maximise communication between imprisoned parents and their children (see

paragraph 30 above). The CPT further emphasises the need for flexibility in respect of prisoners whose families live far away (thereby rendering regular visits impracticable) and who should therefore be offered “improved possibilities for telephone contacts with their families”. Any limitations upon prisoners’ contact with the outside world should be based exclusively on security concerns of an appreciable nature or resource considerations (see paragraph 33 above). A total ban on telephone calls is deemed unacceptable and it is recommended to lay down a minimum number of telephone calls that must always be allowed (see paragraphs 31 and 35 above). No additional restrictions should be imposed on life-sentenced prisoners as compared to other sentenced prisoners when it concerns the possibilities for them to maintain meaningful contact with their families and other close persons (see paragraph 34 above).

61. The cases examined by the Court indicate the availability of regular telephone calls for prisoners in a number of Contracting States, including in high-security prisons (see paragraph 49 above), if need be, accompanied by the appropriate security arrangements.

62. The Court notes that the position of the Constitutional Court, relied on by the Government to justify the restrictions in the present case, has since evolved in the light of the Court’s judgment in the case of *Khoroshenko*, and that the relevant legislation has been amended accordingly, to abolish the ban on long-term visits (see paragraph 26 above). The Court also notes that the Concept for the Development of the Russian Penal System for the period up to 2030 identifies as one of the challenges prisoners’ loss of social ties leading, along with other factors, to recidivism on release. The need for additional measures aimed at the resocialisation and social adaptation of convicted persons is acknowledged, and it is proposed, *inter alia*, that the number of telephone conversations of convicted persons with their relatives be increased. One of the tasks set is ensuring that conditions of detention take into account, *inter alia*, the CPT standards, the Court’s case-law and the European Prison Rules (see paragraph 27 above).

63. Lastly, as noted above, the Government pointed out that convicted prisoners, as a rule, were allowed telephone calls (see paragraphs 23 and 44 above). This shows not only that the restrictions at issue in the present case did not “inevitably flow from the circumstances of imprisonment” (see paragraph 47 above; see also *Khoroshenko*, cited above, § 138), but also that the necessary technical means were presumably available. In any event, the Government did not suggest that access to telephone calls would impose any significant administrative or financial demands on the State (see, with necessary changes made, *Dickson*, cited above, § 74, and *Kalda v. Estonia*, no. 17429/10, § 53, 19 January 2016).

64. In view of the foregoing, the Court concludes that the restrictions on telephone calls for the applicant as a life prisoner under the strict regime

were not “necessary in a democratic society” and amounted to a disproportionate interference with his right to respect for his private and family life.

65. There has accordingly been a violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

66. The applicant complained (in his application dated 31 May 2011) that his request to attend the hearing in his civil case concerning the refusal of telephone calls to his family had not been examined and that the hearing had been held in his absence, in breach of Article 6 of the Convention, the relevant part of which reads as follows:

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

67. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

68. The Government acknowledged a violation of Article 6 § 1.

69. The Court has already found a violation of the right to a fair trial in cases where imprisoned applicants complained about their absence from hearings in civil proceedings. In those cases, the Court examined the manner in which domestic courts had assessed the question whether the nature of the dispute required the applicants’ actual presence, and whether the domestic courts had put in place any procedural arrangements aiming at guaranteeing their effective participation in the proceedings. The Court did not accept that the domestic courts’ reliance on the state of the domestic law, which prevented the applicants from attending, absolved the State from its obligation to ensure respect for the principle of a fair trial enshrined in Article 6 of the Convention (see *Gryaznov v. Russia*, no. 19673/03, §§ 44-51, 12 June 2012, and *Yevdokimov and Others v. Russia*, nos. 27236/05 and 10 others, §§ 33-53, 16 February 2016).

70. The Court has no reason to hold otherwise in the present case, in which the Belozerskiy District Court did not examine the applicant’s request for leave to appear. It held the hearing in his absence in accordance with domestic law, which did not make provision for convicted persons to be brought from correctional colonies to court hearings in their civil cases. It did not examine whether the nature of the dispute was such as to require the applicant’s attendance. Nor did it consider any procedural arrangements to ensure his effective participation in the proceedings. The applicant’s absence from the first-instance court was not remedied on appeal. The Vologda Regional Court upheld the first-instance court’s judgment in his absence, endorsing its decision to hold the hearing without the applicant

present. In these circumstances, the Court finds that the applicant was deprived of the opportunity to present his case effectively before the court to ensure respect for the principle of a fair trial.

71. There has accordingly been a violation of Article 6 § 1 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

72. The applicant complained (in his application dated 18 August 2009) that he had been routinely handcuffed when taken for walks in the prison yard while in detention in SIZO-2 in Moscow between 14 November 2008 and 15 April 2009. He relied on Article 3 of the Convention, which reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

73. The Government argued that the handcuffing had been justified in view of the fact that the applicant, who had been found guilty of very serious crimes and in good physical shape given his young age, had posed a danger to the detention facility staff and other prisoners. He could have received dangerous prohibited items from members of the criminal group during walks. There had also been a risk of his absconding.

74. The Court reiterates its finding in the case of *Shlykov and Others v. Russia* (nos. 78638/11 and 3 others, § 90, 19 January 2021) that a life sentence cannot justify routine and prolonged handcuffing that is not based on specific security concerns and the inmate’s personal circumstances, and is not subject to regular review. In that case, and in the absence of relevant examples of judicial practice, it reserved the question of whether judicial proceedings, and in particular, compensation proceedings, would be an effective remedy to be exhausted for instances of past handcuffing (*ibid.*, § 55). It also considered that where the circumstances and legal grounds of handcuffing remained essentially the same throughout a certain period, this should be considered as a “continuing situation” (*ibid.*, §§ 61-63).

75. Turning to the circumstances of the instant case, the Court notes that in 2011 the domestic courts declared the applicant’s routine handcuffing in the correctional colony IK-5 (in which the applicant had been placed sometime after his detention in SIZO-2) unlawful since the grounds for his placement under surveillance as a prisoner who could abscond had been missing during the period going back to his initial arrest in 2003 (see paragraph 20 above). They have thus effectively examined the legal grounds for handcuffing after his arrest, treating it as a continuous period, which included detention in SIZO-2 between 14 November 2008 and 15 April 2009 (compare with *Shlykov and Others*, cited above, §§ 61-63). The courts also held that the domestic law provided for the use of handcuffs on life prisoners only if their behaviour indicated that they could abscond or harm

themselves or others (contrary to the situation described in *Shlykov and Others*, cited above, § 17, where the domestic courts endorsed the routine handcuffing of life prisoners). They declared unlawful the decision to systematically handcuff the applicant and ordered that the prison administration not subject him to handcuffing unless there would be valid security reasons for that.

76. The applicant did not argue that his handcuffing at SIZO-2 had been based on different legal grounds than those examined and found unlawful by the domestic courts in 2011 nor argued that such treatment continued after the courts' decisions in question.

77. In view of the above and in line with its previous practice, the Court considers it reasonable to treat the period of the applicant's handcuffing in the present case as a continuous situation. Noting the successful outcome of the judicial proceedings for the issue at question (new developments brought to its attention on 20 June 2016, see paragraph 20 above), the Court considers that it is appropriate to apply Article 37 § 1 of the Convention, which reads as follows:

“The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

...

(b) the matter has been resolved; or

(c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.”

78. The Court is satisfied that both conditions for the application of Article 37 § 1 (b) of the Convention are met (see *Pisano v. Italy* (striking out) [GC], no. 36732/97, § 42, 24 October 2002; *Sisojeva and Others v. Latvia* (striking out) [GC], no. 60654/00, §§ 96-103, ECHR 2007-I; and *El Majjaoui and Stichting Touba Moskee v. the Netherlands* (striking out) [GC], no. 25525/03, §§ 29-34, 20 December 2007). First, the applicant is no longer subjected to the routine handcuffing complained of. Second, the measures ordered by the courts have adequately and sufficiently remedied the applicant's complaint in the circumstances of the present case for the purposes of Article 37 § 1 (b) (see *Sisojeva and Others*, cited above, § 97). The Court reiterates in this respect that according to its established case-law under Article 37 § 1 (b), it is not a requirement that the Government acknowledge a violation of the Convention or that the applicant, in addition to having obtained a resolution of the matter complained of directly, is also granted compensation (see *H.P. v. Denmark* (dec.), no. 55607/09, § 78, 13 December 2016).

79. Having regard to the above, the Court finds that the matter giving rise to the applicant's complaint in respect of past handcuffing can therefore

now be considered to be “resolved” within the meaning of Article 37 § 1 (b). Finally, no particular reason relating to respect for human rights as defined in the Convention requires the Court to continue its examination of the complaint under Article 37 § 1 *in fine*. Accordingly, this complaint should be struck out of the Court’s list of cases.

IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

80. Lastly, the applicant complained of violations of his rights under Articles 3, 5, 6 and 13 of the Convention on account of, *inter alia*, events which had taken place in 2002 and 2003.

81. The Court has examined these complaints and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, they do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention.

82. It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

83. 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

84. The applicant stated that he would leave the amount of just satisfaction to the discretion of the Court.

85. The Government stated that Article 41 should be applied in accordance with the Court’s established case-law.

86. The Court recalls its recent findings in the case of *N.T. v. Russia* (no. 14727/11, 2 June 2020) concerning the conditions of detention of life prisoners:

“70. The Court notes the efforts that have been made so far by the Russian authorities with a view to improving the various aspects of regime in which life prisoners are detained ... However, in the light of the Court’s conclusion in the present case, a further reform of the existing regulatory framework is required. The choice of instruments remains fully at the discretion of the respondent Government, which may decide to remove the automatic application of strict regime to all life prisoners, put in place provisions envisaging that strict regime can only be imposed – and maintained – on the basis of an individual risk assessment of each life prisoner, and applied for no longer than strictly necessary and (or) to mitigate the modalities of the strict regime, particularly those which concern physical restrictions, isolation of life prisoners, their access to various activities for the purpose of their socialisation and rehabilitation.”

87. Making an assessment on an equitable basis, the Court awards the applicant 3,400 euros (EUR) in respect of non-pecuniary damage sustained on account of the violation of Article 8, as well as the violation of Article 6 § 1, found in the present case.

B. Costs and expenses

88. The applicant also claimed EUR 4,450 for legal and translation costs and expenses incurred in the proceedings before the Court, to be paid to his representative Ms O.A. Sadovskaya.

89. The Government's submissions are indicated at paragraph 85 above.

90. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. Furthermore, costs and expenses are only recoverable to the extent that they relate to the violation found (see *Denisov v. Ukraine* [GC], no. 76639/11, § 146, 25 September 2018). In the present case, the applicant's observations related in the substantial part to his numerous other complaints, which were declared inadmissible. Therefore, the claim cannot be allowed in full and a reduction must be applied. Regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,300 covering costs under all heads for the proceedings before the Court, plus any tax that may be chargeable to the applicant, to be paid to the representative's bank account as requested by the applicant.

C. Default interest

91. 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. *Decides* to strike the application in the part concerning the applicant's handcuffing out of its list of cases in accordance with Article 37 § 1 (b) of the Convention;
2. *Declares* the complaints concerning restrictions on the applicant's telephone calls to his relatives and the examination of his civil case in his absence admissible and the remainder of the application inadmissible;
3. *Holds* that there has been a violation of Article 8 of the Convention;

4. *Holds* that there has been a violation of Article 6 § 1 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, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 3,400 (three thousand four hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,300 (one thousand three hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be paid to the representative's bank account;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 19 October 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

{signature_p_2}

Olga Chernishova
Deputy Registrar

Georges Ravarani
President