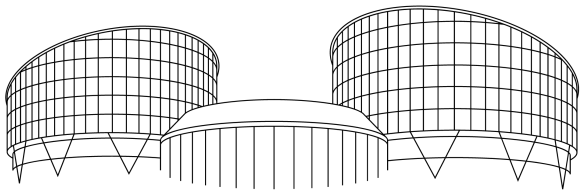

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF GULTYAYEVA v. RUSSIA

(Application no. 67413/01)

JUDGMENT

STRASBOURG

1 April 2010

FINAL

01/07/2010

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

In the case of Gultyayeva v. Russia,

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

Peer Lorenzen, *President,*
Renate Jaeger,
Karel Jungwiert,
Rait Maruste,
Anatoly Kovler,
Mirjana Lazarova Trajkovska,
Zdravka Kalaydjieva, *judges,*

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 9 March 2010,

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

PROCEDURE

1. The case originated in an application (no. 67413/01) 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, Ms Nina Ivanovna Gultyayeva ("the applicant"), on 4 October 2000.

2. The applicant was represented by lawyers of the Memorial Human Rights Centre (Moscow) and the European Human Rights Advocacy Centre (London). The Russian Government ("the Government") were represented by Mr P. Laptev and Ms V. Milinchuk, former Representatives of the Russian Federation at the European Court of Human Rights.

3. The applicant alleged, in particular, that the conditions of her pre-trial detention had amounted to inhuman and degrading treatment prohibited by Article 3 of the Convention, that her detention pending trial in the period between 25 October and 4 November 2000 had been unlawful in breach of Article 5 § 1 (c) of the Convention and that her pre-trial detention had been excessively long in violation of Article 5 § 3 of the Convention.

4. On 21 September 2004 the Court decided to give notice of the application to the Government. On 13 June 2007 the Court further invited the parties to submit additional observations as regards the applicant's complaint under Article 3 concerning the period of her detention between 28 February and 29 March 2000. On the same date it was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 3).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1951 and lives in Moscow.

A. The applicant's detention

1. The applicant's arrest and her detention between 28 February and 2 March 2000

6. At the material time the applicant held the position of Head of the Department of Justice of the Sakhalin Region (*начальник Управления юстиции Сахалинской области*).

7. On an unspecified date an external audit commenced in the said Department and embezzlement of budgetary assets was subsequently established.

8. On 25 February 2000 criminal proceedings were instituted in this connection.

9. On 28 February 2000 at 8 a.m. the applicant retained a lawyer.

10. On 28 February 2000 at 8:30 a.m. the applicant was arrested and placed in custody. Being questioned as a suspect in the case, the applicant availed herself of the right to remain silent and applied for release on bail or subject to personal surety.

11. On 29 February 2000 the investigator in charge refused to release the applicant, stating that, according to Article 101 of the Code of Criminal Procedure, "a measure of restraint could only be changed in the circumstances when it was no longer needed" and that "there were no such circumstances" in the applicant's case.

12. On the same date the applicant resigned from her position.

13. On 1 March 2000 the investigator in charge remanded the applicant in custody. The order, which was approved by a deputy prosecutor of the Sakhalin Region, referred to the danger of the applicant's absconding, the risk of her obstructing the establishment of the truth and influencing the witnesses who had been her subordinates, and to the gravity of the charges against her.

14. The applicant's request to release her subject to the imposition of another measure of restraint was examined and refused by the investigator on 2 March 2000.

2. The applicant's detention between 3 March 2000 and 18 April 2000

15. On 6 March 2000 the applicant's lawyer appealed to the court against the applicant's pre-trial detention.

16. The application was examined by judge A. of the Yuzhno-Sakhalinsk Town Court ("the Town Court") on 10 March 2000. At the hearing the applicant and her counsel reiterated their request for the applicant's release in view of her poor health, the fact that she had family commitments and a good reference from her former place of work. The judge confirmed the lawfulness of the applicant's remand in custody, having based this decision on "the evidence in the applicant's case file, proving that she might abscond or influence the witnesses if released".

17. According to the applicant, the evidence referred to by Judge A. was a transcript of an audio tape recording of telephone conversations of another suspect, K. During one such conversation K. stated that "on Monday Nina Ivanovna will leave forever".

18. On 12 April 2000 the Sakhalin Regional Court ("the Regional Court") upheld the decision of 10 March 2000 on appeal.

19. Meanwhile, on 7 March 2000, formal charges of embezzlement and abuse of power had been brought against the applicant. Since the applicant's counsel was unable to attend the police station that day, the investigating authorities appointed another lawyer to assist her. However, in the absence of her counsel, the applicant refused to read and sign the decision to charge her.

20. On 15 March 2000 the applicant's lawyer challenged the decision of 7 March 2000 before the court, claiming that the applicant's right to defence had been violated. He also requested the court to release the applicant pending trial.

21. On 4 April 2000 judge A. of the Town Court disallowed the above complaint, having noted that the allegations advanced by the applicant's representative had already been examined and rejected by the courts during the first judicial review of the applicant's detention.

22. On 3 May 2000 the Regional Court set aside the above decision and discontinued the proceedings in respect of the complaint of 15 March 2000. The court noted, *inter alia*, that the applicant was entitled to appeal against the alleged infringement of her right to defence at the trial stage.

3. The applicant's detention between 19 April 2000 and 20 June 2000

23. On 19 April 2000 the regional prosecutor extended the applicant's detention until 25 June 2000 on the ground that she might flee the trial or put pressure on witnesses while at liberty.

24. On 17 May 2000 the applicant challenged this order before the court, and requested to be released. She maintained, in particular, that she could not hinder the investigation or influence the witnesses, since the audit had

terminated on 13 April 2000. The applicant also referred to poor conditions of her detention and deterioration of her health.

25. On 25 May 2000 judge A. of the Town Court dismissed the applicant's complaint as unfounded, with reference to the gravity of the charges, "the applicant's personality" and "the evidence in the applicant's case file, proving that she might abscond or influence the witnesses if released". The judge also noted that the investigating authorities had produced a medical report stating that the applicant had no need of medical treatment.

26. In her appeal against the decision of 25 May 2000 the applicant stated, *inter alia*, that Judge A. should have been disqualified from reviewing her detention, as this judge had already considered and rejected her applications for release on two previous occasions.

27. On 25 June 2000 the Regional Court upheld the decision of 25 May 2000. With respect to the applicant's argument concerning Judge A., the court noted that the domestic law entitled a judge to examine a repeated complaint about the lawfulness of detention.

28. On 30 May 2000 a deputy prosecutor of the Sakhalin Region refused the applicant's request for release.

29. On 2 June 2000 the applicant was charged with a number of additional counts relating to embezzlement, abuse of power and forgery.

30. On 13 June 2000 the preliminary investigation was terminated and the applicant and her lawyer began studying the case file.

4. The applicant's detention between 21 June and 24 August 2000

31. On 21 June 2000 the regional prosecutor ordered the extension of the applicant's detention until 10 August 2000.

32. The applicant appealed against the prosecutor's decision, claiming that she was unable to obstruct the establishment of the truth or influence the witnesses, since the investigation had already terminated. She also referred to her poor state of health.

33. On 24 July 2000 judge B. of the Town Court dismissed the applicant's complaint, holding that her detention was "in accordance with law" and necessary in view of the seriousness of the charges and the applicant's personality. The judge also took note of medical certificates produced by the applicant's lawyer as well as the aforementioned medical report adduced by the investigating body, and found the applicant's allegations that she was in poor health unsubstantiated.

34. On 13 September 2000 the Regional Court upheld the above decision on appeal. The court noted that the applicant was charged with a serious criminal offence and its severity alone could, according to Article 96-2 of the Code of Criminal Procedure, permit her continued detention.

35. On 8 August 2000 the applicant's counsel lodged a complaint against the investigator in charge, requesting the court to order the applicant's inpatient examination by an independent medical authority.

36. On 15 August 2000 Judge B. of the Town Court declined jurisdiction to examine the complaint, stating that it fell within the competence of the prosecutor. This decision was upheld on appeal by the Regional Court on 25 October 2000.

37. In the meantime, on 7 August 2000, the regional prosecutor extended the period of the applicant's remand in custody until 25 August 2000.

38. On 15 August 2000 the applicant appealed to the court against the prosecutor's order. Her complaint was assigned to Judge A. of the Town Court.

39. The applicant sought the withdrawal of the judge. On 18 August 2000 Judge A. dismissed the challenge.

40. At the hearing on 21 August 2000 the applicant and her defence counsel claimed that the preliminary investigation had been completed, that the applicant had finished studying her case file, and that therefore the investigating authorities had no reasons to believe that the applicant might flee or obstruct the establishment of the truth if at large. Moreover, the applicant posed no danger to the public and suffered from various health problems, which required proper medical treatment.

41. Having heard the parties, Judge A. found that the applicant should remain in custody, on account of the gravity of the charges and the risk of her absconding. The judge further rejected the applicant's complaints about her health as groundless. This decision was upheld on appeal by the Regional Court on 13 September 2000.

42. On 23 August 2000 the investigator refused to release the applicant, making a general reference to the absence of any circumstances proving that her detention was no longer needed.

5. The applicant's detention between 25 August 2000 and 25 October 2000

43. On 25 August 2000 the applicant's case was forwarded to the Town Court for examination.

44. On 4 September 2000 Judge K. of the Town Court remitted the case for a further investigation and stated that the applicant should remain in custody in view of the seriousness of the charges.

45. The applicant appealed against the above decision in so far as it concerned her detention.

46. On 25 October 2000 the Regional Court dismissed the appeal.

47. Meanwhile, on 22 August 2000 the deputy Prosecutor General had authorised the applicant's detention until 25 October 2000. This order was served on the applicant on 15 September 2000.

48. On 17 September 2000 the applicant challenged the extension of her custody period before the Town Court, complaining, in particular, that she had not been notified of the order of 22 August 2000 in time.

49. At the hearing on 25 September 2000 the applicant also referred to the poor state of her health and the absence of any risk that she might abscond or hinder the investigation, which was at an end. Her arguments were examined and rejected as unfounded. Having acknowledged the fact that the order of 22 August 2000 had not been served on the applicant in due time, the court held that this fact did not affect the legal force of the extension order or the lawfulness of the applicant's detention. It therefore ordered the applicant's continued detention, with reference to the gravity of the charges against her. On 25 October 2000 the Regional Court upheld the first-instance decision.

50. On 16 October 2000 the applicant requested the investigator to release her.

51. On 17 October 2000 the investigator informed the applicant that there were no reasons to release her.

52. On 20 October 2000 the case was again transferred to the Town Court for examination on the merits.

6. The applicant's detention between 26 October 2000 and 6 February 2001

53. On 4 November 2000 Judge K. of the Town Court scheduled a hearing in the applicant's case and held that "in view of the gravity of the charges [against the applicant] the measure of restraint applied to her should remain unchanged". The decision did not specify the time-limit for the applicant's detention, nor did it refer to any other matters regarding the lawfulness of her detention.

54. On 17 November 2000 the applicant appealed against the above decision in so far as it related to her detention. She claimed that between 25 October 2000, when the period of her remand in custody had expired, and 4 November 2000 her detention had had no basis in domestic law. She further complained that the court had ignored her submissions about the state of her health.

55. On 13 December 2000 the Regional Court dismissed the applicant's appeal, finding that her detention was lawful. The court stated that the applicant had been charged with serious crimes, and could be detained on the sole ground of the dangerousness of those offences. With regard to the applicant's argument concerning her detention between 25 October 2000 and 4 November 2000, the court noted that the applicant's case file, including the indictment, had been transmitted to court on 20 October 2000, before the period of her remand in custody had expired. Accordingly, in the court's opinion, the statutory provisions governing the time-limit for detention during the preliminary investigation had been complied with in

respect of the applicant. The court further stated that, upon referral of the case to court, the first instance had taken its decision in due time, as prescribed by Article 223-1 of the Code of Criminal Procedure.

56. The applicant's further requests for release were rejected by the Town Court on 22 and 29 December 2000 and 9 January 2001 with a reference to the absence of any "new grounds for altering [the applicant's] measure of restraint".

B. The applicant's criminal conviction and imprisonment

57. On 6 February 2001 the Yuzhno-Sakhalinsk Town Court, composed of Judge K. and two lay assessors, convicted the applicant, along with another co-accused, of embezzlement, forgery and abuse of power, and sentenced her to six years and six months' imprisonment and confiscation of her property.

58. On 23 May 2001 the Sakhalin Regional Court upheld the sentence, having lifted the charges against the applicant on three counts with reference to a limitation period.

59. Thereafter the applicant applied unsuccessfully for a supervisory review.

60. On 30 September 2002 the applicant was released on parole.

C. Conditions of detention

1. Detention in the temporary holding facility of the Yuzhno-Sakhalinsk Department of the Interior

(a) The applicant's submission on the facts

61. According to the applicant, from 28 February until 29 March 2000 she was kept in the temporary holding facility of the Yuzhno-Sakhalinsk Department of the Interior (*изолятор временного содержания управления внутренних дел г. Южно-Сахалинска,* "the IVS"). In support of that submission, the applicant enclosed the authorities' letters dated 10 and 22 March 2000 respectively sent to her at the address of the IVS.

62. The applicant corroborated her account below with a written statement from one her former inmates.

63. The IVS was situated in the basement of the premises of the Department of the Interior. Following her arrest the applicant was placed in a cell measuring approximately 3 x 2.5 metres which was 2.5 metres high. There were no windows in the cell, with the result that there was no natural light, nor any fresh air. The inside temperature did not exceed 12ºC. There was an iron sink and a cold-water tap, but the water pressure was very low.

There was no toilet bowl or any other installation in the cell, and the applicant had to use the sink for her needs. The cell was overrun with mice, rats, lice, cockroaches and fungus.

64. The applicant was not allowed to take any toiletries or a change of clothes with her. She was not provided with any bedding and had to sleep on a plain wooden plank bed. During the first two days of her detention the applicant was not given any food or drinking water.

65. On 29 February 2000, in the evening, the applicant was transferred to another cell which accommodated four other inmates. The conditions in that cell were similar to those described above. It had no windows and was lit by a single 40-watt bulb. All the inmates except the applicant were smokers but the cell was ventilated only once a week when the detainees were taken to shower.

66. There was a big aluminium tank with a capacity of 80-100 litres in the cell. The tank, which had no cover, was used by the cellmates as a toilet. They stretched a piece of cloth over the top to try to reduce the smell. Every evening the cellmates took the tank out of the cell to the common toilet and washed it in turn using a hose with cold water. The tank was never disinfected.

67. The applicant was not provided with any bedding until a fortnight later, when she received it from her family, and slept on a wooden plank bed. The detainees were taken to shower no more than once a week; they were not given soap or any other toiletries or a change of clean underwear. During the entire period of her detention in the IVS the applicant did not have even one opportunity for exercise, due to the absence of the necessary facilities.

68. The applicant was allowed to receive food from her relatives, but, in her submission, she was hardly able to eat given that she had gastrointestinal problems and because of the poor sanitary conditions in the cell. The applicant, who suffered from heart, gastrointestinal and gynaecological conditions, was prohibited from receiving any medicines which she had been taking prior to her detention from her family with the result that her state of health deteriorated. Between 23 and 26 March 2000, following the applicant's complaints about aggravation of osteochondrosis, the IVS authorities called an ambulance and the applicant was given pain-relieving injections.

69. On 7 March 2000 the applicant's representative applied to the regional prosecutor's office, requesting the applicant's transfer into a separate cell.

70. In a letter of 13 March 2000 the regional prosecutor instructed the head of the Regional Department of the Interior to grant this request.

(b) The Government's submission on the facts

71. In their additional observations of 7 September 2007 the Government stated that throughout the entire period of her detention the applicant was held in remand centre IZ-62/1. They therefore provided no information relating to the applicant's alleged detention in the IVS.

2. Detention in remand centre IZ-62/1

72. The exact period during which the applicant was held in remand centre IZ-62/1 (subsequently IZ-65/1) in Yuzhno-Sakhalinsk (*СИЗО- 62/1* – "the IZ-62/1") and the conditions of her detention there are disputed by the parties.

73. According to the applicant, on 29 March 2000 she was transferred to the IZ-62/1, in which she remained until 30 September 2002. The applicant corroborated her account of the conditions in the remand centre with written statements by two of her former cellmates, dated 28 February 2001 and 7 December 2007.

74. In their observations of 15 December 2004 the Government indicated that the applicant was detained in the IZ-62/1 from 29 March 2000 until 29 September 2002. In their additional observations of 7 September 2007 the Government submitted that in the periods from 28 February until 29 March 2000 and from 29 March 2000 until 30 September 2002 the applicant was held in the IZ-62/1.

75. In their original observations, the Government based the account concerning the applicant's conditions of detention on a number of certificates issued by the head of the IZ-62/1 on 3 November 2004. In their additional observations, in reply to the Court's request that the description of the conditions of the applicant's detention be corroborated with documentary evidence pertaining to the period when she had been detained in the IZ-62/1, the Government submitted a number of certificates issued by the head of the remand centre on 21 August 2007, written explanations given on 17 August 2007 by several warders who had served in the IZ-62/1 at the relevant time, a copy of the applicant's medical file, and photographs of the cells which had accommodated the applicant. The certificates either describe the present-day conditions in the cells in which the applicant was kept or report on various aspects of the applicant's detention at the relevant period. The warders' written statements concern the conditions of the applicant's detention at the relevant period. The medical file is the only document issued during the applicant's detention. It reflects the applicant's medical history in the IZ-62/1.

(a) General conditions

76. According to the applicant, between 29 March and early May 2000 she was held in cell no. 53, then she was transferred to cell no. 47 in which

she spent three months, in early August 2000 she was placed in cell no. 020 where she remained until the middle of October 2000, then she spent a month and a half in cell no. 49, and from later November 2000 until 30 September 2002 she was kept in cell no. 54. The Government disputed this submission. One of the certificates of 21 August 2007 submitted by them states that from 29 March until 29 May 2000 the applicant was held in cell no. 49, from 29 May until 29 June 2000 she was kept in cell no. 020, and from this latter date until 30 September 2002 she was kept in cell no. 54.

77. In the applicant's submission, cell no. 53 measured approximately 24 square metres and was 3 metres high. It was designed for ten detainees. The applicant shared this cell with five inmates. Cell no. 47 also measured approximately 24 square metres and was designed for ten detainees. It held nine inmates. The applicant shared cell no. 020 measuring about 8 square metres and designed for four detainees with another cellmate. Cell no. 49 measured 20 square metres and was designed for ten inmates. It accommodated the applicant and one more detainee. The applicant shared cell no. 54 measuring 14 square metres with another detainee.

78. According to the Government, cell no. 49 measures between 24.6 square metres, as indicated in a certificate of 3 November 2004, and 26 square metres, as indicated in a certificate of 21 August 2007. The cell is intended for seven detainees, whereas the applicant shared this cell with five cellmates. Cell no. 020 measures 8 square metres and is designed for two detainees. In the Government's submission, the applicant was held there alone. Cell no. 54 measures between 14 square metres, according to a certificate of 3 November 2004, and 15.1 square metres, as stated in a certificate of 21 August 2007. The applicant shared this cell, which could accommodate up to four detainees, with another cellmate.

79. According to the applicant, in each cell where she was kept there was a single window. In cell no. 53 the window measuring approximately 1 x 1.4 metres was partly covered with glass and partly with plywood and always remained shut, therefore there was no natural ventilation. In cells nos. 47, 020 and 49 the windows were not glazed, whereas in cell no. 54 the window, also measuring 1 x 1.4 metres, was only partly glazed. The applicant submitted in respect of her detention in cell no. 49 that the prison authorities had repeatedly refused to accept glass for the window from her husband and had not glazed the window before the middle of November 2000 following numerous complaints by the applicant to the regional prosecutor's office. In the applicant's submission, the windows in each cell were covered with metal grilles supplemented with “eyelashes”, which are metal strips covering the grille. From the outside the windows were covered with wooden shields, and therefore only refracted daylight could reach inside. Each cell was only illuminated with a single 60-watt bulb.

80. The Government submitted that during the entire period of the applicant's detention the windows in all the cells had been glazed and had never been covered with plywood. The size of the windows – 1.4 x 1 metres in cells nos. 49 and 54, and 0.8 x 0.8 metres in cell no. 020 – was sufficient to let in enough daylight to enable detainees to read. Each window had a vent which ensured proper natural ventilation of the cells. According to the Government, the shutters had been removed from the windows in the period from January to March 2003. As regards artificial light, the Government submitted that each cell was illuminated with a bulb of 75- up to100-watt in the day and with a 25-watt bulb in the night.

81. According to the applicant, she was the only non-smoker in the cells where all the other detainees smoked. There was no mechanical ventilation in any of the cells. The cells were damp, with concrete floors. In the winter the temperature in the cells did not exceed 12ºC whilst in the summer it was stiflingly hot inside and the temperature reached 24-26ºC. In the Government's submission, each cell was equipped with mechanical ventilation and the average temperature was maintained at the level of 20-22ºC with a humidity level of 55.3 per cent. They relied on a report reflecting the results of measurement on 17 August 2007 of temperature and humidity level in cells nos. 49, 020 and 54 of the IZ-65/1. The report was drawn up by a regional authority for hygiene and epidemiology and indicated that the temperature in the cells ranged between 23.5 and 23.9ºC with the humidity level ranging between 54.4 and 58.4 per cent. The Government accepted that at least for some time the applicant had had to share a cell with smokers, but insisted that she had not endured severe suffering in this connection, given that a cell had been 3 metres high and had had natural and mechanical ventilation. They also submitted that on 29 May 2000, at the applicant's request, she had been transferred to cell no. 020, where she was held alone, and a month later she was transferred to cell no. 54, which she shared with a non-smoker.

82. It was not in dispute between the parties that each cell was equipped with a sink and a lavatory pan, that cold running water was available around the clock and that the detainees were also regularly provided with drinking water. The Government also submitted that detainees were provided daily with hot water for hygienic purposes. As regards the toilet, the applicant submitted that it had had no flush system and the inmates washed it with water from a bucket. The Government stated that the toilet in cells nos. 49, 020 and 54 had a flush system which filled with water run from a tap. The applicant also submitted that during the period of her detention in cell no. 54 the toilet was not disinfected even once.

83. According to the applicant, the lavatory pan was separated by a partition from the sink but not from the living area and dining table. The detainees' attempts to separate the toilet from them with curtains made of sheets were suppressed by the prison authorities. In the Government's submission, the sanitary installations were separated from the living area with a partition which was one metre high and offered privacy. The photographs show that the lavatory pan is separated from the living area by a thick partition and that in cells nos. 49 and 54 there is also a curtain in front of the pan.

84. According to the applicant, the cells were overrun with cockroaches, mice and rats. The Government stated that all the cells were disinfected twice a month during the summer period and once a month in the winter.

85. The parties did not dispute the fact that throughout the period of the applicant's detention in the IZ-62/1 she had had a personal sleeping place. According to the applicant, she was provided with a mattress, although it was of poor quality, and was allowed to take her own warm blanket, pillow and bed linen. The Government insisted that the prison authorities had provided the applicant with bedding, including a mattress, a pillow, a semi-woollen blanket, three sheets, two pillowcases and a towel, and that she had signed for these in a register of provision of detainees with bedding. They did not submit the document relied on. A certificate of 21 August 2007 indicates that the relevant documentation cannot be provided, since the time-limit for its storage does not exceed five years. According to the Government, the bed linen was changed weekly.

86. The parties further agreed that the applicant was allowed to take a shower once a week for 30 minutes. The applicant alleged, however, that she had to wash herself, along with ten to fifteen other detainees, using wash-basins in a room measuring 4 x 4 metres which adjoined another room measuring 2 x 2 metres. The latter room was equipped with two showers. According to her, the cellmates were provided with 50 grams of soap per week.

87. According to the applicant, the detainees were allowed exercise less than once a day for a period of thirty to sixty minutes. During the period of her detention in cell no. 53 she was taken for outdoor exercise on two or three occasions into a courtyard measuring approximately 2.5 x 2.5 metres. At the same time seven to ten detainees were walking in the courtyard. Each walk lasted about thirty minutes. The Government insisted that the applicant was allowed to take a walk every day for two hours during daylight hours.

88. In the applicant's submission, the scarce meals were of poor quality, but the prison authorities only allowed her to receive bread and flour products, sugar and tea from her family. She was not allowed to receive any dairy products, fish, meat or juices, which, according to the applicant, she needed in view of her gastrointestinal problems, or any other products such as jam or honey. According to the Government, the applicant, like all the

other detainees, was provided with meals three times a day and received a well-balanced menu. In particular, she received daily 100 grams of cereals, 20 grams of noodles, 100 grams of meat, 100 grams of fish, 10 grams of fats, 15 grams of seed-oil, 30 grams of sugar, 500 grams of potatoes, 250 grams of vegetables and 550 grams of bread. A certificate of 21 August 2007 states that the relevant documentation cannot be provided, as it had been destroyed.

(b) Medical assistance

i. The parties' submission on the facts

89. According to the applicant, before her placement in custody she had been suffering from heart, gastrointestinal and gynaecological conditions. In support of her submissions, she relied on medical documents confirming that she had undergone treatment in respect of those conditions in the 1990s. In particular, a certificate issued in March 2000 states that in November-December 1999 the applicant was diagnosed with hypertension and ischaemic heart disease and a certificate of 20 December 2000 confirms that the applicant had her gall bladder removed in 1991. There is also a certificate stating that the applicant was diagnosed with hysteromyoma.

90. The applicant further submitted that her health had deteriorated during her detention. In particular, she started suffering from gastritis, conjunctivitis, myopia and contracted a facial dermatological disease, demodicosis. The applicant adduced a copy of an extract from her medical file dated 18 April 2005 and medical documents of 26 February and 22 June 2006 confirming the presence of those diseases. In the applicant's submission, when in custody she repeatedly complained to the authorities about her poor state of health and requested an independent medical examination. She submitted copies of her written requests to various authorities.

91. In particular, on 6 April 2000 the applicant requested the head of the IZ-62/1 that she receive an independent medical examination.

92. On 24 April 2000 the applicant complained to the regional prosecutor that the medical examinations carried out in the IZ-62/1 were inadequate, that her medicines had been taken away and that the authorities had failed to have her independent medical examination carried out. She also complained that she had to share a cell with nine other detainees, all of them smokers, and that although the cells were severely infested with cockroaches the prison authorities made no attempts to exterminate them.

93. In a letter of 10 May 2000 the regional prosecutor's office informed the applicant about regulations which provided that medicine prescribed to suspects should be kept by a duty officer and taken by patients in the presence of that officer. In respect of the applicant's request to order an independent medical examination, the letter stated that there was no such

obligation on the authorities. Lastly, the applicant was invited to address her complaints concerning sanitary conditions in the cell to the administration of the IZ-62/1 or to the administration of the Department for Execution of Punishments.

94. In her complaint of 17 May 2000 concerning the extension of her pre-trial detention (see paragraph 24 above) the applicant referred, *inter alia*, to poor conditions of her detention, stating that she was being kept in a poorly lit cell with smokers, that her sight had deteriorated, that her medicines had been seized and that she had not received adequate medical treatment and had been refused an independent medical examination.

95. On 22 May 2000 the applicant sent another complaint to the regional prosecutor, in which she again mentioned the authorities' failure to have her independent medical examination carried out and complained of deterioration of her sight, high blood pressure and aggravation of her health problems.

96. In May-July 2000 the applicant suffered from an inflammatory condition on her face which, according to her, proved to be demodicosis. In her submission, the treatment she received from prison doctors was ineffective. On 13 and 14 June 2000 the applicant sent complaints to the head of the regional Department for Execution of Punishments and the regional prosecutor in which she informed them that she was in need of urgent professional medical treatment for her acute facial condition, which could not be administered to her in the remand centre, and requested that she either be examined by specialists in connection with that condition, or admitted to a hospital for inpatient treatment.

97. On 3 August 2000 the applicant complained in writing to the head of the IZ-62/1 that there was no adequate medical assistance in connection with her heart condition and that medicines for injection and syringes which had been delivered by her family members had been taken away. She also mentioned that the cell in which she was being held was never ventilated.

98. On 2 November 2000 the applicant, with reference to her heart, gastrointestinal and gynaecological problems and the deterioration of her health in detention, requested the Yuzhno-Sakhalinsk Town Court to order an independent medical examination. On 12 November 2000 the applicant forwarded a similar request to the head of the IZ-62/1.

99. On 17 November 2000 the head of the IZ-62/1 sent a written request to the Town Court to allow an independent medical examination of the applicant.

100. According to the applicant, despite numerous requests, she had no proper medical treatment and her medicines were taken from her by the prison authorities. In the spring 2001 the prison authorities accepted from the applicant's relatives medicines for treatment of heart diseases and disposable syringes. However, according to the applicant, she was not administered any injection until the autumn of 2001 after her numerous

complaints to the authorities. In the Government's submission, all the medicines received by the prison authorities from the applicant's relatives were delivered to the applicant, except for medicines for injection and syringes.

ii. Information from the applicant's medical file

101. A copy of the applicant's medical file made during her detention in the IZ-62/1 submitted by the Government reveals the following.

102. On 29 March 2000, on the applicant's arrival at the remand centre, she underwent a medical examination which established that she was fit. During the examination the applicant stated that her gall bladder had been extracted and complained of pain in the small of her back. She made no other complaints.

103. On 31 March 2000 a duty paramedic attended the applicant in the cell, at her request. The officer took the applicant's blood pressure.

104. On 7 April 2000, upon the applicant's complaint of slight headaches and some bleeding from the ears, she was examined by a general practitioner and diagnosed with vegetative-vascular dystonia. The applicant was prescribed and administered medication.

105. On 12 April 2000 the applicant was received by the head of the IZ-62/1 medical office in connection with her complaint that her medicines had been taken away. Some of the medicines were returned to her. The head of the medical office also took the applicant's blood pressure.

106. On 19 April 2000 the applicant was examined by a medical commission of the Central Hospital of the Department for Execution of Punishments, including a general practitioner and a surgeon. She complained of pain in the right pre-costal area and constipation. The applicant was diagnosed with biliary dyskinesia and prescribed pain-relieving medicines. Her general state of health was found to be satisfactory.

107. On 24 April 2000 the applicant's blood pressure was measured.

108. On 12 May 2000 the applicant refused to undergo a gynaecological examination by a gynaecologist from the city maternity and gynaecology hospital, stating that the person assigned to carry it out was incompetent. She insisted on an independent gynaecological examination as well as examinations by a dermatologist and an ophthalmologist.

109. On the same date the applicant was examined by the head of the ophthalmological department of the regional hospital, diagnosed with slight myopia and prescribed glasses.

110. On 16 May 2000 the applicant was examined by a duty paramedic in connection with the inflammation of her face. She was diagnosed with allergic dermatitis and prescribed antihistamine pills and ointment.

111. The next day the applicant was examined by a psychiatrist in connection with her complaints of insomnia and itching and eruptions on her face. The doctor concluded that she was "almost fit".

112. On 22 May 2000 the applicant was examined by a duty paramedic in connection with her complaints of nausea, weakness and shooting pains in the heart area. She was diagnosed with presumed cardio neurosis and prescribed relevant treatment.

113. On 26 May 2000, upon the applicant's complaint to the effect that she was unable to take part in a court hearing scheduled for that day because of her poor physical condition, she was examined by a general practitioner who concluded that she was fit.

114. On 28 May 2000 the applicant was examined by a dermatologist in connection with her complaint of eruptions on her face. She was diagnosed with allergic dermatitis and prescribed antihistamines, vitamins and ointments.

115. On 29 May 2000 the applicant was examined by a general practitioner who diagnosed her with presumed osteochondrosis and premenopausal syndrome and prescribed relevant treatment.

116. On 5 June 2000 the applicant was examined by the head of the IZ-62/1 medical office, who concluded that her dermatological condition was satisfactory.

117. The next day the applicant was examined by a dermatologist who also confirmed that she was fit.

118. On 21 June 2000 the applicant had a conversation with the head of the IZ-62/1 medical office as regards the administration of medicines for treatment of heart disease received from the applicant's family members. The applicant was invited to undergo an electrocardiographic monitoring necessary prior to the administration of that medicine, but she refused the monitoring, stating that the device was outdated.

119. On 22 June 2000 the applicant was attended and examined by the head of the Tselitel medical centre, who concluded that the applicant was suffering from premenopausal syndrome and suggested that she undergo treatment with hormonal medicines.

120. On 12 July 2000 the applicant was examined by a general practitioner, who diagnosed her with influenza and administered relevant treatment.

121. On 9 August 2000 the applicant was examined by a general practitioner, who found that she had post-cholecystectomy syndrome. She was prescribed relevant treatment.

122. On 30 August 2000 the applicant was examined by a duty paramedic as she stated that she had been on hunger strike since 25 August 2000. The paramedic weighed the applicant and took her blood pressure. Her physical condition was found to be satisfactory.

123. On 13 October 2000 a general practitioner examined the applicant, took her blood pressure and, at the applicant's request, prescribed her the medicines which had been delivered by her family members.

124. On 26 October 2000 the applicant was examined by a general practitioner and diagnosed with influenza. Relevant treatment was prescribed.

125. On 14 November 2000 the applicant was examined by a duty paramedic in connection with her complaint of headaches and weakness. The paramedic found that she had vegetative-vascular dystonia and recommended relevant treatment.

126. On 28 December 2000 a general practitioner diagnosed the applicant with acute laryngotracheitis and prescribed relevant treatment.

127. On 18 January 2001 the applicant was attended and treated by a general practitioner in connection with pharyngitis and vegetative-vascular dystonia.

128. On 8 February 2001 the applicant was examined by a general practitioner, diagnosed with acute tracheobronchitis and prescribed relevant treatment.

129. On 13 February 2001 the applicant was attended and treated by a general practitioner in connection with protracted tracheitis. On 15 February 2001 the general practitioner again examined the applicant and recommended that the treatment be continued.

130. On 6 March 2002 the applicant was examined by a general practitioner and diagnosed with follicular tonsillitis. Relevant treatment was prescribed. On 10 March 2002 she was attended by a duty paramedic who recommended that she continue with the treatment.

131. During the period of her detention in remand centre IZ-62/1 the applicant underwent fluorography examinations on six occasions; the examination disclosed no pathologies.

D. The seizure of the applicant's flat

132. On 3 March 2000 the investigator in charge ordered the seizure of the applicant's flat pending trial.

133. On 16 March 2000 a deputy regional prosecutor rejected the applicant's complaint against the investigator's order.

134. On 28 July 2000 the applicant applied to a court, stating that the flat in question was the only housing for her family and therefore was immune from seizure.

135. On 8 August 2000 the Yuzhno-Sakhalinsk Town Court found in the applicant's favour and lifted the seizure.

136. On 3 October 2000, on an appeal by the regional prosecutor, the Sakhalin Regional Court quashed the above judgment and remitted the case to the first-instance court.

137. It appears that, following the applicant's conviction, on 11 March 2002, the Town Court lifted the seizure of the applicant's flat in a separate set of proceedings. The court noted that this apartment was the permanent place of residence for the applicant's family and was not subject to confiscation.

138. On 12 March 2002 the Town Court discontinued the proceedings on the applicant's action of 28 July 2000, since she had waived her claims.

II. RELEVANT DOMESTIC LAW

The Code of Criminal Procedure of 1960, as in force at the relevant time

139. Article 96 (Taking into custody) provides that taking into custody as a measure of restraint may be imposed in cases concerning criminal offences punishable by law with more than one year's imprisonment. The Article also refers to a number of serious criminal offences, including embezzlement, and provides that in respect of persons charged with those offences, taking into custody as a preventive measure may be applied on the sole ground of the danger presented by the criminal offence committed.

140. Article 97 (Periods of detention) provides that the duration of detention during the investigation of criminal cases may not exceed two months. This period may be extended by a relevant prosecutor to up to three months, and further detention can be authorised by a regional prosecutor (or a prosecutor of equal rank) to up to a maximum of six months. Extension of detention beyond six months is allowed in exceptional cases only with regard to persons charged with serious criminal offences, and can be authorised by a deputy Prosecutor General for a period of up to one year, and by the Prosecutor General for a period of up to one and a half years. Further extension of detention is not allowed: the person must be released immediately.

141. Article 101 (Revocation or alteration of measure of restraint) provides that a measure of restraint shall be revoked when no longer needed. A measure of restraint may be changed to a more severe or a milder one if the circumstances of the case so require.

142. Article 223-1 (Ordering a court session) provides that, if an accused is kept in custody, a judge shall take a decision to order a court session within fourteen days of the date when the criminal case was received by the court.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

143. The applicant complained that the conditions of her pre-trial detention, including a refusal of medical examination and lack of medical assistance, had amounted to inhuman and degrading treatment contrary to Article 3 of the Convention. In her observations of 7 May 2005 the applicant further complained under this head that the conditions of transportation to and from the court-house were poor. The relevant Convention provision reads as follows:

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

A. Submissions by the parties

144. The applicant contested most of the Government's submissions on the conditions of her detention and maintained her complaints.

145. The Government insisted that the conditions of the applicant's detention in the IZ-62/1 fully complied with the requirements of the national legislation and the Convention standards. In support of this argument, they contended that during the period of her detention the applicant had never complained about any aspect of the conditions in which she had been held. They also largely relied on the certificates issued by the head of the IZ-62/1 and information provided by the warders of the IZ-62/1 (see paragraph 75 above). The Government gave no explanation as to their failure to adduce documentary evidence pertaining to the period of the applicant's detention in reply to the Court's specific request, but insisted that the documents submitted by them could be regarded as reliable evidence as they had been issued by competent officials who were aware that they could be subject to criminal persecution for falsification of any information reflected in the documents.

B. The Court's assessment

1. Conditions of the applicant's detention in the IVS

146. The parties disagreed as to whether the applicant had been held in the IVS. The applicant insisted that she had been kept in this detention facility from 28 February until 29 March 2000, whereas the Government in their observations of 7 September 2007 stated in essence that throughout the

entire period of her detention the applicant had been kept in the IZ-62/1 (see paragraphs 71 and 74 above).

147. Assuming that the applicant is correct in her claim that she was kept at the IVS from 28 February until 29 March 2000, the Court observes that she lodged her application on 4 October 2000 which is more than six months later. In the absence of any remedies capable of providing redress in so far as the conditions in Russian detention facilities are concerned (see *Kalashnikov v. Russia* (dec.), no. 47095/99, 18 September 2001; *Moiseyev v. Russia* (dec.), no. 62936/00, 9 December 2004; *Mamedova v. Russia*, no. 7064/05, § 57, 1 June 2006; or *Benediktov v. Russia*, no. 106/02, § 29, 10 May 2007), a question of the applicant's compliance with the six-month criterion in respect of the period of her detention in the IVS arises.

148. The Court observes that the IVS and the IZ-62/1, where the applicant was subsequently transferred, were situated in different buildings located in different places, the applicant's detention in these facilities ended on clearly identifiable dates and nothing in the applicant's submissions suggests that any relevant characteristics of the conditions in the two facilities were identical or particularly similar. On the contrary, the applicant's description of the conditions of her confinement in the IVS significantly differs in many aspects (such as, for example, the absence of windows and toilet installations in the cells, the absence of bedding and the lack of opportunity to take exercise) from the descriptions of the conditions in the IZ-62/1. The Court therefore can discern no special circumstances which would enable it to construe the applicant's detention in the IVS and her subsequent detention in the IZ-62/1 as a "continuing situation" which could bring the events complained of by the applicant within the Court's competence (see *Novinskiy v. Russia* (dec.), no. 11982/02, 6 December 2007; *Maltabar and Maltabar v. Russia*, no. 6954/02, § 83, 29 January 2009 and, by contrast, *Igor Ivanov v. Russia*, no. 34000/02, § 30, 7 June 2007; *Benediktov*, cited above, § 31; and *Guliyev v. Russia*, no. 24650/02, § 33, 19 June 2008).

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

2. Conditions of the applicant's detention in the IZ-62/1

(a) Admissibility

150. The Court notes that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

(b) Merits

151. The Court is faced with the parties' conflicting descriptions of the conditions of the applicant's detention in the IZ-62/1. It reiterates in this connection that in certain instances the respondent Government alone have access to information capable of corroborating or refuting allegations under the Convention and that a failure on the Government's part to submit such information without a satisfactory explanation may give rise to the drawing of inferences as to the well-foundedness of the applicant's allegations (see, in the context of former Article 28 § 1 of the Convention, *Ahmet Özkan and Others v. Turkey*, no. 21689/93, § 426, 6 April 2004).

152. In the present case, in their original observations of 15 December 2004 the Government based their account of the conditions of the applicant's detention in the IZ-62/1 on certificates issued by the head of that remand centre on 3 November 2004 (see paragraph 75 above). On 20 June 2007, when inviting the parties to submit additional comments regarding this part of the application, the Court specifically requested that the Government to submit relevant documents pertaining to the period of the applicant's detention in the IZ-62/1. Among the documents submitted by the Government in reply, only a copy of the applicant's medical file had been issued during the relevant period. The other documents included certificates of the head of the said detention facility dated 21 August 2007, statements of several warders of the IZ-62/1 dated 17 August 2007 and the present day photographs of the cells in which, according to the Government, the applicant had been kept. Thus, the first issue to be examined is whether on the basis of the facts of the present case the Government's failure to submit copies of the relevant prison documentation has been properly accounted for.

153. The Government stated that the documents they had submitted were formal evidence issued by competent officials who were liable to criminal persecution for falsification of any information reflected in those documents. The Government did not provide any other explanation as to their failure to submit documents pertaining to the period of the applicant's detention in the IZ-62/1, however, some of the certificates dated 21 August 2007 reveal that relevant documents had been destroyed upon expiry of the five year time-limit for their storage (see paragraphs 85 and 88 above). In this latter respect, the Court reiterates that the destruction of the relevant documents due to the expiry of the time-limit for their storage, albeit regrettable, cannot in itself be regarded as an unsatisfactory explanation for the failure to submit them. The Court also has to look at the timing of that act as well as other relevant factual circumstances. In particular, regard should be had to whether the authorities appeared to have been acting with due care in this respect (see *Novinskiy v. Russia*, no. 11982/02, § 102, 10 February 2009).

154. Having examined the copies of materials submitted by the Government, the Court notes with regret that they reveal that the authorities did not display sufficient diligence in handling the relevant prison documentation in the Strasbourg proceedings. It is true that, if the time-limit of five years was applied for storage of prison documentation, as indicated in the certificates of 21 August 2007, the documents requested by the Court were most probably destroyed in 2005, and therefore the Government was not in a position to comply with the Court's request of 20 June 2007. However, the present application was communicated to the Government on 21 September 2004 and there is no evidence that the Government were in any way prevented from enclosing relevant documents stemming from the relevant period to their original observations of 15 December 2004, rather than producing certificates of 3 November 2004. Further, once they were on notice that the Court was dealing with the case, it would have been open to the Government not to destroy the documents, in case they were of relevance to the present proceedings.

155. In so far as the Government referred to the statements by the officials of the IZ-62/1 dated 17 August 2007 as having evidentiary value and acting as a substitute for the original prison documentation, the Court would reiterate that on several previous occasions it has declined to accept the validity of similar statements on the ground that they could not be viewed as sufficiently reliable given the lapse of time involved (see *Igor Ivanov*, cited above, § 34, *Belashev v. Russia*, no. 28617/03, § 52, 13 November 2007, and *Novinskiy*, cited above, § 104). The Court finds that these considerations hold true in the circumstances of the present case, since the events at issue had taken place around seven years before the warders gave their statements, and it is clear from the way the statements are formulated that the warders based them on their personal recollections and not on any objective data. In the circumstances of the case and given the lack of any original prison documentation, the Court finds no objective reason to attach greater weight to those statements compared to those made, for instance, by the inmates referred to by the applicant. Overall, the Court finds that the Government have not accounted properly for their failure to support their account with copies of the original prison documentation, with the result that the Court may draw inferences from their conduct.

156. Having regard to the foregoing considerations, and bearing in mind that the evaluation of the evidence and the establishment of the facts is a matter for the Court, and that it is incumbent on it to decide on the evidentiary value of the documents submitted to it (see *Çelikbilek v. Turkey*, no. 27693/95, § 71, 31 May 2005), the Court will therefore have to establish the facts on the basis of the case file materials which it considers reliable.

157. The Court observes at the outset that the applicant remained in detention in the IZ-62/1 for slightly over two years and six months, namely from 29 March 2000 until 30 September 2002, the date of her release on parole. In this latter respect, the Court rejects as erroneous the Government's submission in their observations of 15 December 2004 to the effect that the applicant had been released on 29 September 2002, given that in their additional observations of 7 September 2007 the Government indicated 30 September 2002 as the date of the applicant's release, the same date being mentioned in the certificate of 21 August 2007 (see paragraphs 74 and 76 above). Although the parties disagreed as to the exact number of cells in which the applicant was detained and the exact number of inmates per cell, there was no allegation of overcrowding beyond the design capacity or of a shortage of sleeping places (see, by contrast, *Grishin v. Russia*, no. 30983/02, § 89, 15 November 2007, and *Kalashnikov v. Russia*, no. 47095/99, § 97, ECHR 2002-VI). Moreover, even on the basis of the applicant's description it is clear that during her detention in the IZ-62/1 she was mostly afforded no less than four square metres, and from no later than November 2000 until her release, no less than seven square metres, of living space (see paragraph 77 above).

158. The Court further reiterates that in a number of cases where the overcrowding was not so severe as to raise in itself an issue under Article 3 of the Convention, it noted other aspects of physical conditions of detention as being relevant for its assessment of compliance with that provision. Such elements included, in particular, the opportunity to use the toilet in private, availability of ventilation, access to natural light or air, adequacy of heating arrangements, and compliance with basic sanitary requirements. Thus, even in cases where a larger prison cell was at issue – measuring in the range of three to four square metres per inmate – the Court found a violation of Article 3 since the space factor was coupled with the established lack of ventilation and lighting (see, for example, *Vlasov v. Russia*, no. 78146/01, § 84, 12 June 2008; *Babushkin v. Russia*, no. 67253/01, § 44, 18 October 2007; *Trepashkin v. Russia*, no. 36898/03, § 94, 19 July 2007; and *Peers v. Greece*, no. 28524/95, §§ 70-72, ECHR 2001-III). The Court therefore has to satisfy itself that in the instant case the other conditions of the applicant's detention can be regarded as compatible with Article 3 of the Convention.

159. The Court observes first of all that in respect of the windows in the cells, their size was not specifically disputed by the parties and they do not appear in themselves to be too small (see paragraphs 79 and 80 above). However, and even assuming that, contrary to the applicant's assertion, none of the windows had ever been covered with plywood, as stated by the Government, the materials in the Court's possession, and namely the photographs of the cells submitted by the Government reveal that the windows were covered with metal grilles. Moreover, the Government conceded that the shutters which supplemented the grilles remained in place

throughout the entire period of the applicant's detention, and were only removed in the period from January to March 2003, that is after the applicant's release (see paragraph 80 above). The Court has strong doubts that such arrangement enabled adequate penetration of natural light. In this respect the Court notes that the entries in the applicant's medical file reveal upon her arrival on 29 March 2000 at the IZ-62/1 she was found to be fit (see paragraph 102 above), whereas several weeks later, on 12 May 2000, she was diagnosed with slight myopia (see paragraph 109 above). The Court also attaches weight to the fact that in her complaint of 17 May 2000 the applicant stated that she was being detained in a poorly lit cell and that her sight was deteriorating (see paragraph 94 above). Overall, the Court is not convinced that the arrangements in the cells where the applicant was detained were sufficient to give the applicant adequate access to daylight.

160. Furthermore, the Court is sceptical about the Government's submission that the cells were properly ventilated. It notes that in her complaints to the head of the IZ-62/1 dated 3 August 2000 the applicant mentioned that her cell was never ventilated (see paragraph 97 above). The Government, for their part, did not produce any reliable evidence confirming their allegation that the cells were equipped with mechanical ventilation and that the alleged presence of a vent in each window ensured proper natural ventilation of the cells. In the latter respect the Court retains certain doubts that a small window vent could have ensured adequate natural ventilation of the cells, given that, as was established above, the windows were at all times covered with grilles and shutters. It therefore appears that the applicant was kept in cells which were either poorly ventilated or not ventilated at all. In addition, at least during the first two months of her detention the applicant, a non-smoker, had to share a cell with several smokers (see paragraphs 81, 92 and 94 above), which, in the Court's opinion, could have caused her considerable distress in the absence of adequate ventilation.

161. The applicant further alleged that during the winter the temperature in the cells where she was kept did not exceed 12ºC, whereas the Government insisted that the cells were heated and the average temperature was maintained at the level of 20-22ºC. They referred to a report of a regional authority for hygiene and epidemiology reflecting the results of measurement on 17 August 2007 of temperature and humidity level in cells nos. 49, 020 and 54 of the IZ-62/1 (see paragraph 81 above). The Court cannot accept that the report has any evidentiary value, given that it concerns the results of a measurement carried out during the summer period several years after the relevant events. On the other hand, it observes that, according to the entries in the applicant's medical file, throughout her detention in the IZ-62/1 during the winter period she often suffered from various respiratory ailments (see paragraphs 124 and 126-130 above). In the Court's opinion, this fact suggests that the applicant's allegation concerning

low temperature in her cells in the winter period are not devoid of foundation, it therefore accepts this allegation.

162. The Court also takes note of the applicant's argument that the cells were infested with cockroaches and that the prison authorities made no attempts to exterminate them. It considers this allegation to be reliable, given that the applicant raised a complaint to that end in her letter of 24 April 2000 to a regional prosecutor and was advised to address her complaints concerning sanitary conditions of the cells to the prison authorities (see paragraphs 92 and 93 above). The Government's assertion that the cells were regularly disinfected, on the contrary, was not supported by any documentation pertaining to the relevant period. The sanitary conditions in the cells where the applicant was held cannot therefore be considered satisfactory.

163. Moreover, when in custody, the applicant often suffered from various health problems, as is clear from her medical file. The Court would not exclude in this connection that the aforementioned aspects of the applicant's detention may have had a deleterious impact on her health, even though the inadequacy of the medical assistance in detention alleged by the applicant does not appear to raise, as such, any issue in the circumstances of the present case – a copy of the applicant's medical file submitted by the Government reveals that she received medical attention in respect of each of her health complaints and was also given an opportunity to be examined by independent doctors (see, by contrast, *Ostrovar v. Moldova*, no. 35207/03, § 86, 13 September 2005).

164. The Court has consistently stressed that, in accordance with Article 3 of the Convention, the State must ensure that a person is detained under conditions which are compatible with respect for his human dignity and that the manner and method of the execution of the measure do not subject him to distress or hardship exceeding the unavoidable level of suffering inherent in detention (see *Kudła v. Poland* [GC], no. 30210/96, §§ 92-94, ECHR 2000-XI). When assessing conditions of detention, account has to be taken of the cumulative effects of those conditions and the duration of the detention (see *Dougoz v. Greece*, no. 40907/98, § 46, ECHR 2001-II and *Kalashnikov*, cited above, § 102).

165. In the light of these principles, and having regard to the cumulative effects of the conditions in the cell, the exposure to cigarette smoke for a period of at least two months, the time spent in detention and the specific impact which these conditions could have had on the applicant's health, the Court considers there is no need for it to establish the truthfulness or otherwise of the parties' allegations concerning other aspects of the applicant's detention, as all the factors listed above are sufficient to enable the Court to conclude that the applicant's distress must have been of an intensity exceeding the unavoidable level of suffering inherent in detention,

and must have aroused in her feelings of fear, anguish and inferiority capable of humiliating and debasing her.

166. The Court there finds that the conditions of the applicant's detention in the Yuzhno-Sakhalinsk IZ-62/1 remand centre amounted to a degrading treatment. There has accordingly been a violation of Article 3 of the Convention on that account.

3. Conditions of the applicant's transportation

167. The applicant also complained under Article 3 of the Convention that the conditions of transportation between the remand centre and the court-house had been inhuman and degrading.

168. The applicant submitted no evidence that she raised her relevant complaint before the domestic authorities. Assuming that no effective remedies were available to her at the domestic level (see *Moiseyev (dec.)*, cited above), the Court observes that the proceedings in the applicant's case which necessitated her transportation to and from the courthouse ended on 23 May 2001 when the Sakhalin Regional Court upheld her conviction on appeal, whereas she firstly raised her relevant complaint on 7 May 2005 when submitting her observations, which is more than six months later. It follows that this complaint was lodged out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 5 § 1 (c) OF THE CONVENTION

169. The applicant complained under Article 5 § 1 (c) that from 25 October until 4 November 2000 there had been no valid domestic decision or other lawful basis for her pre-trial detention. The relevant parts of Article 5 provide:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> ...
>
> (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so ..."

170. The applicant maintained her complaint.

171. The Government insisted that the applicant's pre-trial detention, throughout its entire period, had been extended in accordance with relevant domestic law and had fully conformed to the requirements of Article 5 § 1 of the Convention. They submitted, in particular, that on 22 August 2000 a

competent prosecutor extended the applicant's detention until 25 October 2000, that on 20 October 2000 the applicant's case file had been sent to the trial court and that on 4 November 2000, within the time-limit of fourteen days fixed in the Code on Criminal Procedure then in force, a judge of the trial court scheduled a hearing in the applicant's case and authorised her further remand in custody. The Government, however, did not indicate the legal basis for the applicant's detention between 25 October and 4 November 2000, nor did they submit a document confirming the existence of that basis, despite the Court's specific request to that end.

A. Admissibility

172. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

173. The Court observes, and it has not been disputed by the parties, that between the date of expiry of the authorised detention period on 25 October 2000 and the Yuzhno-Sakhalinsk Town Court subsequent decision of 4 November 2000 ordering the applicant's further remand in custody, there was no decision, either by a prosecutor or a judge, authorising the applicant's detention. It is also common ground that in that period the applicant was held in detention on the basis of the fact that the criminal case against her had been referred to the trial court.

174. The Court has already examined and found a violation of Article 5 § 1 of the Convention in a number of cases concerning the practice of holding defendants in custody solely on the basis of the fact that their case has been submitted to the court. It has held that the practice of keeping defendants in detention without a specific legal basis or clear rules governing their situation, with the result that they may be deprived of their liberty for an unlimited period without judicial authorisation, was incompatible with the principles of legal certainty and protection from arbitrariness, which are common threads throughout the Convention and the rule of law (see, among other authorities, *Khudoyorov v. Russia*, no. 6847/02, §§ 146-51, ECHR 2005- ... or *Belevitskiy v. Russia*, no. 72967/01, §§ 89-93, 1 March 2007).

175. The Court sees no reason to reach a different conclusion in the present case. It reiterates that for the detention to meet the standard of "lawfulness", it must have a basis in domestic law. The Government, however, did not point to any legal provision which permitted a defendant to continue to be held in custody once the authorised detention period had

expired. As noted above, in the period from 25 October until 4 November 2000 there was neither a prosecutor's order nor a judicial decision authorising the applicant's detention. It follows that the applicant was in a legal vacuum that was not covered by any domestic legal provision.

176. Furthermore, although the Yuzhno-Sakhalinsk Town Court upheld the pre-trial detention measure in respect of the applicant on 4 November 2000, it did not give any reasons for its decision. In this connection, the Court reiterates that the absence of any grounds given by the judicial authorities in their decisions authorising detention for a prolonged period of time is incompatible with the principle of the protection from arbitrariness enshrined in Article 5 § 1 (see *Belevitskiy*, cited above, § 91).

177. The Yuzhno-Sakhalinsk Town Court's decision did not set a time-limit for the applicant's continued detention or refer to the provisions of the Code of Criminal Procedure governing pre-trial detention, on which it was based. This left the applicant in a state of uncertainty as to the legal basis and grounds for her detention after that date. In these circumstances, the Court considers that the court decision of 4 November 2000 did not afford the applicant the adequate protection from arbitrariness which is an essential element of the "lawfulness" of detention within the meaning of Article 5 § 1 of the Convention.

178. It follows that during the period from 25 October until 4 November 2000 there was no lawful basis for the applicant's detention. There has therefore been a violation of Article 5 § 1 (c) of the Convention.

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

179. The applicant complained that there had been no reasonable grounds for her arrest and for her continued pre-trial detention, which had been excessively long. She relied on Article 5 § 3 of the Convention, which provides 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 ..."

180. The applicant submitted that when authorising her continued remand in custody, the domestic courts had repetitively invoked the same reasons referring to the risk of her absconding and influencing the witnesses if at liberty, the gravity of the charges and the absence of a need for medical treatment, this latter conclusion being solely based on the applicant's medical record made by the prison authorities. The courts had never specified those reasons or provided more detailed explanations in support of their decisions. The applicant further argued that the domestic courts had repeatedly disregarded her arguments which showed that there had been no

grounds for her continued pre-trial detention. In particular, they had never taken into account her age and poor state of health, and namely the fact that she had been suffering from a number of serious health problems prior to her placement in detention, the fact that she had family commitments and an established place of residence in Yuzhno-Sakhalinsk, her social position, given that prior to the institution of criminal proceedings against her the applicant had been a high-ranking official, and the absence of any prior criminal record. The applicant also pointed out that she had resigned from office shortly after the criminal proceedings had commenced, and therefore there had been no reason to believe that she could have influenced any witnesses. The applicant thus argued that the national authorities had failed to justify her prolonged detention pending trial in breach of Article 5 § 3 of the Convention.

181. The Government pointed out that the entire period of the applicant's pre-trial detention had not exceeded the statutory time-limit of a year and a half established in Article 97 of the Code of Criminal Procedure then in force. Therefore, in their view, the length of the applicant's pre-trial detention had been "reasonable" within the meaning of Article 5 § 3 of the Convention.

A. Admissibility

182. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

183. According to the Court's well-established case-law, in 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 (see *Belevitskiy*, cited above, § 99). In the present case, the applicant's pre-trial detention lasted from 28 February 2000, when she was taken into custody, until 6 February 2001, when she was convicted by the trial court. The total duration of the detention thus amounted to eleven months and ten days, which period does not appear particularly excessive in itself. The Court reiterates, however, that Article 5 § 3 of the Convention cannot be seen as authorising pre-trial detention unconditionally provided that it lasts no longer than a certain minimum period. 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)).

184. The Court may accept that the applicant's detention in the present case could have initially been warranted by a reasonable suspicion that she had been involved in the commission of a criminal offence. In this connection, it reiterates that the persistence of a reasonable suspicion that the person arrested has committed an offence is a condition *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 continued to justify the deprivation of liberty. Where such grounds were "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 and 153, ECHR 2000-IV).

185. In the present case, the domestic courts authorised the extension of the applicant's detention pending trial on ten occasions, relying mainly on the seriousness of the charges against her and her potential to abscond or influence the witnesses if at large (see paragraphs 16, 25, 33, 41, 44, 49, 53 and 56 above).

186. As regards the courts' reliance on the gravity of charges as the decisive element, the Court has repeatedly held that this reason cannot by itself serve to justify long periods of detention (see, among other authorities, *Panchenko v. Russia*, no. 45100/98, § 102, 8 February 2005, *Rokhlina v. Russia*, no. 54071/00, § 66, 7 April 2005, or *Khudoyorov*, cited above, § 180).

187. In so far as the domestic courts referred to the risk that the applicant may flee from trial or put pressure on witnesses, the Court reiterates that that it is incumbent on the domestic authorities to establish the existence of concrete facts relevant to the grounds for continued detention. Shifting the burden of proof to the detained person in such matters is tantamount to overturning the rule of Article 5 of the Convention, a provision which makes detention an exceptional departure from the right to liberty and one that is only permissible in exhaustively enumerated and strictly defined cases (see *Rokhlina*, cited above, § 67). It remains to be ascertained whether the domestic judiciary established and convincingly demonstrated the existence of concrete facts in support of their conclusions.

188. The Court observes that the domestic courts assessed the applicant's potential to abscond or influence the witnesses with reference to certain evidence in the applicant's case file (see paragraphs 16 and 25 above). However, at no point did the domestic courts disclose that evidence or mention any specific facts warranting the applicant's continued detention on that ground. The Court thus accepts the applicant's argument that the domestic courts did not give due consideration to the fact that she had resigned from her office of the Head of the Department of Justice three days after the criminal proceedings had been instituted and that therefore her ability to influence witnesses in a case concerning the embezzlement of

budgetary assets in that public body had been at best questionable. The judiciary never specified why, notwithstanding the arguments put forward by the applicant in support of her requests for release, they considered the risk of her absconding or interference with the witnesses to exist and to be decisive. Moreover, the preliminary investigation in the present case had ended by 13 June 2000, but the applicant's detention on remand continued until 6 February 2001. The Court reiterates in this connection that whilst at the initial stages of the investigation the risk that an accused person might pervert the course of justice could justify keeping him or her in custody, after the evidence has been collected, that ground becomes less strong (see *Mamedova v. Russia*, cited above, § 79).

189. The Court further emphasises that when deciding whether a person should be released or detained the authorities have an obligation under Article 5 § 3 to consider alternative measures of ensuring his or her appearance at the trial (see *Sulaoja v. Estonia*, no. 55939/00, § 64, 15 February 2005, and *Jabłoński v. Poland*, no. 33492/96, § 83, 21 December 2000). It does not appear that during the period under consideration the domestic courts once considered the possibility of ensuring the applicant's attendance by the use of other "preventive measures" – such as a written undertaking not to leave a specified place or bail – which are expressly provided for by Russian law to secure the proper conduct of criminal proceedings, or, at the very least, that they sought to explain in their decisions why such alternatives would not have ensured that the trial would follow its proper course.

190. Having regard to the materials in its possession, the Court is not convinced that the domestic courts' decisions were based on an analysis of all the relevant facts. The Court agrees with the applicant that the authorities took no notice of the arguments in favour of her release pending trial, such as her age, her family commitments, the absence of any prior criminal record and the fact that she had an established place of residence in Yuzhno-Sakhalinsk. While extending the applicant's detention by means of identically or similarly worded detention orders the domestic authorities had no proper regard to her individual circumstances.

191. Overall, the Court considers that by failing to refer to specific relevant matters or to consider alternative "preventive measures" and by relying essentially on the gravity of the charges, the authorities extended the applicant's detention on grounds which cannot be regarded as "sufficient". They thus failed to justify the applicant's continued deprivation of liberty.

192. There has accordingly been a violation of Article 5 § 3 of the Convention.

IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

193. The applicant relied on Article 4 of the Convention, claiming that she had been subjected to forced labour during her imprisonment after the conviction. The Court observes that the applicant's situation is clearly justified under Article 4 § 3 (a) of the Convention, and therefore this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

194. The applicant further complained that her applications for release had been examined by the same two judges, A. or B., of the Yuzhno-Sakhalinsk Town Court on most occasions, and that for this reason the review of her pre-trial detention had not been exercised by an independent and impartial judicial body. She was also dissatisfied with an alleged lack of legal assistance on several occasions during the investigation. The applicant further claimed that the trial court had not been impartial, since Judge K., who had presided in her case, had previously decided twice on her detention. The applicant referred to Article 6 §§ 1 and 3 (a) and (c) of the Convention in connection with these complaints.

195. As far as the alleged lack of impartiality of the judges who examined the applicant's applications for release is concerned, the applicant presented no evidence of any actual bias on the part of the judges in question. This complaint is therefore manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

196. As to the alleged breach of the applicant's right to defence during the investigation, the Court reiterates that Article 5 of the Convention does not guarantee the right to free legal aid at the pre-trial stage. Moreover, there is nothing in the applicant's submissions to disclose a violation of the relevant provision of Article 6 of the Convention, given that she had legal assistance from the very early stage of the criminal proceedings against her (see paragraph 9 above). It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

197. As regards the complaint about the alleged bias of the trial judge, the Court reiterates that the mere fact that a trial judge has already taken pre-trial decisions in the case, including decisions relating to detention, cannot in itself justify fears as to his impartiality; only special circumstances may warrant a different conclusion (see *Hauschildt v. Denmark*, 24 May 1989, § 51, Series A no. 154 and *Sainte-Marie v. France*, no. 12981/87, § 32, 16 December 1992). It does not appear that there were any such circumstances in the present case: Judge K. only extended the applicant's pre-trial detention on 4 September and 4 November 2000 without even reviewing the lawfulness thereof, let alone assessing the degree of the applicant's guilt (see, by contrast, *Hauschildt*, cited above, § 52). This

complaint therefore is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

198. The applicant also submitted that the overall length of the criminal proceedings against her had exceeded the reasonable time requirement of Article 6 of the Convention. The Court reiterates that the period to be taken into consideration in determining the length of criminal proceedings begins with the day on which a person is "charged" within the autonomous and substantive meaning of that term and ends with the day on which a charge is finally determined or the proceedings are discontinued (see, among many other authorities, *Kalashnikov*, cited above, § 124). In the present case, the applicant was detained and questioned as an accused on 28 February 2000 and her conviction was upheld on appeal and became final on 23 May 2001. Thus the overall length of the proceedings at issue was less than fifteen months, during which period the applicant's case was examined at two levels of jurisdiction. The Court does not find such a length of the proceedings excessive within the meaning of Article 6 § 1 of the Convention. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

199. The applicant complained under Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention of the interim seizure of her flat. The Court observes that on 11 March 2002 the Yuzhno-Sakhalinsk Town Court lifted the seizure of the applicant's flat, following which she waived her relevant court claim at the domestic level. It also does not appear that she has ever attempted to bring court proceedings for compensation for the allegedly unlawful interim seizure of her flat. The applicant therefore failed to exhaust domestic remedies and her relevant complaint must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

200. Lastly, the applicant referred to Articles 17 and 18 of the Convention, stating that her detention had been intended by the authorities as a pressure to force her to admit to the imputed offences. The materials in the Court's possession do not reveal any evidence capable of laying down an arguable basis to the applicant's allegation. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

201. 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

202. The applicant claimed 47,380.79 pounds sterling (GBP, approximately 56,000 euros (EUR)) as compensation for loss of earnings, stating that she was unable to find a job because of her unlawful conviction. The applicant further sought EUR 100,000 in respect of non-pecuniary damage she had suffered as a result of the alleged violation of her rights. Under this latter head she also claimed EUR 20,000 as compensation for non-pecuniary damage sustained by her husband and son.

203. The Government contested those claims, stating that should the Court find any violation of the applicant's rights in the present case, a mere finding of a violation would suffice.

204. The Court cannot discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. It further rejects the applicant's claim submitted on behalf of her family members, as they have never been parties to the proceedings before the Court. As far as the applicant's claim in respect of non-pecuniary damage submitted on behalf of herself is concerned, the Court observes that it has found a violation of Articles 3 and 5 §§ 1 (c) and 3 of the Convention on account of the conditions of the applicant's detention in remand centre IZ-62/1, her unlawful detention between 25 October and 4 November 2004 and the fact that her continued remand in custody had no relevant and sufficient grounds. The applicant must have suffered anguish and distress as a result of all these circumstances, which cannot be compensated by a mere finding of a violation. Having regard to these considerations, the Court awards the applicant, on an equitable basis, EUR 10,000, plus any tax that may be chargeable to her on that amount.

B. Costs and expenses

205. The applicant also claimed GBP 3,290.91 (approximately EUR 3,900) for the fees and costs she had incurred before the Court. This amount included GBP 600 for Mr Philip Leach, a lawyer of the European Human Rights Advocacy Centre, and GBP 175 and 2,515.91 for administrative and translation costs respectively. The applicant requested

that the amount sought be transferred directly into her representatives' account.

206. The Government insisted that the applicant's claim should be rejected on the ground that the expenses indicated by her had not been necessary and reasonable as to quantum.

207. The Court reiterates that costs and expenses will not be awarded under Article 41 unless it is established that they have been actually and necessarily incurred and are also reasonable as to quantum (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI). The Court observes that in February 2005 the applicant gave authority to the lawyers of the Memorial Human Rights Centre and the European Human Rights Advocacy Centre to represent her interests in the proceedings before the European Court of Human Rights and that these lawyers acted as her representatives throughout the proceedings. The applicant also submitted invoices from translators. The Court is therefore satisfied that her claims in this part were substantiated.

208. The Court further notes that the present case required a certain amount of research work. Having regard to the amount of research and preparation claimed by the applicant's representatives, the Court does not find these claims excessive.

209. In these circumstances, the Court awards the applicant the overall amount of EUR 3,900 which shall be payable to the representatives directly.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint under Article 3 of the Convention concerning the conditions of the applicant's detention in Yuzhno-Sakhalinsk no. 62/1 remand centre and the complaints under Article 5 §§ 1 (c) and 3 of the Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in Yuzhno-Sakhalinsk IZ-62/1 remand centre;

3. *Holds* that there has been a violation of Article 5 § 1 (c) of the Convention;

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

5. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:

(i) EUR 10,000 (ten thousand euros), to be converted into Russian roubles at the rate applicable at the date of settlement, in respect of non-pecuniary damage;

(ii) EUR 3,900 (three thousand nine hundred euros), to be converted into United Kingdom pounds sterling at the rate applicable at the date of settlement and paid into the applicant's representatives' bank account in the United Kingdom, in respect of costs and expenses;

(iii) any tax, including value-added tax, that may be chargeable to the applicant on the above amounts;

(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 1 April 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President