Press release issued by the Registrar

Chamber judgments[1]

Porubova v. Russia (application no. 8237/03)
Romanenko and Others v. Russia (no. **11751/03**)

PENALTIES IMPOSED ON JOURNALISTS FOR CRITICISING MANAGEMENT OF PUBLIC RESOURCES UNJUSTIFIED

Violation of Article 10 (freedom of expression)
of the European Convention on Human Rights in both cases
No violation of Article 6 § 1 (right to a fair hearing) *in the case of* ***Porubova***

Under Article 41 (just satisfaction) of the Convention, the Court awarded, in the case of ***Romanenko and Others***, each applicant 860 euros (EUR) in respect of pecuniary damage and EUR 1,000 in respect of non-pecuniary damage. In the case of ***Porubova,*** the Court made no award as the applicant had not submitted an itemised claim. (The judgments are available only in English.)

Principal facts

The applicant in the first case is Yana Porubova, a Russian national who lives in Yekaterinburg (Russia); she was the editor-in-chief of the newspaper *D.S.P.* The applicants in the second case are three Russian nationals, Tatyana Romanenko, Irina Grebneva and Vladimir Trubitsyn, who live in Vladivostok and Arsenyev (Russia) and are the founders of the weekly newspaper, *Arsenyevskie Vesti*.

The cases concerned the applicants' complaints about proceedings brought against them for criminal libel and insult in the first case and defamation in the second case.

Ms Porubova had published an article in 2001 which accused V. and K., two local officials in the Sverdlovsk Region, of misappropriation of public funds. It also alleged that the two officials were having a homosexual affair. The officials concerned subsequently brought criminal proceedings against the applicant for criminal libel and insult. Ultimately, the domestic courts, leaving the alleged embezzlement outside the scope of the charges, found that the articles in question had damaged V.'s and K.'s reputation as politicians and public servants. Following a trial conducted in private to protect V. and K. from further publicity about their private lives, the applicant was found guilty as charged and sentenced to one-and-a-half year's correctional work, from which she was subsequently dispensed on account of an amnesty in favour of women and minors.

The applicants in the second case had published two articles in January and April 2002 criticising the management of public resources in the Primorskiy region, in particular with regard to undocumented sale of timber to Chinese companies which had been on the rise after the local courts' management department had obtained a timber purchasing quota. The source of that allegation was an open letter addressed to the Presidential representative in the region by 17 State and municipal employees and private businessmen, and signed among others by the local police chief and a senior tax inspector. Subsequently, two sets of civil proceedings were brought against the applicants for defamation: the first by the courts'

management department of the Primorskiy region; and, the second by its director; Mr Shulga. In June 2002 the domestic courts found in favour of Mr Shulga and ordered each applicant to pay him 10,000 Russian roubles (RUB). In October 2002 the courts further found against the applicants who were ordered to pay the management department RUB 15,000 each. In both sets of proceedings the courts found that the applicants had disseminated information without verifying whether it was true or not.

Complaints, procedure and composition of the Court

Relying on Article 10, the applicants complained that the proceedings against them had infringed their right to freedom of expression. Ms Porubova also complained under Article 6 § 1 (right to a fair trial) that the trial in her case had not been public.

In the case of ***Porubova,*** the application was lodged with the European Court of Human Rights on 10 February 2003 and declared partly admissible on 9 December 2004. In the case of ***Romanenko and Others*** the application was lodged with the Court on 26 February 2003 and declared admissible on 17 November 2005.

Judgments were given by a Chamber of seven judges, composed as follows:

Nina **Vajić** (Croatia), ***President***,
Anatoly **Kovler** (Russia),
Elisabeth **Steiner** (Austria),
Khanlar **Hajiyev** (Azerbaijan),
Dean **Spielmann** (Luxembourg),
Sverre Erik **Jebens** (Norway),
Giorgio **Malinverni** (Switzerland), ***judges***,

and also André **Wampach**, ***Deputy Section Registrar***.

Decision of the Court

Article 10

Firstly, the Court found that the articles in question, concerning allocation and management of public resources, had dealt with issues which merited legitimate public concern and on which the applicants, as journalists, had the right to report. Although in the case of ***Porubova***, the charges retained against the applicant had been in relation to V. and K.'s alleged homosexual relationship, the Court considered that the main thrust of the applicant's articles had been the dubious transactions with taxpayers' money and not V. and K.'s private life. Their alleged homosexual relationship had served to give colour to the events and explain why the scheme had been mounted in such a way that K. would be its ultimate beneficiary.

Indeed, the subjects of the applicants' scrutiny had been, in the first case, professional politicians, and in the second case, a State body and civil servants acting in their official capacity, who should accept that the limits of acceptable criticism were wider for them than for private individuals.

Furthermore, in the case of ***Romanenko and Others***, it had not been alleged that the applicants, who moreover had not been the source of the allegation about irregularities in the timber business, had distorted or otherwise modified the text of the original open letter. In reprinting an official non-confidential document, the applicants had acted in good faith. Nor indeed had the underlying facts in the proceedings been contested, such as the fact that the courts' management department had obtained unusually high timber purchasing quotas or

that wholesale companies purchasing timber had been able to operate without appropriate licences.

Likewise, the Court was struck by the fact that, in the case of ***Porubova***, the domestic authorities, the prosecution and the courts had never examined the veracity of the allegations of V. and K.'s homosexual relationship; no finding had been made in that respect.

Given the severity of the sanctions against the applicants (correctional work in the first case – Ms Porubova's dispensation through an amnesty being a fortunate coincidence – and in the second case a penalty amounting to four months of the applicants' wages), the Court found that the Russian courts had not given relevant and sufficient reasons in either of the cases to justify the interference with the applicants' freedom of expression. The interference had not therefore been "necessary in a democratic society" and the Court held unanimously in both cases that there had been a violation of Article 10.

Article 6 § 1

In the case of ***Porubova***, the Court accepted that the exclusion of the press and public had been necessary for the protection of the injured parties' private life. The decision to hold the trial in private had not therefore been arbitrary or unreasonable and the Court therefore held unanimously that there had been no violation of Article 6 § 1.

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***The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.*

[1] Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

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http://cmiskp.echr.coe.int/tkp197/view.asp?item=2&portal=hbkm&action=html&highlight=Romanenko%20|%20RUSSIA&sessionid=68238368&skin=hudoc-en

FIRST SECTION

CASE OF ROMANENKO AND OTHERS v. RUSSIA

(Application no. 11751/03)

JUDGMENT

STRASBOURG

8 October 2009

FINAL

08/01/2010

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

In the case of **Romanenko** and Others v. **Russia**,

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

Nina Vajić, *President,*
Anatoly Kovler,
Elisabeth Steiner,
Khanlar Hajiyev,
Dean Spielmann,
Sverre Erik Jebens,
Giorgio Malinverni, *judges,*
and André Wampach, *Deputy Section Registrar*,

Having deliberated in private on 17 September 2009,

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

PROCEDURE

1. The case originated in an application (no. 11751/03) 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 three Russian nationals, Mrs Tatyana Gavriilovna **Romanenko**, Mrs Irina Georgievna Grebneva and Mr Vladimir Fedorovich Trubitsyn ("the applicants"), on 26 February 2003.

2. The applicants were represented by Ms A. Soboleva and Mr V. Monakhov, lawyers with Jurists for Constitutional Rights and Freedoms (JURIX), a non-governmental organisation in Moscow. The Russian Government ("the Government") were represented by Mr P. Laptev, former Representative of the Russian Federation at the European Court of Human Rights.

3. The applicants complained under Article 10 about a violation of their right to impart information.

4. On 23 May 2005 the President of the Section granted the Open Society Justice Initiative and the Moscow Media Law and Policy Institute leave to intervene as third parties in the proceedings (Article 36 § 2 of the Convention and Rule 44 § 2 of the Rules of Court).

5. By a decision of 17 November 2005 the Court declared the application admissible.

6. The applicants and the Government each filed observations on the merits (Rule 59 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicants live in Vladivostok and Arsenyev in the Primorskiy Region. They are founders of the *Arsenyevskie Vesti* weekly newspaper.

A. The first article and the department's defamation action

8. Ms P. published an article under the title “All Power Comes from the Forest” («*Вся власть из леса*») in issue no. 4 of the applicants' newspaper, dated 24-30 January 2002. The article stated that, while the town of Dalnerechensk suffered from underfunding, massive and unlawful felling of trees and illegal sales of timber to China thrived. A regional roundtable (panel) on the rational use and protection of forests revealed that representatives of Chinese companies were constantly present at many timber yards in Dalnerechensk and offered cash dollars for timber, whether documented or not. Such companies were registered at fictitious addresses outside the region.

9. The article went on to quote from an open letter which had been adopted by the participants in the panel:

“All these irregularities have clearly been on the rise since the town's police department (timber purchasing quota of 4,500 cubic metres) and the courts' management department of the Supreme Court of the Russian Federation (timber purchasing quota of 3,000 cubic metres) became the forest operators.”

The quotation was bold-faced and the source was clearly identified. The letter had been signed by seventeen individuals, including the head of the Dalnerechensk municipal council and his first deputy, the deputy head of the town police, the deputy head of the local department of the Federal Security Service, the deputy head of the tax police, a senior State tax inspector, the deputy head of the department for environmental resources, two directors of regional forest operators, and others. The letter had been sent on behalf of the Dalnerechensk municipal council to the Presidential Envoy in the Far Eastern Federal Region and also made public at a press-conference held on the premises of the Press Development Institute.

10. On 28 March 2002 the courts' management department of the Primorskiy Region (*Управление судебного департамента при Верховном Суде РФ в Приморском крае*) brought a civil action against the applicants – as the founders of the newspaper – for the protection of its professional reputation and compensation for non-pecuniary damage. They submitted that the impugned extract had impaired the professional reputation of the department and undermined the authority of the courts' management department of the Primorskiy Region and that of the judicial system as a whole.

B. Publication of a refutation and Mr Shulga's defamation action

11. Following the institution of the civil action, the applicants printed the letter in full in issue no. 17 of the newspaper, dated 25 April – 1 May 2002, under the headline “Ghost Companies and Courts' Management Department at Timber Yards” («*Фирмы-призраки и Управление судебного департамента на лесозаготовках*»). The letter was followed by an editor's note under the headline “It was not about you. Refutation” («*Вас тут не стояло. Опровержение*»). The note emphasised that the quoted letter did not specify which courts' management department had purchased timber. It went on as follows:

“It is certainly easier for the head of the Department, Mr V.A. Shulga, who lodged the [defamation] action, to tell who[se department], in addition to its principal functions, has been a forest operator and whose professional reputation has been impaired when a newspaper brought this fact into the limelight...

This is why the editor's office decided not to wait for a court decision and considered it necessary to refute conjectures that readers might have made about the Department of the

Primorskiy Region. Having regard to potential adverse consequences of the publication, we officially announce -

THAT WE DID NOT MEAN THE COURTS' MANAGEMENT DEPARTMENT OF THE PRIMORSKIY REGION."

12. On an unspecified date Mr Shulga, the director of the courts' management department of the Primorskiy Region, filed a civil action, in his personal capacity, for the protection of his honour, dignity and professional reputation and compensation for non-pecuniary damage. He alleged that the refutation had not been valid because it had been clear for a reasonable reader that his department had been targeted in the publication. He contended that he was personally responsible for his department and that the publication had caused substantial non-pecuniary damage to his reputation.

C. Judgments in Mr Shulga's defamation action

13. On 14 June 2002 the Arsenyev Town Court of the Primorskiy Region granted Mr Shulga's action against the applicants. The court found that the publication had targeted Mr Shulga's department because it had been the only courts' management department in the region that had been allocated a timber purchasing quota of 3,000 cubic metres for construction of a new courthouse. On the other hand, the applicants had failed to show that the inclusion of the department in the number of forest operators had given rise to "irregularities". The court held that the disseminated information could not have been the applicants' opinion or value judgment because they had disseminated it without verifying its truthfulness.

14. The court rejected the applicants' defence that they had quoted from an official statement which did not require additional verification under section 57 §§ 3 and 4 of the Mass-Media Act. In the court's view, the Press Development Institute that had circulated the letter was an "autonomous non-commercial organisation" rather than a "public association", as provided in section 57 § 3, and the head of the municipal council who had signed the letter was a municipal employee rather than an official of a State authority, as required by the same section.

15. The court ordered the applicants to publish a refutation and each of them to pay 10,000 Russian roubles to Mr Shulga.

16. On 28 August 2002 the Primorskiy Regional Court upheld, on an appeal by the applicants, the judgment of 14 June 2002.

D. Judgments in the department's defamation action

17. On 11 October 2002 the Arsenyev Town Court granted the defamation action lodged by the courts' management department. The court held that the contested information had originated from a letter approved by the participants in a regional roundtable (panel) held in the Press Development Institute, which was not a State authority, organisation or a public association. Therefore, in the court's opinion, it was incumbent on the applicants to verify the truthfulness of the information before publishing it. Since the applicants had failed to do so and had also failed to prove before the court that the information had been true, they were at fault for the dissemination of information damaging the reputation of the courts' management department.

18. The court ordered the applicants to publish a refutation and each of them to pay 15,000 Russian roubles to the department and also bear the legal costs and expenses.

19. On 15 January 2003 the Primorskiy Regional Court upheld, on an appeal by the applicants, the judgment of 11 October 2002.

II. RELEVANT DOMESTIC LAW

A. Constitution of the Russian Federation

20. Article 29 guarantees freedom of thought and expression, together with freedom of the mass media.

B. Civil Code of the Russian Federation

21. Article 152 provides that an individual may apply to a court with a request for the rectification of statements (*svedeniya*) that are damaging to his or her honour, dignity or professional reputation if the person who disseminated such statements does not prove their truthfulness. The aggrieved person may also claim compensation for losses and non-pecuniary damage sustained as a result of the dissemination of such statements. The same rules are applicable in cases where the plaintiff is a legal entity.

C. Resolution of the Plenary Supreme Court of the Russian Federation, no. 11 of 18 August 1992 (amended on 25 April 1995)

22. The Resolution (in force at the material time) provided that, in order to be considered damaging, statements had to be untrue and contain allegations of a breach of laws or moral principles (commission of a dishonest act, improper behaviour at the workplace or in everyday life, etc.). Dissemination of statements was understood as the publication of statements or their broadcasting (section 2). The burden of proof was on the defendant to show that the disseminated statements had been true and accurate (section 7).

D. The Mass-Media Act (Federal Law no. 2124-I of 27 December 1991)

23. The founder (co-founders) of a newspaper is a person or a group of persons who applied for registration of the newspaper (section 7). The founder may not interfere with the functioning of the newspaper unless otherwise provided by law and by the articles of association (section 18). The founders, editors, publishers, journalists, and authors, may be held liable for breaches of Russian legislation on mass-media (section 56).

24. The editor's office and journalists may not be held liable for dissemination of information which is untrue and damaging to the honour or reputation of citizens and organisations if such information originated in press-releases of State bodies, organisations, agencies, companies or public associations (section 57 § 3) or if such information is a verbatim reproduction of official statements by officials of State bodies, organisations or public associations (section 57 § 4).

III. RELEVANT COUNCIL OF EUROPE DOCUMENTS

25. A report on the honouring of obligations and commitments by the Russian Federation, presented by co-rapporteurs of the Monitoring Committee to the Parliamentary Assembly of the Council of Europe (doc. 10568, 3 June 2005), noted as follows:

"*Libel lawsuits*

389. We are concerned by the current defamation legislation and its application by the Russian judiciary and executive powers. Journalists are often prosecuted through libel suits (approximately 8-10,000 lawsuits a year)...

392. Also the legislation concerned should not grant any special protection against criticism to public officials... Finally, the possibility of filing lawsuits against media and journalists by public authorities should be abolished as the latter *per se* cannot possess any dignity, honour, or reputation.

393. Therefore, we urge the Russian authorities to reform its defamation legislation, *inter alia*: ... to introduce a clear ban on public bodies to institute civil proceedings in order to protect their 'reputation' (without hindrance to the right of public officials to litigate in their private capacity), to clearly establish that no one should be liable under defamation law for the expression of an opinion ('value judgements')..."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

26. The applicants complained about a violation of their right to freedom of expression. This complaint falls to be examined under Article 10 of the Convention, which reads as follows:

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

A. Submissions by the parties

1. The applicants

27. The applicants submitted that the interference with their right to freedom of expression was not "prescribed by law". The wording of section 57 of the Mass-Media Act was not sufficiently clear and foreseeable in its effects to enable journalists to anticipate the distinction drawn by the domestic courts between State officials and municipal employees. At the time the Mass-Media Act was enacted in 1991, Russian constitutional and administrative law classified municipal employees as State officials. Even though the 1993 Constitution drew a distinction between State bodies and bodies of local self-government, there was no evidence

that the status of municipal employees had undergone any changes or that the Mass-Media Act needed to be amended in the light of the new legal status of municipal employees. In any event, the open letter had been signed not just by municipal employees, but also by public officials of the tax inspectorate, Federal Security Service and the police. Furthermore, municipal bodies and commercial companies were covered by the notion of "organisation" in paragraph 3 of section 57. The applicants pointed out that no one could reasonably expect that a statute's provision should list for the purposes of regulating public discourse all types and varieties of existing legal entities, organisations, bodies, agencies, etc.

28. The first applicant argued in addition that imposing pecuniary sanctions on the newspaper's founders in their personal capacity for damage caused by publications of which they had not been personally cognisant, should be considered as an unjustified restriction on freedom of the press. It was not appropriate to hold the founder liable for defamation when he had not made any personal attacks on the plaintiffs as a journalist and had taken no part in the editing or publishing process. Nor had he been obliged by law to read all the articles in the newspaper, to review their content or to verify personally the accuracy of the facts.

29. The applicants also claimed that the interference did not pursue any legitimate aim. The main objective of the defamation claim was to prevent the newspaper from criticising State bodies and officials in the future. Had it been otherwise, the litigation should have targeted the panel participants who had signed the open letter and presented it to the public rather than the newspaper that merely reprinted it. The interference could not be said to have pursued the aim of "maintaining the authority of the judiciary" because the courts' management department was in charge of the maintenance of court buildings and the proper organisational functioning of the judicial system; it did not adjudicate any cases. The argument as to the legitimate aim of "protecting the reputation and rights of others" was misconceived because the word "others" should, in the applicants' view, apply only to individuals or legal entities and could not extend to State bodies such as the courts' management department.

30. The applicants further contended that the interference at issue was not "necessary in a democratic society". The libel proceedings against them had had the aim of discouraging open discussion on important matters of public concern in the Primorskiy Region. The disputed statement had been part of an open letter which had not been an attack against the courts' management department or its officials but rather an appeal for a thorough and comprehensive investigation into the activities of companies that cut down timber. Referring to the Court's case-law, the applicants insisted that the press should be able to rely on the content of official reports without having to undertake independent research (see *Colombani and Others v. France*, no. 51279/99, § 65, ECHR 2002-V). In the context of the letter as a whole, the expression "irregularities have clearly been on the rise" should be regarded as a value judgment, not as an asserted fact. The domestic courts had failed to weigh the rights and interests of the courts' management department and of its head Mr Shulga in relation to the public interest in receiving information of public concern. Moreover, the protection afforded by Article 10 would be undermined if public officials responsible for the operation of a State body were allowed to substitute themselves for that body, as had happened with Mr Shulga's filing of a defamation claim in his personal capacity. Finally, the applicants pointed out that the amounts awarded against them had been so excessive compared to their income – approximately one third of their annual income – that the proceedings had definitely had the aim of preventing future critical coverage.

2. The Government

31. The Government submitted that the interference with the applicants' right to freedom of expression had been prescribed by law, notably Article 152 of the Civil Code which governed the protection of the professional reputation of both citizens and legal entities. The domestic courts found that the facts set out in the publications were not shown to have been true and that there were no grounds to exempt the applicants from responsibility by virtue of section 57 of the Mass-Media Act.

3. The third parties

32. The third parties submitted, firstly, that government agencies were fully equipped, and should be expected, to defend their reputation before the court of public opinion rather than a court of law. The PACE Report urged **Russia** to introduce a clear ban on the ability of public authorities to institute civil proceedings in order to protect their "reputation" (cited above, § 393). If public authorities were to be included within the meaning of "others" whose reputation or rights Article 10 § 2 was designed to protect, it would subject journalists to a constant risk of harassment through lawsuits and frustrate the media's ability to act as a watchdog of public administration. Mindful of that danger, courts of many jurisdictions barred public authorities from suing in defamation because of the public interest that such authorities must be open to uninhibited public criticism (United Kingdom: *Derbyshire County Council v. Times Newspapers Ltd* [1993] AC 534; India: *Rajagopal v. State of Tamil Nadu* (1994) 6 SCC 632; United States: *City of Chicago v. Tribune Co.*, 307 Ill. 595 (1923); South Africa: *Die Spoorbond v. South African Railways* [1946] AD 999). Some new European democracies have also taken steps to bar government bodies from claiming damages for defamation.

33. Secondly, the third parties indicated that Article 10 would be hollowed out if public officials could substitute themselves for their respective bodies in taking legal action. Here, the relevant test for entertaining a defamation action against the media would be whether the statement at issue was unequivocally "of and concerning" that official. The "group defamation" doctrine has deep roots in the common-law legal tradition (see *King v. Alme & Nott*, 91 Eng. Rep. 790 (1700) (per curiam); *Eastwood v. Holmes*, 1 F. & F. 347, 175 Eng. Rep. 758 (1858); *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964)). Defamation laws in the continental legal system have similar identification requirements; a plaintiff must be identifiable by name or image or otherwise, in order to have standing to sue for defamation.

34. Finally, the third party pointed out that journalists should not be held liable for defamation for accurately publishing statements contained in non-confidential government documents. The Court has constantly held the view that the press "should normally be entitled, when contributing to public debate on matters of legitimate concern, to rely on the content of official reports without having to undertake independent research" (see *Colombani and Others v. France*, no. 51279/99, § 47, ECHR 2002-V; also *Selistö v. Finland*, no. 56767/00, § 60, 16 November 2004). A similar well-developed legal doctrine known as the "fair report privilege" has long been entrenched in the United States jurisprudence (*Restatement (Second) Torts*, § 611 (1977)). It followed that journalists had a right under Article 10 to publish statements from a non-confidential document accurately without being liable for the content of such statements.

B. The Court's assessment

35. The Court reiterates that freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress. Subject to

paragraph 2 of Article 10, it is applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness, without which there is no “democratic society” (see *Handyside v. the United Kingdom*, 7 December 1976, § 49, Series A no. 24, and *Jersild v. Denmark*, 23 September 1994, § 37, Series A no. 298).

36. The Court notes that the three applicants were the co-defendants in a civil defamation case in connection with two publications in the newspaper of which they were the founders. The Russian courts found them liable for the alleged defamation and ordered them to pay damages to the plaintiffs. It follows that the applicants were directly affected by the impugned judgments which constituted an interference with their right to freedom of expression within the meaning of Article 10 § 1 of the Convention. Accordingly, the Court's task is to determine whether the interference was justified.

37. The Court reiterates that an interference will constitute a breach of Article 10 unless it was “prescribed by law”, pursued one or more legitimate aims under paragraph 2 and was “necessary in a democratic society” for the achievement of those aims.

38. The parties agreed that civil liability for publication of untrue statements was foreseen by Article 152 of the Civil Code and in that sense the interference was “prescribed by law”. The applicants, however, argued that they should have benefited from the protection afforded by the fair-reporting exception in section 57 of the Mass-Media Act, since the statement in question had been taken out of an official document. The domestic courts held that exception to be inapplicable in the applicants' case because the document at issue had been signed by “municipal officials” rather than “State officials” and had been circulated by an “autonomous non-commercial organisation” rather than a “public association”. While the Court cannot but note the artificial nature of the distinction made, it considers that this issue will be more appropriately dealt with below, under the proportionality limb of its analysis.

39. The Government claimed that the interference pursued the legitimate aim of the “protection of the reputation or rights of others”. The applicants and the third parties disagreed that public bodies and authorities, such as the courts' management department in the instant case, should fall within the meaning of “others” in Article 10 § 2 of the Convention. The third parties cited examples from jurisdictions around the world in which the courts prevented public authorities from suing in defamation because of the public interest in such authorities being open to uninhibited public criticism. The report to the Parliamentary Assembly of the Council of Europe on the honouring of obligations and commitments by the Russian Federation also suggested that “the possibility of filing lawsuits against media and journalists by public authorities should be abolished as the latter *per se* cannot possess any dignity, honour, or reputation” (see paragraph 25 above). The Court acknowledges that there may be sound policy reasons to decide that public bodies should not have standing to sue in defamation in their own capacity; however, it is not its task to examine the domestic legislation in the abstract but rather consider the manner in which that legislation was applied to, or affected, the applicant in a particular case (see *Karhuvaara and Iltalehti v. Finland*, no. 53678/00, § 49, ECHR 2004-X). Accordingly, this issue will also be examined in the analysis of the proportionality of the interference.

40. Turning to the issue whether the interference was “necessary in a democratic society”, the Court must determine whether the interference corresponded to a “pressing social need”, whether it was proportionate to the legitimate aim pursued and whether the reasons given by

the national authorities to justify it were relevant and sufficient. In assessing whether such a "need" exists and what measures should be adopted to deal with it, the national authorities are left a certain margin of appreciation. This power of appreciation is not however unlimited, but goes hand in hand with a European supervision by the Court, whose task it is to give a final ruling on whether a restriction is reconcilable with freedom of expression as protected by Article 10. The Court's task in exercising its supervisory function is not to take the place of the national authorities, but rather to review under Article 10, in the light of the case as a whole, the decisions they have taken pursuant to their margin of appreciation. In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 10 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (see *Grinberg v. **Russia***, no. 23472/03, § 27, 21 July 2005).

41. In examining the necessity of the interference in the particular circumstances of the case, the Court will take the following elements into account: the subject matter of the publication, the position of the applicants, the position of the person against whom the criticism was directed, characterisation of the contested statements by the domestic courts, the wording used by the applicants, and the penalty imposed on them (see *Krasulya v. **Russia***, no. 12365/03, § 35, 22 February 2007).

42. Both publications in the applicants' newspaper concerned the unlawful felling of trees and undocumented sale of timber to Chinese companies, a matter of intense public interest for residents of the Primorskiy region, where the timber industry was one of the main employers. It was stated that the inclusion of the regional police department and the courts' management department in the number of timber purchasers had resulted in an increase in irregularities in the sale of timber. As the Court has held on many occasions, reporting on matters relating to management of public resources lies at the core of the media's responsibility and the right of the public to receive information (see *Busuioc v. Moldova*, no. 61513/00, §§ 63-64 and 84, 21 December 2004; and *Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, §§ 94-95, ECHR 2004-XI). However, there is no evidence in the domestic judgments that the courts performed a balancing exercise between the need to protect the plaintiffs' reputation and the right of the members of the press to impart information on issues of general interest. They confined their analysis to the discussion of the damage to the plaintiffs' reputation without giving any consideration to the Convention standard which requires very strong reasons for justifying restrictions on debates on questions of public interest (see *Godlevskiy v. **Russia***, no. 14888/03, § 41, 23 October 2008, and *Krasulya*, cited above, § 38). The Court therefore finds that the Russian courts failed to recognise that the present case involved a conflict between the right to freedom of expression and the protection of a reputation (see *Dyundin v. **Russia***, no. 37406/03, § 33, 14 October 2008).

43. Further, it is undisputed that the applicants were not the source of the allegation about the increasing irregularities in the timber business. The first publication reproduced an extract from an open letter by seventeen persons concerned, namely State and municipal employees and private businessmen, to the Presidential representative in the region. The source of the quotation was identified and the quotation itself was printed in bold and placed within quotation marks. The second publication reprinted the entire text of the letter together with the statement that the courts' management department of the Primorskiy Region had not been the one targeted in the initial publication. That additional statement was not found to contain any defamatory information *per se* and the finding of the applicants' liability in the proceedings in connection with the second publication was likewise founded on the text of the open letter.

44. The Court reiterates its constant approach that a distinction needs to be made according to whether the statements emanate from a journalist or are quotations from others, since punishment of a journalist for assisting in the dissemination of statements made by another person would seriously hamper the contribution of the press to discussion of matters of public interest and should not be envisaged unless there are particularly strong reasons for doing so (see *Dyundin*, cited above, §§ 29 and 34; *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99, § 77, ECHR 2004-XI; *Thorgeir Thorgeirson v. Iceland*, 25 June 1992, § 65, Series A no. 239; and *Jersild*, cited above, § 35). In finding the applicants liable, the Russian courts treated as irrelevant the fact that they were not the source of the impugned allegation and that under Russian law, being the founders of the newspaper, they had no control over its editorial policy (see paragraph 23 above). Although the contested allegation was clearly identified as one proffered by other persons, the courts failed to advance any justification for imposing a punishment on the applicants for reproducing statements made by others, a failure which was incompatible with the Convention requirements.

45. Furthermore, such imposition of liability appears also to be at variance with the requirements of the Russian Mass-Media Act, which provides that a person should be exempted from liability if the statement in question emanated from State officials, bodies, organisations, agencies, companies or public associations (section 57). That exemption clause is perfectly consonant with the Court's own approach to the effect that the press should normally be entitled, when contributing to public debate on matters of legitimate concern, to rely on the content of official reports without having to undertake independent research (see *Colombani and Others*, cited above, § 65). The list of protected sources of information in section 57 of the Mass-Media Act is broad and it does not appear plausible that bodies of local self-government and their officials should be excluded from the scope of the fair-reporting exception. Thus, the distinction between State bodies and municipal bodies, drawn by the domestic courts in order to overrule the applicants' reliance on that exception, was rather formalistic and artificial. In any event, the letter had been signed, among others, by the local police chief and an official of the tax inspectorate, both of whom obviously fall within the ranks of officials explicitly listed in section 57.

46. Similarly, the Russian courts did not show in a convincing manner that the applicants could not avail themselves of the fair-reporting exception because the document at issue had been distributed at a press-conference organised by an “autonomous non-commercial organisation” rather than by a public association. Firstly, under Russian law, a “public association” is a generic term covering all types of non-governmental associations, including “autonomous non-commercial organisations”. Secondly, as the applicants correctly pointed out, it was of little relevance on whose premises the press-conference had been organised, the important fact being that the document had originated from public officials. The Court notes that it was not alleged that the applicants had distorted or otherwise modified the text of the original open letter. Accordingly, it finds that, in reprinting an official non-confidential document, the applicants acted in good faith and were mindful of the “duties and responsibilities” of the members of the press referred to in paragraph 2 of Article 10.

47. The Court further observes that the Russian courts characterised the contested allegation about “irregularities” as a statement of fact and found the applicants liable for failure to show its veracity. The Court reiterates that in the context of the balancing exercise under Article 10, in particular where the reporting by a journalist of statements made by third parties is concerned, the relevant test is not whether the journalist can prove the veracity of the statements but whether a sufficiently accurate and reliable factual basis proportionate to the nature and degree of the allegation can be established (see *Dyundin*, cited above, § 35, and

Pedersen and Baadsgaard, cited above, § 78). The fact that the regional police and the regional courts' management department had obtained unusually high timber purchasing quotas was not disputed in the domestic proceedings. Likewise, the fact was not contested that wholesale companies purchasing timber without appropriate licences had been allowed to operate without hindrance in the region. The Court stresses that where the impugned statement was made in the course of a lively debate at local level, elected officials and journalists should enjoy a wide freedom to criticise the actions of a local authority, even where the statement may lack a clear basis in fact (see *Lombardo and Others v. Malta*, no. 7333/06, § 60, 24 April 2007). In sum, the Court finds that the contested statement, albeit expressed provocatively, did not overstep the bounds of journalistic freedom, bearing in mind that State bodies and civil servants acting in an official capacity are, like politicians, subject to wider limits of acceptable criticism than private individuals.

48. Lastly, the Court will assess the penalty imposed on the applicants. It notes that they were each ordered to pay a substantial amount, first to Mr Shulga in his private capacity and then an even greater amount to the courts' management department. The domestic courts did not analyse what part of the applicants' income those amounts represented and whether an excessive burden would thereby be imposed on them. In the applicants' submission, undisputed by the Government, the sanction was equivalent to their income for four months and was thus obviously a severe penalty.

49. In conclusion, the Court finds that the Russian authorities did not adjudicate the defamation claims in compliance with the Convention standards and did not adduce relevant and sufficient reasons for the interference with the applicants' right to freedom of expression. Accordingly, the interference complained of was not “necessary in a democratic society” within the meaning of Article 10 § 2 of the Convention.

50. There has therefore been a violation of Article 10 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

51. 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. Pecuniary damage

52. The applicants each claimed 860 euros (EUR) as compensation in respect of pecuniary damage. That sum corresponded to the amount which they had each had to pay to the plaintiffs as a result of the domestic courts' judgments.

53. The Government accepted that the applicants' claims were reasonable in so far as those expenses had actually been incurred.

54. The Court finds that there is a causal link between the violation found and the alleged pecuniary damage in so far as the applicants referred to the amounts which they had paid under the domestic judgments. Consequently, the Court awards each applicant EUR 860 in respect of the pecuniary damage, plus any tax that may be chargeable on that amount.

B. Non-pecuniary damage

55. The applicant Mr Trubitsyn claimed EUR 3,000 and the applicants Ms **Romanenko** and Ms Grebneva each claimed EUR 1,000 as compensation in respect of non-pecuniary damage. They referred to the awards made by the Court in comparable cases.

56. The Government submitted that the amounts claimed were excessive.

57. The Court considers that the applicants have suffered non-pecuniary damage as a result of the domestic judgments which were incompatible with the Convention principles. The damage cannot be sufficiently compensated for by the finding of a violation. The Court considers, however, that the specific amount claimed by the first applicant is excessive. Making its assessment on an equitable basis, the Court awards each applicant EUR 1,000 plus any tax that may be chargeable on that amount.

C. Costs and expenses

58. The applicants claimed EUR 1,400 for twenty-eight hours of work carried out by their representatives in the Strasbourg proceedings at the hourly rate of EUR 50. They submitted a time-sheet.

59. The Government alleged that the representatives might have acted in their own interest when presenting the case, that the hourly rate had been excessive, and that the participation of two counsel had not been necessary. In any event, there was no evidence that the applicants had actually incurred any legal expenses.

60. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. Examining the documents submitted by the applicants, the Court is satisfied that the hourly rate and the number of hours spent were reasonable as to quantum and awards the applicants jointly the entire amount they claimed in respect of costs and expenses, namely EUR 1,400, plus any tax that may be chargeable to the applicants on that amount.

D. Default interest

61. 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. *Holds* that there has been a violation of Article 10 of the Convention;

2. *Holds*

(a) that the respondent State is to pay, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:

(i) EUR 860 (eight hundred and sixty euros) to each applicant in respect of pecuniary damage, plus any tax that may be chargeable on that amount;

(ii) EUR 1,000 (one thousand euros) to each applicant in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount;

(iii) EUR 1,400 (one thousand four hundred euros) to the applicants jointly in respect of costs and expenses, plus any tax that may be chargeable to the applicants on that amount;

(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;

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

Done in English, and notified in writing on 8 October 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach Nina Vajić
Deputy Registrar President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the joint concurring opinion of Judges Spielmann and Malinverni is annexed to the judgment.

N.A.V.
A.M.W.

JOINT CONCURRING OPINION OF JUDGES SPIELMAN AND MALINVERNI

1. We are in agreement with the Court's conclusions that there has been a violation of Article 10 of the Convention.

2. However, we cannot agree with the reasoning put forward by the majority in paragraph 39 of the judgment. In so far as the interference in connection with the civil action brought by the courts' management department of the Primorskiy region is concerned (paragraph 10 of the judgment), we have serious doubts as to whether this interference pursued the legitimate aim of the "protection of the reputation or rights of *others*" (emphasis added), as is suggested implicitly by the majority. The Court leaves this question open, saying that "it is not its task to examine the domestic legislation in the abstract but rather to consider the manner in which that legislation was applied to, or affected, the applicant in a particular case", and deciding that "this issue will also be examined in the analysis of the proportionality of the interference" (paragraph 39 *in fine*).

3. Before going into proportionality, the Court should have satisfied itself that the interference pursued one of the legitimate aims laid down exhaustively in paragraph 2 of Article 10 of the Convention. The majority, albeit implicitly, seem to suggest in this respect that a public body or authority may claim protection of the *reputation or rights of others*, which is in our view inconceivable. Indeed, the structure of Article 10 suggests a triangular relationship involving the State - author of an interference -, the applicant - victim of an interference - and "others", whose reputation and rights may or may not be protected. The only "public body" covered by one of the exceptions laid down in paragraph 2 of Article 10 is the "judiciary", whose authority and impartiality may be protected through an interference, provided that such interference is necessary in a democratic society and is proportionate to the aim pursued.

4. In our view, under the Court's requisite strict construction of the enumerated legitimate aims, it is unreasonable to include a public authority within the meaning of "others" whose reputation or rights Article 10, paragraph 2, is designed to protect.

5. To conclude, and in so far as the interference in connection with the civil action brought by the courts' management department of the Primorskiy region is concerned, the Court should have limited its finding of a violation of Article 10 to the absence of a legitimate aim, without examining the question of proportionality.

ROMANENKO AND OTHERS v. **RUSSIA** JUDGMENT– SEPARATE OPINION

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FIRST SECTION

CASE OF ROMANENKO AND ROMANENKO V. RUSSIA

(Application no. 19457/02)

JUDGMENT

STRASBOURG

19 October 2006

FINAL

19/01/2007

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

In the case of **Romanenko** and **Romanenko** v. **Russia**,

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

Mr C.L. Rozakis, *President*,
Mr L. Loucaides,
Mrs F. Tulkens,
Mrs N. Vajić,
Mr A. Kovler,
Mrs E. Steiner,
Mr K. Hajiyev, *judges*,
and Mr S. Nielsen, *Section Registrar*,

Having deliberated in private on 28 September 2006,

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

PROCEDURE

1. The case originated in an application (no. 19457/02) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by Russian nationals, Mrs Lyubov Vasilyevna **Romanenko** and Mr Andrey Vladimirovich **Romanenko** ("the applicants"), on 30 April 2002.

2. The applicants were represented by Ms A. E. Stavitskaya and Mr R. S. Karpinskiy, lawyers practising in Moscow. The Russian Government ("the Government") were represented by Mr P. Laptev, Representative of the Russian Federation at the European Court of Human Rights.

3. On 4 March 2005 the Court the Court decided to communicate the application. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The applicants were born in 1942 and 1980 respectively and live in Moscow.

1. Court proceedings between 1991 and 5 May 1998

5. The first applicant is the second applicant's mother. On 19 September 1991, she filed a court action on behalf of her son against the second applicant's schoolmate claiming damages for battery.

6. On 24 October 1991 the Krasnogvardeyskiy District Court ("the District Court") initiated proceedings in this connection.

7. On 27 February 1998 the District Court examined her action and partly granted it. The court ordered the defendants jointly to pay RUR 1,500.

8. Unhappy with the amount of award, the first applicant appealed against the judgment of 27 February 1998 to the City Court on 27 February 1998.

2. Court proceedings from 5 May 1998 onwards

9. On 10 June 1998 the first applicant filed supplementary appeal arguments. In June 1998 the Moscow City Court quashed the judgment of 27 February 1998 and remitted the case to the first instance court for a fresh examination.

10. The first applicant submits that from September 1998 to February 2000 the hearings in her case were rare, mostly due to the unavailability of judges, and that each time they took place the District Court failed properly to notify her.

11. According to the Government, on 10 July 1998 the case was transmitted to a judge of the District Court who scheduled the hearing for 15 September 1998. This hearing was adjourned due to the judge's illness until 27 October 1998. The case was adjourned due to the judge's involvement in a different set of proceedings on 29 December 1998, 29 January 1999 and 24 March 1999.

12. On the latter date the first applicant requested a forensic examination to be carried out. The request was granted and the hearing scheduled for 14 May 1999.

13. Thereafter the case was adjourned repeatedly due to the judge's involvement in other proceedings, in particular on 20 July, 12 October 1999 and 12 January 2000.

14. It appears that on an unspecified date the second applicant attained his majority and by decision of 4 February 2000 the first applicant was replaced in the proceedings by the second applicant. Due to one of the defendant's absence, the case was adjourned until 2 March 2000.

15. On 2 March 2000 the District Court ordered another forensic examination and suspended the proceedings accordingly.

16. By decision of 9 June 2000, upon the second applicant's motion, the District Court amended the list of question put before the expert body and on 5 July 2000 the case-file was transferred to the expert body.

17. On 2 April 2001 the proceedings resumed and the hearing was scheduled for 16 April 2001.

18. On 16 April 2001 the District Court examined the case on the merits and ordered the second applicant's school to pay non-pecuniary damages of RUR 10,000 to the second applicant as well as to cover his dental prosthesis expenses.

19. The parties appealed against this judgment but some time later the applicants retracted their appeal.

20. According to the applicants, the first instance judge erred in fixing the amount of stamp duty in the appeal proceedings for one of the defendants and it took the judicial authorities several months (between June and October 2001) to rectify this mistake.

21. The Moscow City Court upheld the judgment of 16 April 2001 on appeal on 14 November 2001.

22. The judgment of 16 April 2001, as upheld on appeal on 14 November 2001, was enforced in full on 6 June 2002.

THE LAW

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

23. The applicants complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

"In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

24. The Government contested that argument and submitted that the proceedings had not breached the reasonable time requirement of Article 6.

25. The Court recalls that the proceedings in question commenced on 19 September 1991 when the first applicant filed a civil action with the District Court. However, the period to be taken into consideration began on 5 May 1998, when the Convention entered into force in respect of **Russia**. Nevertheless, in assessing the reasonableness of the time that elapsed after that date, account may be taken of the state of proceedings at the time.

26. In the circumstances of the present case, the Court finds that the period in question ended on 6 June 2002 when the judgment of 16 April 2001, as upheld on appeal on 14 November 2001, was enforced in full (see the *Di Pede v. Italy* and *Zappia v. Italy* judgments of 26 September 1996, *Reports of Judgments and Decisions* 1996-IV, pp. 1383-1384, §§ 20-24, and pp. 1410-1411, §§ 16-20 respectively). Thus, the total length of the proceedings was ten years and almost nine months of which four years and almost one month fall within the Court's competence *ratione temporis.*

A. Admissibility

27. 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

28. The Court reiterates that the reasonableness of the length of the proceedings is to be assessed in the light of the particular circumstances of the case, regard being had to the criteria laid down in the Court's case-law, in particular the complexity of the case, the applicant's conduct and the conduct of the competent authorities (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII)

29. The Court observes that the proceedings relating to the tort dispute between the applicants and the second applicant's school and a schoolmate's family were not particularly complex. It furthermore considers that the applicants' conduct did not noticeably contribute to the length of the proceedings.

30. As regards the conduct of the judicial authorities, the Court notes that it led to substantial delays in the proceedings during the period falling within the Court's competence *ratione temporis*. In particular, it took eight months and thirteen days between 10 July 1998 and 24 March 1999 for the judicial authorities to commence the proceedings after the case had been remitted by the appeal instance to the first instance court. Furthermore, the case was adjourned repeatedly during the period of eight months and twenty-two days between 14 May 1999 and 4 February 2000 with reference to the judge's involvement in a different set of proceedings. In addition, as was alleged by the applicant and not contested by the Government, it took the authorities another four months to correct a mistake in the amount of the stamp duty leading to a delay between June and October 2001 in the appeal proceedings.

31. Having regard to the above, to the fact that the proceedings within the Court's competence *ratione temporis* lasted more than four years in a relatively simple case and in view of the fact that on the date of ratification the proceedings were already pending for more than six years and seven months, the Court considers that the length of the proceedings did not satisfy the “reasonable-time” requirement. Accordingly, there has been a breach of Article 6 § 1 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

32. The applicants also complained about the delay in the enforcement of the court award in their case. In this respect, the Court observes, and it is not contested by the parties, that the court judgment of 16 April 2001, as upheld on 14 November 2001, was executed in full on 6 June 2002. The overall period of enforcement was thus 6 months and 21 days which, in the Court's view, does not appear excessive (see *Grishchenko v.* ***Russia*** (dec.), no. 75907/01, 8 July 2004 and *Presnyakov v.* ***Russia*** (dec.), no. 41145/02, 10 November 2005).

33. Accordingly, this part of the application must be rejected pursuant to Article 35 § 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

34. 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.”

35. The applicants claimed 10,000 euros (EUR) in respect of non-pecuniary damage.

36. The Government considered these claims excessive.

37. Making its assessment on an equitable basis, the Court awards the applicants EUR 900 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

38. The applicants also claimed EUR 3,000 and 6,000 Russian roubles (RUR) in relation to legal costs for retaining Ms A. E. Stavitskaya and Mr R. S. Karpinskiy respectively as their counsel in the proceedings before the Court.

39. The Government contested this claim as excessive and unfounded.

40. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,700 for the proceedings before the Court, plus any tax that may be chargeable on the above amount.

C. Default interest

41. 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 concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:

(i) EUR 900 (nine hundred euros) in respect of non-pecuniary damage;

(ii) EUR 1,700 (one thousand seven hundred euros) in respect of costs and expenses;

(iii) any tax that may be chargeable 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 19 October 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen Christos Rozakis
Registrar President

ROMANENKO AND **ROMANENKO** v. **RUSSIA** JUDGMENT

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