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

FIRST SECTION

CASE OF KNYAZEV v. RUSSIA

(Application no. 25948/05)

JUDGMENT

STRASBOURG

8 November 2007

FINAL

02/06/2008

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 Knyazev v. Russia,

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

Mr L. LOUCAIDES, *President*,
Mrs N. VAJIĆ,
Mr A. KOVLER,
Mrs E. STEINER,
Mr D. SPIELMANN,
Mr S.E. JEBENS,
Mr G. MALINVERNI, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 11 October 2007,

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

PROCEDURE

1. The case originated in an application (no. 25948/05) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Russian national, Mr Vitaliy Anatolyevich Knyazev ("the applicant"), on 8 July 2005.

2. The applicant was represented by Ms E. Liptser, a lawyer 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 29 August 2005 the Chamber decided to apply Rule 41 of the Rules of Court.

4. On 30 September 2005 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

5. The Government raised an objection concerning the application of Article 29 § 3 of the Convention to the present case.

6. Having examined the arguments put forward by the Government, the Court decided to dismiss their objection concerning the application of Article 29 § 3 of the Convention.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicant was born in 1977 and lives in Krymsk, Krasnodar Region.

1. The applicant's detention in Lgov correctional colony OX-30/3

(i) The applicant's account

(a) Alleged ill-treatment in March 2005 and subsequent investigation

8. According to the applicant, from 24 March 2005 he served a sentence in Lgov correctional colony OX-30/3, Kursk Region (*учреждение ОХ-30/3*). On his arrival at the colony, he was called to see the head of the colony, B., who invited him to become a member of a so-called "*секция порядка*" (literally, an "order section", an informal category of prisoners who cooperated with the prison administration) and to conclude a written agreement on cooperation with the colony's officials. The applicant refused. As a result of his refusal he was beaten by D., the deputy head of the correctional colony, K., a colony official, and R., head of the security unit. The beating was continued by other colony officials, who stripped him naked and beat him with rubber truncheons. The applicant was then placed for ten days in a disciplinary cell, where the beating continued. On a number of occasions he was beaten in the presence of an official from the Kursk Prosecutor's Office. The applicant complained about the events to the Lgov Prosecutor's Office.

9. On 10 July 2005 the institution of criminal proceedings was refused on the ground that "special equipment" had been used against the applicant in accordance with the law.

(b) Alleged ill-treatment on 23 May 2005

10. The applicant claimed to have been systematically beaten for writing complaints against the head of the correctional colony and the colony's administration to various authorities, and that he had then been forced to eat the complaints he had written. In particular, on 23 May 2005 he was beaten with rubber truncheons and thrown to the ground, and an Alsatian dog was set on him. The dog mostly bit his hands, which he was using to cover his face. According to the applicant, the colony's doctor noted the bite marks. He alleged that he still had scars on his hands. The head of the correctional colony then threatened the applicant that if he wrote more complaints he would have to spend the night in a cell with the dog.

(c) Events of 26-27 June 2005 and subsequent investigation

11. During the night of 26-27 June 2005 the applicant, together with two other inmates, M. and G., was taken to the office of prison official K., who asked him to report on the situation in the correctional colony. The applicant responded that he was not in control of the situation. As a result of this reply he was beaten and escorted to a cell where, it appeared, other inmates had cut their veins and stomachs. As a protest against the actions of the colony's administration, the applicant also cut the veins on his right arm and, having found an electrode in premises where repair work was being carried out, thrust it in his right side in an attempt to reach the lungs. According to the applicant, after he had inflicted these penetrating wounds on 27 June 2005, he was questioned for the entire day and it was not until the evening that a physician pulled the electrode from his side; however, the glass cap remained in his stomach. The surgeon examined the applicant later and noted that a foreign body was still in his stomach, but did not remove it.

12. On the following day the applicant and other inmates submitted to the Prosecutor of the Kursk Region applications for the institution of criminal proceedings against B., the head of the correctional colony, colony officials D. and R. and others, on account of numerous instances of ill-treatment of prisoners. Criminal proceedings in case file no. 1519 were instituted against two prison officials, D. and R., on account of the alleged beating of inmate Sh. However, no criminal proceedings were instituted into the applicant's allegations as set out in his complaint to the Prosecutor of the Kursk Region, and he was not granted the status of a victim in the criminal proceedings.

(ii) The Government's account

(a) Alleged ill-treatment in March 2005 and subsequent investigation

13. According to the Government, the applicant was held in Lgov correctional colony OX-30/3 from 23 March to 29 June 2005. During this period the applicant repeatedly broke prison rules and on a number of occasions was seen by a psychologist, who diagnosed him as suffering from an emotionally unstable personality disorder.

14. On 23 March 2005, in the course of a routine search, the applicant was found to have forbidden items, namely three metal dowels and two razor blades. During the search and seizure of the items the applicant resisted the colony's officials. In particular, he pushed them, grabbed their clothes and insulted some of them. One of the officials warned him that special equipment could be used against him if he continued behaving in such a way. Since the applicant refused to submit, two of the officials used a rubber truncheon against him. After the incident the applicant was examined by a doctor who found abrasions on his back and soft body tissues.

15. On the same day the deputy prosecutor of the Kursk Region was informed of the incident and a report on the use of the special equipment was drafted. The report stated that the rubber truncheon had been used for three seconds against soft body tissues. Later that day the deputy prosecutor of the Kursk Region personally met the applicant, who told him that he had no complaints against the administration of the correctional colony OX-30/3 and that the application of the special equipment had been justified.

16. On 1 April 2005 the deputy prosecutor of the Kursk Region again met the applicant, this time in relation to the injuries he had self-inflicted on 16 March 2005 while held in a remand prison (SIZO) in Kursk, prior to his transfer to correctional colony OX-30/3. In a written statement the applicant explained that he had thrust an electrode into his left side in order to attract attention, as he had wanted to be moved to a correctional facility closer to his home. He also stated that he had no complaints against the administration of the remand prison.

17. On 8 July 2005 the Lgov Interdistrict Prosecutor's Office received the applicant's complaint concerning the alleged beating following his arrival at correctional colony OX-30/3.

18. In explanations given on 9 July 2005, colony officials B., R., D. and Ryz. and the deputy prosecutor of the Kursk Region stated that physical force had never been used against the applicant and he had never been threatened with its application.

19. Following an inspection, on 10 July 2005 the prosecutor refused to institute criminal proceedings into the applicant's allegations of ill-treatment. He also found that special measures were lawfully applied against the applicant on 23 March 2005. An appeal against that decision lay with a higher prosecutor or a court.

(b) Alleged ill-treatment on 23 May 2005

20. The Government submitted that the applicant had not applied for medical aid in connection with the alleged ill-treatment on 23 May 2005. The authorities became aware of these allegations only after the application had been communicated by the Court.

(c) The applicant's general complaint about ill-treatment in the colony and subsequent investigation

21. On an unspecified date the applicant sent a complaint to the Prosecutor's Office of the Kursk Region. The complaint was received by the Prosecutor's Office on 4 July 2005. The applicant alleged that since his arrival at correctional colony OX-30/3 he had been regularly beaten by colony officials. He sought to institute criminal proceedings against them.

22. On 14 July 2005, following an inspection into the applicant's allegations, the Prosecutor's Office of the Seymskiy District of Kursk refused to institute criminal proceedings.

23. On 20 August 2005 the Prosecutor of Kursk, who was responsible for supervising penitentiary facilities, quashed the decision and remitted the case for additional inspection.

24. In the course of the initial and additional inspections the officials who were alleged to have beaten the applicant were questioned by the Prosecutor's Office. In particular, the head of the colony, B., in his statements on 13 July and 3 September 2005 submitted that the inmates, including the applicant, had not been beaten or subjected to degrading treatment and that he had never ordered the use of physical force against them. He regarded the inmates' complaints as slanderous and aimed at destabilising the situation in the colony. Similar submissions were made by D. on 13 July and 5 September 2002, by R. on 13 July 2005 and by Z. on 2 September 2005.

25. On 5 September 2005 the Prosecutor's Office of the Seymskiy District of Kursk again refused to institute criminal proceedings. According to the findings of the inspection, the officials of colony OX-30/3 had not abused their official authority and did not use physical force against the applicant. The use of a rubber truncheon against him on 23 March 2005 had been justified since he had resisted the officials who had conducted the routine search. An appeal against the decision lay with a higher prosecutor or a court.

(d) Events of 26-27 June 2005 and subsequent investigation

26. During the night of 26-27 June 2005 the applicant self-inflicted a subcutaneous slash wound to his right forearm and subcutaneous slash wounds to the front abdominal wall and inserted a foreign body into the soft tissue of the front abdominal wall. He had no penetrating wounds. At 10.30 p.m. on 26 June 2005 the applicant was examined by a surgeon of the Lgov Central District Hospital, who removed the foreign body from the applicant's abdominal wall and dressed the wounds. The applicant also underwent an X-ray. No foreign bodies, such as a glass cap, remained in the applicant's body after he had been provided with medical aid.

27. On 27 June 2005 numerous complaints from inmates of correctional colony OX-30/3 were submitted to the Prosecutor's Office of the Kursk Region. The inmates, including the applicant, alleged that they had been systematically beaten by the colony's officials. On the same date criminal investigation no. 1519 was opened into the allegations of ill-treatment. The applicant was not granted the status of a victim in the criminal proceedings.

28. On 19 August 2005, following an inspection, criminal investigation no. 1519 was discontinued in the part related to the complaints lodged by the applicant and two other inmates, M. and G. In the course of the inspection the Prosecutor's Office examined the relevant medical reports and questioned several officials of the colony, who submitted that no physical force had been applied to the applicant on 26-27 June 2005. The

Prosecutor's Office of the Kursk Region found that the applicant's injuries had been self-inflicted and his allegations of ill-treatment were unsubstantiated. An appeal against the decision lay with a higher prosecutor or a court.

2. The applicant's detention in Lgov remand prison IZ-46/2

(i) The applicant's account

29. The applicant submitted that on either 29 or 30 June 2005 he had been escorted to Lgov remand prison IZ-46/2 (*учреждение ИЗ-46/2 Льгова*) under the guise of transportation to the medical unit. There he was questioned as a witness in relation to the allegedly unlawful actions of the administration of prison OX-30/3.

30. In remand prison IZ-46/2 officials from the Kursk Region Directorate of the Federal Service for the Execution of Sentences, including the head of the regional department, P., tried to force the applicant to repudiate his statements concerning the allegedly unlawful actions of the administration of correctional colony OX-30/3. They had threatened to institute criminal proceedings against him on charges of disorganising the work of prison institutions. The applicant lodged a complaint against P. Inmate Sh. was questioned as a witness. Although Sh. confirmed that P. had put pressure on him, trying to force him to repudiate his statements, the Lgov Interdistrict Prosecutor's Office refused on 18 July 2005 to institute criminal proceedings against P.

31. According to the applicant, he was not provided with adequate medical assistance in remand prison IZ-46/2. Officials from the Prosecutor's Office showed him entries in his medical file stating that he had been examined by a doctor; however, this was not true. Furthermore, a doctor from the regional hospital at the Federal Service for the Execution of Sentences forced him to refuse operative treatment in writing. The doctor explained that the Federal Service did not have sufficient funds for the operation and the applicant did not have enough money to pay for it either.

32. Between 23 and 24 July 2005 the applicant was allegedly taken out of his cell and placed in a car. He was not informed of either the destination or the purpose of the transportation. In the car he was threatened and insulted by the officials and, unable to bear it any longer, he cut the veins on his right arm. He was then returned to the remand prison. The applicant was not examined by a doctor until lunchtime of the following day, when his wounds were dressed and he was given an analgesic. On 25 July 2005 several prison officials tortured him, forcing him to refuse Ms Liptser's assistance and to withdraw his complaint to the Court and the statements given in relation to criminal case no. 1519. In particular, they painfully twisted his arms and burnt him with an immersion heater.

(ii) The Government's account

33. According to the Government, the applicant's transfer to remand prison IZ-46/2 was ordered on 28 June 2005 and on 29 June 2005 he was escorted there. He remained in the remand prison until 26 July 2005.

34. On 29 June 2005 the applicant was examined by a medical attendant who noted the subcutaneous wounds inflicted by the applicant himself in colony OX-30/3. The medical attendant prescribed a dressing with antiseptic ointment. The applicant also stated that he had a foreign body in his stomach. An X-ray conducted on 30 June 2005 showed no foreign objects in the applicant's body. The applicant's wounds were dressed daily between 30 June and 14 July 2005.

35. On 11 July 2005 the applicant committed another act of self-mutilation. At 8.55 p.m. he was examined by a medical attendant who found subcutaneous wounds to the left elbow and the navel area. The wounds were dressed with an antiseptic bandage. The next day the applicant was again seen by the medical assistant, who dressed the wounds with a bandage and antiseptic ointment.

36. On 16 July 2005 the applicant's wounds were dressed again. Because of the intumescence on his right forearm the applicant was given antibiotics. On the same date the applicant was examined by the head of the neurosurgical department of the regional hospital at the Federal Service for the Execution of Sentences. He stated that the earlier self-inflicted slash wounds to the applicant's forearms and the front abdominal wall were infected. The applicant was offered surgical treatment which he refused on the same day in two written statements. The refusal was also reflected in his medical file. The X-ray showed no foreign objects in the applicant's body.

37. In the night of 23-24 July 2005, on the way to the railway station for transportation to another penitentiary facility, the applicant wounded himself in the area of the right elbow joint. Because of the wound the applicant was not allowed to board the train and was returned to remand prison IZ-46/2. There he stated that he had self-inflicted the injury. The applicant had damaged the epidermis but the veins in the area of the elbow joint were not affected. His wound was dressed.

38. On 25 July 2005 the applicant was examined by a surgeon from the Lgov Central District Hospital, who found a subcutaneous wound in the area of the right elbow joint that was not bleeding. The applicant refused to have the wound stitched.

39. After the applicant had been transferred to remand prison IZ-32/1, Bryansk Region, he complained to the Lgov Interdistrict Prosecutor's Office that he had been tortured with an immersion heater while held in remand prison IZ-46/2.

40. On 1 September 2005 the Lgov Interdistrict Prosecutor's Office refused to institute criminal proceedings. The decision was quashed by a higher prosecutor and the case remitted for additional inspection.

41. On 15 September 2005 the Lgov Interdistrict Prosecutor's Office again refused to institute criminal proceedings. The Prosecutor's Office questioned officers from remand prison IZ-46/2 and inmates who had been held there at the same time as the applicant. They submitted that they had not seen the applicant being tortured and had not heard of him being ill-treated. The decision noted that on 25 July 2005 the applicant had not applied for medical aid. However, on the next day he had been examined by a doctor in remand prison IZ-46/2, prior to his transportation to remand prison IZ-32/1. No traces of burns had been found in the course of the examination. The Prosecutor's Office concluded that the applicant had self-inflicted the injuries. An appeal against the decision lay with a higher prosecutor or a court.

3. The applicant's detention in Bryansk Region remand prison IZ-32/1

42. On 26 July 2005 the applicant was escorted to remand prison IZ-32/1, Bryansk Region (*учреждение ИЗ-32/1 по Брянской области*).

43. On arrival the applicant was examined by a medical attendant, who noted a slash wound in the area of the right elbow joint, scars in the abdominal area and traces of burns on his body.

44. On 11 August 2005 Ms Liptser visited the applicant in the remand prison. During her visit the applicant made the following statement:

> "In remand prison IZ-32/1 I am also subjected to pressure by officials of the Federal Service for the Execution of Sentences from the Kursk and Bryansk regions and their colleague from Moscow [...] They skilfully beat me without leaving any traces: they beat me on the head with books, on the face with their open palms... They are about to become residents here – they have been dealing with me for a week now from dusk till dawn. They say that I am the only one remaining. They let me make phone calls to remand prisons in Orel and Kursk, where other convicts tell me to withdraw [my complaints] and that they have already withdrawn theirs. [The officials] brought letters from others saying that I should withdraw [the complaints], refuse assistance from counsel, that "this must be done". Then they began to beat me again and to burn me with a boiler forcing me to write [the withdrawal letters]... I read [Sh.'s] withdrawal of his application [before the Court] and his rejection of your services ... and a similar withdrawal written by M."

> "I was forced [under torture] to write dictated statements addressed to Mr Laptev, representative of the Russian Government before the Court, Mr Lukin, Russian Ombudsman, the Prosecutor of the Kursk Region and the European Court saying that I withdrew everything. These statements are dated 8 August 2005 and one [was written] on the same day but is dated 5 August 2005."

> "The statements dated 5 and 8 August 2005 should be considered invalid as they are nothing but a result of torture. Only statements written in the presence of my lawyers should be examined...."

45. The applicant also told his counsel that he had tried to send letters to his lawyers and to submit complaints against the officials who had ill-treated him. However, his complaints had either been returned to him or

he had been forced to withdraw them. On 12 August 2005 the applicant's counsel informed the Prosecutor's Office of Bryansk Region and the General Prosecutor's Office of the alleged ill-treatment, and on 15 August 2005 she submitted the same complaints to the Prosecutor's Office of Kursk Region, asking that criminal proceedings be instituted on account of the use of torture against the applicant. On 12 August 2005 the applicant's counsel also informed the Court that the applicant had been allegedly forced to write statements on withdrawal of his application to the Court.

46. On 15 August 2005 the applicant was examined by a doctor who noted brown streaks on his neck and back. The applicant refused to provide any explanation as to the origin of the injuries to the officials of remand prison IZ-32/1. The Government submitted that the applicant had committed another act of self-mutilation.

47. In a letter to his counsel dated 16 August 2005 the applicant reiterated his previous statements concerning the events in correctional colony OX-30/3 and the ill-treatment in remand prison IZ-32/1. He also indicated the names of other prisoners who could confirm his statements.

48. On 17 August 2005 the applicant complained about pain in the right side of his stomach. He was examined by a doctor from remand prison IZ-32/1 who suspected that there was a foreign body in the tissues of the front abdominal area. However, the applicant refused to permit palpation of his stomach.

49. In a letter of 18 August 2005 the applicant informed his counsel that the administration of remand prison IZ-32/1 was aware of the contents of the written statements he had addressed to the Deputy Prosecutor of the Bryansk Region. Furthermore, he alleged that he had been placed in a disciplinary cell for making statements to the Deputy Prosecutor.

50. On 22 August 2005 the applicant was seen by a surgeon. However, when asked to lie down for an examination, he refused.

51. On 24 August 2005 the applicant was examined by a doctor who noted a foreign body in the front abdominal wall. The applicant refused to permit palpation of his stomach. He reiterated the refusal at the examination on 26 August 2005. A fluorography conducted on the same date showed a nail measuring six centimetres in the soft tissues of the abdominal area. On 27 August 2005 the applicant agreed to have his stomach palpated. During the examination he stated that he could remove the nail himself; however, he thrust it into a different place. Later that day the applicant was transported to a hospital of the Federal Service for the Execution of Sentences. On arrival he refused any medical examination. On 29 August 2005 the applicant himself removed the nail from the abdominal wall. The doctors dressed his wound with an aseptic bandage.

52. On 31 August 2005 a doctor was called to the applicant's cell because he had cut his right forearm in another act of self-mutilation. The wounds were dressed with an aseptic bandage.

53. Between 14 and 26 September 2005 the applicant was placed in a hospital at correctional facility OZh-118/5, Voronezh, for removal of another foreign body that he had thrust into the abdominal area and for subsequent treatment of the wound.

54. On 28 September 2005 the applicant arrived at remand prison IZ-46/1, Kursk Region.

55. On 21 October 2005 the Prosecutor's Office of the Sovetskiy District of Bryansk refused to institute criminal proceedings into the applicant's allegations of ill-treatment in remand prison IZ-32/1. The decision was based on the following findings.

56. The applicant, who was questioned in the course of the inspection conducted by the Prosecutor's Office, submitted that during his placement in remand prison IZ-32/1 State agents tortured him with an immersion heater, beat him and forcibly injected drugs into his veins, seeking to force him to withdraw his complaints concerning Lgov correctional colony OX-30/3 and the application to the Court. When he could no longer bear the torture he submitted to the pressure and wrote statements to the Court, the ombudsman, the prosecutor of the Kursk Region and the representative of Russia at the Court, asking that the proceedings following his previous applications be discontinued.

57. The applicant's cellmate, B., submitted that the applicant had often been taken out of the cell by remand prison officers. He had never complained about ill-treatment on returning to the cell. B. had never seen the applicant with any injuries.

58. Remand prison officers and officials of the Federal Service for the Execution of Sentences submitted that on a number of occasions they "had had conversations" with the applicant because he had been under preventive monitoring as a person inclined to absconding, attacking prison officers, taking hostages, self-mutilation and suicide. However, they had never applied either psychological or physical pressure to the applicant and he had never made any complaints in this regard during the conversations.

59. The inventory of personal items which the applicant had had with him in the remand prison included an immersion heater.

60. The medical attendant who examined the applicant on 26 July 2005 submitted that the applicant had explained that the injuries found had been caused by a dog and by officials from the Federal Service for the Execution of Sentences, who had burned him with an immersion heater. He also noted that the burn marks had been located in places where the applicant could have inflicted them himself.

61. The doctor who examined the applicant on 15 August 2005 submitted that he could not be sure that the injuries found had been burn marks. Furthermore, the applicant had refused to provide any explanation as to their origin.

62. The head of the Bryansk Forensic Bureau submitted that on the basis of the available medical documents and the applicant's medical file it was not possible to come to any conclusions with regard to the nature of the applicant's injuries, if any.

63. The Prosecutor's Office concluded that the applicant's allegations of ill-treatment were unsubstantiated and the injuries found had been caused by the applicant himself. An appeal against the decision lay with a higher prosecutor or a court.

4. Subsequent developments

64. On 11 November 2005 the Government sent the Court a copy of a statement dated 5 August 2005, addressed to the Representative of the Russian Federation at the Court, Mr Laptev, and written and signed by the applicant. The statement read as follows:

> "I ask you to examine and accept the statement written in my own hand that I, Knyazev Vitaliy Anatolyevich, ask you, Mr P.A. Laptev, to recall from the European Court of Human Rights the application that I lodged through my counsel E.L. Liptser. I do not want it [the application] to be examined in the present proceedings."

65. On 11 February 2006 the applicant was transferred to correctional colony no. 11, Khabarovsk Region.

II. RELEVANT DOMESTIC LAW

66. Article 125 of the Code of Criminal Procedure of 2001 provides for judicial review of decisions by investigators and prosecutors that might infringe the constitutional rights of participants in proceedings or prevent access to a court.

67. Article 91 § 2 of the Penal Code, as amended on 8 December 2003, provides that all incoming and outgoing correspondence of detainees is subject to censorship by the administration of the correctional facility. Correspondence with courts, prosecutors, penitentiary officials, the Ombudsman, the public monitoring board and the Court is not subject to censorship. Correspondence of convicted persons with their counsel is not subject to censorship unless the administration of the correctional facility has reliable information to the effect that it is aimed at initiating, planning or organising a crime or involving other people in the commission of a crime. In this case the correspondence is subject to control on the basis of a reasoned decision by the head of the correctional facility or his deputy.

68. Rule 12 of the Internal Regulations of Correctional Facilities adopted by Decree no. 224 of the Ministry of Justice of 30 July 2001 and amended on 8 July 2002, 23 March 2004 and 3 December 2004, provided that letters from detainees should be placed in mail boxes in the facilities or handed over to representatives of the administration in unsealed envelopes.

The regulations were repealed by Decree no. 205 of the Ministry of Justice of 3 November 2005, which adopted new regulations. Rule 50 of the new regulations provides that letters from detainees should be placed in mail boxes in the facilities or handed over to representatives of the administration in unsealed envelopes, except for correspondence which is not subject to censorship (that is, with the organisations and persons listed in paragraph 67).

THE LAW

I. THE GOVERNMENT'S PRELIMINARY OBJECTIONS

A. *Locus Standi*

69. Having regard to the applicant's statement of 5 August 2005 addressed to Mr Laptev, Representative of the Russian Federation at the Court, the Government stated that this had been written voluntarily by the applicant and his allegations that it had been written under pressure from State agents were unsubstantiated. The Government asked the Court to assess the applicant's *locus standi* in the proceedings in view of this statement.

70. The applicant maintained that the statement had been written under torture and should therefore be disregarded.

71. The Court notes that on 11 August 2005, during a meeting with his counsel, the applicant told her that State officials had forced him to write statements to the effect that he had withdrawn his complaints before the law-enforcement agencies and the application to the Court. He stated that such statements should be regarded as invalid, since they had been written under torture. On the following day the applicant's counsel informed the Court of the applicant's submissions, which the Court then transmitted to the Government. On 11 November 2005 the Government sent the Court a copy of the applicant's statement of 5 August 2005, in which he asked Mr Laptev to recall his application from the Court.

72. The Court observes that the applicant informed the Court that the statement dated 5 August 2005 had been written by him under pressure, asked the Court to disregard it should it be received and confirmed his wish to pursue the proceedings. In such circumstances the Court finds that the statement of 5 August 2005 has no impact on the applicant's standing in the present proceedings. Having regard to the applicant's complaint under

Article 34 of the Convention concerning the same events, the Court decides to proceed with its examination below.

B. Validity of the authority form

73. The Government disputed the validity of the power of attorney issued by the applicant to his representative, Ms Liptser. They pointed out that the authority form was not authorised by the head of the detention facility in which the applicant had been held when he issued the power of attorney, as required by the domestic legislation. The Government submitted that this might mean either that the authority form had been forged or that it had been obtained by the applicant's representative illegally. They regarded the applicant's failure to comply with the relevant domestic rules as an abuse of the right of application and asked the Court to apply Article 35 § 3 of the Convention.

74. Article 35 § 3, in so far as relevant, provides:

> "The Court shall declare inadmissible any individual application submitted under Article 34 which it considers ... an abuse of the right of application."

75. The Court notes that the Government have not challenged the validity of the applicant's signature on the submitted authority form. The objection is based on the assertion that the power of attorney should have been authorised in accordance with the domestic legislation. However, under Rule 45(3) of the Rules of Court, a written authority is valid for the purposes of proceedings before the Court. The Rules of Court contain no requirement for powers of attorney to be drawn up in accordance with the national legislation (see *Khashiyev and Akayeva v. Russia* (dec.), no. 57942/00 and no. 57945/00, 19 December 2002). In these circumstances, the Court has no grounds to doubt the validity of the power of authority issued by the applicant to his representative. Accordingly, the Government's objection must be dismissed.

C. Request to strike out the application

76. The Government noted that when the application was communicated by the Court, they received the application form, dated 16 August 2005, together with annexes to the application form which were dated 21, 27 and 28 August 2005. The Government submitted that "if the application and annexes to it were lodged with the Court in the same form as they were received by the Representative of the Russian Federation at the European Court of Human Rights, the Russian Federation authorities ask the Court to strike the present application out of the list of cases examined by the Court, since a number of annexes were evidently issued later than the application form, this proving that the Court is being intentionally mislead".

77. The Court is unable to discern the basis of the Government's request to strike out the application. In any event, it finds no grounds to doubt the validity of the applicant's submissions. Accordingly, the Government's request must be dismissed.

D. Alleged abuse of the right of application

78. In the Government's view, the applicant's contentions that the medical assistance available to him had not been adequate amounted to an abuse of the right of application within the meaning of Article 35 § 3.

79. The Court reiterates that, except in extraordinary cases, an application may only be rejected as abusive if it was knowingly based on untrue facts (see *Akdivar and Others v. Turkey*, judgment of 16 September 1996, *Reports of Judgments and Decisions* 1996-IV, §§ 53-54; *I.S. v. Bulgaria* (dec.), no. 32438/96, 6 April 2000; and *Varbanov v. Bulgaria*, no. 31365/96, § 36, ECHR 2000-X).

80. Having regard to the statements made by the applicant in the present case, the Court does not consider that they amount to an abuse of the right of petition. Accordingly the Government's objection is dismissed.

II. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION ON ACCOUNT OF THE ALLEGED ILL-TREATMENT IN LGOV CORRECTIONAL COLONY OX-30/3, LGOV REMAND PRISON IZ-46/2 AND BRYANSK REMAND PRISON IZ-32/1 AND THE LACK OF AN ADEQUATE INVESTIGATION

81. Relying on Articles 3 and 13 of the Convention, the applicant complained that he had been systematically ill-treated in Lgov correctional colony OX-30/3, which had compelled him to inflict self-injury. He also alleged that the investigation into his allegations had not been effective. The applicant further complained that he had been subjected to psychological pressure and torture in Lgov remand prison IZ-46/2 and remand prison IZ-32/1, Bryansk Region, and that there had also been no adequate investigation into these allegations. The relevant Convention articles provide:

Article 3

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

Article 13

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

A. Admissibility

82. The Government submitted that the applicant had failed to exhaust domestic remedies and that his complaints were unsubstantiated. Physical force had been applied to the applicant by prison officials on only one occasion, namely on 23 March 2005 when he had resisted a routine search. The use of force had been justified. As to the applicant's other allegations of ill-treatment, they had been carefully examined by prosecuting authorities and found unsubstantiated. In particular, a dog had never been set on him. All the injuries that had been found by prison doctors had been inflicted by the applicant on himself. During his imprisonment the applicant had been regularly seen by a psychologist, who had diagnosed him as suffering from an emotionally unstable personality disorder. In his psychological profile, prepared by the head of the psychological laboratory of the Federal Service for the Execution of Sentences, the applicant was described as having an inclination to self-mutilation as a way of avoiding prison regulations and opposing the prison administration. During the night of 26-27 June 2005 it was the applicant who had incited the other inmates of Lgov correctional colony OX-30/3 to commit self-mutilation. He had not been granted the status of a victim in criminal investigation no. 1519, and his complaint concerning the alleged ill-treatment in the colony had been dismissed. The applicant's allegations of ill-treatment had been properly investigated by the prosecuting authorities, who had examined the relevant medical certificates and other documents and had questioned numerous witnesses, including the applicant's cellmates, prison officers and medical experts. Therefore, in the Government's view, the applicant's complaints under Articles 3 and 13 were totally unsubstantiated.

83. The applicant contested the Government's submissions. He reiterated his allegations that he had been subjected to ill-treatment throughout his detention. He had been regularly beaten in correctional colony OX-30/3 for his refusal to join the "order section" and subsequently, after his transfer from the prison, in order to be forced to withdraw his complaints to the domestic prosecuting authorities and the Court. The applicant further submitted that the investigation into his allegations had not been adequate because the persons questioned by the prosecutors had had an interest in denying that he had been subjected to ill-treatment. The applicant further submitted that his complaints concerning the actions of prison officials had not been sent to the addressees. Therefore, he had not failed to

exhaust domestic remedies; rather, there had been no effective remedies. In sum, the applicant insisted that there had been a violation of Articles 3 and 13 of the Convention on account on ill-treatment in the detention facility and the lack of an adequate investigation.

84. As regards the applicant's complaint under Article 3 of the Convention, the Court reiterates that the rule of exhaustion of domestic remedies referred to in Article 35 § 1 of the Convention obliges applicants to use first the remedies that are normally available and sufficient in the domestic legal system to enable them to obtain redress for the breaches alleged. The existence of the remedies must be sufficiently certain, in practice as well as in theory, failing which they will lack the requisite accessibility and effectiveness. Article 35 § 1 also requires that the complaints intended to be brought subsequently before the Court should have been made to the appropriate domestic body, at least in substance and in compliance with the formal requirements laid down in domestic law, but not that recourse should be had to remedies which are inadequate or ineffective (see *Aksoy v. Turkey*, judgment of 18 December 1996, *Reports* 1996-VI, pp. 2275-76, §§ 51-52, and *Akdıvar and Others v. Turkey*, judgment of 16 September 1996, *Reports* 1996-IV, p. 1210, §§ 65-67). It is also established that a mere doubt as to the prospect of success is not sufficient to exempt an applicant from submitting a complaint to the competent authority (see *Whiteside v. the United Kingdom*, decision of 7 March 1994, application no. 20357/92, DR 76, p. 80).

85. The Court further emphasises that the application of the exhaustion rule must make due allowance for the fact that it is being applied in the context of machinery for the protection of human rights that the Contracting Parties have agreed to set up. Accordingly, it has recognised that Article 35 must be applied with some degree of flexibility and without excessive formalism. It has further recognised that the rule of exhaustion is neither absolute nor capable of being applied automatically; for the purposes of reviewing whether it has been observed, it is essential to have regard to the circumstances of the individual case. This means in particular that the Court must take realistic account, not only of the existence of formal remedies in the legal system of the Contracting Party concerned, but also of the general context in which they operate, as well as the personal circumstances of the applicant. It must then examine whether, in all the circumstances of the case, the applicant did everything that could reasonably be expected of him to exhaust domestic remedies (see *Akdivar and Others* cited above, § 69, and *Yaşa v. Turkey*, judgment of 2 September 1998, *Reports* 1998-VI, p. 2432, § 77).

86. The Court notes that under Article 125 of the Code of Criminal Procedure, decisions by investigators and prosecutors that might infringe the constitutional rights of participants in proceedings or prevent access to a court may be appealed to a court. The Court observes that although a court

itself had no competence to institute criminal proceedings, its power to annul a refusal to institute criminal proceedings and indicate the defects to be addressed appears to be a substantial safeguard against the arbitrary exercise of powers by the investigating authority (see *Trubnikov v. Russia* (dec.), no. 49790/99, 14 October 2003). Therefore, in the ordinary course of events such an appeal might be regarded as a possible remedy where the prosecution decided not to investigate the claims.

87. Turning to the facts of the present case, the Court notes that the applicant filed several complaints before the prosecuting authorities concerning the alleged ill-treatment in Lgov correctional colony OX-30/3. The Lgov Interdistrict Prosecutor's Office refused to institute criminal proceedings following the applicant's first complaint on 10 July 2005. In relation to the applicant's second complaint, the Prosecutor's Office of the Seymskiy District of Kursk initially refused to institute criminal proceedings on 14 July 2005. After this decision was quashed by a higher prosecutor, the institution of criminal proceedings was again refused on 5 September 2005. On 19 August 2005 the Prosecutor's Office of the Kursk Region discontinued criminal investigation no. 1519, instituted into the events that took place in the colony on 26-27 June 2005, in the part related to the complaints lodged by the applicant. Although the three decisions could be appealed against to a court, however, the applicant did not avail himself of that avenue.

88. The Court further notes that the applicant lodged two complaints with the prosecuting authorities concerning the alleged ill-treatment in Lgov remand prison IZ-46/2. The Prosecutor's Office refused to institute criminal proceedings in relation to his first complaint on 18 July 2005. In relation to the applicant's second complaint, the Prosecutor's Office initially refused to institute criminal proceedings on 1 September 2005. After this decision was quashed by a higher prosecutor, the institution of criminal proceedings was again refused on 15 September 2005. The Prosecutor's Office refused to institute criminal proceedings following the applicant's complaint concerning the alleged ill-treatment in Bryansk remand prison IZ-32/1 on 21 October 2005. The Court observes that the three decisions could have been appealed to a court, but the applicant did not take this course.

89. In principle, the Court recognises the vulnerability of detainees and the difficulty that they face in pursuing complex legal proceedings. These considerations may be taken into account in the flexible approach to be adopted in such circumstances. However, in the present case the Court finds no reasons to dispense the applicant from exhausting a domestic remedy that was available to him. The Court notes that, throughout the proceedings, the applicant was assisted by a lawyer, who could have advised him to challenge the prosecutor's decisions to a court. Furthermore, the applicant did not explain why, having received five refusals from the prosecuting authorities to institute criminal proceedings into his allegations of

ill-treatment and a decision to discontinue criminal proceedings in relation to his complaint, he did not take such action, and the materials of the case contain no indication that it was impossible or even impractical (see *Slyusarev v. Russia* (dec.), no. 60333/00, 9 November 2006).

90. Therefore, the Court concludes that the applicant failed to exhaust available domestic remedies with regard to his complaint under Article 3 of the Convention.

91. As regards the applicant's complaint under Article 13 of the Convention, the Court refers to its findings above that the applicant had an effective domestic remedy in respect of his complaints under Article 3, which he failed to have recourse to. Accordingly, the applicant's complaint under Article 13 of the Convention is manifestly ill-founded.

92. It follows that this part of the application should be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLES 2 AND 3 OF THE CONVENTION ON ACCOUNT OF ALLEGED LACK OF MEDICAL ASSISTANCE IN LGOV CORRECTIONAL COLONY OX-30/3, LGOV REMAND PRISON IZ-46/2 AND BRYANSK REMAND PRISON IZ-32/1

93. The applicant complained that he had not been provided with adequate medical assistance following his self-infliction of injuries in Lgov correctional colony OX-30/3 and later in Lgov remand prison IZ-46/2 and Bryansk remand prison IZ-32/1. He relied on Articles 2 and 3 of the Convention in this respect. The Court will examine the complaint under Article 3.

A. Admissibility

94. The Government contested the applicant's argument. They submitted firstly that all of the applicant's self-inflicted injuries had been subcutaneous. He had sustained no penetrating wounds. The applicant had always been provided with medical aid on the numerous occasions that he had self-mutilated. His slash wounds had been properly dressed with aseptic bandages and the foreign bodies that he had thrust into himself had been removed. The applicant had been seen in good time by a doctor and, in particular, by a surgeon when required. On several occasions the applicant had refused medical examination or treatment, which was reflected in his medical file. However, adequate medical aid had been made available to him at all times. The Government sent pictures of the applicant's body which, they alleged, had been taken at the applicant's request for submission to the Court. In their view, the pictures confirmed that the

applicant's wounds had been properly treated by medical specialists and had healed.

95. The applicant insisted that he had not been provided with adequate medical assistance. He contended that the Government's submissions were not accurate as he had had penetrating and not subcutaneous wounds. The applicant claimed that on a number of occasions he had been forced to refuse medical aid. He had also had to remove foreign objects from his body himself because medical assistance had not been available. Surgeons had never removed them, and if there were entries in his medical file to that effect, it meant that they were forged.

96. The Court reiterates that Article 3 of the Convention enshrines one of the most fundamental values of democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances and the victim's behaviour (see, among other authorities, *Labita v. Italy* [GC], no 26772/95, § 119, ECHR 2000-IV). However, to fall under Article 3 of the Convention, ill-treatment must attain a minimum level of severity. The assessment of this minimum level of severity is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see *Valašinas v. Lithuania*, no. 44558/98, §§ 100–101, ECHR 2001-VIII).

97. Turning to the facts of the present case, the Court notes firstly that the applicant did not submit any evidence to support his allegations that certain entries in his medical file had been forged or that some information provided therein had been inaccurate. Therefore, in the following analysis the Court will have due regard to the applicant's medical file.

98. As regards the ill-treatment that the applicant alleged had taken place on 23 May 2005, the Government submitted that the applicant had never applied for medical aid in this connection. The Court notes that the applicant's medical file contains no indication that he had applied for medical aid, and the applicant did not submit any evidence to the contrary.

99. As regards the injuries self-inflicted by the applicant during the night on 26-27 June 2005 in correctional colony OX-30/3, the Court notes that, within a short space of time, the applicant underwent an X-ray and was seen by a surgeon, who removed the foreign object, an electrode, from his body and dressed the wounds. In the materials available to the Court there is nothing to support the applicant's allegation that some parts of the electrode remained in his body. Accordingly, the Court finds that the medical aid provided to the applicant was adequate to his condition.

100. The Court notes that during the applicant's placement in Lgov remand prison IZ-46/2 he was diagnosed with subcutaneous wounds on 29 June, 11 and 23 July 2005. The applicant's wounds were dressed daily between 30 June and 14 July 2005 and then on 16, 23 and 25 July 2005. On 16 July 2005, because of the intumescence on his right forearm, the

applicant was given antibiotics. On the same date he was offered surgical treatment for the wounds, which, according to the entry in his medical file, he refused. On 25 July 2005 the applicant refused stitching for the wound in the area of the right elbow joint.

101. The Court observes that the applicant submitted no evidence to support his allegation that he had penetrating rather than subcutaneous wounds. Likewise, the Court has no evidence to conclude that the applicant was forced to refuse medical aid. It therefore finds that the medical assistance available to the applicant in remand prison IZ-46/2 was sufficient.

102. The Court further notes that during the applicant's placement in Bryansk remand prison IZ-32/1 he complained about pain in his stomach on 17 August 2005. The doctor suspected that he had a foreign body in his stomach; however, the applicant refused to have it palpated. The applicant was again seen by a doctor and refused palpation of his stomach on 22, 24 and 26 August 2005. After fluorography conducted on the latter date showed a nail in the applicant's abdominal area, he agreed to have his stomach palpated on 27 August 2005. On the same date he was transported to a hospital of the Federal Service for the Execution of Sentences in order to have the nail removed. However, on his arrival at the hospital he refused medical treatment and two days later removed the nail himself. Doctors dressed his wound. On 31 August 2005 a doctor dressed the wounds on the applicant's right forearm, self-inflicted on an earlier date. Between 14 and 26 September 2005 the applicant was placed in hospital for removal of another foreign body in his abdominal area and subsequent treatment.

103. The Court observes that the applicant submitted no evidence to support his allegation that he had been forced to refuse medical aid. The materials available to the Court show that qualified medical assistance was made available to him both in the remand prison and in hospitals outside the detention facility. However, he refused it on several occasions. Inasmuch as the applicant may be understood to allege that the medical aid was not provided in good time, the Court considers that the State may not be held responsible for the delays caused by the applicant's own refusal to undergo medical examinations or accept treatment. It finds that the medical aid available to the applicant was sufficient in the circumstances.

104. It follows that this part of the application is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION ON ACCOUNT OF ALLEGED INTERFERENCE WITH THE APPLICANT'S CORRESPONDENCE

105. The applicant complained under Article 8 that all his correspondence had been read by State officials and that a large number of

his complaints and applications to various State authorities and a letter to his counsel, Ms Liptser, had not been sent to the addressees at all. He referred to Rule 12 of the 2001 Internal Regulations in support of his complaint. Article 8 of the Convention provides as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

106. The Government submitted that the applicant's right to correspondence had been restricted in accordance with Article 91 § 2 of the Penal Code. However, the scope of the right as guaranteed by this provision had not been violated. The Government averred that all the applicant's letters to the law-enforcement agencies, the Ombudsman, bar associations, his counsel and the Court had been sent to the addressees. The Government enclosed extracts of postal registers kept at Lgov remand prison IZ-46/2, remand prison IZ-46/1, Kursk Region, and correctional colony no. 11, Khabarovsk Region, pertaining to the applicant's correspondence. They also submitted that during his placement in remand prison IZ-46/1 the applicant had received a letter and two postal packets. The Government contended that there had been no interference with the applicant's correspondence.

107. The applicant maintained his allegations that his complaints to the law-enforcement agencies and a letter to his counsel had not been sent to the addressees by prison officers. He noted that, although the Government presented evidence that some of his letters had been sent, they did not prove that all of them had been sent. Furthermore, in the applicant's view the Government failed to reply directly as to whether his correspondence had been subject to censorship.

108. The Court reiterates that any "interference by a public authority" with the right to respect for correspondence will contravene Article 8 of the Convention unless it is "in accordance with the law", pursues one or more of the legitimate aims referred to in paragraph 2 of that Article and is "necessary in a democratic society" in order to achieve them (see, among many other authorities, the following judgments: *Silver and Others v. the United Kingdom*, 25 March 1983, Series A no. 61, p. 32, § 84; *Campbell v. the United Kingdom*, 25 March 1992, Series A no. 233, p. 16, § 34; and *Niedbała v. Poland*, no. 27915/95, § 78, 4 July 2000).

109. The Court notes the applicant's complaint relates to the period when the 2001 Internal Regulations, which provided that all letters dispatched by detainees should be handed over to prison officers in unsealed envelopes, were still in force. The Court observes, however, that the provisions in the Regulations were subordinate to the Penal Code, which provides in Article 91 § 2 that detainees' correspondence with courts, prosecutors, penitentiary officials, the Ombudsman, the public monitoring board and the Court was not subject to censorship. Correspondence with counsel was not subject to censorship except where authorised by a reasoned decision by the head of the correctional facility or his deputy, based on reliable information that the correspondence was aimed at initiating, planning or organising a crime.

110. The Court notes that, according to the postal registers submitted by the Government, twelve letters and complaints by the applicant were sent to various recipients from remand prison IZ-46/2 and eight letters and complaints from remand prison IZ-46/1. The Court observes that the applicant submitted no evidence that the 2001 Internal Regulations had been applied to him in disregard of the relevant provisions of the Penal Code. Likewise he failed to furnish any evidence that any of his letters had not been sent to the addressees or at least to submit specific details of the letters which, he alleged, had not been dispatched by the administration of the relevant detention facilities.

111. It follows that this part of the application is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

V. ALLEGED VIOLATION OF ARTICLE 34 OF THE CONVENTION

112. The applicant further complained under Article 34 of the Convention that State officials had forced him to write a statement on withdrawal of his application before the Court, which was later sent to the Court by the Government. Article 34 of the Convention reads, in so far as relevant, as follows:

> "The Court may receive applications from any person ... claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

113. The Government contested the applicant's submissions. They stated that his allegations of ill-treatment had been reviewed by domestic prosecuting authorities and found to be unsubstantiated.

114. The applicant maintained his complaint.

115. Having regard to paragraph 72 above, the Court will now proceed to examine the applicant's complaint under Article 34 of the Convention in the light of the general principles established in its case law. The Court reiterates that it is of the utmost importance for the effective operation of the

system of individual petition instituted by Article 34 that applicants or potential applicants should be able to communicate freely with the Court without being subjected to any form of pressure from the authorities to withdraw or modify their complaints (see, among other authorities, *Akdivar and Others v. Turkey*, cited above, § 105, and *Aksoy v. Turkey*, judgment of 18 December 1996, *Reports* 1996-VI, p. 2288, § 105). In this context, "pressure" includes not only direct coercion and flagrant acts of intimidation but also other improper indirect acts or contacts designed to dissuade or discourage applicants from pursuing a Convention remedy (see *Kurt v. Turkey*, judgment of 25 May 1998, *Reports* 1998-III, p. 1192, § 159).

116. Furthermore, whether or not contacts between the authorities and an applicant are tantamount to unacceptable practices from the standpoint of Article 34 must be determined in the light of the particular circumstances of the case. In this respect, regard must be had to the vulnerability of the complainant and his or her susceptibility to influence exerted by the authorities (see the *Akdivar and Others* and *Kurt* judgments, cited above, p. 1219, § 105, and pp. 1192-93, § 160, respectively). The applicant's position might be particularly vulnerable when he is held in custody with limited contacts with his family or the outside world (see *Cotleţ v. Romania*, no. 38565/97, § 71, 3 June 2003).

117. The Court notes that on 11 August 2005 the applicant told his counsel that he had been forced by State officials to write statements on withdrawal of his application before the Court. The applicant submitted that such statements should be regarded as invalid, as they had been written under pressure. On the following day the applicant's counsel informed the Court accordingly. The Court then transmitted the applicant's submissions to the Government. On 11 November 2005 the Government sent the Court a copy of the applicant's statement of 5 August 2005, addressed to the Representative of the Russian Federation at the Court, Mr Laptev. In the statement the applicant asked Mr Laptev to recall his application from the Court. In their letter sent together with the applicant's statement, the Government contended that it had been written by the applicant voluntarily and his allegations that it had been written under pressure from State agents were unsubstantiated. The Government asked the Court to assess the applicant's *locus standi* in the proceedings in view of this statement, which the Court has addressed above.

118. The Court observes that the applicant informed the Court that the statement dated 5 August 2005 had been written by him under pressure, asked the Court to disregard it should it be received and confirmed his intention to pursue the proceedings. The Court is astonished that after these submissions had been transmitted to the Government, they sent the Court the applicant's statement of 5 August 2005 and, moreover, insisted that it had been written by him voluntarily. In the Court's view, such conduct on

the part of the Government was not consistent with their obligation not to interfere with the applicant's right of individual petition.

119. The respondent State has therefore failed to comply with its obligations under Article 34 of the Convention.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

120. 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

121. The applicant claimed 35,000 euros (EUR) in respect of non-pecuniary damage caused by the physical and moral sufferings he had sustained.

122. The Government considered the claim to be unsubstantiated. In their view, should the Court find a violation of the applicant's rights in the present case, such a finding should constitute sufficient just satisfaction.

123. Having regard to the nature of the breach in this case, and making its assessment on an equitable basis, the Court holds that the finding of the State's failure to comply with its obligations under Article 34 of the Convention constitutes in itself sufficient just satisfaction for the non-pecuniary damage, if any, sustained by the applicant.

B. Costs and expenses

124. The applicant also claimed EUR 3,000 for the costs and expenses incurred before the Court and, in particular, for the assistance of his representative who acted *pro bono* and visited him in the detention facilities.

125. The Government argued that the claim should be rejected altogether since the applicant failed to submit any documents to support his claim that the costs had actually been incurred (see *Rotaru v. Romania* [GC], no. 28341/95, ECHR 2000-V).

126. The Court notes that in the present case the applicant did not furnish any documents to show that he had actually incurred the expenses claimed. Therefore, regard being had to the information in its possession, the Court rejects the applicant's claim for costs and expenses.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Dismisses* the Government's preliminary objections;

2. *Decides* to proceed with the examination of the applicant's complaint under Article 34 and declares the remainder of the application inadmissible;

3. *Holds* that the State has failed to fulfil its obligation under Article 34 not to hinder the effective exercise of the right of individual petition;

4. *Dismisses* the applicant's claim for just satisfaction.

Done in English, and notified in writing on 8 November 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN Registrar	Loukis LOUCAIDES President