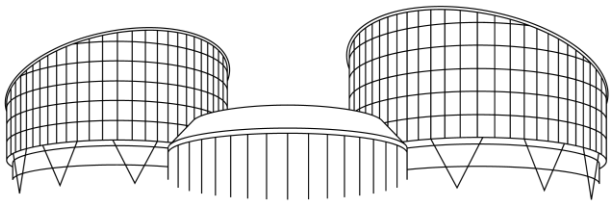

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF LARIN v. RUSSIA

(Application no. 15034/02)

JUDGMENT

STRASBOURG

20 May 2010

FINAL

20/08/2010

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

In the case of Larin v. Russia,

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

Christos Rozakis, *President*,
Anatoly Kovler,
Elisabeth Steiner,
Khanlar Hajiyev,
Dean Spielmann,
Sverre Erik Jebens,
Giorgio Malinverni, *judges*,
and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 29 April 2010,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 15034/02) 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 a Russian national, Mr Vitaliy Nikolayevich Larin ("the applicant"), on 11 February 2002.

2. The applicant, who was granted legal aid, was represented by Ms O. Mikhailova, a lawyer practising in Moscow. The Russian Government ("the Government") were initially represented by Mr P. Laptev, the former Representative of the Russian Federation at the European Court of Human Rights, and subsequently by their former Representative, Mrs V. Milinchuk.

3. The applicant alleged, in particular, that the proceedings before the Gusevskiy Town Court and the Kaliningrad Regional Court had been held in his absence, that he had not been provided with free legal assistance and had been unable to present his arguments, examine witnesses or put questions to the plaintiff.

4. By a decision of 8 November 2007, the Court declared the application admissible.

5. The Chamber decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*). The Government, but not the applicant, filed further written observations (Rule 59 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1971 and lives in Slavyanovka village, Kaliningrad region.

7. On 6 April 2001 the Gusevskiy Town Court of the Kaliningrad Region convicted the applicant of theft, robbery and forgery and sentenced him to seven years and six months' imprisonment. This judgment was upheld by the Kaliningrad Regional Court on 5 June 2001. The courts found, *inter alia*, that the applicant had paid for a car, purchased from Mr O., with counterfeit United States dollars. The court further indicated that Mr O. might bring civil proceedings against the applicant.

8. In June 2001 Mr O. lodged a civil claim against the applicant, seeking to recover his car from the applicant. It was received by the Gusevskiy Town Court on 19 June 2001.

9. On 20 June 2001 Judge G. of the Gusevskiy Town Court forwarded a copy of the statement of claim to the administration of the detention centre where the applicant was being detained (remand prison IZ-39/1). In a cover letter, the judge instructed the administration to hand the statement of claim to the applicant and obtain his written observations in reply by 11 July 2001.

10. According to the Government, on 21 June 2001 the applicant was transferred to correctional colony OM-216/13 where he was to serve his sentence. That colony was situated in Slavyanovka village, Kaliningrad region. The documents sent by Judge G. to the applicant were forwarded to his new address in that colony. The colony received them on 13 July 2001.

11. On 11 July 2001, the Gusevskiy Town Court examined the civil claim in the applicant's absence. On the same day the Town Court, by a default judgment, ordered the applicant to return the car to Mr O. The court indicated, *inter alia*, that the defendant (the applicant) had been properly notified of the date of the hearing but had failed to appear. Mr O. was present and made oral submissions to the court.

12. The applicant alleged that he had been notified of the hearing only on 16 July 2001. The following day he had approached the Town Court seeking the reopening of the proceedings and reversal of the judgment on the ground that the hearing had taken place in his absence. The applicant had also requested legal aid and insisted on his personal presence at the hearing. On 19 July 2001 his letters were dispatched to the Town Court by the administration of the correctional colony. They were received by the court on 25 July 2001.

13. On 17 August 2001 the court set a date for hearing the applicant's request and informed the applicant thereof. The Government maintained that the notification had been received by the applicant on 28 August 2001.

14. On 31 August 2001 the applicant wrote a letter to the Town Court asking them to examine the case in his presence and provide him with a lawyer. That letter was dispatched to the court by the head of the correctional colony. His cover-letter was dated 4 September 2001; however, according to the postal stamp, the applicant's letter was actually posted on 7 September 2001.

15. On 6 September 2001 the hearing took place in the applicant's absence. Mr. O was present and made oral submissions. The applicant alleged that he had been unable to attend the hearing for want of a court's "conveyance request" (*заявка на этапирование*) ordering the correctional colony administration to escort him to the court.

16. By a decision of 6 September 2001 the Gusevskiy District Court refused to re-examine the case. The court found that the applicant had not presented any new evidence that might affect the court's findings of 11 July 2001. The applicant's argument that he had not been properly notified of the hearing and his request for legal aid were left open in the court's decision. The next day, that decision was sent to the applicant.

17. Following the Town Court's refusal to reopen the proceedings, the applicant appealed to the Regional Court, complaining about the first-instance court's decisions of 11 July and 6 September 2001. He insisted that his personal presence at the hearing of 11 July 2001 had been necessary to prove that the deal with Mr. O.'s car was legal and valid, and that the proceedings should therefore be reopened. He also asked the Regional Court to order his conveyance from the correctional colony in order to take part in the hearing.

18. On 9 October 2001 Judge G. informed the applicant of the date of the appeal hearing, by way of a simple notice. The judge indicated that the applicant's personal presence at the hearing was not mandatory, and that bringing him to the court hearing was "inopportune".

19. On 10 October 2001 the Kaliningrad Regional Court examined the appeal *in absentia* and upheld the judgment of 11 July and the decision of 6 September 2001. The court indicated that, under Article 213-11, proceedings ending with a default judgment should only be reopened if two conditions were met: (a) the absent party had been unable, with good reason, to attend the hearing or to inform the court in a timely fashion thereof, and (b) the absent party produced evidence that might affect the conclusions of the default judgment. The court further indicated that the default judgment of 11 July 2001 had been fully based on the courts' findings in the criminal case against the applicant. Lastly, the Regional Court established that the applicant's submissions about the circumstances

of the deal with the car would not have had any impact on the findings of the default judgment. In conclusion the court stated as follows:

> "The argument that [the applicant's] absence in court was excusable because he had been unable to inform the court in a timely fashion of the valid reasons for his absence cannot be accepted as a sole ground for quashing the judgment since the default judgment may only be quashed if both of the above-mentioned conditions have been met. Furthermore, [the applicant] does not explain why he was not able to inform the court that he was serving a prison sentence."

20. As a consequence, the Regional Court dismissed the appeal and upheld the default judgment.

II. RELEVANT DOMESTIC LAW

21. Parties to civil proceedings could appear before a court in person or act through a representative (Article 43 of the Code of Civil Procedure in force until 31 January 2003 ("the old CCP").

22. Article 106 of the old CCP provided that a summons was to be served on the parties and their representatives in such a way that they would have enough time to appear at the hearing and prepare their case. Where necessary, the parties could be summoned by a telephone call or a telegram. Pursuant to Articles 108 and 109, court summonses were to be sent by post or by courier and served on the person who was a party to the case. The party was to sign the second copy of a summons which was to be returned to the court. If a summons could not be served on a party, it was to be served on an adult family member who lived with the party. If a party was absent, the person who delivered the summons was to note on the second copy of the summons where the party could be found (Article 109).

23. Article 144 required that civil cases be heard in a court session with mandatory notification of the case to all parties. Article 151 provided that court sessions started with the court secretary informing the judge of the parties who had received summons but had failed to appear. The secretary had to inform the judge of the reasons for their absence. Pursuant to Article 157, if a party to the case failed to appear and there was no evidence that the party had been duly summoned, the hearing was to be adjourned.

24. Article 213-1 provided that if a defendant was duly notified of the hearing but failed to appear, the court might proceed with the case, provided that the plaintiff did not object. Article 213-6 provided that a default judgment could be challenged either by lodging a request for the reopening of the case with the first-instance court, or by appealing directly to the court of appeal. Under Article 213-9, a decision of the first-instance court not to reopen the case was subject to an appeal as well. Under Article 213-11, the reopening of a case was possible if two conditions were met: (a) the absent party had been unable, with good reason, to attend the hearing or to inform

the court in a timely fashion thereof, and (b) the absent party produced evidence which might have affected the outcome of the case.

25. The Penitentiary Code provides that convicted persons may be transferred from a correctional colony to an investigation unit if their participation is required as witnesses, victims or suspects in connection with certain investigative measures (Article 77.1). The Code does not mention the possibility for convicted persons to take part in civil proceedings, whether as plaintiffs or defendants.

26. The USSR Advocates Act (Law of 30 November 1979), together with the RSFSR Rules on Advocates (Law of 20 November 1980), in force until 1 July 2002, provided that free legal assistance in civil cases could be provided to certain categories of litigants and for certain categories of disputes such as labour disputes, disputes concerning disability pensions, work-related accidents, etc. (sections 11 and 22 respectively). Disputes involving prisoners similar to the one at the heart of the present case were not mentioned amongst them. However, the law stipulated that free legal assistance could be provided for litigants who had no means to pay for it, on the initiative of the advocate's office, the investigator or the court (section 11(3) of the USSR Advocates Act). If free legal assistance was granted by the court, the lawyers' fees had to be paid by the State.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

27. The applicant complained that he had been unable to present his civil case on an equitable basis *vis-à-vis* the opposite party, Mr O. The applicant referred in this respect to Article 6 § 1, which reads as follows:

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

A. The parties' submissions

28. The Government alleged that the applicant's right to a fair hearing of his civil case had not been breached. They admitted that there had been a delay in sending the notification from the Gusevskiy Town Court. However, the delay was caused by the applicant's transferral to the correctional colony. The State cannot be held responsible for the work of the postal service. They referred to the cases of *Foley v. the United Kingdom* (dec.), no. 39197/98, 11 September 2001, and *Zagorodnikov v. Russia*, no. 66941/01 7 June 2001.

29. Furthermore, the applicant had been duly informed of all subsequent hearings, where he could have submitted his written observations. Pursuant to Article 213 of the Code of Civil Procedure[1], a default judgment can be quashed if two conditions are met: (a) the absent party was unable, with good reason, to attend the hearing or to inform the court thereof, and (b) the absent party is able to present new materials which could affect the outcome of the case. The applicant's request did not contain any information that could have led to the reopening of the case. As a result, he was in no way placed in an unfavourable position *vis-à-vis* the plaintiff, Mr O.

30. The Government further maintained that the facts of the case had been established by the judgment of 6 April 2001 in the applicant's criminal case. It had been established that the applicant had paid for the car bought from Mr. O with counterfeit United States dollars. In its judgment of 10 October 2002 the Kaliningrad Regional Court noted that the facts established in the judgment of 6 April 2001 within the criminal proceedings against the applicant had the force of *res judicata* for the purposes of civil proceedings concerning damage caused to the victim of the applicant's crime. In his appeal against the default judgment of 11 July 2001, the applicant had simply cast doubt on the findings of the trial court; he had not adduced any new arguments relevant for the analysis of the civil-law aspects of the situation.

31. The Government also argued that the question of the applicant's absence from the hearing of 11 July 2001 had been examined twice – on 6 September 2001, by the same court, and on 10 October 2002 by the Kaliningrad Regional Court. Both instances concluded that the applicant's presence had not been necessary and examined his written submissions. In the Government's opinion, that subsequent measure had remedied the defects of the original hearing of 11 July 2001.

32. The Government finally indicated that the law (namely, the 1964 Code of Civil Procedure then in force) did not provide for a convicted criminal to be transferred to the court examining his civil case. His participation in the civil proceedings before the court of appeal was not mandatory either, that is to say, the court of appeal could proceed with the case in his absence. The convict had the right to receive copies of materials of the case, give written comments, lodge procedural requests, etc. Even if there had been a delay in notifying the applicant of the original hearing (that of 11 July 2001), he had been fully able to enjoy his right provided by the national law in subsequent proceedings.

33. As regards the refusal to provide the applicant with legal aid, the Government maintained that the Russian law then in force did not provide for legal aid in civil cases of that category. As a result, the applicant's requests for legal aid had not been granted. However, it had been open to

[1] The Government seemed to refer to the old RSFSR code, in force at the material time.

the applicant to find a lawyer on his own, or to ask one of his relatives or friends to represent him in the civil proceedings.

34. The applicant maintained his initial complaint that the authorities had failed to notify him of the hearing, and that he had thus been unable to present his case, personally or through his representative.

B. The Court's analysis

1. General principles

35. The Court observes that Article 6 of the Convention does not guarantee the right to personal presence before a civil court but rather a more general right to present one's case effectively before the court and to enjoy equality of arms with the opposing side. Article 6 § 1 leaves to the State a free choice of the means to be used in guaranteeing litigants these rights (see *Steel and Morris v. the United Kingdom*, no. 68416/01, §§ 59-60, ECHR 2005-II). As to the requirement of an oral hearing, this is not a mandatory form of the adjudicative process, especially in higher instances where written procedures may be more appropriate. A hearing may not be necessary in the particular circumstances of the case, for example when it raises no questions of fact or law which cannot be adequately resolved on the basis of the case file and the parties' written observations (see, *mutatis mutandis*, *Fredin v. Sweden (no. 2)*, 23 February 1994, §§ 21-22, Series A no. 283-A, and *Fischer v. Austria*, 26 April 1995, § 44, Series A no. 312). Legal assistance in civil cases is not mandatory either, although, in certain circumstances, Article 6 § 1 may sometimes compel the State to provide for the assistance of a lawyer when such assistance proves indispensable for an effective access to court (see *Airey v. Ireland*, 9 October 1979, § 26, Series A no. 32, p. 14-16,).

36. Thus the questions of personal presence, the form of the proceedings (oral or written), legal representation, etc. should be analysed in the broader context of the "fair trial" guarantee of Article 6. The Court should verify whether the applicant – party to the civil proceedings – had been given a reasonable opportunity to have knowledge of and comment on the observations made or evidence adduced by the other party and to present his case under conditions that did not place him at a substantial disadvantage *vis-à-vis* his opponent (see *Krčmář and Others v. the Czech Republic*, no. 35376/97, § 39, 3 March 2000, and *Dombo Beheer B.V. v. the Netherlands*, 27 October 1993, § 33, Series A no. 274).

2. Court's case-law specific to Russia

37. The Court has previously found a violation of the right to a "public and fair hearing" in a case where a Russian court, after having refused leave

to appear to the imprisoned applicants who had wished to make oral submissions on their defamation claim, failed to consider other legal possibilities for securing their effective participation in the proceedings (see *Khuzhin and Others v. Russia*, no. 13470/02, §§ 53 et seq., 23 October 2008).

38. It also found a violation of Article 6 in a case where a Russian court refused leave to appear to an imprisoned applicant who had wished to make oral submissions on his claim that he had been ill-treated by the police. Despite the fact that the applicant in that case was represented by his wife, the Court considered it relevant that his claim had been largely based on his personal experience and that his submissions would therefore have been "an important part of the plaintiff's presentation of the case and virtually the only way to ensure adversarial proceedings" (see *Kovalev v. Russia*, no. 78145/01, § 37, 10 May 2007). The nature of the dispute was also decisive in the case of *Sokur v. Russia* (no. 23243/03, 15 October 2009) where the Court held that even if the applicant had appointed a representative, it would not have compensated for his personal absence from the court since the applicant's claims "were, to a major extent, based on his personal experience" (§ 35).

39. In the more recent case of *Shilbergs v. Russia* (no. 20075/03, 17 December 2009, not yet final), which also concerned a civil action brought by a convicted criminal in respect of the conditions of his detention, the Court held as follows: "Given the obvious difficulties involved in transporting convicted persons from one location to another, the Court can, in principle, accept that in cases where the claim is not based on the plaintiff's personal experiences ... representation of the detainee by an advocate would not be in breach of the principle of equality of arms" (§ 106).

40. Having said that, the Court observed that the option of legal aid had not been open to the applicant. In such a situation the only possibility for him had been to appoint a relative, friend or acquaintance to represent him in the proceedings. However, the domestic courts had not enquired whether the applicant had been able to designate a representative. The Court further reiterated that the domestic courts had refused the applicant leave to appear and, at the same time, had not held a session in the applicant's correctional colony.

3. Application to the present case

(a) Hearing of 11 July 2001

41. The Court considers that the nature of the civil dispute is the core element of the case, which should be addressed first.

42. The Court observes that the facts at the heart of the civil dispute were already established in the criminal proceedings in which the applicant

had participated personally. The plaintiff (Mr O.) brought one claim: for the car which had been bought from him with counterfeit United States dollars to be returned. He did not ask for damages, nor did he invoke any other provision of Russian law which would necessitate the examination of such facts and legal arguments which had not been examined in the criminal proceedings against the applicant.

43. In such circumstances the Court is prepared to accept that the applicant's personal presence at the hearing had not been strictly necessary. He could have taken part in the proceedings through a representative or by submitting written observations.

44. On the other hand, even though the dispute in issue was quite simple and the applicant had little chance of success in the civil court, that does not mean that he should have been deprived of all his rights under Article 6 § 1 of the Convention. As the Court said in the case of *Kovalev* (cited above, § 37), the exercise of the guarantees inherent in the right to a fair trial cannot depend on the court's giving a preliminary assessment of the claim as potentially successful. In the end, the domestic court accepted the plaintiff's claim and rendered a judgment on the merits; it implied that the civil proceedings had a separate purpose. To hold otherwise would have deprived them of any practical meaning, other than the simple "rubber-stamping" of the judgment in the applicant's criminal case.

45. The Government acknowledged that the notification had not reached the applicant until 13 July 2001, two days after the hearing. Therefore, it was not disputed between the parties that at the hearing of 11 July 2001 the applicant had no opportunity to present his case in any form whatsoever: personally or through a representative, orally or in writing.

46. The Government explained that the belated notification of the hearing to the applicant had been due to his transferral from one detention facility to another. They blamed the postal service for that delay and maintained that the authorities should not be held responsible for it. However, their argument is not convincing.

47. First, the Government did not specify for how long the notification was in the hands of the postal service. Therefore, it is possible that some of the delay is attributable to the administrations of remand prison IZ-39/1 and correctional colony OM-216/13.

48. Second, the authorities knew that the applicant was in a remand prison. On 5 June 2001 his conviction had entered into legal force and, like any other convicted criminal, he had waited to be transferred to a correctional institution. The courts could not have ignored this fact when calculating how much time was needed for a notification to reach him.

49. Third, the court sent the notification to the applicant's last known address, to the remand prison. However, the law clearly required the court secretary to check at the beginning of the process whether the notification had been received by the defendant (see Article 151 of the old CCP, cited

above). It is unclear whether the administration of the remand prison had informed the court of the change of the applicant's address owing to his transferral to the correctional colony (see Article 109 of the CCP). Be it as it may, the authorities showed a manifest lack of diligence and proceeded with the case without checking whether the applicant had been duly notified of the case against him.

50. The Court concludes that the hearing of 11 July 2001 was not in compliance with the requirements of Article 6 § 1 of the Convention. Nevertheless, the Court observes that the proceedings should always be examined as a whole. Therefore, it is necessary to examine to what extent the subsequent proceedings were capable of restoring the applicant's right to a fair hearing.

(b) Hearings of 6 September and 10 October 2001

51. The Court observes that the new hearing of the applicant's case took place on 6 September 2001. At that hearing the court examined the applicant's request for the reopening of the case. The applicant was able to submit his written observations; however, he was not present personally. Furthermore, he appealed against the decision not to reopen the case and in his appeal he was again able to state his position on the case. From that the Government concluded that the applicant had been able to "present his case" and, therefore, the hearings of 6 September and 10 October were in compliance with Article 6 of the Convention.

52. Even assuming that the applicant's "effective participation" in the proceedings was thereby secured, the Court does not find that the applicant was able to present his case on an equal footing with the opposing party. The applicant's requests for leave to appear were denied or ignored on the ground that the domestic law did not make provision for convicted persons to be brought from correctional colonies to the place where their civil claim was being heard. In contrast, the opposite party attended both hearings before the Gusevskiy Town Court and was free to attend the hearing before the court of appeal. In such circumstances the Court finds that the applicant was placed at a significant disadvantage *vis-à-vis* the opposing party (see *Groshev v. Russia*, no. 69889/01, § 29, 20 October 2005).

53. The Court also notes that the applicant made three applications to the courts to have a legal-aid lawyer appointed, but his requests were either implicitly dismissed or simply ignored. The Government argued that Russian law did not provide for legal aid in cases of that category. However, the Court observes that under section 11 of the USSR Advocates Act (see paragraph 26 above) it was in the courts' power to appoint a legal-aid lawyer to any litigant and for any type of case if that litigant had no sufficient means to pay for the lawyer himself.

54. Alternatively, the Government may be understood as claiming that the system of legal aid in civil cases was not operational in practice at that

time. However, this is not a convincing argument either. Indeed, as a general rule there is no right to free legal assistance in civil cases, but there are exceptions to this rule (see, for example, the case of *Airey*, cited above). In the Court's opinion, where the effective participation of a detainee in civil proceedings cannot be secured by other means, the law must provide for some form of legal aid. It is *a fortiori* true in the present case where the applicant did not appear to be a vexatious litigant. The authorities had refused to bring him to the court or to hold a court session in the correctional colony, whereas the other party had been present at the two hearings and had been free to attend the hearing before the court of appeal as well.

55. Finally, the Government noted that the applicant could have requested one of his relatives or friends to represent him. However, the availability of that option depended on too many factors out of the applicant's control. First of all, the applicant would have needed to have a relative or a friend willing to represent him. Furthermore, the Court emphasises that the authorities gave the applicant virtually no time to make necessary arrangements for the representation. The applicant did not receive any reply from the court to his original application for legal aid. He learned of the date of the second hearing (that of 6 September) only on 28 August 2001. The time left to the applicant, who was being detained, was barely enough to find a representative of his own. In addition, it took the colony administration seven days to post the applicant's letter in which he repeated his request for legal aid. As a result, the letter was received by the court when the hearing had already been held. There was a repeat of the same situation before the court of appeal: the judge notified the applicant of the date of the appeal hearing only one day in advance (on 9 October 2001). Even in the unlikely event that the notification reached the applicant on the same day, the applicant would have had no time to find any representative.

(c) The Court's conclusions

56. In the present case the authorities failed to notify the applicant of the civil case in which he was a defendant. Furthermore, they refused him the right to participate in the subsequent proceedings in person, ignored his numerous applications for legal aid, and did not give him any time to find his own representative. The plaintiff, on the contrary, fully enjoyed his procedural rights. In such circumstances, the Court concludes that the applicant was deprived of the opportunity to present his case effectively and on an equal footing *vis-à-vis* the opposite party. There has therefore been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

57. 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

58. The applicant maintained that he had lost his case because he had not been present at the court. Had he been present, the court would have ruled in his favour, and the car would have remained his property. He therefore claimed 350 euros (EUR), the price of the car, under the head of pecuniary damage.

59. Furthermore, the applicant claimed EUR 5,000 in respect of non-pecuniary damage.

60. The Government submitted that there had been no violation of the applicant's rights as set out in the Convention. In any event, they considered the applicant's claims excessive and unsubstantiated and suggested that the acknowledgment of a violation would constitute adequate just satisfaction.

61. The Court considers that, on the basis of the materials in its possession, the applicant suffered no material loss as a direct consequence of the violation of Article 6 § 1 of the Convention found by the Court in this case. As a result, no award for pecuniary damage should be made.

62. The Court considers at the same time that the applicant must have suffered frustration and a feeling of injustice as a consequence of the court's refusal to secure his attendance at the hearing. It considers that the non-pecuniary damage suffered by the applicant cannot be adequately compensated by the finding of a violation alone. Accordingly, making its assessment on an equitable basis, it awards the applicant EUR 500, plus any tax that may be chargeable on that amount.

B. Default interest

63. 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 6 § 1 of the Convention;

2. *Holds*

(a) that the respondent State is to pay the applicant, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 500 (five hundred euros) in respect of non-pecuniary damage, to be converted into Russian Roubles at the rate applicable on the date of settlement, plus any tax that may be chargeable;

(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;

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

Søren Nielsen
Registrar

Christos Rozakis
President