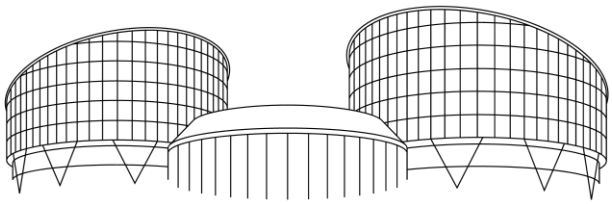

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF SYNGAYEVSKIY v. RUSSIA

(Application no. 17628/03)

JUDGMENT

STRASBOURG

27 March 2012

FINAL

27/06/2012

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

In the case of Syngayevskiy v. Russia**,**

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

Nina Vajić, *President,*
Anatoly Kovler,
Peer Lorenzen,
Elisabeth Steiner,
Khanlar Hajiyev,
Linos-Alexandre Sicilianos,
Erik Møse, *judges,*

and Søren Nielsen, *Section Registrar,*

Having deliberated in private on 6 March 2012,

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

PROCEDURE

1. The case originated in an application (no. 17628/03) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Russian national, Mr Vladimir Nikolayevich Syngayevskiy ("the applicant"), on 12 May 2003.

2. The applicant, who had been granted legal aid, was represented by Ms O. Preobrazhenskaya and Mr N. Tsoy, lawyers with the Centre of Assistance to International Protection. The Russian Government ("the Government") were represented by Ms V. Milinchuk, former Representative of the Russian Federation at the European Court of Human Rights.

3. The applicant alleged, in particular, that the criminal proceedings against him and his detention pending trial had been excessively long.

4. On 12 March 2007 the application was communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1957 and lives in Moscow.

A. The course of the investigation and the trial

6. On 1 August 2000 the Interior Department of Moscow opened criminal proceedings against the applicant and another person on suspicion of attempting to sell a flat that did not belong to them to several unrelated persons. On 2 August 2000 the applicant was charged with fraud.

7. On 28 December 2000 the investigation was completed and the case was sent for trial to the Khamovnicheskiy District Court of Moscow.

8. On 24 January 2001 the Khamovnicheskiy District Court declined jurisdiction and sent the case to the Tverskoy District Court of Moscow. The Tverskoy District Court referred the case to the Moscow City Court.

9. On 29 March 2001 the Presidium of the Moscow City Court held that the case should be tried by the Presnenskiy District Court of Moscow.

10. On 14 April 2001 Judge Y. of the Presnsnenskiy District Court, to whom the case had been allocated, fixed the opening hearing of the trial for 23 April 2001.

11. The hearing of 23 April 2003 was adjourned because Judge Y. was busy with another trial.

12. On 19 June 2001 Judge V. of the Presnenskiy District Court noted that the case had been assigned to him "because Judge Y. was absent".

13. The first trial scheduled in July 2001 (the date is unreadable) was adjourned until 30 July 2001 because the judge did not know when the applicant's co-defendant had received the indictment.

14. The hearing of 30 July 2001 was adjourned until 24 September 2001 because the victims and witnesses did not appear.

15. The hearing of 24 September 2001 was adjourned until 25 September 2001 because counsel for the applicant, the victims and witnesses did not appear.

16. The court held hearings on 25 September, 1, 3 and 4 October 2001.

17. On 4 October 2001 the Presnenskiy District Court remitted the case for additional investigation at the request of one of the victims. On 25 December 2001 the Moscow City Court upheld that decision on appeal.

18. On 30 January 2002 the case file was received by the investigator.

19. On 31 May 2002 the additional investigation was completed and the case was resubmitted for trial to the Presnenskiy District Court.

20. On 18 June 2002 the Presnenskiy District Court scheduled the opening trial hearing for 8 July 2002.

21. The hearing of 8 July 2002 was adjourned until 1 August 2002 because the applicant had dismissed his counsel and had asked the court to appoint him another lawyer.

22. The hearing of 1 August 2002 was adjourned until 9 September 2002 because the presiding judge was busy with another trial.

23. Hearings were held on 9, 11, 18, 19 and 25 September and 1, 3, 7 and 14 October 2002.

24. The hearing of 22 October 2002 was adjourned because counsel and witnesses did not appear. The following hearing was held on 25 October 2002. The hearing of 19 November 2002 was adjourned because counsel for the applicant did not appear. Further hearings were held on 21, 22 and 27 November 2002.

25. The hearing of 9 December 2002 was adjourned until 25 December 2002 because the presiding judge was busy with another trial.

26. Further hearings were held on 25 December 2002, 27, 30 and 31 January and 5, 20 and 28 February 2003.

27. During the trial the court questioned thirty witnesses and examined material evidence.

28. On 3 March 2003 the Presnenskiy District Court convicted the applicant of aggravated fraud and sentenced him to eight years' imprisonment.

29. On 13 March and 24 April 2003 the applicant notified the Moscow City Court of his intention to lodge an appeal as soon as he received a copy of the judgment of 3 March 2003 and a copy of the trial record.

30. On 29 April 2003 the applicant received a copy of the judgment of 3 March 2003.

31. On 13 May 2003 the applicant lodged his appeal submissions.

32. On 23 June 2003 the applicant received a copy of the trial record.

33. On 14 August and 9 September 2003 the applicant lodged additional appeal submissions.

34. On 28 August 2003 counsel for the applicant received the trial record and on 27 October 2003 lodged additional appeal submissions.

35. In his appeal submissions the applicant complained, in particular, that the judgment had been pronounced on 28 February 2003 in his absence.

36. The appeal hearing was scheduled for 13 November 2003.

37. On 13 November 2003 the Moscow City Court adjourned the appeal hearing and ordered an inquiry in order to clarify whether the applicant and his counsel had been present at the pronouncement of the judgment.

38. On 26 December 2003 the Judicial Affairs Department of the Supreme Court concluded that the first-instance judgment had been publicly pronounced on 3 March 2003 and that the applicant had been present at the pronouncement. On 5 January 2004 the report was sent to the Presnenskiy District Court.

39. On 26 January 2004 the Presnenskiy District Court extended the time-limit for appeal at the request of one of the victims.

40. On 10 February 2004 the case file was referred back to the Moscow City Court.

41. An appeal hearing was scheduled for 3 March 2004. It was, however, adjourned until 25 March 2004 at the request of the prosecutor, who asked for additional time to study the case file.

42. The hearing of 25 March 2004 was adjourned until 31 March 2004 because the video link to the applicant's detention facility did not work due to technical problems.

43. On 31 March 2004 the Moscow City Court held the appeal hearing, commuted the sentence to six years' imprisonment and upheld the remainder of the judgment of 3 March 2003.

B. Decisions concerning the application of a custodial measure

44. On 2 August 2000 the applicant was arrested. On 4 August 2000 he was released on an undertaking not to leave Moscow.

45. According to the applicant, between 4 and 17 August 2000 he was summoned by the investigator several times. During questioning on 17 August 2000 the investigator allegedly urged him to confess and threatened that if he refused he would be taken into custody.

46. On 18 August 2000 the applicant did not appear for questioning. On the same date a Moscow deputy prosecutor ordered his arrest.

47. On 21 August 2000 his name was put on the list of fugitives from justice.

48. On 29 August 2000 the applicant was rearrested in the Moscow region.

49. On 22 September 2000 the prosecutor extended his detention until 1 January 2001, finding that the applicant had failed to appear for questioning twice and had fled from justice.

50. The applicant challenged that decision before a court, claiming that he had a permanent place of residence and employment, a minor child and an unemployed wife. On 5 December 2000 the Tverskoy District Court of Moscow confirmed the prosecutor's decision, relying on the gravity of the offence, the applicant's previous criminal record and the risks of him absconding and interfering with the investigation.

51. On 24 January 2001 the Khamovnicheskiy District Court ordered that the applicant should remain in custody pending trial.

52. On 11 April 2001 the Presnenskiy District Court ordered that the applicant should remain in custody pending trial.

53. On 19 June 2001 the Presnenskiy District Court extended the applicant's detention until 5 October 2001, finding that the applicant had been charged with a serious criminal offence and that "his release would significantly hamper a thorough, comprehensive and impartial examination of the case".

54. The applicant appealed. He complained, in particular, that the District Court had not advanced sufficient reasons to justify his continued detention and that no hearings had been held during the six months that had passed since the referral of the case to court. On 17 September 2001 the

Moscow City Court upheld the extension order on appeal, finding that it had been lawful, well-reasoned and justified.

55. On 30 July 2001 the applicant asked to be released. The Presnenskiy District Court rejected his request, referring to the gravity of the charge.

56. On 4 October 2001 the Presnenskiy District Court held that the applicant should remain in custody pending additional investigation.

57. On 25 December 2001 the Moscow City Court upheld the decision of 4 October 2001 on appeal. It found that "the case had been remitted for additional investigation, therefore the extension of [the applicant's] detention was justified".

58. On 4 February 2002 the Moscow prosecutor extended the applicant's detention until 18 March 2002. On 19 February 2002 a deputy Prosecutor General of the Russian Federation extended the applicant's detention until 18 April 2002. Both prosecutors referred to the gravity of the charges, the applicant's previous criminal record and the risks of him absconding and interfering with the proceedings.

59. On an unspecified date the applicant petitioned the Tverskoy District Court of Moscow for release. He claimed that he had been unlawfully held in detention "during the investigation" for more than six months. He asked the court to take into account his positive references, permanent residence in Moscow and minor child.

60. On 20 March 2002 the Tverskoy District Court rejected his application for release, referring to the gravity of the charges, his character and previous criminal record. It further held that his detention was lawful.

61. On 16 April 2002 a deputy Prosecutor General extended the applicant's detention until 18 June 2002. He relied on the gravity of the charge, his character and his behaviour during the investigation, in particular his previous attempt to flee from justice.

62. On 18 June 2002 the Presnenskiy District Court ordered that the applicant should remain in custody pending the resumed trial.

63. On 1 July 2002 the Presnenskiy District Court ordered a further extension of the applicant's detention until 1 October 2002, repeating verbatim the wording of the detention order of 19 June 2001.

64. On 1 October 2002 the Presnenskiy District Court extended the applicant's detention until 1 January 2003, repeating verbatim the wording of the detention order of 19 June 2001.

65. In his grounds of appeal the applicant claimed that the extension had been unlawful and asked that he be released on an undertaking not to leave town, taking into account his permanent residence and family situation. On 21 November 2002 the Moscow City Court upheld the extension order, referring to the gravity of the charges and the risk of the applicant's absconding or reoffending. It found that there was no reason to apply a more lenient preventive measure.

66. On 25 December 2002 the Presnenskiy District Court ordered a further extension until 1 April 2003. It found that the applicant had been charged with a serious criminal offence and that he could hamper the examination of the case if released. On 27 May 2004 the Moscow City Court upheld the extension order on appeal.

II. RELEVANT DOMESTIC LAW

67. Until 1 July 2002 criminal-law matters were governed by the Code of Criminal Procedure of the Russian Soviet Federalist Socialist Republic (Law of 27 October 1960, "the old CCrP"). From 1 July 2002 the old CCrP was replaced by the Code of Criminal Procedure of the Russian Federation (Law no. 174-FZ of 18 December 2001, "the new CCrP").

68. "Preventive measures" or "measures of restraint" (*меры пресечения*) include an undertaking not to leave a town or region, personal guarantee, bail and detention on remand (Article 89 of the old CCrP, Article 98 of the new CCrP).

69. When deciding whether to remand an accused in custody, the competent authority is required to consider whether there are "sufficient grounds to believe" that he or she would abscond during the investigation or trial or obstruct the establishment of the truth or reoffend (Article 89 of the old CCrP). It must also take into account the gravity of the charge, information on the accused's character, his or her profession, age, state of health, family status and other circumstances (Article 91 of the old CCrP, Article 99 of the new CCrP).

70. Before 14 March 2001, detention on remand was authorised if the accused was charged with a criminal offence carrying a sentence of at least one year's imprisonment or if there were "exceptional circumstances" in the case (Article 96 of the old CCrP). On 14 March 2001 the old CCrP was amended to permit defendants to be remanded in custody if the charge carried a sentence of at least two years' imprisonment and if they had previously defaulted or had no permanent residence in Russia or if their identity could not be ascertained. The amendments of 14 March 2001 also repealed the provision that permitted defendants to be remanded in custody on the sole ground of the dangerous nature of the criminal offence they were alleged to have committed. The new CCrP reproduced the amended provisions (Articles 97 § 1 and 108 § 1) and added that a defendant should not be remanded in custody if a less severe preventive measure was available.

71. The Codes distinguished between two types of detention on remand: the first being "pending the investigation", that is while a competent agency – the police or a prosecutor's office – investigated the case, and the second "before the court" (or "during the trial"), that is while the case was being tried in court. Although there was no difference in practice between them

(the detainee was held in the same detention facility), the calculation of the time-limits was different.

72. After arrest a suspect may be placed in custody "pending the investigation". The maximum permitted period of detention "pending the investigation" is two months but it can be extended up to eighteen months in "exceptional circumstances". Extensions were authorised by prosecutors of ascending hierarchical levels (under the old CCrP) but must now be authorised by judicial decisions taken by courts of ascending levels (under the new CCrP). No extension of detention "pending the investigation" beyond eighteen months is possible (Article 97 of the old CCrP, Article 109 § 4 of the new CCrP). The period of detention "pending the investigation" is calculated to the date on which the prosecutor sent the case to the trial court (Article 97 of the old CCrP, Article 109 § 9 of the new CCrP).

73. From the date the prosecutor forwards the case to the trial court, the defendant's detention is "before the court" (or "during the trial"). Before 14 March 2001 the old CCrP set no time-limit for detention "during the trial". On 14 March 2001 a new Article 239-1 was inserted, which established that the period of detention "during the trial" could not generally exceed six months from the date the court received the file. However, if there was evidence to show that the defendant's release might impede a thorough, complete and objective examination of the case, a court could – of its own motion or on a request by a prosecutor – extend the detention by no longer than three months. These provisions did not apply to defendants charged with particularly serious criminal offences. The new CCrP establishes that the term of detention "during the trial" is calculated from the date the court received the file and runs to the date the judgment is given. The period of detention "during the trial" may not normally exceed six months, but if the case concerns serious or particularly serious criminal offences, the trial court may approve one or more extensions of no longer than three months each (Article 255 §§ 2 and 3).

74. Under the old CCrP, the trial court had the right to remit the case for "additional investigation" if it established that procedural defects existed that could not be remedied at trial. In such cases, the defendant's detention was again classified as "pending the investigation" and the relevant time-limit continued to apply. If, however, the case was remitted for additional investigation but the investigators had already used up all the time authorised for detention "pending the investigation", a supervising prosecutor could nevertheless extend the detention period for one additional month starting from the date he received the case. Subsequent extensions could only be granted if the detention "pending the investigation" had not exceeded eighteen months (Article 97 of the old CCrP).

THE LAW

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

75. The applicant complained that his right to trial within a reasonable time had been infringed and alleged that the orders for his detention had not been founded on sufficient reasons. He relied on Article 5 § 3 of the Convention, which reads as follows:

> "Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

A. Admissibility

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

B. Merits

1. Submissions by the parties

77. The applicant submitted that there had been no "relevant and sufficient" reasons to hold him in custody for more than two years and six months. The detention orders had been poorly reasoned and some of them had not contained any reasons at all. The courts had not cited any specific facts in support of their finding that the applicant might abscond or interfere with the proceedings. Before his arrest he had always come to be questioned at the investigator's invitation. He had not appeared on only one occasion after the investigator had threatened him. Moreover, the authorities had not displayed "special diligence" in the conduct of the proceedings. The case had not been a complex one and he had in no way contributed to the length of the proceedings. By contrast, the authorities had been responsible for a number of delays. For example, for several months the authorities had been unable to determine which court had jurisdiction to examine his case. The case had then been sent for additional investigation.

78. The Government submitted that the applicant's detention had complied with the requirements of Article 5 § 3 of the Convention and of the domestic law in force at the material time. It had been based on sufficient reasons. In particular, the domestic courts had referred to the gravity of the charges and the risk that the applicant might abscond or

hamper the proceedings if released. Their findings in that respect had been based on the applicant's previous conduct, namely the fact that he had failed to appear for questioning and had fled from justice. The Government further argued that the duration of the applicant's detention had not been excessive and had been accounted for by the witnesses' and counsel's failure to appear at hearings, by the applicant's numerous requests to the trial judges and the fact that the judge had been busy with other cases.

2. The Court's assessment

79. The applicant was taken into custody on 29 August 2000. On 3 March 2003 he was convicted. Thus, the period to be taken into consideration lasted slightly more than two years and six months.

80. It is not disputed by the parties that the applicant's detention was initially warranted by a reasonable suspicion of his involvement in the commission of fraud. The Court reiterates that the persistence of reasonable suspicion that the person arrested has committed an offence is a condition *sine qua non* for the lawfulness of that person's continued detention. However, after a certain lapse of time it no longer suffices. In such cases, the Court must establish whether the other grounds given by the judicial authorities continued to justify the deprivation of liberty. Where such grounds were "relevant" and "sufficient", the Court must also ascertain whether the competent national authorities displayed "special diligence" in the conduct of the proceedings (see *Labita v. Italy* [GC], no. 26772/95, §§ 152 and 153, ECHR 2000-IV).

81. The national authorities relied, in addition to the gravity of the charges against the applicant, on specific facts relating to his behaviour. In particular, they referred to his previous criminal record and to the fact that he had breached his undertaking not to leave Moscow and had absconded. Moreover, by failing to appear for questioning, he had obstructed the course of the investigation. The Court accepts that there was a risk that he might continue his attempts to obstruct the proceedings or abscond again. Therefore, the domestic courts could justifiably consider it necessary to keep the applicant in custody.

82. It remains to be ascertained whether the national authorities displayed "special diligence" in the conduct of the proceedings, taking into account the fact that the applicant was held in custody for a considerable period of time amounting to two years and six months.

83. The Court cannot but note that delays in the proceedings were more than once occasioned by failings on the part of the authorities. In particular, a delay of almost nine months occurred between the applicant's committal for trial on 28 December 2000 and the first trial hearing of 25 September 2001. That delay was attributable to the authorities. Thus, it took the domestic courts more than three months to determine which court had territorial jurisdiction over the applicant's case. After the case was finally

transmitted to the competent court on 14 April 2001, the trial could not start because the judge to whom the case was assigned was busy with another trial. It was not until two months later, on 19 June 2001, that the case was allocated to another judge. Two hearings scheduled in July 2001 were adjourned because certain procedural shortcomings had to be rectified and because the victims and witnesses did not appear. It took almost two months to fix the next hearing for 24 September 2001 and no reasons were provided for such a long delay.

84. Further, on 4 October 2001 the trial court had to return the case to the pre-trial stage to enable the prosecutor's office to remedy defects in the investigation. This led to a further delay of almost seven months, as the case was not resubmitted for trial until 31 May 2002. This delay is attributable to the domestic authorities (see, for similar reasoning, *Khudoyorov v. Russia*, no. 6847/02, §§ 188 and 216, ECHR 2005-X (extracts)). Finally, only two hearings were scheduled between 31 May and 9 September 2002. One of them was adjourned at the applicant's request and the other one was cancelled because the judge was busy with another trial.

85. Thus, although the case was sent for trial on 28 December 2000, it was not until September 2002 that the court started to hold regular hearings and examine evidence. Thus, the applicant was kept in custody while no significant procedural actions were taken. Having regard to these circumstances, the Court considers that the domestic authorities failed to display "special diligence" in the conduct of the proceedings.

86. There has therefore been a violation of Article 5 § 3 of the Convention.

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

87. The applicant complained that the criminal proceedings against him had been excessively long. He relied on Article 6 § 1 of the Convention which provides:

> "In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

A. Admissibility

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

B. Merits

1. Submissions by the parties

89. The applicant submitted that significant delays in the conduct of the trial had been attributable to the authorities. Thus, it had taken the domestic authorities more than three months to determine the territorial jurisdiction of the case. After a delay of five months, during which time no hearings had been held, the case had been sent for additional investigation. After the case had been resubmitted for trial seven months later, the hearings had been scheduled infrequently and many of them had been adjourned because victims, witnesses, or the prosecutor had not appeared. Many hearings had been adjourned without any reasons being provided. Those adjournments had led to an aggregated delay of more than three months. The applicant conceded that several hearings had indeed been adjourned at his request because his counsel had not appeared or because he had been feeling unwell. He noted at the same time that the aggregated delay caused by those adjournments had amounted to slightly more than a month. The most significant delays in the conduct of the trial had been caused by the conduct of the authorities.

90. As to the appeal proceedings, the applicant submitted that he had received a copy of the first-instance judgment on 29 April 2003, almost two months after its pronouncement, while a copy of the trial record had not been given to him until 23 June 2003, almost four months after the pronouncement of the judgment. His counsel had not received a copy of the trial record until 28 August 2003. That had inevitably delayed the lodging of the appeal submissions by the applicant. After he had finally lodged his appeal, it had taken the appeal court five months to conduct an inquiry to establish the date of the pronouncement of the first-instance judgment. The length of the appeal proceedings had therefore also been excessive.

91. The Government acknowledged certain delays in the proceedings. In particular, they conceded that the commencement of the trial had been delayed – firstly due to uncertainty as to which court had jurisdiction to try the applicant's case and subsequently for unclear reasons. In addition, some of the trial hearings had been adjourned for unclear reasons and the delay in the examination of the appeal could not be convincingly explained. At the same time, the Government submitted that the overall length of the proceedings had been reasonable, taking into account the complexity of the case, the number of witnesses heard by the court and the significant number of requests and appeals lodged by the applicant. Moreover, certain delays had been caused by the witnesses' and counsel's failure to appear for hearings through no fault of the authorities.

2. The Court's assessment

92. The period to be taken into consideration in the present case began on 2 August 2000 when the charges were brought against the applicant and he was arrested. It ended on 31 March 2004 when the Moscow City Court upheld his conviction on appeal. The proceedings thus lasted slightly less than three years and eight months before two instances.

93. The Court reiterates that the reasonableness of the length of proceedings is to be assessed in the light of the particular circumstances of the case, regard being had to the criteria laid down in the Court's case-law, in particular the complexity of the case, the applicant's conduct and the conduct of the competent authorities (see, among many other authorities, *Nakhmanovich v. Russia*, no. 55669/00, § 95, 2 March 2006). Furthermore, the fact that the applicant is held in custody requires particular diligence on the part of the authorities dealing with the case to administer justice expeditiously (see *Polonskiy v. Russia*, no. 30033/05, § 165, 19 March 2009, and *Korshunov v. Russia*, no. 38971/06, § 71, 25 October 2007).

94. The Court considers that the present case, concerning one charge of fraud and involving two defendants and thirty witnesses, was of some complexity. However, in the Court's view, the complexity of the case does not suffice, in itself, to account for the length of the proceedings**.**

95. As to the conduct of the parties, the Court notes that neither party provided details of the investigation, which lasted approximately five months. Such length does not appear excessive.

96. Turning to the trial stage of the proceedings, the Court observes that certain hearings were adjourned at the request of the defence, and that this slowed the proceedings down through no fault of the authorities.

97. On the other hand, the Court considers that more significant delays were attributable to the domestic authorities. In this connection, it refers to its finding under Article 5 § 3 of the Convention that the domestic authorities were responsible for a delay of at least one year and eight months between the end of the investigation in December 2000 and the commencement of the trial in September 2002 (see paragraphs 83 to 85 above). That finding is likewise valid in respect of the length of the criminal proceedings themselves.

98. Finally, turning to the appeal proceedings, the Court observes that it took the appeal court more than one year to schedule an appeal hearing. That delay was due to the belated service of the trial record and the first-instance judgment on the applicant and his counsel, which delayed the lodging of his appeal submissions. A further delay was caused by an inquiry into the circumstances in which the first-instance judgment had been pronounced. It took the domestic courts almost two months to establish on which date the pronouncement had taken place and whether the applicant and his counsel had been present. Two appeal hearings were then adjourned at the prosecutor's request and for logistical reasons. In view of the

foregoing, the Court considers that the delay in the examination of the applicant's appeal was attributable to the authorities.

99. Having regard to the considerable periods of inactivity attributable to the authorities and to the fact the applicant was held in custody during the entire period in question, the Court concludes that the length of the proceedings exceeded a "reasonable time". There has accordingly been a violation of Article 6 § 1 of the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

100. The Court has examined the other complaints submitted by the applicant. However, having regard to all the material in its possession, and in so far as these complaints fall within the Court's competence, it finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

101. 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

102. The Court observes that the applicant did not submit any claim for pecuniary or non-pecuniary damage. Accordingly, it considers that there is no call to award him any sum on that account.

B. Costs and expenses

103. The applicant asked for reimbursement of legal fees. He left the determination of the amount to the Court's discretion.

104. The Court observes that the applicant failed to make any specific claim for reimbursement of his costs and expenses as required under Rule 60 of the Rules of Court and did not produce documents in support of his claim. In these circumstances, the Court makes no award under this head.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints concerning the excessive length of the applicant's detention and the criminal proceedings against him admissible and the remainder of the application inadmissible;

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

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

4. *Decides* not to make an award under Article 41 of the Convention.

Done in English, and notified in writing on 27 March 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen	Nina Vajić
Registrar	President