

In the Case of Ledyayeva and Others v. Russia
Judgment, Strasbourg, France (26 October 2006)

EUROPEAN COURT OF HUMAN RIGHTS

<<http://www.asil.org/pdfs/ilibledyayeva061122.pdf>>

Author’s Note: The author worked in steel mills, a generation before the facts of this case. He can thus attest to some polluting features of the refining process recounted in the court’s statement of the facts.

The “British” spelling of certain words has been retained. The non-substantive Russian-language parenthetical restatements have been removed. Certain style changes were entered to facilitate readability.

Court’s Opinion:

...

PROCEDURE

1. The case originated in four applications ... against the Russian Federation lodged with the Court under Article 34 of the [European] Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”).

...

3. The applicants alleged that the operation of a steel-plant in close proximity to their homes endangered their health and well-being. They relied on Article 8 of the Convention.

...

THE FACTS

I. The Circumstances of the Case

A. Background

9. The ... applicants ... all live in the town of Cherepovets, Vologda region, an important steel-producing centre situated about 300 km north-east of Moscow.

10. The Cherepovets steel plant (“the steel-plant”) was built in the 1950s and owned by the Ministry of Black Metallurgy of the Russian Soviet Federative Socialist Republic (RSFSR). The plant was and remains the largest iron smelter in Russia and the main contributor to the environmental pollution: it is responsible for 95–97 per cent of industrial emissions into the town’s air. According to the annual report by the Federal Agency for State Statistics, in 2003 overall emissions from stationary sources of atmospheric pollution were 97 thousand tons for Moscow, a city of more than *ten million* people, and 349 thousand tons for Cherepovets, which counts less than *350,000* residents [italics added]. As a result, the concentration of certain dangerous substances in the residential areas around the steel-plant is high above the safe levels, as defined by the domestic [Russian] legislation.

11. In order to delimit the areas in which pollution caused by steel production could be excessive, the authorities established a buffer zone around the steel-plant premises—“the sanitary security zone.” Although this zone was, in theory, supposed to

separate the plant from the town's residential areas, in practice thousands of people (including the applicants' families) lived there.

12. The apartment buildings in the zone belonged to the plant and were designated mainly for its workers, who occupied the flats as life-long tenants. Since the 1970s several consecutive State programs have been adopted and implemented in order to reduce the pollution to acceptable levels and/or to resettle the inhabitants of the zone. Despite certain success in reducing the levels of atmospheric pollution and resettling some of the residents of the zone, these programs failed in bringing the atmospheric pollution down to the safe levels, as defined by Russian legislation.

13. The zone was first delimited in 1965. It covered a 5,000 metre-wide area around the territory of the plant. By municipal decree ... of ... 1992 the boundaries of the sanitary security zone around the plant were redefined. The width of the sanitary security zone was reduced to 1,000 metres from the territory of the plant.

14. In 1993 the steel-plant was privatized and acquired by "Severstal" PLC [private liability company]. In the course of privatisation the apartment buildings owned by the steel-plant and situated within the zone were transferred to the municipality.

15. In 2002 the municipality challenged its own decree no. 30 of 1992, which had established the zone's boundaries. On 13 June 2002 the Cherepovets Town Court declared decree no. 30 invalid. The Town Court ruled that at the relevant time the municipality had not had jurisdiction to define the [then reduced] width of the zone. The boundaries of the sanitary security zone around the Severstal facilities currently remain undefined.

16. For further details concerning the status of the zone and the environmental situation in Cherepovets in general see the judgement *Fadeyeva v. Russia* (no. 55723/00, §§ 10-19, and §§ 29-43, ECHR 2005...).

B. The Applicants' Housing Conditions

17. At the relevant time the applicants lived in the council houses situated within the sanitary security zone, as delimited by municipal decree no. 30 of 1992. They acquired those flats from the local authorities or the plant itself and lived there under the "social tenancy agreement."

...

C. Pollution Levels at the Applicants' Place of Residence and their Effects on the Applicant's Health and Well-being

1. Summary of the Findings in the Fadeyeva Judgment

23. On 19 May 2005 the Court adopted a judgement in the case *Fadeyeva v. Russia*, cited above. Ms Fadeyeva, the [only] applicant [in that case], lived within the sanitary security zone and complained about the effects of the operation of the "Severstal" steel-plant on her health and well-being.

24. In that judgment the Court found that the concentration of certain toxic substances in the air near the applicant's home had constantly exceeded the safe levels established by the Russian legislation. The Court also established that the nuisances endured by the applicant were in direct relation with the operation of the steel-plant.

25. In reaching that conclusion the Court relied ... on the information on air pollution in the whole town. In addition, the Court referred to the data collected by the State Agency for Hydrometeorology at the monitoring post ... closest ... to the applicant's house....

26. Information referred to in the *Fadeyeva* judgment is fully relevant for the purpose of the proceedings in the present four cases and will be taken into account by the Court. However, the parties produced certain new evidence as to the pollution in the area and its effects on the applicants' health and well-being. This information will be examined below.

2. Information specific to the present cases

(a) Evidence produced by the government

27. The ... data collected from that post showed that in 1999–2003 the concentration of dust, carbon disulphide and formaldehyde in the air constantly exceeded the “maximum permissible limits” (MPLs, safe levels of various polluting substances, as established by Russian legislation). Moreover, an over-concentration of various other substances, such as manganese, benzopyrene and sulphur dioxide, was registered during that period (for further details see § 28 et seq. of the *Fadeyeva* judgment [¶16], with further references). In 2004 an over-concentration of manganese (1.12 times higher than MPL), dust (1.18 times higher), and formaldehyde (6.29 times higher) was registered.

28. As regards the houses of the second and third applicants, ... the pollution levels registered there were slightly lower than those registered at post no. 1 [¶10]. Nevertheless, in 1999-2003 the concentration of formaldehyde in the air was from 2.6 to 4.4 times higher than the respective MPL. The concentration of carbon disulphide was from 1.24 to 3.6 times higher (except for 2002, when it did not reach dangerous levels). Other pollution levels were below MPL (except for the over-concentration of dust registered in 1999). In 2004 the over-concentration of the following substances was registered: nitrogen dioxide (1.06 times higher than MPL), carbon disulphide (1.2 times), and formaldehyde (3.73 times).

29. As regards general effects of industrial pollution on the population of Cherepovets, the Government produced a report, prepared in 2003 by the Mechnikov Medical Academy in St-Petersburg in order to delimit the boundaries of the sanitary security zone. ...

30. On the basis of that report the Chief Sanitary Inspector of the Russian Federation issued a certificate, confirming that the project “On creating a sanitary security zone around the Severstal PLC” was in conformity with the requirements of the relevant Russian legislation. That certificate concluded that the realisation of the project would allow by 2015 a complete reduction of the concentration of air contaminants to hygienic standards, which would “guarantee reaching acceptable levels of public health hazards.”

31. The Government further produced a set of materials, prepared by the “Severstal” PLC called “For the important contribution to the environmental protection.” These materials described the environmental protection policy of the plant, environmental risks assessment mechanisms in place, the management structure of the

environmental protection programs, particular technological measures implemented by the plant in order to reduce pollution levels and to normalise the environmental situation in the town, payments to the local budget for excessive pollution levels, participation of the plant in environmental education programs[,] etc.

32. The Government further produced a certificate, issued by the Bureau Veritas Quality International, which confirmed that the management systems of the “Severstal” PLC in the areas of environmental protection and occupational hazards were in accordance with the standards, applied by that organisation.

33. ... In sum, the Government claimed that the applicants’ diseases were of general character and had not been caused by their living near the steel-plant.

(b) Evidence produced by the applicants

34. The applicants claimed that the air pollution in the area where they lived was and continued to be above safe levels. Thus, according to a letter of the Cherepovets Centre for Sanitary Control, between 1990 and 1999 the average concentration of dust in the air within this zone exceeded the MPL by 1.6 to 1.9 times, the concentration of carbon bisulphide—by 1.4 to 4 times, the concentration of formaldehyde—by 2 to 4.7 times. The State Weather Forecast Agency of Cherepovets reported that the level of atmospheric pollution between 1997 and 2001 within the zone was rated as “high” or “very high.” Notably, a high concentration of hazardous substances, such as hydrogen sulphide, ammonia and carbonic acid was registered. According to a resolution of the Chief Health Inspector of 7 August 2000, the atmospheric pollution in the zone adversely affected public health, increasing the risk of cancer, as well as of respiratory and cardiac diseases.

35. According to the letter of the Head of the Environment Protection Department of the Vologda Region, in 2003 atmospheric pollution in the town was rated as “high.” Namely, over-concentrations of formaldehyde, benzopyrene, dust and carbon disulphide were registered.

36. As regards 2004, the applicants referred to the information published on the website of the Northern Department of the State Agency for Hydrometeorology. This source reported that in January–October 2004 the concentration of formaldehyde in Cherepovets was from 4 to 8 times higher than the respective MPL. According to an article published in the local newspaper “Golos Cherepovtsa” in May 2004 the concentration of dust registered at post no. 1 was 2 times higher than MPL, the concentration of nitrogen dioxide was 1.2 times higher, the concentration of carbonic oxide was 1.9 times higher. Pollution levels registered at the post no. 2 were 1.2, 2.6 and 1.6 higher than the corresponding MPLs.

...

38. Finally, the applicants relied on the expert report of Mark Chernaik, Ph.D., submitted to the Court in the *Fadeyeva* case. In that report Dr. Chernaik analysed the effects of several polluting substances, present in the town’s air in excessive quantities. As a result of his research Dr. Chernaik concluded that he would expect that the population residing within the sanitary security zone would suffer from excess incidences of various diseases, such as respiratory infections, cancer of nasal passages, chronic irritation of the eyes etc. Dr. Chernaik attributed these effects to the emissions of the steel industry (for further details see the *Fadeyeva* judgment, § 45).

39. In April 2005 Dr. Chernaik updated his report, taking into account data produced by the Government. In this new report Dr Chernaik concluded that emissions of harmful pollutants from the Severstal steel plant and ambient levels of pollutants in the vicinity of it had not substantially declined in recent years; levels of dust, carbon disulfide and formaldehyde were still above permissible levels and were generally higher at monitoring stations closest to the Severstal facility. Dr. Chernaik also found that there was no substantiation of the claim that the Severstal Company had complied with the European and international environmental requirements.

...

D. Domestic proceedings

1. Proceedings concerning the first applicant

42. On 8 December 1999 the Cherepovets Town Court rendered a judgment in that case. The court discharged the company from any obligation to resettle the applicant, and ordered the municipality to put the applicant on the general waiting list for the new housing. This judgment was upheld by the Vologda Regional Court on 1 March 2000. The applicant was placed on two waiting lists. In 2004 the first applicant was no. 7613 on the general waiting list and no. 3692 on the priority waiting list.

43. On 11 February 2002 the Presidium of the Vologda Regional Court quashed, by way of supervisory review, the judgment of 8 December 1999. The Presidium established that the applicant lived in the sanitary security zone of the plant, where the concentration of by-products of steel production regularly exceeded the health limits. The Presidium further criticized the judgment of 8 December 1999 in the following words:

The lower court did not assess whether the measures taken in order to resettle the residents of the sanitary security zone were adequate in comparison to the degree of the threat that the plaintiff encounters. As a result, the court did not establish whether providing [Ms Ledyayeva] with new housing under the provisions of the housing legislation by placing her on the waiting list could be regarded as giving her a real chance to live in an environment that is favourable for her life and health.

The Presidium further analysed the legislation and concluded that it [the comparative burden] was for the polluting enterprise to take all necessary measures and to “develop” the sanitary security zone around its premises. The Presidium remitted the case to the Cherepovets Town Court for a fresh examination.

...

45. On 12 July 2002 the Cherepovets Town Court rejected the applicant’s claims against the steel-plant. The court, referring to its judgment of 13 June 2006, held that the new boundary of the sanitary security zone had not been defined yet. The Federal Program of 1996, referred to by the applicant, contained such measure as the resettlement of the zone residents. However, that program has been abolished by Government Decree [2001] ..., which did not provide for any resettlement.

...

47. The court also observed that the “Severstal” PLC was aware of the environmental consequences of its activities and was taking measures in order to reduce their impact.

48. The court concluded that the “Severstal” PLC could not be held responsible for not resettling the applicant from the zone. On 14 August 2002 this decision was upheld by the Vologda Regional Court.

2. Proceedings concerning the second, third and fourth applicants

...

51. In each case the courts came to the same conclusion by using a similar line of reasoning, which can be summarised as follows.

52. The courts noted that, before 1993, the applicants’ flats had been owned by the Ministry of Steel Production, which had also owned the steel plant. Following the privatisation of the plant in 1993, it became a privately owned entity, while the applicants’ flats had become the property of the local authorities. The courts concluded that the company was therefore under no obligation to resettle the applicants.

53. The courts further recognised that the applicants lived in the sanitary security zone, where the concentration of dangerous substances and the level of noise exceeded the maximum limits permitted. The courts in principle accepted the applicants’ claims, stating that they had the right in domestic law to be resettled by the local authorities. However, no specific order to resettle the applicants was made by the courts in the operative parts of the judgments. Instead, the courts stated that the municipality should put the applicants on a waiting list to obtain new housing....

54. Enforcement proceedings were opened in this respect. In the absence of any special procedure for the resettlement of residents of the sanitary security zone, the applicants were put on the general waiting list for those entitled to better housing on social grounds. The second applicant was put on the list on 23 May 1999 with the number 6859, and the third and fourth applicants on 23 April 1999 with the numbers 6827 and 7032, respectively.

55. In 1999 the applicants brought new court proceedings, alleging that the judgments of 1996 had not been duly enforced. The applicants claimed flats in an ecologically-safe area, or the means to buy new flats themselves.

56. The Cherepovets Town Court dismissed their claims. The court established that no special waiting list existed for the zone residents and that on different dates the applicants had been put on the general waiting list. Therefore, the judgments of 1996 had been duly executed, and there was no need to undertake any further measures. These decisions were upheld by the Vologda Regional Court with respect to the second, third and fourth applicants on 4 August, 22 September and 7 July 1999 respectively.

II. Relevant Domestic Law and Practice

57. Article 42 of the Constitution of the Russian Federation reads as follows:

Everyone has the right to a favourable environment, to reliable information about its state, and to compensation for damage caused to his health or property by ecological offences.

58. Pursuant to the Federal Law of 30 March 1999 on Sanitary Safety, the Federal Sanitary Service establishes State standards for protecting public health from environmental nuisances. In particular, these standards are applied in assessing air quality in cities: atmospheric pollution is assessed in comparison to the maximum permissible limits (MPLs [¶27–28 & 34 above]), the measure which defines the concentration of various toxic substances in the air. ... It follows ... that if the MPLs are not exceeded the air is safe for the health and well-being of the population living in the relevant area. ... [T]he air quality in the residential zones of cities should not exceed 1.0 MPL for all categories of toxic elements, and should not exceed 0.8 MPL in recreational zones.

59. Pursuant to the Atmospheric Protection Act, the federal environmental agency establishes environmental standards for various types of polluting sources (cars, farms, industrial enterprises etc). These general standards are applied to specific enterprises by the regional environmental agencies. In principle, an industrial enterprise's operations should not result in pollution which exceeds the MPLs. However, for the sake of a region's economic development, a regional environmental agency may issue a temporary permit authorising an enterprise to exceed these norms. The permit should contain a schedule for the phased reduction of toxic emissions to safe levels.

...

1. Legislation

60. Every polluting enterprise must create a “sanitary security zone” around its territory—a buffer area separating sources of pollution from the residential areas of a city. The levels of pollution in this buffer area may exceed the MPLs.

...

62. Regulation 3.6 of the 1989 city planning regulations provided that an enterprise must take all necessary measures in order to develop its sanitary security zone in accordance with the law, with a view to limiting pollution.

63. Regulation 3.8 of the 1989 town planning regulations provided that no housing should be situated within the sanitary security zone. ... Art. 43 of the Town Planning Code of 1998 provided:

Industrial zones are intended for placement of industrial objects, public utilities, warehouses... as well as for sanitary security zones thereof.

Development of sanitary security zones should be conducted at the expense of the owners of the industrial objects.

Placement of houses, kindergartens, schools, hospitals, [...] within the sanitary security zones of industrial objects [...] is prohibited.

64. According to ... the 2001 sanitary regulations, a project to develop the zone may include, as a high-priority objective, resettlement of the zone's residents. However, there is *no direct requirement to resettle the residents* of the sanitary security zone around an *enterprise which is already in operation* [italics added].

2. Practice

67. It follows from a judgment of the North-Caucasus Circuit Federal Commercial Court (decision of 3 June 2003, No. 08-1540/2003) that the authorities may discontinue

the operation of an enterprise which has failed to create a sanitary security zone around its premises in accordance with the law.

...
THE LAW

I. Alleged Violation of Article 8 of The Convention

74. The applicants complained that there had been a violation of Article 8 of the [European] Convention [for the Protection of Human Rights and Fundamental Freedoms] on account of the State's failure to protect their private lives and homes from severe environmental nuisance arising from the industrial activities of the Severstal steel-plant.

75. Article 8 of the Convention, insofar as relevant, reads as follows:

1. Everyone has the right to respect for his private and family life, [and] his home

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 ... public safety or the economic well-being of the country, ... for the protection of health ..., or for the protection of the rights and freedoms of others.

A. The Government's Submissions

...
77. First, the Government emphasised that the applicants had moved to the houses situated within the zone voluntarily, and, therefore, the State could not be held responsible for resettling them outside of it.

...
80. Fourthly, the Government claimed that, although the law provided for suspension or cessation of industrial activities of the polluting enterprises, "such question has never come up" with respect to the Severstal steel-plant. Since the 1980s, the volume of overall emission of the steelplant was reduced almost to one third. The most dangerous industrial units were closed and the emissions of high-risk chemical substances were reduced by 100 times. Every year the "Severstal" PLC spent about 250 million Roubles on environmental protection programs. In 2000 the company was audited by the "Bureau Veritas Quality International," an international organisation, which established that the system of the environmental protection management of the company was in conformity with international standards. Further, in 1999 the Severstal steel-plant underwent technical and ecological expertise of the European Bank of Reconstruction and development (EBRD). As a result, the operation of the steel-plant was recognised to be in conformity with EBRD standards. The Government concluded that these aspects of the present cases permitted to distinguish them from the case *López Ostra v. Spain* (judgment of 9 December 1994, Series A no. 303-C, p. 46-47, § 16-22), where the plant had operated without the appropriate licence [*sic*] and had been finally closed.

81. Finally, the Government argued that the authorities had conducted regular examinations of the public health situation and had adopted various programs in order to improve it. In recent years the implementation of a number of federal and municipal

programmes, as well as projects funded by the “Severstal” PLC resulted in a reduction of pollution in Cherepovets.

...

B. The Applicants’ Submissions

83. The applicants submitted that the histories of how and why their families had moved to the houses located within the zone had no relevance for the purpose of the present proceedings.

...

85. The applicants asserted that the emissions from the Severstal steel plant exceeded and continued to exceed safe levels. The Government’s argument that the steel plant operated in full compliance with domestic legislation could not be upheld. As to the link between the state of their health and the steel-plant’s industrial emissions, the *applicants* noted that they have *never alleged that the sole cause of their diseases was the operation of the steel-plant* [italics added]. The primary argument that they had consistently made was the fact that the persons suffering from such illnesses were more vulnerable than others to living in such an unhealthy environment.

...

C. The Court’s Assessment

1. Nature and Extent of the Alleged Interference with the Applicants’ Rights under Article 8 of the Convention

90. Whereas in many cases the existence of an interference with a Convention right is evident and does not give rise to any discussion, in other cases it is a subject of controversy. The present four applications belong to this second category. [Recall from textbook §7.2.A. that treaties are often cast in general terms, so as to encourage greater participation. That practice results in broadly worded provisions that are not always susceptible to easy resolutions. The task often falls to a court to make the case-by-case judgment call as to what the signatories meant by the language in contention, such as the above Article 8, as quoted in ¶75].

...

97. The Court does not agree with the applicants that the circumstances in which they had acquired their flats were absolutely irrelevant. However, it appears that at the time the applicants were unable to make an informed choice, or were not in a position to reject the housing offered by the State, or move elsewhere at their own expense. Thus, it cannot be claimed that the applicants themselves created the situation complained of or were somehow responsible for it.

...

100. In sum, after having examined all the evidence in the case-file, the ... Court will refrain from making any conclusive findings as to whether or not the industrial pollution was the cause of the applicants’ specific diseases [leaving proof of causation for another day]. Nevertheless, the Court concludes that the actual detriment to the applicants’ health and well-being reached a level sufficient to bring it within the scope of Article 8 of the Convention [should they be able to establish causation in another Russian proceeding].

2. Justification under [Convention] Article 8 § 2

101. As in *Fadeyeva*, the Court finds that the applicants' complaints in the present cases fall to be analysed in terms of a positive duty on the State to take reasonable and appropriate measures to secure the applicant's rights under Article 8 § 1 of the Convention.... Further, the Court considers that the continuing operation of the Severstal steel-plant contributed to the economic system of the Vologda region and, to that extent, served a legitimate aim within the meaning of paragraph 2 of Article 8 of the Convention. It remains to be determined whether, in pursuing this aim, the authorities have struck a fair balance between the interests of the applicants and those of the community as a whole [which presents the question of why this international court was not in a position to provide more guidance as to its views, given the quality and quantity of evidence in this edited and the full version of this case].

...

105. Turning to the present cases, the Court observes that, as regards possible resettlement, the first, the second and the third applicants were in the same position as Ms Fadeyeva, since none of them has been resettled or received compensation for the resettlement costs.

...

107. As regards measures of general character, undertaken by the Government in order to solve the problem of pollution, the Court notes the following. The Government referred to a number of studies carried out in order to assess the environmental situation around the Severstal steel-plant. However, the Government have failed to produce these documents or to explain how they influenced the public policy vis-à-vis the plant. The only relevant report produced to the Court (see paragraph 29 above) was commissioned in 2003 by the plant itself in order to delimit its sanitary security zone. The information contained in that report was definitely useful for defining the extent of the environmental problem and its consequences, but it did not impose any particular obligations on the plant or the State authorities.

...

109. Pursuing that matter, the Court notes that the Government did not produce the plant's operating permit, licence [*sic*] or other documents which would establish the Government's policy regulating the plant's industrial activities. The Government did not explain how the plant's compliance with the operating conditions of its licence [*sic*], permit or general environmental standards was monitored and how it was enforced. The Government's argument that the plant functioned in compliance with the domestic and international environmental standards is not convincing. Thus, the fact that the management system of the plant was certified by an international organisation does not mean that the plant's emissions were at acceptable levels. The same concerns the audit by the EBRD experts, referred to by the Government. Nor did the Government provide the Court with a copy of the audit report, neither it explained what had been the purpose of it and its findings and recommendations.

110. ... The Court concludes that, despite the wide margin of appreciation left to the respondent State, the authorities failed to take appropriate measures in order to protect the applicants' right to respect for their homes and private lives against serious environmental nuisances. In particular, the authorities have neither resettled the applicants outside the dangerous zone, nor have they provided for a compensation for

those seeking the resettlement. Furthermore, it appears that the authorities failed to develop and implement an efficient public policy which would induce the steel-plant to reduce its emissions to the safe levels within a reasonable time. There has accordingly been a violation of Article 8 of the Convention.

II. APPLICATION OF ARTICLE 41 OF OHE CONVENTION

111. 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.

112. Each of the applicants claimed EUR 10,000 for non-pecuniary [non-economic] damage they had suffered because of the adverse effects of the pollution, they and their families had to endure for up to 40 years. ...

113. The Government claimed that the applicants' claims for non-pecuniary damages were excessive and unreasonable. If the Court finds a violation of the applicants' rights, it would be by itself [i.e., without a monetary award] a sufficient just satisfaction [having proven the government wrong]. Alternatively, the Government claimed that a symbolic [e.g., 1 Euro] amount would be equitable under the head of non-pecuniary damages. ...

114. As regards non-pecuniary damages, the Court is prepared to accept that the applicants' prolonged exposure to industrial pollution caused them much inconvenience, mental distress and even a degree of physical suffering. At the same time the Court recalls that the Convention entered into force in respect of Russia on 5 May 1998; therefore, the Court has no competence ... to make an award for the period prior to this date. In sum, taking into account various relevant factors, such as age, the applicant's state of health and the duration of the situation complained of, and making an assessment on an equitable basis in accordance with Article 41, the Court awards the applicants under the head of non-pecuniary damages the following amounts:

- (i) EUR 7,000 to the first applicant,
 - (ii) EUR 8,000 to the second applicant,
 - (iii) EUR 8,000 to the third applicant,
 - (iv) EUR 1,500 to the fourth applicant,
- plus any tax that may be chargeable on these amounts.

115. As regards pecuniary damages, the Court notes that, like in *Fadeyeva*, in the present four cases the applicants failed to substantiate any material loss in respect of the period prior to the adoption of the present judgment (see § 140 of the *Fadeyeva* judgment).

116. As regards future measures to be adopted by the Government in order to comply with the Court's finding of a violation of Article 8 of the Convention, the Court notes the applicants in this respect are in different situations. The fourth applicant has

been resettled outside the zone in 2000. Having regard to the information available and the scope of the present case, the Court considers that her individual problem has thus been solved and the Government has no further obligations vis-à-vis this applicant under the Convention, apart from paying her compensation for the past sufferings (see paragraph 114 above).

117. As regards other applicants, the Court notes that they are still residing within the zone. The Court notes that the resettlement of them in an environmentally safer area (a measure sought by the applicants before the domestic instances) would be only one of many possible solutions. The Court is conscious that there are other possible ways of reducing the negative effects of the plant's activities on those who, like the applicants, reside in the vicinity of it. Therefore, given the complexity of the situation, and in line with its approach to the *Fadeyeva* case, cited above, the Court will not prescribe any particular legal, administrative or other measure to be adopted by the Government. According to Article 41 of the Convention, by finding a violation of Article 8 in the present case, the Court establishes the Government's obligation to take appropriate measures to remedy the Applicant's individual situation. Subject to monitoring by the Committee of Ministers, the respondent State remains free to choose the means by which it will discharge its legal obligation under Articles 41 and 46 of the Convention, provided that such means are compatible with the conclusions set out in the present judgment, in particular, with the two alternative solutions examined by the Court (see paragraph 110 above) [thus leaving it to the good faith of the Russian government, as it is often said, to "do the right thing"].

...