

Late last week, the prosecution's move for an extension of the arrest provoked a heated discussion at the Khamovniki Courthouse. On Friday, Judge Danilkin again granted the request, thus extending the measure of restraint for another three months, until November 17, 2009. Let us suppose for a second that the court agreed with the defense and refused to grant the prosecution's groundless request; would that mean that the defendants would be released and walk free?

*No. Even without this arrest under a second case (which we sometimes refer to as "double bars") Mikhail Khodorkovsky and Platon Lebedev are in custody as it is, serving their eight-year penalty under a sentence of the Meshchanskiy Court on the first case and have two more years to go until 2011. Clearly, in such isolation, a convict cannot escape, destroy evidence, or influence witnesses, unless he is in collusion with the colony administration. The prosecutors, obviously, can provide no information to the effect. And that, in turn, means that there are no legal grounds for extending arrest as the measure of restraint on the new case. The grounds are lacking for the simple reason that even without the measure Khodorkovsky and Lebedev would not become free men before they serve their term and could not, no matter how badly they wished to do so, perform any of those actions to prevent which suspects and defendants are arrested.*

The defense has repeatedly raised the issue that arrest in this case is an artificial measure of restraint, whose objective is to hold the convicts in custody at the pretrial detention center, which is harsher than a minimum-security colony. And does Moscow or Moscow Oblast have such minimum-security colonies where Khodorkovsky and Lebedev could continue serving their original term and at the same time take part in court sessions at the Khamovniki Courthouse?

*Of course, there are such colonies. One of them is even located in Zelenograd, administratively part of Moscow. It was only for Mikhail Khodorkovsky and Platon Lebedev that a colony could not be found closer than on a border with China 7,000 kilometers from Moscow for one and in Kharp Village beyond the Arctic Circle for the other. But in this instance, even this is not an issue, because there does not need to be such a colony in Moscow. Ensuring a convict's participation in court sessions on a different case, including as a defendant, is a very simple technical question. The law (Article 77.1 of the Russian Correctional Code) stipulates that for that purpose a convict may be transferred under a court decision to a pretrial detention center, but there he must be ensured conditions (security level) specified in the court sentence, not the standard conditions, which is prison security level.*

How specifically is the minimum-security colony different from the pretrial detention center, where Khodorkovsky and Lebedev find themselves now under arrest?

*In minimum-security colonies, the convicts live in spacious rooms, dormitories, have much more freedom of movement and a chance to work and spend much more time outdoors. More visits and parcels are allowed there. A pretrial detention center is the same as prison, where the entire living space is a small cell, whose door is always locked. There is a one-hour-long walk per day in a tiny little enclosed courtyard with bars for a ceiling, and a minimum of visits and parcels. Notably, a draft law was submitted to the State Duma some time ago intended to make one day in a pretrial detention center equal to 1.5 or two days in a colony. The draft law was blocked, and we have grounds to believe that that happened precisely to avoid "accidentally" easing the fate of our clients, who have spent a large chunk of their eight-year term in pretrial detention centers.*

Why does the prosecution continue to insist on continued custody for Khodorkovsky and Lebedev, misleading at the same time the public by saying that Khodorkovsky and Lebedev may go into hiding or influence the trial if arrest as the measure of restraint is canceled?

*That happens because everything that has been happening with Mikhail Khodorkovsky and Platon Lebedev beginning from 2003 is unlawful reprisal, not rule of law and justice. And even having achieved unlawful conviction, their persecutors are seeking to break them morally and for that create for them as hard, harsh, and inhuman conditions as possible. Of course, they can create such conditions defying the law and abusing power. But they have not managed to break these two men, and they will not manage to do that no matter what.*

Given that Khodorkovsky and Lebedev have been in pretrial-detention-center security conditions beginning from December of 2006, when they got transferred to Chita, they have been serving their term in harsher conditions than those prescribed by court for almost three years (in reality, almost five of the past six years of their eight-year term have been spent by Khodorkovskiy and Lebedev in pretrial-detention-center security conditions). Why do the authorities manifest such cruelty with respect to Khodorkovsky and Lebedev?

*For the same reason: to break them one way or another. To these examples of cruelty we should add discrimination even compared to "standard" prison conditions of the pretrial detention center: unlawful penalties, transfers to isolation punishment cells on invented grounds, 24-hour video surveillance, and reduction of the time of even those rare visits that are allowed: while the law stipulates three-hour visits, they almost never last more than 1.5-2 hours.*