



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

FOURTH SECTION

CASE OF SOLOMONIDES v. TURKEY

(Application no. 16161/90)

JUDGMENT
(Just satisfaction)

STRASBOURG

27 July 2010

FINAL

22/11/2010

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

In the case of Solomonides v. Turkey,

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

Nicolas Bratza, *President*,
Giovanni Bonello,
Ljiljana Mijović,
David Thór Björgvinsson,
Ján Šikuta,
Päivi Hirvelä,
Işıl Karakaş, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 6 July 2010,

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

PROCEDURE

1. The case originated in an application (no. 16161/90) against the Republic of Turkey lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Cypriot national, Mr Antonakis Solomonides (“the applicant”), on 26 January 1990.

2. In a judgment delivered on 20 January 2009 (“the principal judgment”), the Court held that the administrator of the applicant's estate (Mrs Rodothea Karaviotou) had standing to continue the present proceedings in his stead, dismissed various preliminary objections raised by the Turkish Government and found a continuing violation of Article 1 of Protocol No. 1 to the Convention by virtue of the fact that the applicant was denied access to and control, use and enjoyment of his properties as well as any compensation for the interference with his property rights. Furthermore, it found that it was not necessary to examine the applicant's complaints under Articles 1 and 14 of the Convention (*Solomonides v. Turkey*, no. 16161/90, §§ 13, 26, 39, 43 and 45 and points 1-4 of the operative provisions, 20 January 2009).

3. Under Article 41 of the Convention the administrator of the applicant's estate sought just satisfaction of 3,913,615 Cypriot pounds (CYP – approximately 6,686,802 euros (EUR)) for the deprivation of the applicant's properties concerning the period between January 1987, when the respondent Government accepted the right of individual petition, and September 1999. A valuation report, setting out the basis of the applicant's loss, was appended to her observations. Moreover, in January 2008 she stated that the claim for pecuniary losses needed to be updated according to

the increase of the market value of land in Cyprus (between 10 and 15% per annum). Furthermore, the administrator of the applicant's estate claimed CYP 40,000 (approximately EUR 68,344) in respect of non-pecuniary damage and CYP 6,090.93 (approximately EUR 10,406) for the costs and expenses incurred before the Court.

4. Since the question of the application of Article 41 of the Convention was not ready for decision, the Court reserved it in whole and invited the Government and the applicant to submit, within three months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (*ibid.*, §§ 57 and 60, and point 5 of the operative provisions).

5. On 13 July 2009 the Court invited the administrator of the applicant's estate and the Government to submit any materials which they considered relevant to assessing the 1974 market value of the properties concerned by the principal judgment.

6. The administrator of the applicant's estate filed comments on this matter; the Government requested the Court to discontinue the examination of the application by reason that the administrator of the applicant's estate had applied to the Immovable Property Commission (the "IPC") instituted by the authorities of the "TRNC" (see paragraphs 9-13 below).

7. On 4 September 2009, the administrator of the applicant's estate was invited to submit written evidence that the properties at stake were still registered in the name of the applicant's heirs or to indicate and substantiate any transfer of ownership which might have taken place.

8. On 28 September 2009 the administrator of the applicant's estate produced a "search certificate of immovable property" issued in 2009 by the Department of Lands and Surveys of the Republic of Cyprus, stating that "in accordance with our records" 41 out of the 44 plots of lands referred to in the application were "registered in the name [of] Antonakis Solomonides of Nicosia District – Cyprus". For the 3 remaining plots of land the administrator of the applicant's estate produced "affirmations of ownership of Turkish-occupied immovable property" issued on 16 September 2009 in favour of "Solomonides Christou Antonakis" by the Department of Lands and Surveys of the Republic of Cyprus.

9. On 10 December 2009 the Government produced a copy of an application made on 16 March 2009 by Mrs Rodothea Karaviotou to the IPC. It was stated that in her quality of administrator of the estate of late Antonakis Solomonides, Mrs Karaviotou was "the same ... as the applicant to the European Court of Human Rights in the application no. 16161/90" and that she had filed the application "for the settlement of the properties registered in the name of late Antonakis Solomonides and/or owned in shares by him and which are still in [the] "TRNC)". She recalled the claims for just satisfaction presented to the Court and declared that she was ready to "discuss any serious offer concerning the above case". Finally,

Mrs Karaviotou undertook the engagement to preserve the confidentiality of the negotiations before the IPC.

10. On 23 March 2009 Mrs Karaviotou's application was communicated to the "TRNC" Attorney-General, who submitted his observations on 24 July 2009. These observations were translated into English and notified to Mrs Karaviotou. However, the latter refused service of this document and of the notice for directions. She was informed by telephone that the hearing for directions would take place on 15 September 2009. On that date, the officer appearing on behalf of the "TRNC" Attorney-general requested Mrs Karaviotou to produce a search certificate in respect of the properties referred to in the application and which were located at the Mia Milea area of Nicosia as well as documents showing that the mortgage debts raised on the applicant's properties had been paid off. Mrs Karaviotou failed to comply with this request.

11. In December 2009 Mrs Rodothea Karaviotou produced before the Court the following declaration, which she had addressed to the IPC:

"I hereby would like to inform you that I, Mrs Rodothea Karaviotou, in my capacity as administrator of the estate of the late Antonakis Chr. Solomonides, wish to withdraw the application made to the Immovable Property Commission on behalf of the deceased.

Furthermore, I would like to express the fervent wish of Mr Solomonides' heirs that the procedure of their father's application for damages to the ECHR [shall] not be discontinued, in any case, as a result of a possible misunderstanding on my part and through misleading information I received, regarding the said application."

12. By a decision (no. 131) of 11 December 2009, the IPC decided to dismiss Mrs Karaviotou's application.

13. In a fax of 1 February 2010 the applicant's lawyer stated that Mrs Karaviotou had not consulted him or his client's heirs (the two daughters of Mr Solomonides) as to the steps she had taken after the delivery of the Court's principal judgment. Misinterpreting the Court's invitation to "notify ... any agreement that [the parties] may reach", Mrs Karaviotou had been under the impression that she had to apply to the IPC in order to reach a settlement on the issue of compensation. She subsequently realised that she had made a mistake and withdrew her application to the IPC.

14. On 25 May 2010, after the expiry of the relevant time-limit, the Government submitted comments on the issue of just satisfaction and the IPC's estimates of the applicant's losses. Having regard to the exceptional circumstances of the present case, in which the administrator of the applicant's estate had first submitted and then withdrew a claim for compensation before the IPC, on 1 June 2010 the Court decided to admit these submissions to the file and to transmit a copy of them to the applicant's representative for information.

THE LAW

I. PRELIMINARY ISSUE

15. In a letter of 22 April 2010 the Government requested the Court to decide that it was not necessary to continue the examination of the administrator of the applicant's estate's just satisfaction claims. They invoked the principles affirmed by the Grand Chamber in *Demopoulos and Others v. Turkey* ([GC] (Dec.), nos. 46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04, 21819/04, 1 March 2010) and argued that the administrator of the applicant's estate should address her claims to the IPC instituted by the "TRNC" Law 67/2005. They reiterated their position on the issue of exhaustion of domestic remedies in this and other relevant cases in a letter of 8 June 2010.

16. The Court first observes that the Government's submissions were unsolicited; they were received by the Registry long after the expiration of the time-limit for filing comments on just satisfaction and almost two months after the delivery of the Grand Chamber's decision in *Demopoulos*. It could therefore be held that the Government are estopped from raising the matter at this stage of the proceedings.

17. In any event, the Court cannot but reiterate its case-law according to which objections based on non-exhaustion of domestic remedies raised after an application has been declared admissible cannot be taken into account at the merits stage (see *Demades v. Turkey* (merits), no. 16219/90, § 20, 31 July 2003, and *Alexandrou v. Turkey* (merits), no. 16162/90, § 21, 20 January 2009) or at a later stage. This approach has not been modified by the Grand Chamber, as the cases of *Demopoulos and Others* had not been declared admissible when Law 67/2005 entered into force and when Turkey objected that domestic remedies had not been exhausted.

18. Furthermore, the Court considers that its previous finding in the present case that the administrator of the applicant's estate was not required to exhaust the remedy introduced by Law 67/2005 constitutes *res judicata*. It recalls that after the compensation mechanism before the IPC was introduced, the Government raised an objection based on non-exhaustion of domestic remedies. This objection was rejected in the principal judgment (see paragraph 25 of the principal judgment and point 2 of its operative provisions). The Government also unsuccessfully requested the referral of the case to the Grand Chamber.

19. It follows that the Government's request to stay the examination of the administrator of the applicant's estate's claims for just satisfaction should be rejected. The Court will therefore continue to examine the case under Article 41 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. 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. Pecuniary and non-pecuniary damage

1. *The parties' submissions*

(a) **The applicant**

21. In her just satisfaction claims of September 1999, the administrator of the applicant's estate requested CYP 3,913,615 (approximately EUR 6,686,802) for pecuniary damage. She relied on an expert's report assessing the value of the applicant's losses which included the loss of annual rent collected or expected to be collected from renting out the plots of land concerned by the principal judgment, plus interest from the date on which such rents were due until the day of payment. The rent claimed was for the period dating back to January 1987, when the respondent Government accepted the right of individual petition, until September 1999. The administrator of the applicant's estate did not claim compensation for any purported expropriation since the deceased was still the legal owner of the properties. The evaluation report contained a description of the Districts of Nicosia, Famagusta and Kyrenia, in which the applicant's plots were situated.

22. The valuation report referred to 44 plots of land. Its starting point was the annual rental value of each property in 1974, calculated on the basis of a percentage (between 5 and 7%) of the market value of the plots or assessed by comparing the rental value of similar lands at the relevant time. This sum was subsequently adjusted upwards according to an average annual rental increase of 12% for the plots with residential use and of 7% for agricultural lands. Compound interest for delayed payment was applied at a rate of 8% per annum, the total sum due for interest being CYP 1,245,652 (approximately EUR 2,128,321).

23. According to the expert, the total 1974 market value of the 44 plots of land owned by the applicant was CYP 350,610 (approximately EUR 599,052), while the total rental value was CYP 22,127.87 (approximately EUR 37,807).

24. In a letter of 28 January 2008 the administrator of the applicant's estate observed that a long lapse of time had passed since she had presented

her claims for just satisfaction and that the claim for pecuniary losses needed to be updated according to the increase of the market value of land in Cyprus (between 10 and 15% per annum).

25. On 6 October 2009 the administrator of the applicant's estate produced a revised valuation report which, on the basis of the criteria adopted in the previous report, concluded that the sum due for the loss of use and for statutory interest for the period from 1 January 2000 until 31 December 2009 was EUR 16,286,439. The whole sum claimed under the head of pecuniary damage was thus EUR 22,913,073.

26. The expert appointed by the administrator of the applicant's estate declared that the “valuation [was] based on comparable plots where available in the occupied part of Cyprus and comparable areas in the unoccupied parts of Cyprus” and that according to his experience the “1974 prices used [were] fair, reasonable and accurate ... beyond dispute”.

27. The administrator of the applicant's estate also submitted a statement made on 5 October 2009 by Mrs Efi Savvides, a District Land Officer in Nicosia, which reads as follows:

“I ... hereby certify that for the preparation of the original valuation reports of the application [no.] 16161/1990, *Solomonides v. Turkey* ... the Department of Lands and Surveys has collaborated with the private practice valuers ... by giving any assistance required and providing all the necessary information, data and plans to the said valuers ...

The valuation method and approach as well as the market values and rents derived are considered fair and reasonable and are consistent with the available comparable sales and existing conditions, in the economy and the property market in Cyprus as at July – August 1974.”

28. In her just satisfaction claims of September 1999, the administrator of the applicant's estate further claimed CYP 40,000 (approximately EUR 68,344) in respect of non-pecuniary damage. She stated that this sum had been calculated on the basis of the sum awarded by the Court in the case of *Loizidou v. Turkey* ((just satisfaction), 28 July 1998, *Reports of Judgments and Decisions* 1998-IV), taking into account, however, that the period of time for which the damage was claimed in the instant case was longer and that there had also been a violation of Article 14 of the Convention.

29. On 6 October 2009 the administrator of the applicant's estate increased her claim for non-pecuniary damage up to EUR 70,000.

(b) The Government

30. In their observations of 6 October 2009, the Government noted that the administrator of the applicant's estate had applied to the IPC and that the examination of her claim was in process at the domestic level. As a consequence, the examination of the case before the Court should be discontinued (see paragraph 6 above).

31. Had Mrs Karaviotou's application not been withdrawn, a hearing would have been held on the matters of compensation and/or restitution. Mrs Karaviotou could have also lodged an appeal against the IPC's decision before the "TRNC" High Administrative Court. Moreover, nothing in "TRNC" law prevented Mrs Karaviotou from reintroducing her application to the IPC. The latter was functioning effectively and expeditiously. On 21 January 2010 it had received 444 applications, 91 of which had been concluded. The total compensation paid by the "TRNC" since the establishment of the IPC amounted to 38,640,600 British Pounds.

32. In the Government's opinion, Mrs Karaviotou had withdrawn her application to the IPC for reasons unrelated to the functioning of the compensation system, namely because of the pressure which had been exerted on her by the Greek-Cypriot authorities.

33. The Government noted that, as it could not be excluded that the properties at issue had been transferred within the legal system of Southern Cyprus, applicants should be required to provide search certificates issued by the Greek-Cypriot Department of Lands and Surveys. Failure to substantiate title to the properties at the material time and at the time of the Court's judgment should be considered as a failure to cooperate with the Court. No just satisfaction should be awarded in respect to unsubstantiated or dubious claims.

34. In their comments of 25 May 2010 the Government observed that the applicant's behaviour had caused "considerable confusion and uncertainty as to the properties in respect of which Mr. Solomonides was ... making his claims" and that the claims for just satisfaction concerned only 44 plots of land. They further observed that notwithstanding the withdrawal of the application to the IPC, the Turkish-Cypriot authorities had been able to estimate the applicant's losses. Even if in respect of some properties no record had been found in the registers of the Department of Lands and Surveys available in the "TRNC", it had been assumed that the applicant's titles were genuine.

35. The Government produced a valuation report prepared by the Turkish-Cypriot authorities, which they considered to be based on a fair assessment of the applicant's losses and of the 1974 market values, having regard to comparative sales in the areas where the properties were situated. This report contained two proposals, assessing, respectively, the sum due for the loss of use of the properties and their present value. The second proposal was made in order to give the administrator of the applicant's estate the option to sell the properties to the State, thereby relinquishing title to and claims in respect of them.

36. The report prepared by the Turkish-Cypriot authorities specified that it would be possible to envisage, either immediately or after the resolution of the Cyprus problem, restitution of nine plots of land. The other immovable properties referred to in the application were possessed by third

parties; they could not form the object of restitution but could give entitlement to financial compensation, to be calculated on the basis of the loss of income (by applying a 5% rent on the 1974 market values) and increase in value of the properties between 1974 and the date of payment. Had the Mrs Karaviotou continued the procedure before the IPC, the latter would have offered EUR 1,364,534 to compensate the loss of use and EUR 2,182,568 for the value of the properties. According to an expert appointed by the authorities of the “TRNC”, the overall 1974 open-market value of the applicant's plots of land was CYP 120,921.75 (approximately EUR 206,606.90). Upon fulfilment of certain conditions, the IPC could also have offered the applicant's heirs exchange of their properties with Turkish-Cypriot properties located in the south of the island.

37. In the Government's opinion, Mrs Karaviotou's claims for pecuniary and non-pecuniary damage were highly exorbitant and did not take into account the restricted development potentialities of the applicant's fields. In any event, the entitlement to moral damages could not be inherited by Mr Solomonides' descendants.

2. The Court's assessment

(a) Preliminary remark

38. The Court first observes that the Government requested to discontinue the examination of the case by reason that the administrator of the applicant's estate has applied for compensation before the IPC, thus seeking full reparation under the laws of the “TRNC” (see paragraph 30 above).

39. It is to be noted, however, that Mrs Karaviotou has withdrawn her application to the IPC and that, as a consequence, the latter has struck her claim out of its list of cases (see paragraphs 11-12 above).

40. The Court considers that it is not necessary to investigate the reasons of Mrs Karaviotou's behaviour, for which the parties have given different explanations (see paragraphs 13 and 32 above). What is essential for the purposes of the present application is that no parallel domestic proceedings concerning the issue of compensation are pending while the Court is assessing the question of just satisfaction.

41. It follows that nothing prevents the Court from continuing the examination of the case under Article 41 of the Convention.

(b) The merits of the applicant's claim

42. The Court recalls that in its principal judgment it has concluded that there was a continuing violation of the applicant's rights guaranteed by Article 1 of Protocol No. 1 to the Convention by virtue of the complete denial of his right to the peaceful enjoyment of his properties in northern

Cyprus (see paragraph 39 of the principal judgment). Furthermore, its finding of a violation of Article 1 of Protocol No. 1 was based on the fact that, as a consequence of being continuously denied access to his land since 1974, the applicant had effectively lost all access and control as well as all possibilities to use and enjoy his properties (see paragraph 36 of the principal judgment). The administrator of his estate is therefore entitled to a measure of compensation in respect of losses directly related to this violation of the applicant's rights as from the date of the deposit of Turkey's declaration recognising the right of individual petition under former Article 25 of the Convention, namely 22 January 1987, until the day of the applicant's death, namely 15 February 1998 (see paragraph 4 of the principal judgment; see also, *mutatis mutandis*, *Cankocak v. Turkey*, nos. 25182/94 and 26956/95, § 26, 20 February 2001, and *Demades v. Turkey* (just satisfaction), no. 16219/90, § 21, 22 April 2008).

43. In connection with this, the Court notes that the administrator of the applicant's estate has not introduced an autonomous claim concerning a potential violation of the property rights which the successors of Mr Antonakis Solomonides might have acquired after his death, but has merely successfully requested to pursue the application lodged by the deceased (see paragraphs 12 and 13 of the principal judgment and point 1 of its operative provisions). Under these circumstances, no alleged pecuniary damage for loss of use can be awarded for the time which has elapsed after the applicant's demise. It is also to be noted that the documents produced by the administrator of the applicant's estate (see paragraph 8 above) show that in 2009 the 44 plots of land in respect of which just satisfaction is sought were still registered in the applicant's name.

44. In the opinion of the Court, the valuations furnished by the administrator of the applicant's estate involve a significant degree of speculation and make insufficient allowance for the volatility of the property market and its susceptibility to influences both domestic and international (see *Loizidou v. Turkey* (just satisfaction), cited above, § 31). Accordingly, in assessing the pecuniary damage sustained by the applicant, the Court has, as far as appropriate, considered the estimates provided by the administrator of his estate (see *Xenides-Arestis v. Turkey* (just satisfaction), no. 46347/99, § 41, 7 December 2006). In general it considers as reasonable the approach to assessing the loss suffered by the applicant with reference to the annual ground rent, calculated as a percentage of the market value of the properties, that could have been earned during the relevant period (*Loizidou* (just satisfaction), cited above, § 33, and *Demades* (just satisfaction), cited above, § 23). Furthermore, the Court has taken into account the uncertainties, inherent in any attempt to quantify the real losses incurred by the applicant (see *Loizidou v. Turkey*, (preliminary objections), 23 March 1995, § 102, Series A no. 310, and (merits), 18 December 1996, § 32, *Reports* 1996-VI).

45. The Court notes that notwithstanding its request for material to be submitted relevant to assessing the 1974 market value of the applicant's properties, the parties have produced few elements in this respect. The Government have relied on the accuracy of the IPC calculations (see paragraphs 36-37 above). The administrator of the applicant's estate has referred to a statement made by a District Land Officer according to which the valuation method used by the Greek-Cypriot expert was "fair and reasonable and ... consistent with the available comparable sales and existing conditions, in the economy and property market in Cyprus at July – August 1974" (see paragraph 27 above). Apart from these general statements, the parties have failed to produce any practical example of a sale or transaction carried on during the relevant period in respect of comparable plots of land.

46. The Court further observes that the administrator of the applicant's estate has submitted an additional claim in the form of annual compound interest in respect of the losses on account of the delay in the payment of the sums due. While the Court considers that a certain amount of compensation in the form of statutory interest should be awarded to the applicant, it finds that the rates applied by Mrs Karaviotou are on the high side (see, *mutatis mutandis*, *Demades* (just satisfaction), cited above, § 24). Moreover, the expert appointed by the administrator of the applicant's estate has calculated the loss of rents until the end of 2009, and not until 15 February 1998, date of the applicant's death (see paragraphs 43 and 44 above).

47. Finally, the Court considers that an award should be made in respect of the anguish and feelings of helplessness and frustration which, until his death, the applicant must have experienced over the years in not being able to use his properties as he saw fit (see *Demades* (just satisfaction), cited above, § 29, and *Xenides-Arestis* (just satisfaction), cited above, § 47).

48. Having regard to the above considerations, the Court is of the opinion that the sums claimed by the administrator of the applicant's estate in respect of pecuniary and non-pecuniary damage (respectively EUR 22,913,073 and EUR 70,000 – see paragraphs 25 and 29 above) are manifestly excessive, especially when compared to an alleged 1974 market value of EUR 599,052 (see paragraph 23 above). The Court considers that the sum which, according to the Government, the IPC could have offered Mrs Karaviotou in respect of loss of use (approximately EUR 1,364,534 – see paragraph 37 above) constitutes a fair basis for compensating the damage sustained by the applicant. Making its assessment on an equitable basis, the Court decides to award EUR 1,400,000 under the head of pecuniary and non-pecuniary damage.

B. Costs and expenses

49. In her just satisfaction claims of September 1999, the administrator of the applicant's estate sought CYP 6,090.93 (approximately EUR 10,406) for the costs and expenses incurred before the Court. This sum included the cost of the expert report assessing the value of the properties.

50. On 6 October 2009 the administrator of the applicant's estate increased her claim for costs and expenses up to EUR 22,856.25. She alleged that the new valuation report had cost EUR 2,300 and that her legal expenses for the period October 1999/October 2009 had amounted to EUR 12,560.

51. The Government requested that the award for costs be kept to the minimum. They alleged that had the applicant supplied reliable documentary evidence at an earlier stage, it would have been easier to deal with the issues raised by the present application.

52. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum (see, for example, *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI).

53. The Court notes that the case involved perusing a certain amount of factual and documentary evidence and required a fair degree of research and preparation. In particular, the costs associated with producing valuation reports in view of the continuing nature of the violation at stake were essential to enable the Court to reach its decision regarding the issue of just satisfaction (see *Demades* (just satisfaction), cited above, § 34).

54. Although the Court does not doubt that the fees claimed were actually incurred, it considers the amount claimed for the costs and expenses relating to the proceedings before it excessive and decides to award a total sum of EUR 8,000.

C. Default interest

55. 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. *Dismisses* the Government's request to stay the examination of the administrator of the applicant's estate's claims for just satisfaction;

2. *Holds*

(a) that the respondent State is to pay the administrator of the applicant's estate, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:

(i) EUR 1,400,000 (one million four hundred thousand euros), plus any tax that may be chargeable, in respect of pecuniary and non-pecuniary damage;

(ii) EUR 8,000 (eight thousand euros), plus any tax that may be chargeable to the administrator of the applicant's estate and/or to the applicant's heirs, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts 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 administrator of the applicant's estate's claim for just satisfaction.

Done in English, and notified in writing on 27 July 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President