



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

FIFTH SECTION

CASE OF KRYVITSKA AND KRYVITSKYY v. UKRAINE

(Application no. 30856/03)

JUDGMENT

STRASBOURG

2 December 2010

FINAL

02/03/2011

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

In the case of Kryvitska and Kryvitsky v. Ukraine,

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

Peer Lorenzen, *President*,
Renate Jaeger,
Karel Jungwiert,
Mark Villiger,
Mirjana Lazarova Trajkovska,
Zdravka Kalaydjieva,
Ganna Yudkivska, *judges*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 9 November 2010,

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

PROCEDURE

1. The case originated in an application (no. 30856/03) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Ukrainian nationals, Mrs Ganna Semenivna Kryvitska and Mr Yan Fedorovych Kryvitsky (“the applicants”), on 3 August 2003.

2. The Ukrainian Government (“the Government”) were represented by their Agent, Mr Y. Zaytsev.

3. The applicants alleged, in particular, that their “right to a home” was violated on account of the annulment of their tenancy registration and eviction and that in considering the matter the domestic courts had failed to analyse their central arguments.

4. On 31 March 2009 the President of the Fifth Section decided to give notice of the application to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants, mother and son, were born in 1945 and 1975 respectively and live in Kyiv.

6. On 16 July 1992 Mrs Y.B., born in 1908, officially registered the first applicant as a permanent tenant in her flat and in March 1993 signed it off to her in a will, purportedly in exchange for the first applicant being her live-in aide. On 5 January 1993 the second applicant, then a minor, was also

officially registered as a permanent resident in Mrs Y.B.'s flat as his mother's family member. The applicants moved into the flat, took care of the charges and maintenance fees and did some renovation work.

7. On 23 August 1994 the Kyiv City Administration promised to provide the applicants with a new flat in view of the fact that a decision had been taken to demolish the building of which Mrs Y.B. was co-owner. That decision, however, was never complied with.

8. In 1995 and 1996 the second applicant's wife and two children from her previous relationship, born in 1988 and 1989, were also registered as permanent tenants in the same flat. Subsequently the second applicant adopted the children (in 1996) and divorced their mother (in 1998).

9. On 18 December 1998 Mrs Y.B. died.

10. After her death, the first applicant learned that in 1996 and 1998 Mrs Y.B. had drafted two more wills, signing the same flat off to other individuals, and on 12 March 1999 instituted judicial proceedings seeking to have those two wills annulled. The first applicant claimed that since 1995 Mrs Y.B. had been under severe stress resulting from her participation in an ongoing court dispute with Mrs G.D., a co-owner of the building, and, consequently, her mental health and judgment had deteriorated.

11. On 26 February 2001 a panel of experts conducted an assessment of Mrs Y.B.'s mental health and found that in March 1993, December 1995 and October 1998 Mrs Y.B. had suffered from organic psychiatric disorders giving rise to moderate intellectual and memory impairment and paranoia. Consequently, during these periods she had been unable "to understand the meaning of her actions or control them".

12. As a result of those conclusions, on 3 April 2001 the Leningradsky District Prosecutor joined the first applicant's proceedings on behalf of the State, seeking annulment of all Mrs Y.B.'s wills, including the one drafted in 1993 in the first applicant's favour.

13. On 8 June 2001 the Leningradsky District Court of Kyiv allowed the prosecutor's claim. The parties' appeals against this judgment were eventually dismissed as inadmissible on procedural grounds and it became final.

14. On 29 April 2002 the Svyatoshynsky District Tax Administration registered the State's (the municipality's) title to the late Mrs Y.B.'s flat as intestate estate.

15. On 28 May 2002 the Tax Administration instituted court proceedings against the applicants, seeking to annul their tenancy registration as lacking any legal basis on account of the impaired judgment of the former flat owner when authorising it. The Administration further sought to evict the applicants, claiming that their occupancy impeded the authorities' ability to sell the flat at the highest possible price.

16. The second applicant lodged a counterclaim, seeking to be acknowledged as a lawful tenant of the flat. He maintained, in particular,

that he and his mother had occupied it for a considerable period of time in good faith and on lawful grounds and took care of maintenance fees and renovations. In addition, the family had no alternative housing and their eviction would compromise the interests of raising two minor children, who remained in his custody after their mother had left the family.

17. Subsequently the Svyatoshynsky District Minors Service intervened in the proceedings, requesting the court to consider the interests of the two minor children in retaining the tenancy.

18. During the hearing of 15 July 2002 the Svyatoshynsky District Court of Kyiv requested Mr Ts., one of the experts who had conducted the post-mortem assessment of Mrs Y.B.'s mental state in February 2001, to assess whether she had been legally competent to authorise the first applicant's tenancy on 16 July 1992. On the same day Mr Ts. delivered a statement that, based on the results of the post-mortem psychiatric assessment of Mrs Y.B.'s condition in 1993, it was certain that on the date at issue she could not understand the meaning of her actions or control them.

19. On the same date the court issued a judgment allowing the claim by the Tax Administration. The relevant part of the judgment read as follows:

“The court, having heard the explanations of the parties, having examined case-file materials, considers it necessary to allow the initial claim ... and to reject the counterclaim, regard being had to the following:

On 16 July 1992 and 5 January 1993 respectively, Y. B., who could not understand the meaning of her actions or control them, authorised the registration of Kryvitska G.S. and Kryvitsky Y.F. as tenants of the part of the building belonging to her ..., having thus concluded a tenancy agreement.

On 16 December 1998 she died, and 2/400 of the building, which had belonged to her ..., became property of the State represented by the Svyatoshynsky District Tax Administration of Kyiv ..., which on 28 May 2002 sought protection of the owner's rights, which should not be infringed by Kryvitsky Y.F. and Kryvitska G.S., who have occupied the premises, regard being had to the above, arbitrarily, and should be evicted without provision of other housing.

In light of the above Kryvitsky Y.F.'s claim of right to use the premises cannot be allowed ...

Regard being had to the above and referring to Articles 55 and 555 of the Civil Code of Ukraine, Articles 4 and 48 of the Law of Ukraine “On Property”, Articles 116 and 191 of the Housing Code of Ukraine, Articles 15, 30, 62, 75 and 203 of the Code of Civil Procedure of Ukraine, the court

HAS DECIDED:

To allow the initial claim ...”

20. The applicants appealed. They alleged, in particular, that the expert assessment of Mrs Y.B.'s mental health was flawed and superficial, that at

the moment of concluding their tenancy agreement they had acted in accordance with the law and in good faith and, under the circumstances of their case, could not have foreseen that the law concerning arbitrary occupation of the premises would be retrospectively applied to them. They further alleged that their eviction would render them homeless and infringe their Constitutional right to respect for their home and, moreover, the second applicant's eviction would jeopardize the rights of the two minor children, who remained in his sole custody.

21. On 13 August 2002 the Minors Service informed the Kyiv City Court of Appeal that the children actually lived in the flat and were in the second applicant's custody, since their mother had left to work in Russia.

22. On 16 October 2002 the Kyiv City Court of Appeal dismissed the applicants' appeal, endorsing the first-instance court's reasoning. It also noted that according to an address bureau certificate, the children and their mother were not registered as tenants in the flat at issue. The judgment became binding for enforcement.

23. The applicants appealed in cassation, maintaining, in addition to their previous arguments, that the courts had wrongly refused to admit their evidence that the children had remained resident in the flat. On 8 May 2003 the Supreme Court dismissed the applicants' request for leave to appeal in cassation, having found that the lower courts had properly assessed the evidence before them and interpreted the applicable law.

24. On 12 November 2002 Mr Zh., the bailiff assigned to the case, requested the Svyatoshynsky District Court to clarify its judgment of 15 July 2002 in view of the fact that the children were found to be actually living in the flat.

25. On 14 November 2002 the President of the Svyatoshynsky District Court wrote a letter to the Chiefs of the Kyiv City Department of Justice and the Svyatoshynsky District Department of Justice, stating that, having requested clarification of an already clear judgment, Mr Zh. had intentionally protracted its enforcement, thus grossly interfering with State interests. He further requested the addressees to prevent such applications in future.

26. On an unspecified date the applicants requested that their eviction be replaced by monetary compensation.

27. On 28 December 2002 the court dismissed the Bailiffs' and the applicants' requests.

28. In the meantime, on 5 December 2002 the applicants were evicted. According to the applicants, they had to request housing of various relatives and friends and had no stable place of residence following their eviction. In 2006 the second applicant bought a house.

29. On several occasions the applicants requested the Tax Administration to inform them when the flat would be put on sale, as they were interested in trying to purchase it and received responses that they

could be eligible for a purchase only if all co-owners of the building waived their statutory privilege. Subsequently they were informed that in April 2003 the flat had been sold to Mrs G.D., a co-owner of the building.

II. RELEVANT DOMESTIC LAW

A. Civil Code of 1963 (repealed with effect from January 2004)

30. Relevant provisions of the Civil Code read as follows:

**Article 55. Invalidity of an agreement concluded by a citizen
unable to understand the meaning of his actions**

“An agreement concluded by a citizen who, although legally capable, at the moment of its conclusion was unable to understand the meaning of his actions or control them, can be annulled by the court ...”

Article 555. Transfer of legacy to the State

“Inheritable property shall be transferred to the State as a successor:

...

2) in the event that a predecessor has no heirs either by virtue of the law or of a testament;

...”

B. Housing Code

31. Relevant provisions of the Housing Code read as follows:

Article 116. Eviction without provision of alternative accommodation

“... Persons who arbitrarily occupy residential premises shall be evicted without provision of other housing.”

**Article 191. Procedure for resolution of housing disputes
(before amendments of 15 May 2003)**

“Housing disputes shall be decided in accordance with the legislation ... by a court, arbitration court, mediation or comrades' court, as well as other competent bodies.”

**C. Law of Ukraine “On Property” no. 697-XII of 7 February 1991
(repealed with effect from 27 April 2007)**

32. Relevant provisions of the Law “On Property” read as follows:

Article 4. Fulfilment of property rights

“1. The owner of a property shall possess, use and dispose of that property at his discretion.

2. The owner of a property shall be entitled to carry out any actions with respect to that property, which are not in conflict with the law ...

...”

Article 48. General provisions [concerning protection of property rights]

“1. Ukraine shall legislatively ensure equal conditions for the protection of property rights for individuals, organisations and other owners.

2. The owner of a property may demand that any infringements of his rights are ceased, even where those infringements are not connected with the deprivation of the possession, and compensation for resulting damage.

...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

33. The applicants complained that their “right to a home” was violated on account of the annulment of their tenancy registration and eviction. They referred to Article 8 of the Convention, which reads as follows:

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

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 national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

A. Admissibility

34. The Government did not submit any observations concerning the admissibility of this complaint.

35. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 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 of the parties

36. The applicants submitted that Mrs Y.B.'s flat had been their only home and that prior to their eviction they had occupied it lawfully for some ten years. The retrospective annulment of their tenancy registration and their eviction had constituted a serious, unlawful and disproportionate interference with their rights guaranteed by Article 8 of the Convention. In particular, when concluding the tenancy agreement and registering it with the competent authorities, they could not have anticipated that they would be qualified as “arbitrary occupants” ten years later. In their opinion, in authorising the tenancy, the flat owner had been of sound mind and the competent authorities at the material time had duly registered their tenancy without questioning this fact. Furthermore, in 1995-1996, when the owner had acted on her own behalf in a court dispute and attended hearings, the courts had never questioned her legal capacity to do so.

37. The applicants further submitted that in considering the matter of their eviction, the courts had failed to balance their interests in retaining the flat against the State interests in having the premises vacated. The courts had refused to consider their arguments to the effect that they had been long-term good-faith occupants and had invested in the renovation and maintenance of the flat and paid the necessary charges, or that the second applicant had had two minor children in his custody and that in the event of eviction the whole family would effectively become homeless. They submitted that in 2006 the second applicant had eventually bought a different house in Kyiv. However, in their opinion, this did not change the fact that their eviction in 2002 from their only home had been unlawful and disproportionate.

38. The Government submitted that there had not been a violation of the applicants' rights under Article 8. In particular, a decision concerning annulment of their tenancy and their eviction had been taken at the close of adversary proceedings, in which all the parties had been given an equal opportunity to present their arguments. The courts had assessed the evidence properly, given full reasons for their decisions and acted in

accordance with the applicable law. As the applicants had been found to have occupied the premises without any legal basis, the annulment of their occupancy registration and their eviction served the legitimate aim of protecting the interests of the owner and could not be considered as having breached their Convention rights.

39. Moreover, the applicants had not in fact been left homeless. They could have returned to the two-room flat in which they had been registered before they moved into Mrs Y.B.'s home. At the material time that flat had been occupied by the first applicant's adult daughter. According to the Inventory Bureau certificate obtained in 2009, the second applicant was also registered as the owner of a house in Kyiv.

2. The Court's assessment

(a) General principles

40. In Convention terms, the notion of a “home” is not limited to premises which are lawfully occupied or which have been lawfully established. Whether or not a particular habitation constitutes a “home” which attracts the protection of Article 8 § 1 will depend on the factual circumstances, namely, the existence of sufficient and continuous links with a specific place (see, among other authorities, *Prokopovich v. Russia*, no. 58255/00, § 36, ECHR 2004-XI (extracts)).

41. Loss of one's home is a most extreme form of interference with the right to respect for the home (see, among other authorities, *McCann v. the United Kingdom*, no. 19009/04, § 50, 13 May 2008).

42. A State interference constitutes a violation of Article 8 of the Convention, unless it pursues one of the legitimate aims enumerated in Article 8 § 2, is “in accordance with the law”, and can be regarded as “necessary in a democratic society” (see *Saviny v. Ukraine*, no. 39948/06, § 47, 18 December 2008).

43. The expression “in accordance with the law” does not merely require that the impugned measure should have a basis in domestic law but also refers to the quality of the law in question. In particular, the law must be sufficiently clear in its terms and afford a measure of legal protection against arbitrary application (see, among other authorities, *Vlasov v. Russia*, no. 78146/01, § 125, 12 June 2008). The function of clarification and interpretation of the provisions of domestic law belongs primarily to domestic judicial authorities (see e.g. *Öztürk v. Turkey* [GC], no. 22479/93, § 55, ECHR 1999-VI). While the Court is not in a position to substitute its own judgment for that of the national courts and its power to review compliance with domestic law is limited (see, among other authorities, *Slivenko v. Latvia* [GC], no. 48321/99, § 105, ECHR 2003-X, and *Paulić v. Croatia*, no. 3572/06, § 39, 22 October 2009), it is the Court's function to review the reasoning adduced by domestic judicial authorities from the

point of view of the Convention (see *Slivenko*, loc. cit.). To protect a person against arbitrariness it is not sufficient to provide a formal possibility of bringing adversarial proceedings to contest the application of a legal provision to his or her case. Where a resulting judicial decision lacks reasoning or an evidentiary basis, ensuing interference with a Convention right may become unforeseeable and consequently fall short of the lawfulness requirement (see, mutatis mutandis, *Lupsa v. Romania*, no. 10337/04, §§ 41-42, ECHR 2006-VII and *C.G. and Others v. Bulgaria*, no. 1365/07, § 42, 46 and 49-50, 24 April 2008).

44. Furthermore, interference with an applicant's right to respect for his or her home must not only be based on the law but also be "necessary in a democratic society". In other words, it must answer a "pressing social need" and, in particular, be proportionate to the legitimate aim pursued (see *Zehentner v. Austria*, no. 20082/02, § 56, ECHR 2009-...). The concept of a "home" is of central importance to an individual's identity, self-determination, physical and moral integrity, maintenance of relationships with others and a settled and secure place in the community (see *Connors v. the United Kingdom*, no. 66746/01, § 82, 27 May 2004). Given that eviction is a serious interference with an individual's right to respect for his or her home, the Court attaches particular weight to the procedural safeguards afforded to that individual in the course of the decision-making process (see *Zehentner*, cited above, § 60). In particular, even where the lawful right to occupation of the premises has come to an end, an individual should in principle be able to have the proportionality of the measure determined by an independent tribunal in the light of the relevant principles of Article 8 of the Convention (see, among other authorities, *Stanková v. Slovakia*, no. 7205/02, §§ 60-63, 9 October 2007; *McCann*, cited above, § 50; *Čosić v. Croatia*, no. 28261/06, §§ 21-23, 15 January 2009; and *Paulić v. Croatia*, no. 3572/06, §§ 42-45, 22 October 2009). Lack of reasoning in a judicial decision as to the grounds of application of a statute may, even where the formal requirements have been complied with, be taken into account among other factors in determining whether the measure complained of struck a fair balance (see, mutatis mutandis, *Beyeler v. Italy* [GC], no. 33202/96, § 110, ECHR 2000-I).

(b) Application of these principles in the present case

45. The Court notes that the applicants in the present case entered into a tenancy agreement for the disputed flat in 1992 and 1993 respectively. It has not been suggested by the Government that until their eviction in 2002 they resided elsewhere. The Court thus finds it established that the annulment of the applicants' tenancy and ensuing eviction interfered with their rights guaranteed by Article 8 of the Convention.

46. According to the Government, this interference pursued a legitimate aim of protecting the owner's interests. As the owner was the State itself, the

eviction protected interests of the State and cannot be covered by the Article 8 § 2 exception concerning the protection of rights and freedoms of others. Since the authorities sought vacation of the flat in order to gain profit, the Court, however, can accept that eviction was seen as benefiting economic well-being of the country. The “legitimate aim” requirement of Article 8 § 2 of the Convention has therefore been satisfied.

47. The Court further notes that, as suggested by the Government, the decision to annul the applicants' tenancy and evict them was taken by a competent court at the close of adversary proceedings and had a clear basis in domestic statutory provisions (see paragraphs 19 and 30-32 above).

48. At the same time, in assessing the applicants' argument that the application of those provisions to their case was unforeseeable, the Court notes that the applicants' tenancy was retrospectively annulled as lacking a legal basis from its very beginning, after having been officially registered with the competent authorities for some ten years. The basis for this annulment was a finding that the flat owner, who had never been formally deprived of legal capacity and apparently had had an independent lifestyle, “could not understand the meaning of her actions or control them” on a particular date in 1992 when authorising the first applicant's tenancy. The Court considers that such a conclusion required solid evidentiary basis, regard being had, in particular, to the fact that it was reached after the owner's death, at the request of a third party (the State) ten years from the date at issue. In the meantime, in their reasoning the courts relied exclusively on a statement by a single expert, who appears to have taken several hours at most to formulate it upon studying one source of evidence – namely, a psychiatric assessment, carried out in 2001, relating to March 1993 (a later date). It appears that in the circumstances of the present case that evidentiary basis left room for a speculative assessment of the facts, and considerably obscured the foreseeability of a statute on eviction of arbitrary occupants being applied.

49. In any event, the Court considers that the applicants' argument with respect to the quality of the relevant law as interpreted by the courts is intertwined and indissociable from the question of whether or not the interference with their right to a home was necessary in a democratic society and, accordingly, proportionate.

50. In this regard the Court notes that the judicial authorities were faced with balancing the interests of the applicants' family with two minor children, who had been long-term occupants of the flat, against the financial interest of the State in maximising profit from sales of a flat acquired by it as intestate property. In the course of the judicial proceedings the applicants raised a number of arguments, alleging that their eviction would constitute a disproportionate burden on them. They alleged, in particular, that they had concluded their tenancy in good faith and that they had been considered lawful occupants for a considerable time, bearing maintenance expenses and

charges, as well as investing in renovations on the property. These arguments were not addressed in the texts of the relevant judgments, the courts confining themselves to deciding whether or not the applicants' occupancy complied with statutory provisions. Furthermore, at no stage of the proceedings (including enforcement) did the courts consider the applicants' argument that following eviction they would be rendered homeless with two minor children. It is not clear from the case-file, to what extent the applicants actually suffered on account of their eviction and whether they easily relocated. It appears that the second applicant was able to obtain new permanent housing four years after the events giving rise to the application. However, even assuming that, as suggested by the Government, the applicants were able to relocate in good time and without a prohibitive outlay, their respective opportunities were never a subject for consideration by the courts.

51. In sum, regard being had to the authorities' failure to provide adequate reasons for dismissing the applicants' arguments regarding applicability of the law concerning eviction of arbitrary occupants to their case or to assess the proportionality of their eviction, the Court considers that the applicants were deprived of adequate procedural safeguards in the decision-making process concerning their right to a home.

52. There has, therefore, been a violation of Article 8 of the Convention in the instant case.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

53. The applicants also complained that the courts had failed to analyse their central arguments, in particular, that they had been officially recognised tenants of the flat at issue for some ten years and that their eviction would seriously affect their private and family life as well as the interests of the two children. They relied on Article 6 § 1 of the Convention, which, in so far as relevant, reads as follows:

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

54. The Government contested these arguments.

55. The Court notes that this complaint is linked to the applicants' complaint under Article 8 and must therefore likewise be declared admissible.

56. It further reiterates that, notwithstanding the difference in the nature of the interests protected by Articles 6 and 8 of the Convention, which may require separate examination of the claims lodged under these provisions, in the instant case the lack of respect for the applicants' home is at the heart of their complaint. Regard being had to the reasons which served as a basis for finding a violation of Article 8 (see paragraphs 49-51 above), the Court

considers that it is not necessary to examine the same facts also under Article 6 (see *Hunt v. Ukraine*, no. 31111/04, § 66, 7 December 2006, and *Saviny v. Ukraine*, no. 39948/06, § 70, 18 December 2008).

III. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 OF THE CONVENTION

57. Lastly, the applicants complained under Article 1 of Protocol No. 1 that by virtue of their eviction they were deprived of the results of home improvements made by them during their occupancy.

58. The Court notes that the applicants never raised this complaint in the domestic proceedings and have therefore failed to exhaust domestic remedies in that connection.

59. This complaint must therefore be rejected as inadmissible in accordance with the requirements of Article 35 §§ 1 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

60. 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

61. The applicants claimed 90,000 euros (EUR) each in respect of non-pecuniary damage.

62. The Government submitted that this claim was exorbitant and unsubstantiated.

63. The Court considers that the applicants must have suffered some non-pecuniary damage on account of the violation found which cannot be adequately compensated by the finding of a violation alone. Having regard to the nature of the violation found in the present case and making its assessment on an equitable basis, the Court therefore awards each of the applicants 6,000 euros (EUR) under this head.

B. Costs and expenses

64. The applicants submitted no claim under this head. The Court therefore makes no award.

C. Default interest

65. 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. *Declares* the complaints under Articles 8 and 6 § 1 of the Convention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 8 of the Convention;
3. *Holds* that it is not necessary to decide whether there has been a violation of Article 6 § 1 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay each of the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 6,000 (six thousand euros) in respect of non-pecuniary damage plus any tax that may be chargeable, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement;
 - (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;
5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

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

Claudia Westerdiek
Registrar

Peer Lorenzen
President