



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

FOURTH SECTION

CASE OF FINSTER v. POLAND

(Application no. 24860/08)

JUDGMENT

STRASBOURG

8 February 2011

FINAL

08/05/2011

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

In the case of Finster v. Poland,

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

Nicolas Bratza, *President*,

Lech Garlicki,

Ljiljana Mijović,

Päivi Hirvelä,

Ledi Bianku,

Nebojša Vučinić,

Vincent A. de Gaetano, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 18 January 2011,

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

PROCEDURE

1. The case originated in an application (no. 24860/08) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Polish national, Mr Zbigniew Finster (“the applicant”), on 9 May 2008.

2. The Polish Government (“the Government”) were represented by their Agent, Mr Jakub Wołasiewicz of the Ministry of Foreign Affairs.

3. On 25 March 2009 the President of the Fourth Section of the Court decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1969 and lives in Gdańsk.

A. Criminal proceedings against the applicant and his pre-trial detention

5. On 7 March 2006 the applicant was arrested on suspicion of drug trafficking.

6. On 9 March 2006 the Gdańsk District Court (*Sąd Rejonowy*) remanded him in custody, relying on the reasonable suspicion that he had committed the offence in question. It also considered that keeping the applicant in detention was necessary to secure the proper conduct of the proceedings, given the risk that he might tamper with evidence. The court also stressed the severity of the anticipated sentence.

7. The applicant's appeals against decisions prolonging his detention and all his subsequent, numerous applications for release, were unsuccessful.

8. In the course of the investigation, the applicant's detention was prolonged on several occasions by the Gdańsk Regional Court's (*Sąd Okręgowy*) decisions delivered on 25 May, 24 August, 16 November and 12 December 2006.

In all their detention decisions the authorities repeatedly relied on a strong suspicion that the applicant had committed the offences in question, which was supported by evidence from witnesses. They attached importance to the complexity of the case, the significant number of persons involved and the voluminous documentation. They stressed the grave nature of those offences and the likelihood of a severe sentence of imprisonment being imposed on the applicant. They further considered that the need to secure the proper conduct of the investigation, especially the need to collect and verify evidence from suspects and witnesses justified holding him in custody.

9. On 4 December 2006 a bill of indictment was lodged with the Gdańsk Regional Court. The applicant was charged with drug trafficking. The bill of indictment comprised numerous charges of, *inter alia*, drug trafficking, brought against twenty-one defendants. Three defendants were additionally charged with having committed the offences while acting as members of an organised criminal group.

10. The trial started on 29 March 2007.

11. During the court proceedings the authorities further prolonged the applicant's detention pending trial. The applicant's detention was extended by the Gdańsk Regional Court on 17 May, 25 October 2007 and 29 January 2008 and by the Gdańsk Court of Appeal (*Sąd Apelacyjny*) on 20 February and 19 March 2008. The courts repeated the grounds previously given for the applicant's continued detention.

In the relevant part of its decision of 19 March 2008 the Court of Appeal stated that:

“The need for further applying the isolation-type of preventive measure is additionally justified by the fact that the defendants had committed the offences with which they had been charged while acting in an organised criminal group or cooperating with that group. The group aimed at committing crimes of distribution of substantial amounts of intoxicants and psychotropic drugs.”

12. The applicant appealed against that decision. He alleged, in particular, that the grounds for the court's decision containing a suggestion

that he had committed the offences in question violated the principle of the presumption of innocence.

On 8 April 2008 the Gdańsk Court of Appeal, sitting in a different panel of three judges, upheld the contested decision. It stressed that the impugned statement read in the context of the whole decision described a state of suspicion rather than a finding of the applicant's guilt.

13. On 26 June 2008 the applicant's detention was lifted.

14. The proceedings are still pending before the first-instance court.

B. Conditions of the applicant's detention

1. The applicant's account

15. From 7 March until 13 December 2006 the applicant was detained in Sztum prison. Subsequently, he was placed in Gdańsk Remand Centre, where he remained until 26 June 2008.

The applicant submitted that he had been held in dark and overcrowded cells. He further maintained that the poor living conditions deprived him of any privacy.

16. The applicant submitted that in Sztum prison he had been placed with two other persons in a cell measuring 5 m².

Later, from 14 December 2006 until 18 June 2007, he was held in Gdańsk Remand Centre in a cell measuring 8 m².

Subsequently, he was assigned to cells measuring 5 m² and 12 m² respectively.

From 22 December until the day of his release the applicant was detained in a cell measuring 5 m².

2. The Government's account

17. The Government submitted that while detained in Sztum prison, the applicant was, at times, detained in cells in which the statutory minimum requirement of 3 m² per person was not respected.

They further submitted that during his stay in Gdańsk Remand Centre the applicant was placed in cells that met the required standards.

Lastly, they noted that throughout his stay in the detention facilities, the applicant was provided with all the necessary hygienic products. He also had a right to a sixty-minute walk every day.

3. The applicant's actions concerning the conditions of his detention

18. On 21 November 2007 the applicant requested the Gdańsk District Prosecutor (*Prokurator Prokuratury Rejonowej*) to institute an investigation against the Director of Gdańsk Remand Centre. The applicant alleged that the Governor had neglected his duties (*niedopełnienie obowiązków*) in that

he had not, *inter alia*, provided the detained persons with adequate sanitary and living conditions in that establishment.

On 17 December 2007 the prosecutor refused to institute an investigation into the applicant's allegations due to the lack of statutory features of a criminal offence (*brak znamion czynu zabronionego*).

The applicant's complaints were forwarded to the Regional Inspectorate of the Prison Service (*Okręgowy Inspektorat Służby Więziennej*).

19. By a letter of 19 June 2008 the Director of the Gdańsk Regional Inspectorate of the Prison Service informed the applicant that his allegations about the conditions of his detention had been found ill-founded. It was considered that the sanitary and living conditions were adequate. The Director acknowledged, however, that Gdańsk Remand Centre had faced the problem of overcrowding and, indeed, the statutory minimum standard of three square metres per person had been reduced on occasions.

20. After his release, the applicant did not bring a civil action in tort to seek compensation for the infringement of his personal rights.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Preventive measures, including pre-trial detention

21. The relevant domestic law and practice concerning the imposition of detention on remand (*aresztowanie tymczasowe*), the grounds for its prolongation, release from detention and rules governing other, so-called “preventive measures” (*środki zapobiegawcze*) are presented in the Court's judgments in the cases of *Golek v. Poland*, no. 31330/02, §§ 27-33, 25 April 2006 and *Celejewski v. Poland*, no. 17584/04, §§ 22-23, 4 August 2006.

B. Relevant statistical data

22. The relevant statistical data, recent amendments to the Code of Criminal procedure designed to streamline criminal proceedings and references to the relevant Council of Europe materials can be found in the Court's judgment in the case of *Kauczor* (see *Kauczor v. Poland*, no. 45219/06, § 27-28 and 30-35, 3 February 2009).

C. Conditions of detention

23. A detailed description of the relevant domestic law and practice concerning general rules governing conditions of detention in Poland and domestic remedies available to detainees alleging that conditions of their detention are inadequate are set out in the Court's pilot judgments given in

the cases of *Orchowski v. Poland* (no. 17885/04) and *Norbert Sikorski v. Poland* (no. 17599/05) on 22 October 2009 (see §§ 75-85 and §§ 45-88 respectively). More recent developments are described in the decision given by the Court in the case of *Łatak v. Poland* (no. 52070/08) on 12 October 2010 (see §§ 25-54).

THE LAW

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

24. The applicant complained that the length of his detention on remand had been excessive. He relied on Article 5 § 3 of the Convention, which, in so far as relevant, reads as follows:

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

25. The Government contested that argument.

A. Admissibility

26. The Government submitted that the applicant had not exhausted all the remedies provided by Polish law in that he had rarely appealed against decisions extending his pre-trial detention.

27. The applicant submitted, in general terms, that his detention was lengthy.

28. The Court reiterates that it is well established in its case-law that an applicant must make normal use of those domestic remedies which are likely to be effective and sufficient. When a remedy has been attempted, use of another remedy which has essentially the same objective is not required (see *Yaşa v. Turkey* judgment of 2 September 1998, *Reports of Judgments and Decisions* 1998-VI, § 71).

29. In the present case the applicant lodged appeals against at least three of the decisions prolonging his detention. The Court considers that the purpose of the remedy used by the applicant was to obtain a review of his detention pending trial. In the circumstances of the case this remedy constituted an adequate and effective remedy within the meaning of Article 35 of the Convention as its aim was to obtain his release. It follows from the Court's case-law that the applicant is not required to appeal against each and every decision extending his detention (see, by contrast, *Bronk v. Poland* (dec.), no. 30848/03, 11 September 2007).

30. The Court further notes that the arguments raised by the Government are similar to those already examined and rejected in previous cases against Poland (see *Buta v. Poland*, no. 18368/02, §§ 25-27, 28 November 2006 and *Żurawski v. Poland*, no. 8456/08, §§ 22-23, 24 November 2009) and that the Government have not submitted any new circumstances which would lead the Court to depart from its previous findings.

31. It follows that the Government's plea of inadmissibility on the ground of non-exhaustion of domestic remedies must be dismissed.

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

B. Merits

1. Period to be taken into consideration

33. The applicant's detention started on 7 March 2006, when he was arrested on suspicion of drug trafficking. On 26 June 2008 his detention was lifted (see paragraphs 5 and 13 above).

Accordingly, the period to be taken into consideration amounts to two years, three months and nineteen days.

2. The parties' submissions

(a) The applicant

34. The applicant submitted in general terms that his detention was lengthy.

(b) The Government

35. The Government submitted that there had been relevant and sufficient grounds that justified the applicant's continuous detention, in particular there had been a reasonable suspicion that the applicant had committed the offences in question.

They further underlined that the case was very complex, as it concerned offences of a grave nature, committed by twenty-one persons, acting in an organised criminal group. They also stated that the proceedings have been conducted with due diligence.

In consequence, the Government requested the Court to declare the applicant's complaint under Article 5 § 3 manifestly-ill-founded.

3. *The Court's assessment*

(a) General principles

36. The Court recalls that the general principles regarding the right “to trial within a reasonable time or to release pending trial, as guaranteed by Article 5 § 3 of the Convention were stated in a number of its previous judgments (see, among many other authorities, *Kudła v. Poland* [GC], no. 30210/96, § 110 *et seq*, ECHR 2000-XI; and *McKay v. the United Kingdom* [GC], no. 543/03, §§ 41-44, ECHR 2006-..., with further references).

(b) Application of the above principles in the present case

37. In their detention decisions, the authorities, in addition to the reasonable suspicion against the applicant, relied principally on four grounds, namely (1) the serious nature of the offences with which he had been charged, (2) the severity of the penalty to which he was liable (3) the complexity of the case, (4) the need to secure the proper conduct of the proceedings, especially the need to collect and verify evidence from suspects and witnesses.

38. The Court accepts that the reasonable suspicion against the applicant of having committed serious offences could initially warrant his detention. Also the need to secure the proper conduct of the proceedings, in particular the process of obtaining evidence from witnesses, constituted valid grounds for the applicant's initial detention.

39. However, with the passage of time, those grounds became less and less relevant. The Court must then establish whether the other grounds adduced by the courts – namely, the severity of the anticipated sentence and the complexity of the case – were “sufficient” and “relevant” (see, *Kudła* cited above, § 111).

40. According to the authorities, the likelihood of a severe sentence being imposed on the applicant created a presumption that the applicant would obstruct the proceedings. However, the Court would reiterate that, while the severity of the sentence faced is a relevant element in the assessment of the risk of absconding or re-offending, the gravity of the charges cannot by itself justify long periods of detention on remand (see *Michta v. Poland*, no. 13425/02, §§ 49, 4 May 2006).

41. As regards the complexity of the case, the Court's attention has been drawn to the nature of the charges and the number of the accused (see paragraph 9 above). It appears, however, that the authorities referred to the complexity of the case in a very general manner. There is no indication that the nature of the case required the applicant's continuous detention. In that respect the Court notes that the applicant himself was not charged with being a member of an organised criminal group. In fact, only three out of

twenty-one accused were indicted with having committed the offences in question, while acting in an organised criminal group.

42. Having regard to the foregoing, the Court concludes that the grounds given by the domestic authorities could not justify the overall period of the applicant's detention. In these circumstances it is not necessary to examine whether the proceedings were conducted with special diligence.

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

II. ALLEGED VIOLATION OF ARTICLE 6 § 2 OF THE CONVENTION

43. The applicant alleged a breach of a principle of the presumption of innocence, on account of the grounds for the Court of Appeal's decision 19 March 2008. He relied on Article 6 § 2 of the Convention, which, in so far as relevant, reads as follows:

“Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.”

44. The Government contested that argument.

A. Admissibility

45. The Government noted that in the case of *Garlicki v. Poland* (no. 36921/07), currently pending before the Court, a question concerning the effectiveness of a remedy under Articles 23 and 24 of the Polish Civil Code was raised with respect to the alleged violation of the presumption of innocence. The Government submitted that if such remedy was considered effective by the Court in the above-mentioned case, the applicant should, in consequence, be required to make use of it before lodging an application with the Court.

46. The applicant did not comment.

47. Leaving aside the fact that the application in the case of *Garlicki* is still pending, the Court notes that the above-mentioned case concerns issues that substantially differ from those raised in the present application. It therefore dismisses the Government's objection.

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

B. Merits

1. The parties' submissions

49. The Government argued that the impugned Court of Appeal's decision of 19 March 2008 should be read as a whole. Although some of the terms employed in that decision seemed to suggest that the applicant and other defendants had committed the offences with which they had been charged, the conclusion of this part of the decision indicated that the credibility of all evidence would be assessed by the trial court. It was obvious from the context that the Court of Appeal had referred to the existence of evidence pointing to a strong likelihood that the applicant had committed the offences in issue, and not to the question of his guilt or innocence.

The criminal proceedings against the applicant were still pending and it did not, in the Government's opinion, transpire from the case file that the judges had been in any way biased as a result of the impugned statements.

In that respect they also relied on the Gdańsk Court of Appeal's decision of 8 April 2008, in which the court stressed that the impugned statements merely described a strong likelihood of committing the crime, rather than a finding of the applicant's guilt.

50. The applicant argued that his right to be presumed innocent had been breached on account of the terms employed by the Court of Appeal in the impugned decision.

2. The Court's assessment

(a) General principles

51. The Court reiterates that the presumption of innocence will be violated if a judicial decision or a statement by a public official concerning a person charged with a criminal offence reflects an opinion that he is guilty before he has been proved guilty according to law. It suffices, even in the absence of any formal finding, that there is some reasoning suggesting that the court or the official regards the accused as guilty. A premature expression of such an opinion by the tribunal itself will inevitably run foul of the said presumption (see, among many other authorities, *Minelli v. Switzerland*, judgment of 25 March 1983, Series A no. 62, §§ 27, 30 and 37; *Allenet de Ribemont v. France*, judgment of 10 February 1995, Series A no. 308, p. 16, §§ 35-36 and *Matijašević v. Serbia*, no. 23037/04, § 45, ECHR 2006-...).

52. Article 6 § 2 governs criminal proceedings in their entirety, “irrespective of the outcome of the prosecution” (see *Minelli*, cited above, § 30). However, once an accused has been found guilty, in principle, it ceases to apply in respect of any allegations made during the subsequent sentencing procedure (see *Phillips v. the United Kingdom* no. 41087/98, ECHR 2001-VII and *Engel and Others v. the Netherlands* judgment of 8 June 1976, Series A no. 22).

53. Furthermore, a distinction should be made between statements which reflect the opinion that the person concerned is guilty and statements which merely describe “a state of suspicion”. The former infringe the presumption of innocence, whereas the latter have been regarded as unobjectionable in various situations examined by the Court (see, *inter alia*, *Leutscher v. the Netherlands*, judgment of 26 March 1996, *Reports* 1996-II, p. 436, § 31).

(b) Application of the above principles in the present case

54. The Court notes that in the grounds for its decision of 19 March 2008 on the prolongation of the applicant's detention, the Gdańsk Court of Appeal stated that the evidence against the defendants, including the applicant, indicated that they had committed the offences with which they had been charged.

The Court emphasises that there is a fundamental distinction to be made between a statement that someone is merely *suspected* of having committed a crime and a clear judicial declaration, in the absence of a final conviction, that the individual *has committed* the crime in question (see, *Garycki v. Poland*, no. 14348/02, § 71, 6 February 2007, *Nešták v. Slovakia*, no. 65559/01, § 89, 27 February 2007; *Wojciechowski v. Poland*, no. 5422/04, § 54, 9 December 2008).

Having regard to the explicit and unqualified character of the impugned statement, the Court finds that it amounted to a pronouncement on the applicant's guilt before he was proved guilty according to law. The Court underlines that there can be no justification for a court of law to make a premature pronouncement of this kind.

55. There has accordingly been a violation of Article 6 § 2 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

56. The applicant alleged a breach of Article 3 of the Convention in that he had been detained in overcrowded cells and that the State had failed to secure to him adequate living conditions throughout his detention.

A. The Government's objection on exhaustion of domestic remedies

57. Article 35 § 1 of the Convention reads, in so far as relevant, as follows:

“1. The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law ...”

58. The Government argued that the applicant had not exhausted domestic remedies available to him, as required by Article 35 § 1 of the Convention. They raised a preliminary objection similar to that relied on in the case of *Latak v. Poland* (see *Latak v. Poland* (dec.) no. 52070/08, 12 October 2010, §§ 63-64). In particular, they stressed that the applicant had already been released on 26 June 2008. In these circumstances, the situation giving rise to the alleged breach of Article 3 of the Convention no longer existed and the applicant should bring a civil action under Article 24 taken in conjunction with Article 448 of the Civil Code in order to seek compensation for the past violation.

59. In view of the foregoing, the Government invited the Court the Court to reject the application for non-exhaustion of domestic remedies, pursuant to Article 35 § 1 of the Convention.

B. The applicant's' position

60. The applicant did not submit any comments.

C. The Court's conclusion

61. The Court already examined the same objection raised by the Government in the above mentioned case of *Latak v. Poland* and considered their arguments not only in the context of that particular applicant but also in respect of other actual or potential applicants with similar cases (see *Latak*, cited above, §§ 71-85).

62. In so doing, the Court had regard to the fact that on the date of the adoption of its decision there were 271 cases pending before it where the applicants had raised complaints similar in substance, alleging a violation of Article 3 in that at various times and for various periods they had been adversely affected by the same structural problem, having been detained in overcrowded, insanitary cells (*ibid.* § 84).

63. Having found that a civil action under Article 24 taken in conjunction with Article 448 of the Civil Code could be considered an “effective remedy” for the purposes of Article 35 § 1 of the Convention as from 17 March 2010 and having regard to the 3-year limitation period for lodging such an action, the Court held that essentially in all cases in which in June 2008 the alleged violation had either been remedied by placing the

applicant in Convention-compliant conditions or had ended *ipso facto* because the applicant had been released, the applicants concerned should bring a civil action for the infringement of personal rights and compensation (ibid. § 85 and § 76 respectively).

64. In the present case the situation giving rise to the alleged violation of Article 3 ended on 26 June 2008, the date on which the applicant was released. That being so and having regard to the fact that he still has adequate time to prepare and lodge with the Polish civil courts an action under Article 24 taken in conjunction with Article 448 of the Civil Code, he should, before having his Convention claim examined by the Court, be required to seek redress at domestic level.

65. It follows that the complaint about the conditions of the applicant's detention must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

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

66. Lastly, the applicant complained that the length of the criminal proceedings against him has been unreasonable.

67. The Court notes that persons complaining about the length of proceedings before the Polish courts are required by Article 35 of the Convention to lodge a complaint about the breach of the right to a trial within a reasonable time under the Law of 17 June 2004 on complaints about a breach of the right to an investigation conducted and supervised by a Prosecutor and to a trial within a reasonable time (*Ustawa o skardze na naruszenie prawa strony do rozpoznania sprawy w postępowaniu przygotowawczym prowadzonym lub nadzorowanym przez prokuratora i postępowaniu sądowym bez nieuzasadnionej zwłoki*) (see *Charzyński v. Poland* (dec.) no. 15212/03, 1 March 2005). The applicant failed to make use of this remedy.

It follows that the complaint concerning the excessive length of the proceedings must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

V. APPLICATION OF ARTICLE 46 OF THE CONVENTION

68. Article 46 of the Convention provides:

“1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.”

69. Recently, in the case of *Kauczor v. Poland* (see *Kauczor*, cited above, § 58 et seq. with further references) the Court held that the 2007 Resolution taken together with the number of judgments already delivered and of the pending cases raising an issue of excessive detention incompatible with Article 5 § 3 demonstrated that the violation of the applicant's right under Article 5 § 3 of the Convention had originated in a widespread problem arising out of the malfunctioning of the Polish criminal justice system which had affected, and may still affect in the future, an as yet unidentified, but potentially considerable number of persons charged in criminal proceedings.

70. In the present case, as in other numerous similar detention cases, the authorities did not justify the applicant's continued detention by relevant and sufficient reasons (see paragraphs 39-42 above). Consequently, the Court sees no reason to diverge from its findings made in *Kauczor* as to the existence of a structural problem and the need for the Polish State to adopt measures to remedy the situation (see *Kauczor*, cited above, §§ 60-62).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

71. 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

72. The applicant claimed 66,000 euros (EUR) in respect of non-pecuniary damage.

73. The Government contested this claim. They submitted that the amount claimed by the applicant in respect of non-pecuniary damage was unreasonable in the light of the Court's case-law concerning similar cases brought against Poland.

74. The Court considers that the applicant has suffered non-pecuniary damage which is not sufficiently compensated by the finding of a violation of the Convention. Considering the circumstances of the case and making its assessment on an equitable basis, the Court awards the applicant EUR 2,000 under this head.

B. Costs and expenses

75. The applicant submitted no claim for costs and expenses.

C. Default interest

76. 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 complaint concerning the length of the applicant's pre-trial detention and the complaint about a breach of the presumption of innocence admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 5 § 3 of the Convention;
3. *Holds* that there has been a violation of Article 6 § 2 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 2,000 (two thousand euros) in respect of non-pecuniary damage, plus any tax that may be chargeable, to be converted into the 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 amount 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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 8 February 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President