



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

THIRD SECTION

**CASE OF SOCHICHIU v. MOLDOVA**

*(Application no. 28698/09)*

JUDGMENT

STRASBOURG

15 May 2012

**FINAL**

***15/08/2012***

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



**In the case of Sochichiu v. Moldova,**

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

Josep Casadevall, *President*,

Corneliu Bîrsan,

Egbert Myjer,

Ineta Ziemele,

Nona Tsotsoria,

Mihai Poalelungi,

Kristina Pardalos, *judges*,

and Santiago Quesada, *Section Registrar*,

Having deliberated in private on 17 April 2012,

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

## PROCEDURE

1. The case originated in an application (no. 28698/09) against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Moldovan national, Mr Sergiu Sochichiu (“the applicant”), on 27 May 2009.

2. The applicant was represented by Mr G. Malic and Mr I. Oancea, lawyers practising in Chişinău. The Moldovan Government (“the Government”) were represented by their Agent, Mr V. Grosu.

3. The applicant alleged, in particular, that he had been ill treated during his arrest contrary to Article 3 of the Convention.

4. On 29 November 2010 the application was communicated 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

5. The applicant, Mr Sergiu Sochichiu, was born in 1973 and lives in Chişinău. At the time of the events he was a real estate agent.

6. On 17 January 2007 the applicant was arrested by four plainclothes police officers in front of his daughter’s kindergarten. According to the applicant, he was sitting in his car when four armed people approached him. When he got out of the car he received a blow to his head and fell down,

injuring his face. His hands were then tied with his belt and he was taken to a police station in a police car.

7. According to the Government, the applicant attempted to lock the doors of his car and to flee when approached by the police officers. When taken out of the car, he engaged in a fight with one of them. The Government submitted that the arresting officers had had no other option but to apply force in order to immobilise him.

8. The Government submitted a video showing a part of the applicant's arrest. The video starts with images from a moving car approaching two other cars. Near those cars, the applicant can be seen lying with his face on the ground surrounded by several men in plain clothes. One of the men is pressing his foot on the applicant's head. The applicant does not move and his hands are placed on the ground. He is asked his name and he answers. One of the men asks another man whether he has handcuffs and receives a negative answer. Then he starts taking the applicant's belt off. The applicant cooperates and raises his midsection from the ground in order to allow the police officer to take off his belt. Then, the man with his foot on the applicant's head brushes off his lower trouser leg with his hand, without removing his foot from the applicant's head. Then that man takes his foot off the applicant's head and another man orders the applicant to put his hands behind his back. The applicant complies and one of the men starts tying his hands with his belt. At that point, one of the men bends down to speak to the applicant and asks what happened and the applicant answers that his teeth have been knocked out. That man then tells the others that two of the applicant's teeth are missing. One of the men says with a sarcastic tone: "they will grow back, won't they?" The applicant says that they will not. Then the applicant is lifted from the ground and taken to a white car. On his way, one of the arresting men shouts a swear word at the applicant. The applicant gets into the car, after which the video stops. The video lasts almost two minutes.

9. One of the arresting officers drove the applicant's car to the police station. The applicant's wife and daughter witnessed his arrest. According to the applicant, his arrest was also witnessed by many other parents who were taking their children home from kindergarten. This submission was disputed by the arresting officers during the criminal proceedings against them.

10. At the police station the applicant was informed that he was suspected of fraud connected with the sale of an apartment belonging to a third party. After two hours, the applicant's lawyer was called and then an ambulance. The doctors found injuries on the applicant's face, in particular on his lips and jaw and concluded that he needed inpatient examination and treatment. It appears that on the same day the applicant's lip was stitched. The applicant's car was returned to his family the next day.

11. On the same day as the applicant's arrest the arresting officers drafted a record of his arrest, which stated that the applicant had been

arrested on suspicion of fraud. The record did not contain any information concerning resistance by the applicant to arrest.

12. On 19 January 2007 the applicant was taken before an investigating judge, to whom he complained of being ill-treated at the time of his arrest. The investigating judge forwarded his complaint to the Prosecutor's Office and ordered the applicant's forensic medical examination.

13. In a report dated 20 January 2007 and bearing number 348, a forensic doctor observed that the applicant had presented with a bruise on his lower lip and bruises and scratches on his jaw and upper limbs. According to the doctor, the injuries had been caused by a blunt object and needed between six and twenty-one days of medical treatment.

14. The criminal case file also contains two forensic reports, one dated 19 January 2007 and bearing number 350 and another one dated 22 January 2007 and bearing number 369, according to which one of the arresting officers had presented with a bruise on his left arm and scratches on his hands. It does not, however, appear that the police officer in question made any complaints against the applicant or that the applicant was charged with the offence of resisting arrest.

15. Also on 20 January 2007 the Buiucani District Court rejected the prosecutor's request to remand the applicant in custody and instead ordered the applicant's house arrest for a period of ten days.

16. Between February 2007 and April 2009 prosecutors from the Chişinău Prosecutor's Office refused to initiate criminal proceedings against the police officers involved on three occasions. Their decisions were quashed each time by court orders or by the Prosecutor General's Office. Each time, the prosecutors' rationale was that the police had applied force in order to counter the applicant's resistance and that the use of force had been justified. In support of this conclusion, the prosecutors relied on forensic report no. 350 dated 19 January 2007.

In particular, on 16 February 2007 prosecutor G., who was the prosecutor in charge of the criminal investigation against the applicant, refused to initiate criminal proceedings against the officers. That decision was quashed on 6 June 2007 by a deputy Prosecutor General on account of the fact that prosecutor G. had not been independent.

On 6 July 2007 prosecutor H. refused to initiate criminal proceedings. His decision was quashed by the Prosecutor General's Office on 28 March 2008 on account of the fact that the investigation had not yet been completed.

On 15 July 2008 prosecutor P. refused to initiate criminal proceedings. His decision was quashed by the Râşcani District Court on 21 April 2009 on account of the fact that prosecutor P. had failed, *inter alia*, to examine the video of the applicant's arrest and to question the applicant's wife and the other people who had witnessed the applicant's arrest.

17. On 20 May 2009 prosecutor R. from the Chişinău Prosecutor's Office formally initiated criminal proceedings against the officers involved, but they were discontinued on 14 December 2009. Prosecutor R. based his decision to discontinue the proceedings on the same grounds as the previous decisions not to institute proceedings. He did not question the applicant's wife, arguing that she had refused to talk to him, and did not identify other possible witnesses, arguing that due to the time elapsed since the date of the arrest, it was impossible to identify such witnesses. The decision of prosecutor R. was quashed by the Râşcani District Court on 21 June 2010, when the court ordered the reopening of the criminal proceedings on the grounds that the Prosecutor's Office had failed to determine whether the force applied against the applicant had been proportional to the intensity of his resistance and to question the applicant's wife, who had been present at the arrest, and to examine the video of the arrest.

18. On 30 December 2010 prosecutor R. questioned the applicant's wife, who stated that she had been coming out of the kindergarten with her and her husband's three-year-old daughter when they had witnessed her husband's arrest by four men armed with guns. She stated that when the applicant had gotten out of the car, the men had started beating him and had thrown him to the ground face down. Then they had tied his hands and had taken him away in their car. One of them had driven off with the applicant's car. She also stated that the event had been witnessed by many other parents who had been taking their children home from kindergarten.

19. On the same date prosecutor R. again closed the criminal proceedings concerning the applicant's ill-treatment. In his decision, the prosecutor did not give any consideration to the statement given by the applicant's wife. Relying on the statements of the accused officers to the effect that the applicant had resisted arrest and on forensic report no. 350 dated 19 January 2007, the prosecutor concluded that the use of force by the arresting officers had been justified. The prosecutor also explained the fact that the number borne by the forensic report dated 19 January 2007 was higher than the report dated 20 January 2007 as a technical error. The applicant appealed against this decision.

20. On 22 April 2011 the Râşcani District Court quashed the decision of 30 December 2010 and ordered the reopening of the criminal proceedings. The court found numerous flaws in the investigation, among which were the disappearance of the original video cassette on which the arrest of the applicant had been filmed and the excessive length of the investigation.

21. On 18 July 2011 the Chişinău Prosecutor's Office again closed the criminal proceedings on similar grounds as the previous occasions. The applicant challenged this decision before the Râşcani District Court. However, on 27 October 2011 the applicant's appeal was finally dismissed.

22. As to the criminal proceedings against the applicant, it appears from the statements of the parties that he spent one hundred and fifty days under house arrest and that no conviction has been delivered to date.

## II. RELEVANT DOMESTIC LAW

23. The Police Act of 18 December 1990 states:

### **Section 14. Conditions of and limits on the use of force, special techniques and firearms**

“Police officers have the right to use force, special techniques and firearms in the cases and in the manner provided for in the present law. The use of force, of special techniques and of firearms shall be preceded by a warning about the intention to use them, and sufficient time shall be allowed for reaction, except in cases in which a delayed use of force... may generate a direct threat to the life and health of citizens or police officers or may lead to serious consequences.

...

In any case in which the use of force cannot be avoided, police officers are obliged to do their best in order to cause the least harm possible to the health, [...] dignity and property of citizens, as well as to ensure medical assistance is provided to victims.

In case of injury or death caused as a result of use of force... the police officer shall report it to his direct superior, in order that the latter may inform a prosecutor.

The abuse of the power to use force... shall be punished in accordance with the law.”

### **Section 15. The use of physical force**

“Police officers are only entitled to use force and special fighting techniques for the purpose of ending criminal activities and for neutralising resistance to legal demands in cases in which non-violent methods are not sufficient for the discharging of their obligations.”

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION

24. The applicant submitted that he had been ill-treated by the police during his arrest and that the State authorities had failed to effectively investigate his allegations of ill-treatment. In his view, the above had amounted to a violation of Article 3 of the Convention and to a breach of

the State's obligation to provide effective remedies in this respect. Articles 3 and 13 of the Convention read as follows:

**Article 3**

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

**Article 13**

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

**A. Admissibility**

25. The Government submitted that the applicant had failed to challenge the decision of the Chişinău Prosecutor's Office of 18 July 2011 closing the criminal proceedings concerning his alleged ill-treatment and that, therefore, his complaints had to be declared inadmissible for failure to exhaust domestic remedies.

26. The applicant disagreed with the Government and submitted copies of his appeal against the decision of 18 July 2011 and a copy of the Râşcani District Court's decision of 27 October 2011.

27. The Court notes that the applicant did, in fact, challenge the prosecutor's decision of 18 July 2011. The Court therefore concludes that the complaints cannot be declared inadmissible for non-exhaustion of domestic remedies and, accordingly, the Government's objection is dismissed.

28. The Court further notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

**B. Merits**

*1. The parties' submissions*

29. The applicant submitted that the use of force against him had been totally unwarranted. He had not been wanted by the police, had been unarmed and had not been caught in the act of committing a criminal offence. In fact, at the time of his arrest, the police officers had acted *ultra vires*, as there had been no formal order for his arrest. At the police station, he had been kept without medical assistance for two hours before it had



been provided and only at the insistence of his lawyer. According to him, the treatment meted out to him by the police had amounted to inhuman and degrading treatment.

30. The applicant also submitted that the prosecutors in charge of the case had not been independent. He mentioned that the first refusal to initiate criminal proceedings had been adopted by prosecutor G., who had also been in charge of the criminal case against him. That same prosecutor had indicted the applicant and had applied to a court for his remand in custody. It was only on 20 May 2009 that the Chişinău Prosecutor's Office had formally initiated criminal proceedings against the officers involved.

31. The Government did not deny that the injuries on the applicant's body had been caused by police officers during his arrest. However, they maintained that the use of force by the police officers had been justified by the applicant's behaviour, in particular by his resistance to arrest, and that the intensity of the force used had not been disproportional to the applicant's resistance. They relied on forensic medical report no. 350 dated 19 January 2007, in which it had been noted that a bruise and scratches had been found on the arms of one of the arresting officers. The Government maintained that in any event the suffering caused to the applicant had not reached the minimum threshold of severity required by Article 3 and asked the Court to dismiss the applicant's complaint under that Article. As to the effectiveness of the investigation, the Government submitted that the prosecutors had done everything which it had been necessary to do in order to investigate the applicant's allegations. Therefore, the investigation had been effective within the meaning of Article 3 of the Convention.

## 2. The Court's assessment

32. As the Court has stated on many occasions, Article 3 enshrines one of the most fundamental values of democratic societies. Even in the most difficult circumstances, such as the fight against terrorism and organised crime, the Convention prohibits in absolute terms torture and inhuman or degrading treatment or punishment. Unlike most of the substantive clauses of the Convention and of Protocols Nos. 1 and 4, Article 3 makes no provision for exceptions and no derogation from it is permissible under Article 15 § 2, even in the event of a public emergency threatening the life of the nation (see *Selmouni v. France* [GC], no. 25803/94, § 95, ECHR 1999-V, and *Assenov and Others v. Bulgaria*, 28 October 1998, § 93, *Reports of Judgments and Decisions* 1998-VIII).

33. The Court reiterates that in the process of arrest of a person, any recourse to physical force which has not been made strictly necessary by his or her own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 of the Convention (see, *mutatis mutandis*, *Ribitsch v. Austria*, 4 December 1995, § 38, Series A no. 336).

34. The Court further reiterates that where an individual makes a credible assertion that he has suffered treatment infringing Article 3 at the hands of the police or other agents of the State, that provision, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within their jurisdiction the rights and freedoms defined in ... [the] Convention", requires by implication that there should be an effective official investigation. As with an investigation under Article 2, the investigation should be capable of leading to the identification and punishment of those responsible. Otherwise, the general legal prohibition of torture and inhuman and degrading treatment and punishment would, despite its fundamental importance, be ineffective in practice and it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity (see, among other authorities, *Labita v. Italy* [GC], no. 26772/95, § 131, ECHR 2000-IV).

35. For an investigation to be effective, it may generally be regarded as necessary for the persons responsible for and carrying out the investigation to be independent from those implicated in the events (see e.g. *Barbu Anghelescu v. Romania*, no. 46430/99, § 66, 5 October 2004). This means not only a lack of hierarchical or institutional connection but also practical independence (see, for example, *Ergi v. Turkey*, 28 July 1998, §§ 83-84, *Reports* 1998-IV, where the public prosecutor investigating the death of a girl during an alleged clash showed a lack of independence through his heavy reliance on the information provided by the gendarmes implicated in the incident).

36. The investigation into serious allegations of ill-treatment must be thorough. That means that the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation or as the basis of their decisions (see *Assenov and Others*, cited above, § 103 et seq.). They must take all reasonable steps available to them to secure the evidence concerning the incident, including, *inter alia*, eyewitness testimony and forensic evidence (see, *Tanrıkulu v. Turkey* [GC], no. 23763/94, ECHR 1999-IV, § 104 et seq., and *Gül v. Turkey*, no. 22676/93, § 89, 14 December 2000). Any deficiency in the investigation which undermines its ability to establish the cause of injuries or the identity of the persons responsible will risk falling foul of this standard.

37. Turning to the facts of the present case, the Court notes that it is undisputed that the applicant was injured by police officers during his arrest. The only matter in dispute is whether the use of force by the police was justified in the circumstances of the case.

38. It appears from the facts of the case that the applicant was not arrested in the course of a random operation which might have given rise to unexpected developments to which the police might have been called upon to react without prior preparation (see, *a contrario*, *Zelilof v. Greece*,

no. 17060/03, § 48, 24 May 2007). The materials in the case file clearly show that the police planned the arrest operation in advance and that they had sufficient time to evaluate the possible risks and to take all necessary measures for carrying out the arrest. In this respect, the Court has some reservations as to the manner in which the operation was prepared for the reason that the police officers were not even equipped with handcuffs and had to tie the applicant's hands with his own belt.

39. The Court further notes that the operation was carried out by four police officers, who, as appears from the video of the arrest, were of approximately the same size and build as the applicant and, unlike the applicant, were armed. The task of the four police officers was to arrest a suspect who was not armed and was not known to have a history of violence. On the contrary, the applicant had a family, a job, a permanent place of residence, was not wanted by the police and was suspected of a white-collar crime. Furthermore, the arrest was to take place in front of a kindergarten at a time when the applicant and other parents would ordinarily be taking their children home, thus potentially in front of the applicant's family and other people, including small children. In such circumstances, the Court is not persuaded by the findings of the domestic authorities to the effect that the applicant represented such a serious threat to the arresting officers as to justify such brutal methods on their part. Even assuming that the applicant's initial reaction to four individuals in plain clothes wanting to arrest him was some form of resistance, the Court remains persuaded that other less harmful methods and techniques were available to a group of four trained police officers.

40. Besides the brutal force used against the applicant, the Court notes from the video of the arrest that the conduct of the police officers was far from being respectful of the applicant's dignity. In particular, one of the police officers stepped on his head and did not remove his foot, even when brushing his trousers. In the Court's opinion, such conduct is degrading and humiliating. The Court also notes the mocking of the applicant's losing some of his teeth and the swearing by one of the officers.

41. The Court must also have regard to the manner in which the domestic authorities examined the applicant's complaint of ill-treatment. It notes in the first place that the proceedings in respect of the applicant's complaint have been pending before the domestic authorities for almost five years. Judging by the materials in its possession, the Court is not persuaded that the present case presents such complexity as to have required such a long time to be resolved. The investigation's long duration was apparently due to the manner in which the criminal proceedings took place, which, in the Court's opinion, discloses a lack of means by which the courts might exercise effective control over investigating bodies. In the Court's view, the Chişinău Prosecutor's Office did not feel compelled to fully implement the instructions received from the district court and the court had no other

option but to quash the prosecutor's decisions each and every time. The Court recalls that similar situations were encountered in numerous other cases against Moldova concerning Article 3 of the Convention, such as, for instance, *Corsacov v. Moldova* (no. 18944/02, 4 April 2006), *Gurgurov v. Moldova* (no. 7045/08, 16 June 2009) and *Mătășaru and Savițchi v. Moldova* (no. 38281/08, 2 November 2010), where, as in the present case, the case went back and forth between the prosecutor's office and the courts. The Court is not prepared at this time to make a finding in respect of the effectiveness of the system put in place by the Moldovan authorities to react to allegations of ill-treatment. However, the Court's position may be subject to review in the future.

42. The Court further notes that the domestic authorities appear to have been inclined to prefer the version of the facts given by the arresting officers merely on account of forensic medical report no. 350, which was presented to the authorities by one of the police officers. In that report, it was established that the officer in question had sustained a bruise and several scratches to his arms. The Court notes with concern that, while dated 19 January 2007, that report bore a higher registration number than the report issued to the applicant by the same medical institution on 20 January 2007. Moreover, for reasons best known to the medical institution in question, a similar report was issued to the same arresting officer three days later, this time bearing a normal registration number. It does not appear that the domestic authorities showed much concern about this important fact or that they made any genuine attempt to clarify the matter.

43. The Court finally notes that the prosecuting authorities focused only on the statements made by the applicant and by the accused officers. However, as was stated by the applicant's wife, numerous other parents and children witnessed the applicant's arrest. In dismissing the applicant's complaint, the prosecutors do not appear to have paid attention to that statement and did not make any attempt to identify the other individuals who had witnessed the arrest.

44. In the light of the above, the Court concludes that there has been both a substantive and a procedural violation of Article 3 of the Convention. In so far as the substantive aspect is concerned, the Court considers that the treatment to which the applicant was subjected amounted to inhuman and degrading treatment. It also holds that no separate issue arises under Article 13 of the Convention.

## II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

45. In his initial application, the applicant also complained that the taking of his car by one of the police officers on the day of his arrest had breached his rights guaranteed by Articles 8 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention. However, he did not

substantiate these complaints in his subsequent submissions to the Court. In such circumstances and in view of the materials in its possession, the Court does not discern any signs of a violation in respect of them. Accordingly, they must be declared inadmissible within the meaning of Article 35 §§ 3 and 4 of the Convention.

### III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

46. 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 Damage

47. The applicant claimed 1,220 euros (EUR) in respect of pecuniary damage. He maintained that he had had to spend this amount to fix his teeth which had been knocked out by the police officers during his arrest. He submitted a copy of an x-ray picture of his mouth with two frontal teeth missing and a copy of an invoice from a dental clinic for mounting of the two missing teeth.

48. The Government argued that the documents presented by the applicant did not prove that he had actually spent the amount claimed. In any event, they submitted that the cost of the dental services claimed by the applicant was too high and that he could have found cheaper offers on the market.

49. The Court notes that there is nothing in the relevant forensic medical report about the applicant's teeth being missing after his arrest. However, it notes that one of the arresting officers admitted in the video of the applicant's arrest that two of his teeth had been knocked out and that the Government does not dispute this allegation. Therefore, it considers it justified to award the amount claimed by the applicant in full.

#### B. Non-pecuniary Damage

50. The applicant claimed EUR 110,000 for non-pecuniary damage. He argued that he had suffered severe physical pain and mental anguish of particularly a severe intensity as a result of being ill-treated in front of his wife and his three-year-old daughter.

51. The Government disagreed with the amount claimed by the applicant and argued that it was excessive.

52. Having regard to the violations found above and their gravity, the Court considers that an award for non-pecuniary damage is justified in this case. Making its assessment on an equitable basis the Court awards him EUR 15,000.

### **C. Costs and expenses**

53. The applicant also claimed EUR 5,557 for costs and expenses incurred before the Court. The amount claimed covered postal expenses, translation fees and representation fees. The applicant submitted relevant documents in support of his claims.

54. The Government contested the amount claimed by the applicant and argued that it was excessive.

55. 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 are reasonable as to quantum. In the present case, regard being had to the information in its possession, the above criteria and the complexity of the case, the Court considers it reasonable to award the applicant the sum of EUR 3,000 for costs and expenses.

### **D. Default interest**

56. The Court considers it appropriate that the default interest rate 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 under Article 3 taken alone and together with Article 13 of the Convention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a substantive and a procedural violation of Article 3 of the Convention;
3. *Holds* that no separate issue arises under Article 13 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, the following amounts, to be converted into Moldovan lei at the rate applicable at the date of settlement:

- (i) EUR 1,220 (one thousand two hundred and twenty euros), plus any tax that may be chargeable, in respect of pecuniary damage;
- (ii) EUR 15,000 (fifteen thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
- (iii) EUR 3,000 (three thousand euros), plus any tax that may be chargeable to the applicant, 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;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 15 May 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada  
Registrar

Josep Casadevall  
President