CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

CASE OF DAKTARAS v. LITHUANIA

(Application no. 42095/98)

JUDGMENT

STRASBOURG

10 October 2000

FINAL

17/01/2001

In the case of Daktaras v. Lithuania,

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

Mr J.-P. COSTA, *President*,
Mr W. FUHRMANN,
Mr L. LOUCAIDES,
Mrs F. TULKENS,
Sir Nicolas BRATZA, *appointed to sit in respect of Lithuania*,
Mrs H.S. GREVE,
Mr K. TRAJA, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 14 March and 19 September 2000,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 42095/98) against the Republic of Lithuania lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Lithuanian national, Mr Henrikas Daktaras ("the applicant"), on 11 May 1998.

2. The applicant was represented by Mr R. Girdziušas and Mr V. Sviderskis, lawyers practising in Kaunas and Vilnius respectively. The Lithuanian Government ("the Government") were represented by their Agent.

3. The applicant alleged, in particular, that the Supreme Court, which heard the petition to quash the appellate court's judgment, was not an impartial tribunal within the meaning of Article 6 § 1 of the Convention and that the prosecutor breached the principle of the presumption of innocence guaranteed by Article 6 § 2 in his pre-trial decision of 1 October 1996.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. The application was allocated to the Third Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1. Mr P. Kūris, the judge elected in respect of Lithuania, withdrew from sitting in the case (Rule 28). The Government accordingly appointed Sir Nicolas Bratza, the judge elected in respect of the

United Kingdom, to sit in his stead (Article 27 § 2 of the Convention and Rule 29 § 1).

6. By a decision of 11 January 2000 the Chamber declared the application partly admissible and decided to hold a hearing on the merits of the case [*Note du greffe* : la décision de la Cour est disponible au greffe.].

7. The hearing took place in public in the Human Rights Building, Strasbourg, on 14 March 2000 (Rule 59 § 2).

There appeared before the Court:

(a) *for the Government*
Mr G. ŠVEDAS, Deputy Minister of Justice, *Agent*;

(b) *for the applicant*
Mr V. SVIDERSKIS, *Counsel*.

The Court heard addresses by them.

8. On 3, 4, 8 and 24 February, 20 March and 19 June 2000, the parties produced a number of documents, either at the Court's request or of their own accord.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

9. On 18 February 1996 a prosecutor at the Organised Crime Division of the Office of the Prosecutor General instituted criminal proceedings against the applicant. He was suspected of being an accomplice to the offence of demanding and obtaining a ransom of 7,000 United States dollars for returning the stolen car of a certain J.M.

10. On 1 April 1996 the applicant was charged on four counts, including blackmail (*turto prievartavimas*) and inciting the victim (*poveikis nukentėjusiajam*) to make false statements.

11. The pre-trial investigation in the case was conducted by prosecutors at the Organised Crime Division of the Office of the Prosecutor General. It was concluded on 26 September 1996. From that date until 1 October 1996 the applicant and his counsel were given access to the case file.

12. After having access to the case file, the applicant and his counsel requested the prosecution to discontinue the case, arguing that the charges against the applicant were ill-founded and that the case file “contained no evidence [of his] guilt”.

13. On 1 October 1996 a prosecutor of the Organised Crime Division dismissed the applicant's requests. In his decision the prosecutor stated, *inter alia*:

> "After having access to the case file, [the applicant] ... submitted [requests] to discontinue the criminal case on the ground that he had not committed the offences alleged ... and that his guilt ... had not been proved [*kaltė ... neįrodyta*]. [These] allegations must be dismissed as ill-founded because it has been established [*kaltė ... įrodyta*] from the evidence collected in the course of the pre-trial investigation that the applicant is guilty of [these] crimes.
>
> Although Henrikas Daktaras has not admitted having committed the alleged offences, his guilt has been proved by the witnesses' evidence, ... video and audio records ... and other material collected in the course of the pre-trial investigation. The fact that H. Daktaras concealed an offence ... is proved by the evidence [given by witnesses S.Č., V.V. and A.L.] ... The fact that H. Daktaras threatened [the victim J.M.] by force to obtain property ... is proved by the evidence [given by S.Č. and the material evidence] ... The fact that H. Daktaras conspired with persons who had committed the theft [of the car] ... is proved by [his own statements] ... The fact that H. Daktaras ... intimidated the victim is fully proved by the evidence [given by J.M., S.Č. and material evidence] ... [The above evidence] is assessed by the prosecution as an incitement to make [J.M.] give false statements ...
>
> Against the above background, in accordance with Article 229 of the Code of Criminal Procedure, it is decided
>
> 1. to dismiss [the applicant's] requests entirely, and
>
> 2. to inform the persons concerned about the decision."

14. On 2 October 1996 the Chief Prosecutor at the Organised Crime Division confirmed the bill of indictment and sent the case to the Supreme Court.

15. On the same date the President of the Criminal Division of the Supreme Court transmitted the case to the Vilnius Regional Court.

16. On 18 November 1996 a judge of the Vilnius Regional Court committed the applicant for trial.

17. On 13 February 1997 the judge found the applicant guilty of blackmail and inciting the victim to make false statements. He was convicted as the principal offender on the blackmail charge. He was acquitted on two other counts. The applicant was sentenced to seven years and six months' imprisonment. He was also fined 15,000 litai and his property was confiscated.

18. The applicant appealed, relying on various errors of domestic substantive and procedural law. He pleaded, *inter alia*, that he had been presumed guilty and that he had been deprived of a fair trial by an independent and impartial court.

19. On 27 May 1997 the Court of Appeal held a full appeal hearing. It amended the judgment of 13 February 1997 in so far as it concerned the

applicant's conviction for blackmail, ruling that the applicant was a secondary party, not the principal offender. The sentence remained unchanged.

20. The applicant lodged an appeal with the Supreme Court, pleading that both lower courts had erred in fact and law and that he had not committed the alleged offences.

21. On 3 July 1997 the judge of the Vilnius Regional Court who had delivered the first-instance judgment wrote a letter to the President of the Criminal Division of the Supreme Court in which he contested the conclusions reached by the Court of Appeal as to the level of the applicant's participation in the blackmail offence. In that letter the judge maintained that the applicant ought to have been convicted as the principal offender. The judge requested the President to lodge a petition (*kasacinis teikimas*) to quash the Court of Appeal's judgment.

22. On 27 August 1997 the President of the Criminal Division of the Supreme Court lodged a petition with the Criminal Division of the Supreme Court to quash the Court of Appeal's judgment. In the petition the President stated, *inter alia*:

> "The judgment of the Court of Appeal should be quashed ... [The appellate court] ... wrongly interpreted and applied the law ... On the basis of the material ... it established that H. Daktaras ... executed the will of the group of persons ... and was the principal offender on the blackmail charge ...
>
> In accordance with Article 417 of the Code of Criminal Procedure, I petition
>
> to quash the judgment of the Court of Appeal of 27 May 1997 ... and to uphold the judgment of the Vilnius Regional Court of 13 February 1997."

23. On 8 September 1997 the same President of the Criminal Division of the Supreme Court appointed a judge rapporteur in the case. On 23 September 1997 the President also appointed a Chamber of three judges of the Criminal Division of the Supreme Court to examine the case.

24. A hearing was held on 2 December 1997 during which the Chief Prosecutor of the Organised Crime Division requested the Chamber to uphold the petition on behalf of the prosecution, which had not lodged an appeal itself in the case. The applicant requested the Supreme Court to uphold his appeal and reject the petition.

25. On the above date the Supreme Court quashed the judgment of the Court of Appeal and upheld the judgment of the Vilnius Regional Court, rejecting the applicant's appeal and upholding the petition. The Supreme Court found that the applicant had been the principal offender on the blackmail charge.

II. RELEVANT DOMESTIC LAW AND PRACTICE

26. Relevant provisions are as follows:

A. Impartiality and independence of judges

Article 14 of the Code of Criminal Procedure (the CCP")

> "In administering justice in criminal matters judges are independent and beholden only to the law. Judges decide criminal cases in accordance with the law and their conscience in conditions which make it impossible for them to be affected by outside matters. Any interference with the judges' or courts' actions in administering justice is prohibited and gives rise to liability under the law."

Article 76 of the CCP

> "A court ... shall assess evidence according to [its] inner conviction, based on an extensive, full and objective review of all the circumstances of the case, in accordance with the law and legal conscience.
>
> No evidence shall have a prejudicial influence on a court ..."

Under the terms of Article 31 a judge in respect of whom there are lawful grounds to fear a lack of impartiality must withdraw. On the same ground the judge can be challenged by the defendant and other parties to the case.

B. Status of judges and of the President of the Criminal Division of the Supreme Court

Under section 13 of the Courts Act and Article 2 of the Statute of the Supreme Court, the Supreme Court is composed of the President, Presidents of the Civil and Criminal Divisions and other judges.

Under sections 24 and 35 of the Courts Act and Articles 16 to 18 of the Statute of the Supreme Court, judges of the Supreme Court are professional and permanent judges appointed by Parliament.

According to section 39 of the Courts Act, presidents of divisions are officers having power over the "organisational sphere" of the courts' work. Under the third paragraph of section 39, presidents of divisions may also sit as judges; in such cases they perform the same judicial functions as ordinary judges.

Article 12 of the Statute of the Supreme Court provides that the President of the Criminal Division,

> "(1) in examining cases, has the same rights and obligations as other judges. [He] may submit petitions to quash or amend a lower court's judgment ...;

(2) constitutes chambers of judges and appoints their presidents, ... distributes cases among judges ... [and] supervises their examination;

(3) submits proposals to the President of the Court on premiums and bonuses for judges and other officials;

(4) heads the Registry;

(5) organises the case-law research work ...;

(6) confirms the statistical survey of activities ...;

(7) executes other functions under the law and the organisational directives of the President of the Supreme Court."

Article 14 of the Statute provides that the President of the Criminal Division is responsible for the organisation of appeal hearings.

The fourth paragraph of section 39 of the Courts Act effectively prohibits presidents of courts or presidents of divisions from exerting any influence over or otherwise breaching the independence of other judges in their administration of justice.

C. Petition to quash or amend a lower court's judgment

Under Article 417 § 4 of the CCP the President of the Supreme Court, the President of the Court of Appeal, presidents of regional courts, and presidents of the criminal divisions of the above courts may submit a petition to quash or amend a particular lower court's judgment. According to Article 417 § 5 the court hearing the petition shall follow the same procedure as on a normal appeal lodged by the parties to the proceedings.

Article 418 § 2 lays down the requirements for lodging an appeal or petition: it should refer to the specific court hearing the appeal, the case and decision at issue, the substance of the decision and the grounds for quashing the lower court's judgment.

D. Presumption of innocence

Article 31 § 1 of the Constitution provides:

"A person shall be considered innocent until proved guilty in accordance with law by a final judgment of the court."

Article 11 § 2 of the CCP provides:

"No one shall be declared guilty of having committed an offence or punished by a criminal penalty save by a court judgment in accordance with law."

E. The role of a prosecutor in criminal proceedings

Article 118 of the Constitution provides that prosecutors conduct, *inter alia*, criminal prosecutions and supervise those responsible for the pre-trial investigation.

Under Articles 45 and 46 of the CCP the prosecutor's role is to ensure that the criminal case is instituted lawfully and that the domestic law is complied with during the pre-trial investigation, to press charges at trial, to appeal against any procedural act and to supervise the execution of judgments.

In a decision of 5 February 1999 the Constitutional Court gave, *inter alia*, the following description of the general role of a prosecutor in the Lithuanian criminal process:

> "The Constitution treats prosecutors as part of the judiciary having specific functions. A prosecutor is an officer who supervises the pre-trial investigation ...
>
> The prosecutor can take part in the criminal case right from the outset. ... In accordance with the procedure provided for by law, he commences the criminal prosecution and pursues it by investigating the crime. One of his functions is to supervise the authorities conducting the pre-trial investigation. ... The prosecutor can himself conduct the investigation of any offence. ...
>
> The prosecutor is therefore responsible for the pre-trial stage of the criminal proceedings. ...
>
> The law does not provide the court ... [but] the prosecutor with the procedural means to supervise the pre-trial investigation."

Under Articles 3, 125 to 128 and 130 of the CCP, an investigator, prosecutor and court are all entitled to institute or discontinue a criminal case and to collect evidence in the case (Articles 18 and 74-76). These functions are exercised according to the stage of the proceedings.

The pre-trial investigation can be conducted by prosecutors working under the authority of the Office of the Prosecutor General, or investigators working for the Ministry of the Interior (Article 142).

Pursuant to Articles 24 and 133 of the CCP the prosecutors ensure that domestic law is complied with by the investigators at the stage of the pre-trial investigation. They are responsible for rectifying any breaches of the law. In doing so, the prosecutors "function independently from other authorities and are beholden only to the law" (Article 24 §§ 2 and 3). Under Article 24 § 4 the prosecutors' decisions are "binding on all authorities and persons".

Where the pre-trial investigation is conducted by the prosecution, an accused may, while having access to the case file (Articles 225-29 of the CCP), request the prosecutor to "supplement the investigation". The prosecutor must give a reasoned decision if he dismisses this request

(Article 229 § 2). After such a decision, the bill of indictment may be prepared (Article 230).

A complaint by the accused about an act of the prosecutor at the stage of the pre-trial investigation shall be submitted to and determined by a higher prosecutor (Articles 242-44 of the CCP).

After the bill of indictment is confirmed, the case must be transmitted to a court (Article 241 of the CCP). From that stage on "any requests or complaints about the case shall be submitted directly to the court" (Article 241 § 2).

THE LAW

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

27. The applicant alleged a violation of Article 6 § 1 of the Convention, according to which:

> "In the determination ... of any criminal charge against him, everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal ..."

28. The applicant complained that the Chamber of the Supreme Court which heard the petition to quash the appellate court's judgment could not be considered an impartial tribunal within the meaning of Article 6 § 1 of the Convention because it had been instructed to quash the Court of Appeal's decision and reinstate the first-instance judgment following the petition lodged by the President of the Criminal Division of the Supreme Court. The applicant's fears of bias by the Supreme Court were aggravated by the fact that the President had himself appointed the judge rapporteur and the members of the Chamber in the case.

29. The Government argued that the purpose of a petition to quash or amend is to permit senior judicial officers to eliminate possible mistakes in the factual or legal assessment of a case by the lower courts, thereby ensuring coherent judicial practice. The Government also submitted that the President of the Criminal Division of the Supreme Court performed only organisational functions under the domestic statutes, that he took no part in the examination of the specific case and that he had no legal power to influence the Chamber's decision or otherwise to subject the judges hearing the petition to inappropriate pressure.

The petition to quash the Court of Appeal's judgment was subject to the same review procedure as the applicant's appeal, so the former could have no more influence on the court's decision than the latter. By reference to the Lithgow and Others v. the United Kingdom judgment (8 July 1986, Series A no. 102), the Government contended that the President's opinion in

the petition had not been binding on the Supreme Court judges and therefore did not justify doubts as to the court's impartiality. Nor did the fact that the members of the appeal Chamber had been appointed by the President make any difference. In this regard the Government presented copies of eleven decisions by the Supreme Court where various petitions by the President of the Supreme Court or the President of the Criminal Division had been wholly or partially rejected, regardless of the fact that in some of those cases the same senior judicial officer had both appointed and petitioned the appeal judges.

30. The Court recalls that there are two aspects to the requirement of impartiality in Article 6 § 1 of the Convention. First, the tribunal must be subjectively impartial, that is, no member of the tribunal should hold any personal prejudice or bias. Personal impartiality is presumed unless there is evidence to the contrary. Secondly, the tribunal must also be impartial from an objective viewpoint, meaning it must offer sufficient guarantees to exclude any legitimate doubt in this respect (see *Academy Trading Ltd and Others v. Greece*, no. 30342/96, § 43, 4 April 2000, unreported).

31. As to the subjective test, the Court notes that no evidence has been produced in the present case which might suggest personal bias on the part of the individual judges of the Supreme Court.

32. Under the objective test, it must be determined whether there are ascertainable facts, which may nevertheless raise doubts as to their impartiality. In this respect even appearances may be of a certain importance. What is at stake is the confidence which the courts in a democratic society must inspire in the public and above all in the parties to the proceedings (ibid., § 45).

33. Turning to the facts of the present case, the Court notes that the President of the Criminal Division of the Supreme Court lodged a petition with the judges of that division to quash the Court of Appeal's judgment following the request by the first-instance judge, who was dissatisfied with that judgment. The President proposed the quashing of the Court of Appeal's decision and the reinstatement of the first-instance judgment. The same President then appointed the judge rapporteur and constituted the Chamber which was to examine the case. The President's petition was endorsed by the prosecution at the hearing and eventually upheld by the Supreme Court.

34. The Government stressed that the President's role in submitting a petition to quash or amend a lower court's judgment is in no way that of a party to the proceedings before the Supreme Court; his role is confined to giving the court hearing the petition an impartial and independent opinion on the factual and legal issues raised, drawing attention to any point on which the contested decision should be quashed.

35. However, the Court considers that such an opinion cannot be regarded as neutral from the parties' point of view. By recommending that a

particular decision be adopted or quashed, the President necessarily becomes the defendant's ally or opponent (see, *mutatis mutandis,* the Borgers v. Belgium judgment of 30 October 1991, Series A no. 214-B, pp. 31-32, § 26).

In the present application the President was in effect taking up the case of the prosecution because at the hearing the President's petition was contested by the applicant but endorsed by the prosecution, which had not itself lodged an appeal (see paragraph 24 above and, *mutatis mutandis*, the Findlay v. the United Kingdom judgment of 25 February 1997, *Reports of Judgments and Decisions* 1997-I, pp. 281-82, § 74).

36. Furthermore, while it is true that the President did not sit as a member of the court which determined the petition, he did choose the judge rapporteur and the members of the Chamber from amongst those judges of the Criminal Division which he heads.

In this regard the Court recalls the above-mentioned Findlay judgment (ibid., §§ 74-76) where it found that a court martial had lacked independence and impartiality because of the significant role played by the convening officer before and during the hearing of the applicant's case, including the fact that he had convened the court and appointed its members who were subordinate to him in rank and who fell within his chain of command.

It is true that the present case is different in the sense that the Supreme Court consists of professional permanent judges (see paragraph 26 above) as opposed to certain *ad hoc* lay judges who formed part of the court martial in the Findlay case.

However, when the President of the Criminal Division not only takes up the prosecution case but also, in addition to his organisational and managerial functions, constitutes the court, it cannot be said that, from an objective standpoint, there are sufficient guarantees to exclude any legitimate doubt as to the absence of inappropriate pressure. The fact that the President's intervention was prompted by the first-instance judge only aggravates the situation.

37. The Government's argument that in some other cases the Supreme Court has rejected the appeal initiated by its President or the President of the Criminal Division makes no difference. As mentioned above, in assessing the compliance of each particular case with Article 6 § 1 of the Convention, any legitimate doubt as to the impartiality of a tribunal is itself sufficient to find a violation of that provision.

38. In the light of these circumstances, the Court finds that the applicant's doubts as to the impartiality of the Supreme Court may be said to have been objectively justified. Consequently, there has been a breach of Article 6 § 1 of the Convention.

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

39. The applicant complained that the prosecutor declared him guilty in the decision of 1 October 1996, in breach of Article 6 § 2 of the Convention, which provides as follows:

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

40. The Government argued that the prosecutor's statements in the decision of 1 October 1996 merely described the degree of suspicion against the applicant by referring to the strength of the evidence against him in the case file, in response to the applicant's claim that there was no such evidence. It was only after this decision that the prosecutor could proceed with the bill of indictment and the conclusion of the pre-trial investigation. Otherwise, any doubt in favour of the applicant would have led to the withdrawal of the charges against him. In this context the prosecutor was required either to adopt a reasoned decision confirming the validity of the suspicion or to discontinue the case. The Government further stressed that the decision of 1 October 1996 was not a publicly made statement warranting particular scrutiny under Article 6 § 2. Overall, having regard to the context in which it was made, the prosecutor's statement did not breach the requirements of that provision.

41. The Court recalls that the presumption of innocence enshrined in Article 6 § 2 of the Convention is one of the elements of a fair criminal trial required by Article 6 § 1. It will be violated if a statement of a public official concerning a person charged with a criminal offence reflects an opinion that he is guilty before he has been proved so according to law. It suffices, even in the absence of any formal finding, that there is some reasoning to suggest that the official regards the accused as guilty (see, *mutatis mutandis*, the Allenet de Ribemont v. France judgment of 10 February 1995, Series A no. 308, p. 16, § 35).

In this regard the Court emphasises the importance of the choice of words by public officials in their statements before a person has been tried and found guilty of an offence.

42. Moreover, the principle of the presumption of innocence may be infringed not only by a judge or court but also by other public authorities (ibid., § 36), including prosecutors. This is particularly so where a prosecutor, as in the present case, performs a quasi-judicial function when ruling on the applicant's request to dismiss the charges at the stage of the pre-trial investigation, over which he has full procedural control (see paragraph 26 above).

43. Nevertheless, whether a statement of a public official is in breach of the principle of the presumption of innocence must be determined in the context of the particular circumstances in which the impugned statement

was made (see, *inter alia*, the Adolf v. Austria judgment of 26 March 1982, Series A no. 49, pp. 17-19, §§ 36-41).

44. The Court notes that in the present case the impugned statements were made by a prosecutor not in a context independent of the criminal proceedings themselves, as for instance in a press conference, but in the course of a reasoned decision at a preliminary stage of those proceedings, rejecting the applicant's request to discontinue the prosecution.

The Court further notes that, in asserting in his decision that the applicant's guilt had been "proved" by the evidence in the case file, the prosecutor used the same term as had been used by the applicant, who in his request to discontinue the case had contended that his guilt had not been "proved" by the evidence in the file. While the use of the term "proved" is unfortunate, the Court considers that, having regard to the context in which the word was used, both the applicant and the prosecutor were referring not to the question whether the applicant's guilt had been established by the evidence – which was clearly not one for the determination of the prosecutor – but to the question whether the case file disclosed sufficient evidence of the applicant's guilt to justify proceeding to trial.

45. In these circumstances the Court concludes that the statements used by the prosecutor in his decision of 1 October 1996 did not breach the principle of the presumption of innocence.

There has therefore been no breach of Article 6 § 2 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. Damage

47. The applicant claimed 10,000 litai (LTL) for non-pecuniary damage suffered as a result of a violation of the Convention.

48. The Government considered this claim unjustified.

49. The Court considers that the finding of a violation of Article 6 § 1 constitutes in itself sufficient just satisfaction. Accordingly, it does not make any award under this head.

B. Costs and expenses

50. The applicant also claimed LTL 10,354.22 for legal fees and expenses, including the travel and accommodation costs in connection with the hearing of his case in Strasbourg. He submitted the relevant documents in support of his claim.

51. The Government considered the above claim excessive.

52. The Court considers that the costs claimed under this head were actually and necessarily incurred, and awards them in full, plus any value-added tax that may be chargeable.

C. Default interest

53. According to the information available to the Court, the statutory rate of interest applicable in Lithuania at the date of adoption of the present judgment is 9.5% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that that there has been a violation of Article 6 § 1 of the Convention;

2. *Holds* that there has been no violation of Article 6 § 2 of the Convention;

3. *Holds* that a finding of a violation of Article 6 § 1 of the Convention constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, LTL 10,354.22 (ten thousand three hundred and fifty-four litai twenty-two centai) for legal costs and expenses, plus any value-added tax that may be chargeable;
   (b) that simple interest at an annual rate of 9.5% shall be payable from the expiry of the above-mentioned three months until settlement;

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

Done in English, and notified in writing on 10 October 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President