



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

FOURTH SECTION

CASE OF MIANOWSKI v. POLAND

(Application no. 42083/98)

JUDGMENT

STRASBOURG

16 December 2003

FINAL

16/03/2004

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Mianowski v. Poland,

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

Sir Nicolas BRATZA, *President*,

Mrs V. STRÁŽNICKÁ,

Mr M. FISCHBACH,

Mr J. CASADEVALL,

Mr R. MARUSTE,

Mr L. GARLICKI,

Mrs E. FURA-SANDSTRÖM, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 25 November 2003,

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

PROCEDURE

1. The case originated in an application (no. 42083/98) against the Republic of Poland 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 Polish national, Mr Eugeniusz Mianowski (“the applicant”), on 28 September 1997.

2. The Polish Government (“the Government”) were represented by their Agent, Mr K. Drzewicki.

3. The applicant alleged that the facts of his case disclosed a violation of Articles 6 § 1, 8 and 34 of the Convention.

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 Fourth 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.-

6. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Fourth Section (Rule 52 § 1).

7. The applicant and the Government each filed observations on the merits (Rule 59 § 1).

8. By a decision of 12 November 2002, the Court declared the application admissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

9. The applicant was born in 1950 and lives in Bytom, Poland.

A. The proceedings concerning compensation for stolen belongings

1. The beginning of litigation

10. On 22 November 1991 the applicant lodged with the Człuchów District Court an action against the State Treasury. He claimed 570,000 old zlotys (PLZ) in compensation for his belongings which had been stolen in December 1989 while he had been detained in the Czarne prison. The applicant contended that the theft had been committed by the prison officers who had intervened in order to end the riots in the prison.

11. On 27 November 1991 the Człuchów District Court exempted the applicant from the court fees and rejected his request for legal aid considering that the case did not call for the participation of counsel.

2. The staying of the proceedings

12. On 25 February 1992 the District Court stayed the proceedings. It considered that, since the prosecution had initiated criminal proceedings against the prison officers involved in ending the riots in the Czarne prison and the applicant had been listed as one of the victims, the outcome of those proceedings might be relevant to the adjudication of the applicant's claim.

13. On 3 May 1993 the applicant increased his claim to PLZ 31,720,000.

3. The resumption of the proceedings

14. On 26 July 1994 the District Court annulled its earlier decision to join the action concerning the compensation for stolen belongings with the action concerning compensation for injuries (see paragraphs 34-36 below) and decided to resume the proceedings concerning the former action.

15. On an unspecified date the Człuchów District Court requested the Zabrze District Court to take evidence from the applicant who was detained in a prison located within the jurisdiction of that court.

16. On 19 January 1995 the Człuchów District Court requested the Łęczyca District Court to take evidence from several witnesses for the applicant who were detained in a prison situated within the jurisdiction of that court. However, the Łęczyca District Court was unable to comply with the request as the witnesses had already been released from the prison.

4. The first hearing

17. The first hearing was held by the Człuchów District Court on 3 February 1995. It was adjourned since the applicant had not been properly served with the summons. During the next hearing, which was held on 17 February 1995, the court heard the witnesses requested by the applicant.

18. In the meantime, the Człuchów District Court on several occasions requested other district courts to take evidence from the witnesses for the applicant, who were detained in prisons located within the jurisdiction of those courts. However, the requests were declined because the witnesses could not be heard since they had been transferred to other prisons.

19. During the hearing held on 7 March 1995 the Człuchów District Court heard a witness, who according to the applicant's submissions had taken from him his belongings during the riots in the Czarne prison.

20. On 21 April 1995 the Człuchów District Court received from the Słupsk District Court evidence taken from one of the witnesses. On the same date the Człuchów District Court also received a statement taken from the applicant by the Jastrzębie District Court.

21. No hearing was held in 1996.

22. During the hearing held on 25 February 1997 the Człuchów District Court decided to request the Warsaw District Court to take evidence from one of the witnesses, a certain S.W. As the Warsaw District Court was not responding to that request, the Człuchów District Court renewed it on several occasions.

23. On 16 May 1997 the President of the Człuchów District Court replied to the applicant's inquiry about the progress in the proceedings, informing him that immediately after the Warsaw District Court submitted evidence taken from S.W., a date for the next hearing would be fixed. He also expressed the opinion that although the conclusion of all the proceedings resulting from the riots in the Czarne prison would serve the proper administration of justice, it was not possible to state the date on which the proceedings in the applicant's case would end.

24. On 16 June 1997 the applicant complained to the Ombudsman about the unreasonable length of the proceedings in his case. On 14 August 1997 the Ombudsman transmitted the complaint to the President of the Człuchów District Court. In a letter of 18 August 1997 the President informed the applicant that the date for hearing S.W. had been fixed by the Warsaw District Court for 5 September 1997 and that the next hearing before the Człuchów District Court would be scheduled immediately after it received evidence taken from that witness.

25. In a letter of 3 February 1998 the President of the Civil Section of the Człuchów District Court informed the President of the Słupsk Regional Court, who had inquired about the length of the proceedings in the case, that the Warsaw District Court still had not taken evidence from S.W.

26. On 5 February 1998 the President of the Słupsk Regional Court responded to the applicant's complaint about the length of the proceedings submitted on 19 January 1998. In particular, he informed the applicant about the difficulties faced by the Człuchów District Court in taking evidence from the witnesses who were being transferred between different prisons and whose addresses were therefore difficult to establish. He also pointed out that the Człuchów District Court was not responsible for the delay in hearing one of the witnesses by the Warsaw District Court and promised that the latter court would be again requested to take evidence from that witness.

27. The hearing held on 26 June 1998 was adjourned.

28. In a letter of 25 August 1998 the applicant inquired of the President of the Człuchów District Court about the state of the proceedings in his case. On 31 August 1998 the President informed the applicant that the hearing held on 26 June 1998 had been adjourned because he had not been served with the summonses, since the court had not been informed about his transfer to another prison. Moreover, a hearing fixed for 4 September 1998 would also be adjourned for that reason. However, the applicant averred that he had remained in the same prison at the time when both hearings had been adjourned and he had not been served with the summonses.

5. The first instance judgment

29. On 18 September 1998 the Człuchów District Court delivered a judgment in which it dismissed the applicant's claim.

30. The applicant appealed but on 10 March 1999 the Człuchów District Court rejected his appeal. The court considered that the appeal did not comply with formal requirements for lodging it. The applicant filed with the District Court a complaint about the rejection of his appeal but the court dismissed it.

31. Subsequently, the applicant challenged before the Słupsk Regional Court (*Sąd Okręgowy*) the District Court's decision to reject his appeal. On 16 November 1999 the Regional Court quashed the District Court's decision rejecting the applicant's appeal and allowed him to lodge an appeal out of time.

32. On 18 November 1999 the case-file was returned to the first-instance court so that it could prepare reasons for its judgment. On 29 December 1999 the file was returned to the Regional Court.

6. The appellate court's judgment

33. The applicant lodged an appeal but on 28 January 2000 the Słupsk Regional Court delivered a judgment in which it dismissed it.

B. The proceedings concerning compensation for injuries

34. On 11 March 1992 the applicant filed before the Człuchów District Court another action against the State Treasury in which he claimed PLZ 10,000,000 in compensation for injuries he had sustained during the riots in the Czarne prison as a result of the assault by the prison officers.

35. On 14 April 1992 the court stayed the proceedings in this case for the same reasons which had led to the staying of the proceedings concerning compensation for stolen belongings.

36. The proceedings are still pending.

C. The monitoring of the applicant's correspondence with the European Court of Human Rights

37. On 23 August 1999 the European Court of Human Rights sent to the applicant a letter enclosing a copy of the respondent Government's observations on the admissibility and merits of the application. On 6 October 1999 the applicant submitted to the Court a cutting of the Court's envelope sent to him on 23 August 1999. The envelope bears the following three stamps in Polish: "Racibórz Prison, received on 02.09.1999, no. 15814"; "Katowice Regional Court, 16/18 Andrzeja Street, received on 07.09.1999" and "Censored" (*Ocenzurowano*).

38. On 30 November 1999 the Court received the applicant's letter of 23 November 1999. The envelope in which the letter was delivered bears the stamp "Censored" (*Cenzurowano*) and the following handwriting: "SO K-e XVI 207/99".

II. RELEVANT DOMESTIC LAW

1. The Code of Execution of Criminal Sentences 1997

39. The provisions of the Code of Execution of Criminal Sentences 1997 concerning the censorship of correspondence read as follows:

Article 103 § 1

"Convicts (...) have a right to lodge complaints with institutions established by international treaties concerning the protection of human rights ratified by the Republic of Poland. Correspondence in those cases of persons deprived of liberty shall be sent to the addressee without delay and shall not be censored."

Article 105 § 4 provides:

"The prison governor shall make decisions concerning the stopping or censorship of the correspondence if it is required by prison security considerations [and] shall inform the penitentiary judge and the convict about it."

Article 209

“The provisions concerning the execution of sentences shall apply accordingly to the execution of detention on remand, subject to changes resulting from this chapter.”

Article 214 § 1

“Unless exceptions are provided for in the present Chapter, a detainee shall enjoy at least the same rights as are secured to a convicted person serving a sentence of imprisonment under ordinary regime in a closed prison. No restrictions shall be applied to him except such as are necessary to secure the proper conduct of criminal proceedings, to maintain order and security in a remand centre and to prevent demoralisation of detainees.”

Article 217 § 1

“... detainee's correspondence shall be censored by [the authority at whose disposal he remains], unless the authority decides otherwise.”

Article 242 § 5

“The prohibition of censorship shall also mean the prohibition of acquainting oneself with the content of the letter.”

2. The Rules of Detention on Remand 1998

40. The provisions of the Rules of Detention on Remand 1998 concerning the censorship of correspondence read as follows:

§ 36 of the Rules provides:

“The detainee's correspondence, including the correspondence with the international institutions for the protection of human rights, which act on the basis of international agreements ratified by the Republic of Poland, with the Ombudsman and public and local government institutions, is mailed through the intermediary of the organ at whose disposal he remains.”

§ 37 provides:

“1. If the organ at whose disposal [a detainee] remains ceases to censor correspondence, it shall be subject to the supervision or censorship by the prison administration, except for cases referred to in Article 73 of the Code of Criminal Procedure and Articles 102 (11) and 103 of the Code [of Execution of Criminal Sentences].

2. The correspondence of a detainee shall be supervised by the prison administration when necessary in the interest of protecting social interest, the security of a detention centre or requirements of personal re-education.

3. The supervision referred to in paragraph 2 shall be executed by controlling the content of the correspondence and acquainting oneself with its wording.

4. The correspondence referred to in Articles 8 § 3, 102 (11) and 103 § 1 of the Code [of Execution of Criminal Sentences] may be only subjected to the control of its content, which shall take place in the presence of a detainee.”

§ 38 provides:

- “1. Detainee's correspondence shall be censored or seized by the prison administration in the case referred to in Article 105 § 4 of the Code [of Execution of Criminal Sentences].
2. Censorship shall mean deleting a part of text or making it illegible, whereas seizing correspondence shall mean not transmitting it to a detainee and placing it in his file.
3. The decision to censor or to seize correspondence shall be taken by a Governor, who shall inform a detainee about the reasons for censorship or for seizure.
4. For controlling purposes a copy of the correspondence before it was censored shall be placed in the detainee's personal file; if the detainee consults the file, copies of the correspondence before it was censored and the seized correspondence shall not be made available [to him].”

THE LAW

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

41. The applicant asserted that the civil proceedings concerning compensation for stolen belongings and compensation for injuries were not concluded within a reasonable time, contrary to Article 6 § 1 of the Convention, which in so far as relevant provides:

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

42. The Government contended that the facts of the case disclosed no breach of that provision.

A. The proceedings concerning compensation for stolen belongings

1. Period to be taken into consideration

43. The Court notes that the period to be taken into consideration began not on 22 November 1991, when the applicant initiated the proceedings but on 1 May 1993, when Poland's declaration recognising the right of individual petition for purposes of former Article 25 of the Convention took effect. The proceedings ended on 28 January 2000, when the Słupsk Regional Court dismissed the applicant's appeal. Accordingly, they lasted about eight years, two months and one week, out of which six years, eight

months and twenty-eight days are taken into consideration by the Court (see paragraphs 10 and 33 above).

44. In order to determine the reasonableness of the length of time in question the Court will have regard to the state of the case on 1 May 1993 (see, among other authorities, *Proszak v. Poland*, judgment of 16 December 1997, *Reports of Judgments and Decisions* 1997-VIII, p. 2772, § 31).

2. Reasonableness of the length of the proceedings

45. The applicant contended that the length of the proceedings in his case was in breach of Article 6 § 1; the Government, on the other hand, disputed this view.

46. The parties discussed various criteria which the Court has applied in such cases, such as the exact period to be taken into consideration, the degree of complexity of the case, the parties' conduct, and so on. The Court notes, however, that its case-law is based on the fundamental principle that the reasonableness of the length of proceedings is to be determined by reference to the particular circumstances of the case. In this instance those circumstances call for a global assessment so that the Court does not consider it necessary to consider these questions in detail (see, among other authorities, *Obermeier v. Austria*, judgment of 28 June 1990, Series A no. 179, pp. 23-24, § 72; *Olstowski v. Poland*, no. 34052/96, § 86, 15 November 2001).

47. The Court considers that the case involved a measure of complexity, as it was necessary to take evidence from several witnesses detained in different prisons. At the same time, the inept taking of evidence by the Warsaw District Court from witness S.W. contributed to the delay. In addition, the domestic authorities should be held responsible for the delay in holding the first hearing on 3 February 1995, i.e. three years and two months after the filing of the lawsuit. What is more, no hearing took place between 7 March 1995 and 25 February 1997. It follows that, having regard to the state of the case on 1 May 1993, the Court cannot regard as "reasonable" in the instant case a lapse of time of six years, eight months and twenty-eight days.

There has therefore been a violation of Article 6 § 1.

B. The proceedings concerning compensation for injuries

1. Period to be taken into consideration

48. The Court notes that the period to be taken into consideration began not on 11 March 1992, when the applicant initiated the proceedings but on 1 May 1993, when Poland's declaration recognising the right of individual petition for purposes of former Article 25 of the Convention took effect. The proceedings are still pending. Accordingly, they have lasted so far about eleven years and eight months, out of which ten years and seven months are taken into consideration by the Court (see paragraphs 34 and 36 above).

49. In order to determine the reasonableness of the length of time in question the Court will have regard to the state of the case on 1 May 1993 (see the above-mentioned *Proszak* judgment, p. 2772, § 31).

2. Reasonableness of the length of the proceedings

50. The applicant contended that the length of the proceedings in his case was in breach of Article 6 § 1; the Government, on the other hand, disputed this view.

51. The Court again notes that its case law is based on the fundamental principle that the reasonableness of the length of proceedings is to be determined by reference to the particular circumstances of the case. In this instance those circumstances call for a global assessment so that the Court does not consider it necessary to consider in detail various criteria applied in such cases (see the above-mentioned *Obermeier* and *Olstowski* judgments, §§ 72 and 86, respectively).

52. The Court observes that the applicant's claim, which was lodged more than eleven years ago, is still pending before the first-instance court. Moreover, no hearing took place since 1 May 1993 as the court had stayed the proceedings. Such an inordinate delay cannot be reconciled with the notion of a trial "within a reasonable time" contained in the Convention. It follows that, having regard to the state of the case on 1 May 1993, the Court cannot regard as "reasonable" in the instant case a lapse of time of ten years and seven months.

There has therefore been a violation of Article 6 § 1.

III. ALLEGED VIOLATION OF ARTICLES 8 AND 34 OF THE CONVENTION

53. The applicant further complained about a breach of Article 8 (right to respect to correspondence) and Article 34 (effective exercise of the right to file individual applications). Article 8 of the Convention provides, as relevant:

“1. Everyone has the right to respect for (...) his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

54. The Government contended that the facts of the case disclosed no breach of those provisions.

A. Arguments before the Court

55. The applicant submitted that the monitoring of his correspondence was in breach of Article 8.

56. The Government disagreed with the applicant. They pointed out that the Code of Execution of Criminal Sentences 1997 made a clear distinction between a right to correspondence of a convict and a person detained on remand. Article 103 of the Code prohibited the censorship of correspondence of convicts. However, Article 217 § 1 of the Code provided for the censorship of a detainee's correspondence. In addition, Rules on Detention on Remand 1998 stated that a detainee's correspondence was mailed through the intermediary of the organ at whose disposal he remained. Therefore, the interference with the applicant's right to correspondence, which had taken place during his detention on remand, was “in accordance with the law”. The relevant law was foreseeable in its application.

57. The Government also contended that the correspondence was sent through domestic authorities and even if it was opened there would be no interference with its content and it would be forwarded to the addressee without any delay.

58. Furthermore, the Government averred that there was no evidence that the Court's letter of 23 August 1999 was censored. The letter was delivered to the Racibórz prison where the prison administration transmitted it to the Katowice Regional Court before giving it to the applicant. The Government further submitted that “the fact of stamping the envelope from the European Court of Human Rights by the Katowice Regional Court was unintentional and indicated nothing but the fact that the letter at issue

'passed through' the court or that the registry staff stamped the envelope by mistake." Moreover, it was possible that the stamp "Censored" was falsified.

59. Finally, the Government submitted that there was no evidence that the letter of 23 August 1999 was opened in the Katowice Regional Court, as its first page did not bear the stamp "Censored", whereas it was "a common practice" to stamp both the envelope and the first page.

B. The Court's assessment

1. Principles established under the Court's case-law

60. An "interference by a public authority" with the exercise of the right to respect for his correspondence will contravene Article 8 unless it is "in accordance with the law", pursues one or more of the legitimate aims referred to in paragraph 2 and furthermore is "necessary in a democratic society" in order to achieve them (see, among other authorities, *Labita v. Italy*, no. 26772/95, § 179, ECHR 2000-IV).

61. The expression "in accordance with the law" requires that the interference in question must have some basis in domestic law. A law must be adequately accessible: the citizen must be able to have an indication that is adequate, in the circumstances, of the legal rules applicable to a given case. Moreover, a norm cannot be regarded as a "law" unless it is formulated with sufficient precision to enable the citizen to regulate his conduct: he must be able - if need be with appropriate advice - to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail. Finally, a law which confers discretion must indicate the scope of that discretion. However, the Court has recognised the impossibility of attaining absolute certainty in the framing of laws and the risk that the search for certainty may entail excessive rigidity (see, among other authorities, *Silver and Others v. the United Kingdom*, judgment of 25 March 1983, Series A no. 61, p. 33, §§ 86-88).

2. Application of the principles to the circumstances of the present case

(a) Existence of an interference

62. The Court notes that an envelope mailed to the applicant on 23 August 1999 bears the following three stamps in Polish: "Racibórz Prison, received on 02.09.1999, no. 15814"; "Katowice Regional Court, 16/18 Andrzeja Street, received on 07.09.1999" and "Censored" (*Ocenzurowano*). Moreover, the applicant's letter of 23 November 1999 was delivered to the Court in an envelope which bears the stamp "Censored" (*Cenzurowano*) and the following handwriting: "SO K-e XVI 207/99".

63. The Court considers that that even if there is no separate stamp on the letters as such, there is, in the particular circumstances of the case, a reasonable likelihood that the envelopes were opened by the domestic authorities. In coming to such a conclusion, the Court takes into account that, in the Polish language, the word *ocenzurowano* means that a competent authority, after having controlled the content of a particular communication, decides to allow its delivery or expedition. Consequently, as long as the domestic authorities continue the practice of marking the detainees' letters with a simple *ocenzurowano* stamp, the Court would have no alternative but to presume that those letters have been opened and their contents read. The Court would also point out that the risk of such a stamp being forged by prisoners in order to fabricate evidence in the Strasbourg proceedings is so negligible that it must be discounted. Had the domestic authorities been concerned about the risk of fabrication, they could have avoided it by adding to the register of incoming and outgoing mail information about its condition (see, *mutatis mutandis*, *Campbell v. the United Kingdom*, judgment of 28 February 1992, Series A no. 233, p. 22, § 62; *Halford v. the United Kingdom*, judgment of 25 June 1997, *Reports of Judgments and Decisions* 1997-III, p. 1016, § 48).

64. It follows that the monitoring of the applicant's correspondence constituted an "interference by a public authority", within the meaning of Article 8 § 2, with the exercise of the applicant's right to respect for his correspondence.

(b) Whether the interference was "in accordance with the law"

65. The Court notes that the impugned interference was based on the provisions of the Code of Execution of Criminal Sentences 1997 and the Rules of Detention on Remand 1998 (see paragraphs 39-40 above). It considers that these provisions were adequately accessible. Furthermore, bearing in mind impossibility of attaining absolute certainty in the framing of laws and the risk that the search for certainty may entail excessive rigidity, the Court accepts that the provisions were formulated with sufficient precision and indicated the scope of discretion conferred.

66. The Court further notes that § 37 (4) of the Rules of Detention on Remand 1998 requires that the inspection of detainee's correspondence take place in his presence (see paragraph 40 above). In the present case the evidence indicates that the opening of both letters did not take place in the applicant's presence. It follows that the opening of the letters was not "in accordance with the law".

67. Accordingly, there has been a breach of Article 8 in that respect. For that reason, the Court does not consider it necessary to examine the applicant's assertion that the facts of the case also give rise to an interference with the exercise of his right of individual petition pursuant to

Article 34 of the Convention. (see, *mutatis mutandis*, *Foxley v. the United Kingdom*, no. 33274/96, § 47, 20 June 2000).

3. APPLICATION OF ARTICLE 41 OF THE CONVENTION

68. 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

69. The applicant claimed 60,000 Polish zlotys (PLN) for pecuniary and non-pecuniary damage.

70. The Government submitted that there was no link between alleged violations of the Convention and the applicant's claim for pecuniary damage. As for the non-pecuniary damage, they averred that the applicant's claim was inordinate. The Government asked the Court to rule that a finding of a violation of the Convention constituted in itself sufficient just satisfaction. Alternatively, they submitted that the applicant might be awarded PLN 10,000.

71. The Court considers that there is no causal link between the breach established and any alleged pecuniary damage. Consequently, it sees no reason to make any award under the head of pecuniary damage (see, *mutatis mutandis*, *Styranowski v. Poland*, judgment of 30 October 1998, *Reports* 1998-VIII, p. 3379, § 63).

72. Furthermore, the Court is of the view that, in the circumstances of this particular case and deciding on an equitable basis, the applicant should be awarded the sum of EUR 10,000 for non-pecuniary damage.

B. Costs and expenses

73. The applicant did not make a claim under this head.

C. Default interest

74. 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. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
2. *Holds* that there has been a violation of Article 8 of the Convention;
3. *Holds* that it is unnecessary to examine the applicant's complaint concerning an alleged interference with the exercise of his right of individual petition provided in Article 34 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 according to Article 44 § 2 of the Convention, EUR 10,000 (ten thousand euros) in respect of non-pecuniary damage, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above 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 16 December 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President