



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

FOURTH SECTION

CASE OF G.W. v. THE UNITED KINGDOM

(Application no. 34155/96)

JUDGMENT

STRASBOURG

15 June 2004

FINAL

15/09/2004

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 G.W. v. the United Kingdom,

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

Mr M. PELLONPÄÄ, *President*,

Sir Nicolas BRATZA,

Mrs V. STRÁŽNICKÁ,

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 May 2004,

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

PROCEDURE

1. The case originated in an application (no. 34155/96) against the United Kingdom of Great Britain and Northern Ireland 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 national of the United Kingdom national, G.W. ("the applicant"), on 17 October 1996. The President of the Chamber acceded to the applicant's request not to have his name disclosed (Rule 47 § 3 of the Rules of Court).

2. The applicant was represented by Mr B. Albuery, a lawyer practising in Hampshire. The United Kingdom Government ("the Government") were represented by successive Agents, Mr Eaton, Mr Whomersley and Mr Grainger, all of the Foreign and Commonwealth Office.

3. He mainly complained under Article 6 § 1 of the Convention that his naval court-martial did not constitute an independent and impartial tribunal.

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.

6. By a decision of 5 December 2000, the Court declared the application partly admissible.

7. The parties each filed observations on the merits (Rule 59 § 1).

8. On 1 November 2000 the Court changed the composition of its Sections (Rule 25 § 1) and the case was assigned to the newly composed Fourth Section (Rule 52 § 1) .

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

9. The applicant was born in 1957 and lives in Portsmouth. In 1980 he joined the Royal Navy.

10. In or around early 1996, he was charged, pursuant to section 42 of the Naval Discipline Act 1957 (“the 1957 Act”), with three civilian offences (one under the Theft Act 1968 and two under the Forgery and Counterfeiting Act 1981). He was also charged, *inter alia*, on four counts of misapplication of public property contrary to section 30 of the 1957 Act. The charge sheet was signed by the convening authority, Rear Admiral N.E. Rankin (Flag Officer Portsmouth).

11. By convening order dated 1 February 1996, the convening authority acknowledged receipt of the “circumstantial letter” and ordered the convening of a court-martial for 26 February 1996 (see paragraph 21 below). He appointed the Prosecutor by name (of lower rank and in the convening authority’s chain of command). He also appointed the President of the court-martial and the other four members by name: all were subordinate in rank to the convening officer but were not in his chain of command. The Judge Advocate was also appointed by name by the convening authority and was not in the latter’s chain of command.

12. Advised that he could be represented by a civilian or naval lawyer, the applicant instructed a civilian lawyer, his current representative.

13. The court-martial took place on board HMS NELSON on 18 March 1996 and the applicant pleaded guilty to all charges. Having presented evidence in mitigation of sentence, he was sentenced, *inter alia*, to four months’ imprisonment, to be discharged from the navy and to stoppages of pay in the sum of 2,655 pounds sterling.

14. By letter dated 19 April 1996 the applicant was informed that his petition against sentence, which had been reviewed on behalf of the Admiralty Board by the Naval Secretary/Director General Naval Manning, had been rejected but that he could request that the petition be further considered by the Admiralty Board.

He subsequently renewed his petition against sentence. On 17 May 1996 he was released from prison and by letter dated 7 June 1996 he was notified that his petition had been rejected.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. General

15. The law and procedures in respect of naval courts-martial were contained in the Naval Discipline Act 1957 (“the 1957 Act”) and in certain statutory instruments made under the 1957 Act including the Naval Courts-Martial General Orders (Royal Navy) 1991 (“the 1991 Orders”). Following the Commission’s report in the case of *Findlay v. the United Kingdom*, certain provisions of the 1957 Act were amended by the Armed Forces Act 1996 (“the 1996 Act”) which Act came into force on 1 April 1997 (*Findlay v. the United Kingdom*, no. 22107/93, Commission’s report of 5 September 1995 and, see also, judgment in that case of 25 February 1997, *Reports of Judgments and Decisions* 1997-I). Sections A-G below concern the applicable law and practice prior to the entry into force of the 1996 Act.

16. Under section 42 of the 1957 Act “civilian” offences were also offences under the 1957 Act. Accordingly, even if the charge amounted to a civilian offence, in most cases naval personnel could be tried on that charge by the naval authorities under the 1957 Act.

B. Composition of a naval court-martial

17. At the material time a naval court-martial consisted of between 5-9 naval officers not below the rank of lieutenant, though the rank of the members might have been higher depending on the rank of the accused. Not all members belonged to the same ship or naval establishment and the captain and executive officer of the accused’s ship could not sit on the court-martial.

18. A President of the court-martial was appointed from the members. A Judge Advocate also took part in every naval court-martial. The Prosecutor could be a legally qualified naval officer or any other competent person. In exceptional cases, a civilian lawyer was appointed to act as Prosecutor.

19. An accused was allowed to engage, *inter alia*, an officer or civilian counsel (“the accused’s friend”) who advised the accused, examined the accused if he desired to give evidence, cross-examined witnesses for the prosecution and examined witnesses for the defence. If the accused wished to be represented by a civilian lawyer he could apply to the convening authority for approval of legal aid.

C. Convening authority

20. The convening authority was an officer authorised by the Defence Council to convene a court-martial. Appendix 5 to Volume II of the Manual of Naval Law (published by the naval authorities) gave a list of officers who could act as convening authority: Commander in Chief, Fleet; Commander in Chief, Naval Home Command; Flag Officer Plymouth; Flag Officer Scotland and Northern Ireland; Flag Officer Naval Aviation; Flag Officer Portsmouth; Flag Officer Surface Flotilla; Flag Officer Sea Training; Commander UK Task Force; and Commander British Forces Gibraltar.

21. An application for a court-martial to be held was generally made to the convening authority by the Commanding Officer by way of a “circumstantial letter”. This letter reported the circumstances upon which a charge was based in sufficient detail to show the real nature and extent of the offence. Any statement made by the accused in the course of inquiries, during investigation or after he was charged had to be forwarded in a separate document annexed to the letter. A charge sheet in the prescribed form, a list of witnesses for the prosecution, summaries of evidence of those witnesses and a list of exhibits which the Prosecutor proposed to put in evidence accompanied the letter.

22. Based on the material submitted, the convening authority decided on the charges to be retained against an accused and, if he was satisfied with the charge sheet accompanying the circumstantial letter, he could countersign the charge sheet. He also decided on the necessity to hold a court-martial on the charges retained. In this latter respect, the convening authority was guided by the principles issued by the Director of Public Prosecutions under section 10 of the Prosecution of Offences Act 1985 and was not to order the holding of a court-martial unless satisfied that the charges were correct, that the evidence was sufficient (namely, that there was a realistic prospect of a conviction) and that there was a “service interest” in trying the matter by court-martial. In convening the court-martial, the convening authority appointed the date, time and place for trial.

23. The convening authority appointed the President and other members of the court-martial. He also appointed, or directed an officer to appoint, a Judge Advocate and a Prosecutor. He ensured that the accused was properly assisted. In this latter respect, and unless the accused wished to represent himself or to instruct civilian counsel, the convening authority would nominate a competent naval officer to act as the accused’s friend.

24. The convening authority could, in exceptional circumstances, countermand the ordering of a court-martial before its commencement and dissolve a court-martial during the trial if circumstances arose which, in his opinion, rendered such action necessary (orders 13(2) and 28(2) of the 1991 Orders).

D. Judge Advocates

25. The Judge Advocate of the Fleet was appointed by the Queen on the recommendation of the Lord Chancellor and was removable on the same authority for inability or misbehaviour. He had to be a barrister or advocate of not less than ten years' standing. He acted as legal advisor to the Admiralty Board on matters regarding the administration of justice under the 1957 Act. It was his duty to review all contested courts-martial whether the verdict was guilty or not guilty and, in particular, he advised that Board whether a court-martial had been properly conducted according to law and whether the conviction could stand, he gave a view on the sentence and he drew attention to any gross errors or irregularities. He also gave the Chief Naval Judge Advocate his view as to the manner in which the naval barristers had conducted themselves as Judge Advocate, Prosecutor and as the accused's friend. As a result of the latter advice, "there may well be downstream actions issuing guidance either specifically or generally" (Manual of Naval Law, Appendix 5).

26. The Chief Naval Judge Advocate was a serving officer of the rank of captain of the Royal Navy and he was also a barrister. The Chief Naval Judge Advocate was assisted by a staff of serving naval officers who were barristers. His duties included assisting and consulting with the Judge Advocate of the Fleet, advising on the selection and appointment of naval barristers and sitting as Judge Advocate at naval courts-martial where the seriousness of the charges, the complexity of the trial, the rank of the accused or the interests of the Service so required.

27. In all other cases, a Judge Advocate was appointed to a court-martial from the staff of the Chief Naval Judge Advocate.

28. Before the trial the Judge Advocate appointed informed the convening authority of any defect in the constitution of the court-martial. He advised the court-martial, whether his opinion was requested or not, upon all questions of law and procedure which arose and the court-martial had to accept his advice unless there were weighty reasons for rejecting it, in which case those reasons had to be recorded.

29. The Judge Advocate had to ensure that the accused did not suffer any disadvantage during the hearing in consequence of, *inter alia*, the accused's position, ignorance or incapacity to examine witnesses. Before the closing of the trial the Judge Advocate summed up the relevant law and evidence. The Judge Advocate was not present when the court considered its finding and, if during the court-martial's deliberations on the charges further advice was required, the court-martial had to receive that advice in open court. The Judge Advocate advised the court-martial on sentence but not in open court.

E. The court-martial hearing

30. The accused could object to any particular member of the court-martial and to its general constitution. If the objection to the President was upheld the court had to adjourn until another was appointed. If an objection to a member was upheld, another member could be appointed from the “spare members list” and, if an objection as to the constitution of the court-martial was upheld, the court-martial had to adjourn and report the matter to the convening authority. All members of the court and any other officers of the court-martial had to take a prescribed oath or affirmation (section 60 of the 1955 Act). The opinion of the President and of each member of the court-martial had to be given orally and on each charge separately, and their opinions had to be given in order of seniority commencing with the junior in rank. The vote of the majority determined sentence.

F. Procedure in the event of a plea of guilty

31. Before the court accepted a plea of guilty, the Judge Advocate had to ensure that the accused understood the charge to which he had pleaded and the different procedure which would result from that plea. The Prosecutor then read the circumstantial letter. Before the court proceeded to deliberate on sentence, the Prosecutor, whenever possible, called relevant witness evidence on information in the possession of the naval authorities as to the accused’s background and history which might have rendered the accused more likely to commit the offence, as to his service history and as to his previous convictions. The accused could also give evidence and call witnesses in mitigation. The court-martial had to take note of the accused’s naval record (for example, awards for gallantry). The members of the court-martial retired (with the Judge Advocate) to consider the sentence. The court-martial did not give reasons for its decision on sentence.

G. Post-hearing matters

32. Having received the report of the finding and sentence, the convening authority took the necessary steps to give effect to the sentence (either by a committal order or otherwise) or he could order the suspension of the sentence pursuant to section 90 of the 1957 Act. Chapter 15 of the Manual of Naval law (Volume II) pointed out that before the convening authority gave effect to or suspended the sentence, he (or, *inter alia*, the Commander in Chief) had to satisfy himself so far as he was able, that no errors had been made in the conduct of the court-martial likely, in his opinion, to invalidate the finding of the court-martial. If he doubted the correctness of the finding, in fact or in law, or the legality of the sentence,

he could not execute the sentence pending reference to the Defence Council. In such circumstances, the accused was retained in custody or the sentence was suspended under section 90 of the Act.

33. The convening authority (among other naval authorities) could at any time, and had to at intervals of not more than three months, reconsider any case of suspension and if on reconsideration it appeared that the conduct of the offender since his conviction had been such as to justify a remission of sentence, he had to remit the whole or any part of it (section 92 of the 1957 Act).

34. A certified transcript of the proceedings was completed and sent through the commander-in-chief or senior naval officer to the Defence Council. The Defence Council could, at any time, review a finding of guilt, any sentence awarded in respect of such a finding and any finding by a court-martial that a person was unfit to stand trial or was not guilty by reason of insanity. This had to be done by the Defence Council in the case of a court-martial as soon as practicable after the receipt of the record of proceedings (section 70(1) of the 1957 Act).

35. A convicted person could also petition the Defence Council against the findings or sentence or both (section 70(2) of the 1957 Act). Having reviewed the petition, the Defence Council could, *inter alia*, quash or alter findings, authorise a re-trial and annul, remit or alter sentences. However, those powers could be, and were normally, carried out by the Admiralty Board or by any officer so empowered by the Admiralty Board. Once an appeal was lodged with the Courts-Martial Appeal Court, the review functions of the Defence Council ceased.

36. The Courts-Martial Appeal Court (“CMAC”) was established by the Courts-Martial (Appeals) Act 1951 and was confirmed by the Courts-Martial (Appeals) Act 1968. The CMAC had the same status and, in essence, the same procedure as the Criminal Division of the Court of Appeal and considered appeals from courts-martial. The judges of this court included ordinary and *ex officio* judges of the Court of Appeal and such judges of the High Court as were nominated by the Lord Chief Justice. There was no provision for an appeal against sentence only, although certain powers of revising such sentences, pursuant to an appeal against conviction, were available to the CMAC. Once an application to the CMAC was received by the Registrar of the CMAC, the Defence Council’s duty to review ceases.

H. The Armed Forces Act 1996

37. The changes to the naval court-martial system brought about by this Act are set out in the Court’s judgment in the case of *Grievés v. the United Kingdom* ([GC], no. 57067/00, §§ 16-62, ECHR 2003-XII).

THE LAW

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

38. The applicant complained under this provision that he did not have a fair hearing by an independent and impartial tribunal established by law.

He submitted that his court-martial was neither independent nor impartial within the meaning of Article 6 § 1 because of its structure and, notably, the role of the convening authority including the latter's institutional connection with the prosecution and with the members of the court-martial.

39. Article 6 § 1 of the Convention, in so far as relevant, reads as follows:

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

40. The Government maintained that the present court-martial did not have the same deficiencies as were found to be in violation of Article 6 § 1 in the above-cited *Findlay* judgment. After the adoption of the Commission's Report in the *Findlay* case (on 5 September 1995), the Royal Navy ensured that the members of its courts-martial (including the present one) were not in the convening authority's chain of command. The applicant could have challenged the composition of his court-martial but did not do so. In addition, the “confirming stage” of a court-martial, criticised in the *Findlay* judgment, did not exist in the naval system. Moreover, a finding of guilt was reviewed by a Reviewing Authority which was independent of the court-martial process: while the Court in its *Findlay* judgment expressed concerns about the post-trial procedure, that procedure did not affect the independence and impartiality of the court-martial which tried the applicant.

41. The Court considers that Article 6 § 1 applies to the applicant's proceedings since they involved the determination of his sentence following a plea of guilty to criminal charges. In this latter respect, it is noted that he was charged with, *inter alia*, one charge under the Theft Act 1968 and two charges under the Forgery and Counterfeiting Act 1981 and that he was sentenced to four months' imprisonment (*Engel and Others v. the Netherlands* judgment of 8 June 1976, Series A no. 22, §§ 82-83, the above-cited *Findlay* judgment, § 69, *Ezeh and Connors v. the United Kingdom* [GC], Nos. 39665/98 and 40086/98, §§ 69-130, ECHR 2003-X and *Cooper v. the United Kingdom* [GC], no. 48843/99, § 80, ECHR 2003-XII).

42. The Court recalls that in order to establish whether a tribunal can be considered “independent”, regard must be had, *inter alia*, to the manner of appointment of its members and their term of office, to the existence of guarantees against outside pressures and to the question whether the body presents an appearance of independence. In this latter respect, it is also

recalled that what is at stake is the confidence which such tribunals in a democratic society must inspire in the public and above all, as far as criminal proceedings are concerned, in the accused. In deciding whether there is a legitimate reason to fear that a particular court lacked independence or impartiality, the standpoint of the accused is important without being decisive. What is decisive is whether his doubts can be held to be objectively justified. There are two aspects to this question: the tribunal must be subjectively free of personal prejudice or bias and must also be impartial from an objective viewpoint in that it must offer sufficient guarantees to exclude any legitimate doubt in this respect (the above-cited *Cooper* judgment, at § 104).

Since the concepts of independence and impartiality are closely linked, the Court will consider them together in the present case. In addition, the present applicant did not suggest that anyone involved in his court-martial process was subjectively biased against him: accordingly it is the objective impartiality and independence of the tribunal which is at issue.

43. In the *Findlay* judgment (cited above), the Court concluded that the applicant's misgivings about the independence and impartiality of his army general court-martial, convened prior to the entry into force of the 1996 Act, had been objectively justified. It was mainly concerned about the conflicting roles of the "convening officer": he had a key prosecuting role but at the same time appointed the members of the court-martial who were subordinate in rank to him and fell within his chain of command. He also had the power to dissolve the court-martial before or during the trial and acted as "confirming officer" after the trial so that a court-martial's verdict and sentence were not effective until "confirmed" by that officer.

44. Following the *Findlay* judgment, the Commission examined the independence and impartiality of a naval court-martial in the case of *Lane v. the United Kingdom* (no. 27347/95, Commission's report of 21 October 1998, unpublished) and found no relevant or significant differences between the role of the convening authority in the organisation of the naval court-martial and of the convening officer in the court-martial at issue in the *Findlay* case. The convening authority was central to the prosecution in naval courts-martial and similar connections in rank and command structure existed between the members of naval courts-martial and that authority. The Commission also noted that the naval convening authority could also countermand the ordering of a court-martial before its commencement and dissolve a court-martial during the trial (orders 13(2) and 28(2) of the 1991 Orders). While the post court-martial "confirming" stage did not exist in the naval court-martial procedure (a point raised by the Government in the present case), the Commission observed that the convening authority retained extensive powers as regards suspending a sentence (sections 90 and 92 of the 1957 Act). The same limitations attached to the Judge Advocate's role in naval courts-martial as applied in air force and army courts-martial –

he was not a member of the court-martial and his advice on sentence was not made public.

The Commission concluded, for the reasons expressed in detail in the above-cited *Findlay* judgment of the Court, that Mr Lane's naval court-martial did not fulfil the independence and impartiality requirements of Article 6 § 1 of the Convention (see also *B.E.V. v. the United Kingdom*, no. 29717/96, Commission's report of 21 October 1998, unpublished).

45. The Court finds no reason to depart from the conclusions of the Commission in the *Lane* case as regards the structural independence and impartiality of a naval court-martial convened under the 1957 Act. It would add the following three points.

46. In the first place, it is true that the present court-martial was convened in such a way as to avoid a chain of command connection between the members of the applicant's court-martial and the convening authority. However, the *Findlay* judgment also referred in that context to the superiority in rank of the convening officer, which was the position in the present case. While the Government suggested that the applicant should have challenged the composition of the court-martial, they did not indicate on what basis he could have done so when he did not question the subjective impartiality of any member and when the court-martial was convened in accordance with domestic law.

47. Secondly, the naval court-martial system at issue in the present case was amended by the 1996 Act to take account of the above-described conclusions in the *Findlay* judgment. In particular, the prosecuting, convening and adjudication roles of the former convening authority were divided between separate authorities. However, the Court has recently found even this new system to give rise to objective independence and impartiality issues constituting a violation of Article 6 § 1 (the above-cited *Grievés v. the United Kingdom* judgment): the current naval system still provided insufficient guarantees of independence and impartiality, in particular, because it did not have the added guarantees of a civilian Judge Advocate and of a Permanent President (the *Grievés* case, §§ 80-89), positions for which the 1957 Act did not provide.

48. Thirdly, the Government maintained that, according to the *Findlay* judgment, the post-trial review procedure did not affect the independence and impartiality of the court-martial. However, in its subsequent *Cooper* judgment (cited above), the Court referred to the anomalous nature of the post-trial reviewing authority and expressed its concern about a criminal procedure which empowered a non-judicial authority to interfere with judicial findings. Since the final decision in Mr Cooper's domestic proceedings lay with a judicial authority (the Courts-Martial Appeal Court), the role of the post-trial reviewing authority was not considered to breach the independence and impartiality requirements of Article 6 § 1 (the above-cited *Cooper* case, §§ 130-133). However, in the present case, the applicant

pleaded guilty and did not therefore have access to the Courts-Martial Appeal Court on sentence: the final decision in the applicant's proceedings did not therefore lie with a judicial authority.

49. In such circumstances, the Court considers it evident that the court-martial system convened under the 1957 Act to try the applicant did not fulfil the requirements of independence and impartiality of Article 6 § 1 of the Convention. Indeed, in their observations following the *Grievés* judgment, the Government did not suggest that it did.

The applicant's court-martial proceedings were consequently unfair (the *Grievés* case, § 91) and it is not considered necessary also to examine his additional submissions about the fairness of the proceedings including the reasonableness of the decision against him and the lack of a non-custodial sentencing option.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

50. 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

51. The applicant claimed certain sums of money in respect of both pecuniary and non-pecuniary loss referring to the loss of his job and home and to the consequent financial difficulties, suffering and distress for him and his family. The Government argued, *inter alia*, that the consistent case-law was to the effect that there were no grounds for believing that the applicant would not have suffered the same or similar consequences if the court-martial had been organised to comply with Article 6 § 1 and submitted that no causal link had been established between the breach of the Convention alleged and the losses claimed (*Wilkinson and Allen v. the United Kingdom*, nos. 31145/96 and 35580/97, § 33, 6 February 2001).

52. The Court recalls that in the above-cited *Findlay* judgment it decided not to award compensation for either pecuniary or non-pecuniary damage on the ground that it was impossible to speculate as to the outcome of the court-martial proceedings had the violation of the Convention not occurred (at §§ 85 and 88. See also the above-cited *Wilkinson and Allen* case, § 33, *Coyne v. the United Kingdom* judgment of 24 September 1997, *Reports* 1997-V, § 62 and *Cable and Others v. the United Kingdom* [GC], nos. 24436/94 et seq. § 26, 18 February 1999).

53. In such circumstances, the Court considers that it is inappropriate to award the applicant compensation for the pecuniary loss to which he referred and that the finding of a violation in itself affords him sufficient reparation for any non-pecuniary damage suffered.

B. Costs and expenses

54. The applicant also claimed the sum (inclusive of value added-tax – “VAT”) of 2259.03 pounds sterling (GBP) for legal costs and expenses. The bill of costs (submitted with his claim for just satisfaction in January 2001) indicated the work done by the partner on the case (assisted by a trainee solicitor) since 1996, the differing charge out rates applicable (GBP 52-68 for the successive trainees and GBP 125-148 for the partner) and the other outlay and expenses. The Government maintained that the case was not complex for representatives who were experienced in court-martial matters and they did not consider that fees incurred during telephone calls to the media were necessarily or reasonably incurred. They suggested that the sum of GBP 1500 (inclusive of VAT) would be a reasonable sum.

55. The Court recalls that, according to the criteria laid down in its case-law, it must ascertain whether the sum claimed in costs and expenses was actually and necessarily incurred and was reasonable as to quantum (*Witold Litwa v. Poland*, no. 26629/95, § 88, ECHR 2000-III). The Court does not consider the case a particularly complex one given the adoption of the *Findlay* judgment and its application by the Commission (in the above-cited *Lane* and *B.E.V.* cases) prior to the admissibility of the present case. On the other hand, the applicant’s bill of costs was very detailed and was submitted as early as January 2001 following which certain work was required by the Court on the case and, in particular, on observations requested by the Court following the adoption of the above-cited *Grievés* judgment.

56. Making its assessment on an equitable basis, the Court considers it reasonable to award the applicant EUR 2900 for his costs and expenses (inclusive of VAT), to be converted into pounds sterling at the date of settlement.

C. Default interest

57. 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 the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant;
3. *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 2900 (two thousand nine hundred euros) in respect of costs and expenses, to be converted into pounds sterling 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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 15 June 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Matti PELLONPÄÄ
President