



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

THIRD SECTION

CASE OF ČEVIZOVIĆ v. GERMANY

(Application no. 49746/99)

JUDGMENT

STRASBOURG

29 July 2004

FINAL

29/10/2004

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 Čevizović v. Germany,

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

Mr I. CABRAL BARRETO, *President*,
 Mr G. RESS,
 Mr L. CAFLISCH,
 Mr R. TÜRMEŇ,
 Mr J. HEDIGAN,
 Mrs H.S. GREVE,
 Mr K. TRAJA, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 3 April 2003 and on 8 July 2004,

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

PROCEDURE

1. The case originated in an application (no. 49746/99) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Croatian national, Mr Zvonko Čevizović (“the applicant”), on 8 March 1999.

2. The applicant, who had been granted legal aid, was originally represented by Mrs G. Braun, a lawyer practising in Strasbourg. He was then represented before the Court by Mr Ž. Rajačić, a lawyer practising in Zagreb, Croatia. The German Government (“the Government”) were represented by their Agent, Mr K. Stoltenberg, *Ministerialdirigent*, of the Federal Ministry of Justice.

3. The applicant alleged that the length of his detention on remand and the length of the criminal proceedings against him had exceeded a reasonable time. He also complained that his continued detention had been disproportionate. He invoked Articles 5 §§ 1 and 3 and 6 § 1 of the Convention.

4. The application was allocated to the Fourth Section of the Court (Rule 52 § 1 of the Rules of Court).

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Third Section (Rule 52 § 1). 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 3 April 2003, the Court declared the application admissible.

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

8. The Government of the Republic of Croatia, having been informed of their right to intervene (Article 36 § 1 of the Convention and former Rule 61 of the Rules of Court), declared that they would not submit any observations.

THE FACTS

9. The applicant, Zvonko Čevizović, is a Croatian national born in 1966. When lodging his application, he was detained in Oldenburg, Germany. He is presently living in Rogaška Slatina, Slovenia.

10. On 17 June 1996 the applicant was arrested in Wilhelmshaven. On 18 June 1996 the Wilhelmshaven District Court issued a warrant of arrest against the applicant on the ground that he was strongly suspected of having committed, with others, robbery connected with attempted murder.

11. On 4 November 1996 the Oldenburg Public Prosecutor's Office charged the applicant with attempted murder, aggravated robbery, grievous physical injury and unauthorised carrying of weapons.

12. On 18 February 1997 the Oldenburg Regional Court admitted the indictment without modifications and decided to open the trial against the applicant and two other accused. The trial started on 14 March 1997 and took place on fifty-six days with an average duration of ninety minutes. On 22 May 1998 a lay assessor fell ill. As the additional lay assessor who was supposed to replace her had also fallen sick earlier on, the trial had to begin anew.

13. On 28 May 1998 the Oldenburg Regional Court upheld the arrest warrant against the applicant. It found that irrespective of the delay occasioned by the assessors' illness, the applicant's continued detention was proportionate given the serious nature of the crimes he was accused of.

14. On 2 June 1998 the trial reopened with two additional lay assessors.

15. On 22 June 1998 the Oldenburg Court of Appeal rejected the applicant's appeal against the Oldenburg Regional Court's decision to uphold the arrest warrant.

16. On 25 March 1999 the Oldenburg Regional Court dismissed the applicant's renewed request to suspend the warrant of arrest of 18 June 1996 on the ground that the applicant remained under strong suspicion of having committed the crimes that he was accused of. On 7 May 1999 the Oldenburg Regional Court, upon the applicant's appeal, reconsidered and confirmed its decision of 25 March 1999. It held that the delay in the trial had been caused by exceptional circumstances such as the difficulty in taking evidence, which required further investigations during the trial, and

the illness of a lay assessor as well as the temporary illness of the presiding judge. The strong suspicion that the applicant had committed the serious crimes he was accused of had not been invalidated during the trial. As the applicant's partner and son lived in Slovenia, the applicant was also likely to abscond if released.

17. On 1 June 1999 the Oldenburg Court of Appeal confirmed the decision of the lower court, stating that although the applicant had at that point already been in custody for nearly three years, this did not justify his release.

18. On 9 July 1999 the Federal Constitutional Court refused to entertain the applicant's constitutional complaint.

19. On 14 June 2000 the Oldenburg Regional Court dismissed the applicant's new request to suspend the warrant of arrest of 18 June 1996 on the ground that the allegedly new evidence submitted by the applicant did not justify such a suspension. It found that if released, the applicant was very likely to abscond, given the circumstances of his arrest and the sentence which he risked incurring if found guilty as charged. The Regional Court noted that the applicant was residing illegally in Germany and that an expulsion order had been issued against him. The length of the applicant's detention on remand did not compare to the risk mentioned above. The Regional Court included a detailed account of the trial, explaining the continued conduct of the proceedings, which disclosed that on several occasions witnesses could not be questioned by the court because they either did not come to the hearing or made use of their right not to testify. Furthermore, the applicant and his co-accused had, often later than necessary, filed numerous motions for evidence to be taken. It observed that at the present time, it was not possible to disjoin the applicant's case from those of the other accused, as they were accused of committing the offences jointly.

20. On 21 June 2000, following the applicant's appeal, the Oldenburg Regional Court confirmed its original decision. It pointed out that the prolonged investigations by way of letters rogatory in Macedonia and the summoning of witnesses from abroad, which were necessitated by the belated alibi produced by one of the applicant's co-accused, did not warrant the applicant's release.

21. On 27 June 2000 the Oldenburg Court of Appeal confirmed this decision.

22. On 10 August 2000 the Federal Constitutional Court refused to entertain the applicant's constitutional complaint.

23. On 26 September 2000 the Oldenburg Regional Court dismissed the applicant's further request to suspend the arrest warrant on the grounds that contrary to his allegations, the suspicion persisted that he had committed the crimes he was accused of and was still likely to abscond if released,

especially considering the high prison sentence he risked incurring if found guilty according to the indictment.

24. On 20 March 2001 the Oldenburg Regional Court pronounced its judgment after having held an average of less than four hearings per month with an average duration of less than two and a half hours each. It convicted the applicant of attempted murder, aggravated robbery and grievous physical injury as well as of unauthorised carrying of weapons and sentenced him to ten years and six months' imprisonment. In fixing the length of the applicant's sentence, the Regional Court took into consideration the inordinate length of his detention and of the criminal proceedings, in particular the delay occasioned by the sickness of the lay assessor and the ensuing suspension of proceedings.

25. On 21 March 2001, the applicant appealed against the Regional Court's judgment. In the negotiations that followed between the applicant's legal counsel and the Prosecutor's Office, the latter eventually consented to the applicant's expulsion to his country of origin *in lieu* of serving his prison sentence in Germany. In exchange for this, and due to the increasing length of his detention on remand, which would have continued during the appeal proceedings, the applicant agreed to withdraw his appeal.

26. On 4 April 2001, the applicant withdrew his appeal. On 5 April 2001 the Oldenburg Regional Court made an order for costs following the applicant's withdrawal of the appeal. On 28 May 2001, the Prosecutor's Office suspended the further execution of the applicant's prison sentence and agreed to his expulsion to Croatia. A new arrest warrant was issued to the effect that, upon returning to Germany before the year 2026, the applicant would be arrested and imprisoned instantly in order to complete his prison sentence. On 25 July 2001, the applicant was expelled to Croatia.

THE LAW

I. THE GOVERNMENT'S PRELIMINARY OBJECTION

27. The Government, in their supplementary observations of 10 June 2003 following the Court's decision as to the admissibility of the application on 3 April 2003, contended for the first time that the applicant did not exhaust domestic remedies as required by Article 35 § 1 of the Convention in respect of his complaint under Article 6 § 1 of the Convention. They submitted that the applicant in the meantime withdrew his appeal on points of law against the conviction by the Oldenburg Regional Court. He thereby failed to exhaust an effective remedy to complain about the excessive length of the criminal proceedings against

him, as the Federal Court of Justice as the competent appellate court could have reduced his sentence with regard to the duration of the proceedings.

28. The Court would recall that, according to Rule 55 of the Rules of Court, any plea of inadmissibility must, in so far as its character and the circumstances permit, be raised by the respondent Contracting Party in its written or oral observations on the admissibility of the application (see *K. and T. v. Finland* [GC], no. 25702/94, § 145, ECHR 2001-VII; *N.C. v. Italy* [GC], no. 24952/94, § 44, ECHR 2002-X). Where a new legally relevant procedural event occurs in the course of the proceedings before the Court, it is in the interests of the proper administration of justice that the Contracting Party makes any formal objection without delay (see, *mutatis mutandis*, *N.C. v. Italy* [GC], cited above, § 45).

29. In the present case the applicant withdrew his appeal on 4 April 2001, that is, after the Government had submitted their written observations of 11 September 2000 on the admissibility of the application. However, the Court observes that the Government had been informed by letter of 1 October 2002 that the applicant had been requested to submit, *inter alia*, documents in relation to the appeal proceedings. On 8 November 2002 copies of the documents submitted by the applicant were forwarded to the Government for information. These included the applicant's submission to the Oldenburg Regional Court by which he withdrew his appeal on points of law as well as the Regional Court's order for costs following the applicant's withdrawal of the appeal (see paragraph 26 above). There are no particular reasons which thereafter would have exempted the Government from raising their preliminary objection before the Court's decision as to the admissibility of the application on 3 April 2003.

30. Consequently, the Government are estopped from raising a preliminary objection of non-exhaustion of domestic remedies at the present stage of the proceedings. The Government's objection must therefore be dismissed.

II. ALLEGED VIOLATION OF ARTICLE 5 §§ 1 AND 3 OF THE CONVENTION

31. The applicant claimed that the length of his detention on remand had been excessive and alleged a violation of Article 5 §§ 1 and 3 of the Convention, which, in so far as relevant, read as follows:

“1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ...

c. the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; ...

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

32. The Court considers that the central issue raised by the applicant’s case is his complaint about the length of his detention on remand, which had initially been ordered for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence within the meaning of Article 5 § 1 (c) of the Convention. It will examine this complaint from the angle of Article 5 § 3 of the Convention.

A. Period to be taken into consideration

33. There was no dispute that the period to be considered under Article 5 § 3 started on 17 June 1996, when the applicant was arrested (see paragraph 10 above).

34. The Court, having regard to its case-law (see, amongst others, *Labita v. Italy* [GC], no. 26772/95, § 147, ECHR 2000-IV), finds that the period of detention on remand ended on 20 March 2001, when the Oldenburg Regional Court pronounced its judgment (see paragraph 24 above).

35. The applicant was accordingly held in detention on remand for a total period of four years, nine months and three days.

B. The reasonableness of the length of detention

36. The applicant submitted that the length of his detention pending trial could not be regarded as justified for the purposes of Article 5 § 3 of the Convention. The Government contested this view.

37. The Court recalls that the issue of whether a period of detention is reasonable cannot be assessed *in abstracto*. Whether it is reasonable for an accused to remain in detention must be assessed in each case according to its special features and on the basis of the reasons given in the domestic decisions and of the well-documented facts mentioned by the applicant in his applications for release. Continued detention can be justified in a given case only if there are specific indications of a genuine requirement of public interest which, notwithstanding the presumption of innocence, outweighs the rule of respect for individual liberty (see, among other authorities, *W. v. Switzerland*, judgment of 26 January 1993, Series A no. 254-A, p. 15, § 30; *Labita v. Italy* [GC], no. 26772/95, § 152, ECHR 2000-IV).

38. The persistence of reasonable suspicion that the person arrested has committed an offence is a condition *sine qua non* for the lawfulness of the continued detention, but after a certain lapse of time it no longer suffices. In such cases, the Court must establish whether the other grounds given by the judicial authorities continued to justify the deprivation of liberty. Where such grounds were “relevant” and “sufficient”, the Court must also ascertain

whether the competent national authorities displayed “special diligence” in the conduct of the proceedings (see, among others, *I.A. v. France*, judgment of 23 September 1998, *Reports of Judgments and Decisions* 1998-VII, p. 2979, § 102; *Labita v. Italy* [GC], cited above, § 153).

1. Grounds for continued detention

39. As regards the grounds for the applicant’s continued detention, the Court notes that the competent judicial authorities advanced three principal reasons for not suspending the arrest warrant, namely that the applicant remained under a strong suspicion of having committed the crimes he was accused of, the serious nature of these offences and that the applicant would be very likely to abscond if released, given the sentence which he risked incurring if found guilty as charged.

40. The Court accepts that the reasonable suspicion that the applicant committed the offences he had been charged with, being based on cogent evidence, persisted throughout the trial leading to his conviction. It also agrees that the alleged offences, including charges of attempted murder, were of a serious nature.

41. As regards the danger of the applicant’s absconding, the Court observes that the possibility of a severe sentence alone is not sufficient after a certain lapse of time to justify the continued detention based on the danger of flight (see *Wemhoff v. Germany*, judgment of 27 June 1968, Series A no. 7, p. 25, § 14; *B. v. Austria*, judgment of 28 March 1990, Series A no. 175, p. 16, § 44). However, in the present case the national courts also relied on other relevant circumstances, including the facts that the applicant resided illegally in Germany and that his family lived abroad. The Court takes also account of the Government’s argument that, in the course of the proceedings, it became increasingly likely that the applicant might abscond, as the further accumulation of evidence enhanced the impression that he had committed the crimes charged with. It is therefore satisfied that a substantial risk of the applicant’s absconding persisted over the total period of his detention.

42. Consequently, the Court concludes that there have been relevant and sufficient grounds for the applicant’s continued detention.

2. Conduct of the proceedings

43. It remains to be ascertained whether the national authorities displayed “special diligence” in the conduct of the proceedings.

44. The Court agrees with the Government that the applicant’s case was complex. It concerned serious charges against him and two co-accused, which necessitated *inter alia* inquiries by way of letters rogatory abroad, and involved many witnesses, some of whom had to be summoned from outside Germany.

45. The applicant submitted that he had not contributed to the length of the proceedings. In particular, his motions to hear further evidence did not cause any delays.

46. The Government agreed that the applicant had the right to avail himself of the defence remedies offered to him under national law. However, he had delayed the conduct of the proceedings by numerous applications for evidence to be taken regarding his alibi. In this context, the Government also referred to a belated motion to hear evidence submitted by one of the other accused, which caused a considerable delay in the proceedings. It had been impossible to disjoin the applicant's proceedings from the main proceedings due to the factual link between the two.

47. The Court cannot subscribe to the Government's contention that it was in the first place the applicant who had delayed the court proceedings. The Court recalls that it should not be overlooked that, while an accused person in detention is entitled to have his case given priority and conducted with particular expedition, this must not stand in the way of the efforts of the judges to clarify fully the facts in issue and to give both the defence and the prosecution all facilities for putting forward their evidence (see *Wemhoff* cited above, p. 26, § 17). However, even if the applicant might have been in a position to present his motions at an earlier stage, any resulting delays were minor, taking into consideration the total duration of the first-instance proceedings.

48. The applicant also maintained that the proceedings, both before and after their interruption in 1998, had been delayed by an insufficient number of hearings per month, each of which was of very short duration.

49. The Government submitted that the duration of each hearing could not be relevant when deciding on whether proceedings had been conducted within a reasonable time. In this context, the Government observed that many of the witnesses summoned did not attend the hearings, with or without permission from the Regional Court, while others made use of their right not to testify. The short duration of some of the hearings could therefore not be attributed to the Regional Court.

50. Considering the main course of the proceedings, the Court notes that, following the indictment of 4 November 1996, the trial before the Oldenburg Regional Court began on 14 March 1997. The hearings took place on fifty-six days with an average duration of ninety minutes. On 2 June 1998, the trial had to be reopened and all witnesses had to be reheard after a lay judge and her replacement judge had fallen ill. Following this interruption, the trial continued with an average of less than four hearings per month, each lasting an average of less than two and a half hours, until the Regional Court's decision of 20 March 2001.

51. The Court, on the basis of the material before it, finds that the trial court did not proceed with diligence when holding an average of less than four court hearings per month without making an effort to summon

witnesses and experts in a more efficient way. Bearing in mind that when the proceedings were resumed in June 1998, the applicant had already been detained for two years, the Court finds that the competent court should have fixed a tighter hearing schedule in order to speed up the proceedings.

52. The applicant further maintained that the interruption in the proceedings in 1998 and the necessity to repeat the initial part of the trial could have been avoided if, at their beginning, the Regional Court had appointed two replacement lay judges instead of one.

53. According to the Government, factors relating to the illness of both a lay judge and her replacement lay judge were beyond the Regional Court's control.

54. The Court considers that the competent court, in dealing with the proceedings at issue, had to face many unforeseen and unforeseeable difficulties. The appointment of a second replacement lay assessor from the very beginning of the trial would have indeed avoided the delay resulting from the need to repeat part of the complex and lengthy trial.

55. In the light of these various factors, the Court finds that the competent national court failed to act with the necessary special diligence in conducting the applicant's proceedings.

56. Therefore, the Court concludes that the length of the applicant's detention cannot be regarded as reasonable. There has accordingly been a violation of Article 5 § 3 of the Convention.

57. Having reached that conclusion and bearing in mind that there have been relevant and sufficient grounds for the applicant's continued detention (see paragraph 42 above), the Court does not find it necessary to examine the applicant's complaint under Article 5 § 1 of the Convention.

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

58. The applicant also maintained that the length of the criminal proceedings against him had been excessive, and that there had accordingly been a breach of Article 6 § 1 of the Convention, which, in so far as relevant, provides:

"In the determination ... of any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal"

The Government contested this view.

59. The period to be taken into consideration started on 17 June 1996, the day of the applicant's arrest. It ended on the date of the final determination of the charge (see *Wemhoff* cited above, Series A no. 7, p. 26, § 18), that is, on 4 April 2001, when the applicant withdrew his appeal against the judgment of the Oldenburg Regional Court, whereby his conviction became final. It therefore lasted a total of four years, nine months

and nineteen days, coinciding approximately with the period of the applicant's detention on remand.

60. The Court refers to its finding with regard to Article 5 § 3 of the Convention that the competent national court failed to act with the necessary special diligence in conducting the applicant's proceedings, rendering the length of the applicant's detention excessive (see paragraphs 47, 51 and 54-56 above). That finding is likewise valid in respect of the length of the criminal proceedings as such.

61. Accordingly, the Court finds that the proceedings against the applicant were not conducted within a "reasonable time". Consequently, there has been a violation of Article 6 § 1 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

62. 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."

63. The applicant claimed compensation for pecuniary and non-pecuniary damage, and the reimbursement of his costs and expenses.

A. Damage

64. The applicant claimed a total of 113,500 EUR for pecuniary damage, in particular loss of income and travelling expenses of his family members. Although the applicant had been granted an additional deadline, he did not submit any documentary evidence relating to his request for just satisfaction. The applicant also sought compensation for non-pecuniary damage, pointing to the distress and anguish sustained during the time of his detention. He claimed a total of 5,000,000 EUR under this head.

65. The Government maintained that the applicant's claims were obviously excessive.

66. As regards the pecuniary damage claimed, the Court notes that, notwithstanding the question whether a causal link between this damage claimed and the length of his detention on remand and of the criminal proceedings could be established, the applicant failed to substantiate his claims by any documentary evidence. Therefore, the Court makes no award to him under this head.

67. As to the non-pecuniary damage claimed, the Court considers that the applicant undoubtedly suffered distress resulting from the protracted duration of his detention on remand and of the criminal proceedings against him. However, the Court recalls that in assessing the extent of the injury

suffered, the measures taken by the national authorities in order to compensate the damage sustained by the excessive length of the detention on remand and the criminal proceedings are to be taken into consideration (see, *mutatis mutandis*, *Eckle v. Germany* (Article 50), judgment of 21 June 1983, Series A no. 65, p. 10, § 24). In this respect, the Court notes that the Oldenburg Regional Court, according to the grounds given in its decision and without acknowledging a violation of the Convention, mitigated the applicant's sentence in view of the inordinate length of his detention on remand and the considerable duration of the proceedings. Furthermore, the Court notes that the entire period of pre-trial detention was deducted from the applicant's sentence.

68. Although these circumstances did not cause the applicant to cease to be a victim within the meaning of Article 34 of the Convention (see, *mutatis mutandis*, *Eckle* cited above, *ibid.*, p. 10 § 24), the Court, taking these factors together and on an equitable basis, considers that the finding of a violation of Articles 5 § 3 and 6 § 1 of the Convention constitutes in itself sufficient just satisfaction in respect of any non-pecuniary damage suffered by the applicant.

B. Costs and expenses

69. The applicant claimed to have spent 35,000 EUR on legal expenses in the proceedings before the German courts for the services of the defence counsel acting for him in addition to the officially appointed defence counsel. The applicant, who received legal aid from the Council of Europe for the presentation of his case, which was paid to his representative in Strasbourg, further sought the reimbursement of 10,000 EUR for costs and expenses incurred for the services of his lawyer in Zagreb in the proceedings before the Court. Despite having been granted an additional deadline, he did not submit any documentary evidence relating to his request.

70. The Government did not comment on these issues.

71. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum (see, among other authorities, *Nikolova v. Bulgaria* [GC], no. 31195/96, § 79, ECHR 1999-II).

72. In the present case, regard being had to the information in its possession and the above criteria, the Court finds that the applicant failed to show that he incurred additional costs in the domestic proceedings due to their length. It therefore rejects the claim for costs and expenses in this respect.

73. As regards the applicant's legal expenses for the proceedings before this Court, the Court notes that the applicant has not set out his claim in

detail. Making its assessment on an equitable basis, the Court awards the applicant 1,500 EUR for his costs and expenses less the 630 EUR received by way of legal aid from the Council of Europe, together with any value-added tax that may be chargeable.

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. *Dismisses* the Government's preliminary objection;
2. *Holds* that there has been a violation of Article 5 § 3 of the Convention;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant;
5. *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 1,500 (one thousand five hundred euros) in respect of costs and expenses, less EUR 630 (six hundred and thirty euros), plus any value-added tax that may be chargeable;
 - (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;
6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 29 July 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Ireneu CABRAL BARRETO
President