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

THIRD SECTION

CASE OF RAINYS AND GASPARAVIČIUS v. LITHUANIA

(Applications nos. 70665/01 and 74345/01)

JUDGMENT

STRASBOURG

7 April 2005

FINAL

07/07/2005

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 Rainys and Gasparavičius v. Lithuania,

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

Mr B.M. ZUPANČIČ, *President*,
Mr J. HEDIGAN,
Mr J.-P. COSTA,
Mrs M. TSATSA-NIKOLOVSKA,
Mr V. ZAGREBELSKY,
Mr E. MYJER,
Mr DAVID THÓR BJÖRGVINSSON, *judges*,
and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 17 March 2005,

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

PROCEDURE

1. The case originated in applications (nos. 70665/01 and 74345/01) against the Republic of Lithuania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Lithuanian nationals, Mr Raimundas Rainys ("the first applicant") and Mr Antanas Gasparavičius ("the second applicant"), on 19 January 2001 and 31 July 2001 respectively.

2. The applicants, who had been granted legal aid, were represented by Mr A. Paškauskas, a lawyer practising in Vilnius. The Lithuanian Government ("the Government") were represented by their Agent, Mrs D. Jočienė, of the Ministry of Justice.

3. The applicants alleged, in particular, that they had lost their jobs and that their employment prospects had been restricted as a result of the application of the Law on the Evaluation of the USSR State Security Committee (NKVD, NKGB, MGB, KGB) and the Present Activities of Permanent Employees of the Organisation, in breach of Articles 8, 10 and 14 of the Convention.

4. The application was allocated to the Third Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1. Mr P. Kūris, the judge elected in respect of Lithuania, withdrew from sitting in the case (Rule 28). The Government accordingly appointed Mr J.-P. Costa to sit as the judge elected in respect of Lithuania (Article 27 § 2 of the Convention and Rule 29 § 1).

5. By a decision of 22 January 2004 the Court joined and declared the cases partly admissible.

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

7. On 1 November 2004 the Court changed the composition of its Sections (Rule 25 § 1). The case was assigned to the newly composed Third Section (Rule 52 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. The first applicant, Mr Raimundas Rainys, is a Lithuanian national who was born in 1949 and lives in Vilnius. The second applicant, Mr Antanas Gasparavičius, is a Lithuanian national who was born in 1945 and lives in Kretinga.

The facts of the case, as submitted by the parties, may be summarised as follows.

A. The first applicant

9. From 1975 to October 1991 the first applicant was an employee of the Lithuanian branch of the Soviet Security Service (hereinafter the "KGB"). Thereafter he found employment as a lawyer in a private telecommunications company.

10. On 17 February 2000 two authorities - the Lithuanian State Security Department and the Centre for Research into the Genocide and Resistance of the Lithuanian People - jointly concluded that the applicant was subject to the restrictions imposed under Article 2 of the Law on the Evaluation of the USSR State Security Committee (NKVD, NKGB, MGB, KGB) and the Present Activities of Permanent Employees of the Organisation (hereinafter "the Act", see paragraph 22 below). The conclusion confirmed that the applicant had the status of a "former KGB officer" as construed by the Act. As a result, on 23 February 2000 he was dismissed from his job at the telecommunications company.

11. The applicant brought an administrative action against the security intelligence authorities, arguing that his dismissal under Article 2 of the Act and the resultant inability to find employment were unlawful.

12. On 29 June 2000 the Higher Administrative Court found that the conclusion of 17 February 2000 had been substantiated, and that the applicant was subject to the restrictions imposed under Article 2 of the Act.

13. On 5 September 2000 the Court of Appeal rejected the applicant's appeal.

14. The applicant has been unemployed since 26 February 2002.

B. The second applicant

15. From 1971 until October 1991 the second applicant worked at the KGB. Thereafter he started practising as a barrister.

16. On an unspecified date in 2000, the Lithuanian State Security Department and the Centre for Research into the Genocide and Resistance of the Lithuanian People jointly concluded that the applicant had the status of a "former KGB officer", and that he was thereby subject to the restrictions imposed under Article 2 of the Act. On 12 June 2000 the Bar informed him that he would be disbarred pursuant to that law.

17. The applicant brought an administrative action, claiming that his dismissal from the Bar would be unlawful. While the applicant did not contest the fact that he had worked for the KGB even following the declaration of Lithuanian independence on 11 March 1990, he submitted that thereafter he had worked as an informer for the authorities of independent Lithuania. Furthermore, throughout his time at the KGB the applicant had allegedly only worked with cases concerning purely criminal investigations, not political persecutions. In the applicant's view, he had been entitled to be exempted from the employment restrictions, in accordance with Article 3 of the Act.

18. On 21 February 2001 the Vilnius Regional Administrative Court rejected the applicant's claim. The court found that he had indeed worked with criminal investigations while at the KGB, but that he had remained employed there until his retirement in October 1990. The court held that the exceptions in Article 3 of the Act were not applicable to the applicant, given that he did not end his employment with the KGB immediately after Lithuania's declaration of independence on 11 March 1990.

19. Upon the applicant's appeal, on 16 May 2001 the Supreme Administrative Court upheld this decision. The court reiterated that the applicant was not entitled to be exempted under Article 3 of the Act, as he had not ended his KGB employment immediately after 11 March 1990. Moreover, there was no plausible evidence attesting that thereafter the applicant had worked at the KGB as an agent of the authorities of independent Lithuania.

20. As a result of the proceedings on 29 May 2001 the applicant was disbarred.

21. He has now found employment in the business field.

II. RELEVANT DOMESTIC LAW AND PRACTICE

22. The Law on the Evaluation of the USSR State Security Committee (NKVD, NKGB, MGB, KGB) and the Present Activities of Former Permanent Employees of the Organisation (*Įstatymas dėl SSRS valstybės saugumo komiteto (NKVD, NKGB, MGB, KGB) vertinimo ir šios organizacijos kadrinių darbuotojų dabartinės veiklos*) was enacted

on 16 July 1998 by the Seimas (Parliament) and promulgated by the President of the Republic. The Act reads as follows:

Article 1

Recognition of the USSR State Security Committee as a criminal organisation

"The USSR State Security Committee (NKVD, NKGB, MGB, KGB – hereinafter SSC) is recognised as a criminal organisation which committed war crimes, genocide, repression, terror and political persecution in the territory of Lithuania when occupied by the USSR."

Article 2

Restrictions on the present activities of permanent employees of the SSC

"For a period of 10 years from the date of entry into force of this Law, former employees of the SSC may not work as public officials or civil servants in government, local or defence authorities, the State Security department, the police, prosecution, courts or diplomatic service, customs, State supervisory bodies and other authorities monitoring public institutions, as lawyers and notaries, as employees of banks and other credit institutions, on strategic economic projects, in security companies (structures), in other companies (structures) providing detective services, in communications systems, or in the educational system as teachers, educators or heads of institutions[;] nor may they perform a job requiring a weapon."

Article 3

Cases in which the restrictions shall not be applied

"1. The restrictions provided for in Article 2 shall not be applied to former permanent employees of the SSC who, while working at the SSC, investigated only criminal cases and who discontinued their work at the SSC not later than 11 March 1990.

2. The Centre for Research into the Genocide and Resistance of the Lithuanian People and the State Security Department may [recommend by] a reasoned application that no restrictions under this law be applied to former permanent employees of the SSC who, within 3 months of the date of the entry into force of this Law, report to the State Security Department and disclose all information in their possession ... about their former work at the SSC and their current relations with former SSC employees and agents. A decision in this respect shall be taken by a commission of three persons set up by the President of the Republic. No employees of the Centre for Research into the Genocide and Resistance of the Lithuanian People or the State Security Department may be appointed to the commission. The commission's rules shall be confirmed by the President of the Republic."

Article 4

Procedure for implementation of the Act

“The procedure for implementation of the Act shall be governed by [a special law].”

Article 5

Entry into force of the Act

“This Act shall come into effect on 1 January 1999.”

23. Following the examination by the Constitutional Court of the compatibility of the Act with the Constitution (see § 28 below), on 5 May 1999 Article 3 of the Act was amended to the effect that even those individuals who had worked for the KGB after 11 March 1990 could be eligible for exceptions under Article 3 of the Act.

24. On 16 July 1998 a separate law on the implementation of the Act was adopted. According to that law, the Centre for Research into the Genocide and Resistance of the Lithuanian People and the State Security Department were empowered to reach a conclusion on an individual's status as a “former permanent employee of the KGB” for the purposes of the Act.

25. On 26 January 1999 the Government adopted a list (“the list”) of positions in various branches of the KGB on Lithuanian territory attesting to a person's status as a “former permanent employee of the KGB” (“former KGB officer”) for the purposes of the Act. 395 different positions were listed in this respect.

26. On 4 March 1999 the Constitutional Court examined the issue of the compatibility of the Act with the Constitution. The Constitutional Court held in particular that the Act had been adopted in order to carry out “security screening” measures on former Soviet security officers, who were deemed to be lacking in loyalty to the Lithuanian State. The Constitutional Court decided that the prohibition on former KGB agents' occupying public posts was compatible with the Constitution. It further ruled that the statutory ban on the holding by former KGB employees of jobs in certain private sectors was compatible with the constitutional principle of a free choice of profession in that the State was entitled to lay down specific requirements for persons applying for work in the most important economic sectors in order to ensure the protection of national security and proper functioning of the educational and financial systems. The Constitutional Court also held that the restrictions under the Act did not amount to a criminal charge against former KGB agents.

27. While the Act does not specifically guarantee a right of access to a court to contest the security intelligence authorities' conclusion, it was recognised by the domestic courts that, as a matter of practice, a dismissal

from employment in the public service on the basis of that conclusion gave rise to an administrative court action (and a further appeal) under the general procedure governing industrial disputes and alleged breaches of personal rights by the public authorities, pursuant to Articles 4, 7, 8, 26, 49, 50, 59, 63 and 64 of the Code of Administrative Procedure, Article 222 of the Civil Code and Article 336 of the Code of Civil Procedure (as effective at the material time).

III. RELEVANT PROVISIONS OF INTERNATIONAL LAW

28. Restrictions have been imposed in many post-communist countries with a view to screening the employment of former security agents or active collaborators in the former regimes. In this respect, international human rights bodies have at times found fault with similar legislation where this has lacked precision or proportionality, characterising such rules as discrimination in employment or the exercise of a profession on the basis of political opinion. The possibility of appeal to the courts has been considered a significant safeguard, although not sufficient in itself to make good shortcomings in legislation (see *Sidabras and Džiautas*, nos. 55480/00 and 59330/00, 27.7.2004, §§ 30-32, ECHR 2004 - ...).

29. Article 1 § 2 of the European Social Charter provides:

> "With a view to ensuring the effective exercise of the right to work, the Parties undertake:
>
> ...
>
> 2) to protect effectively the right of the worker to earn his living in an occupation freely entered upon[.]"

This provision, which was retained word for word in the Revised Charter of 1996 (which entered into force with regard to Lithuania on 1 August 2001), has been consistently interpreted by the European Committee of Social Rights (ECSR) as establishing a right not to be discriminated against in employment. The non-discrimination guarantee is stipulated in Article E of the Revised Charter in the following terms:

> "The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status."

30. The International Labour Organisation (ILO) has also adopted a number of relevant international legal instruments. The most pertinent text is ILO Convention No. 111 on Discrimination (Employment and Occupation) of 1958. In its 1996 General Survey, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) restated its interpretation of Convention No. 111, drawing upon examples taken from national law.

A 1996 survey identifies comparable provisions in the national law of a number of European countries.

In Latvia, the State Civil Service Act 2000 and the Police Act 1999 prohibit the employment of persons who worked for or with the Soviet security services. In 2003 the CEACR expressed its dissatisfaction with the above texts in the following terms:

> "6. The Committee recalls that requirements of a political nature can be set for a particular job, but to ensure that they are not contrary to the Convention, they should be limited to the characteristics of a particular post and be in proportion to its labour requirements. The Committee notes that the above established exclusions by the provisions under examination apply broadly to the entire civil service and police rather than to specific jobs, functions or tasks. The Committee is concerned that these provisions appear to go beyond justifiable exclusions in respect of a particular job based on its inherent requirements as provided for under Article 1 (2) of the Convention. The Committee recalls that for measures not to be deemed discriminatory under Article 4, they must be measures affecting an individual on account of activities he or she is justifiably suspected or proven to be engaged in which are prejudicial to the security of the State. Article 4 of the Convention does not exclude from the definition of discrimination measures taken by reason of membership of a particular group or community. The Committee also notes that in cases where persons are deemed to be justifiably suspected of or engaged in activities prejudicial to the security of the State, the individual concerned shall have the right to appeal to a competent body in accordance with national practice.
>
> 7. In the light of the above, the Committee considers the exclusions from being a candidate for any civil service position and from being employed by the police are not sufficiently well defined and delimited to ensure that they do not become discrimination in employment and occupation based on political opinion ..."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION, TAKEN ALONE AND IN CONJUNCTION WITH ARTICLE 14

31. The applicants complained that the loss of their jobs, respectively, as a private-company lawyer and barrister, and the ban under Article 2 of the Law on the Evaluation of the USSR State Security Committee (NKVD, NKGB, MGB, KGB) and the Present Activities of Permanent Employees of the Organisation ("the Act") on their finding employment in various private-sector spheres until 2009, breached Article 8 of the Convention, taken alone and in conjunction with Article 14.

Article 8 of the Convention reads, insofar as relevant, as follows:

> "1. Everyone has the right to respect for his private and family life, his home and 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, ...”

Article 14 states:

> “The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

32. The Government submitted that Article 8 was not applicable in the present case as that provision did not guarantee a right to retain employment or to choose a profession. They further stated that, in any event, the application of the Act to the applicants served the legitimate purpose of protecting national security and was necessary in a democratic society. According to the Government, the Act constituted no more than a justified security screening measure intended to prevent former employees of a foreign secret service from working not only in State institutions but also in other spheres of activity which were important to the State's national security. The Act itself did not impose collective responsibility on all former KGB officers without exception. It provided for individualised restrictions on employment prospects by way of the adoption of “the list” of positions in the former KGB which warranted application of the restrictions under Article 2 of the Act. The fact that the applicants were not entitled to benefit from any of the exceptions provided for in Article 3 of the Act showed that there existed a well-founded suspicion that the applicants lacked loyalty to the Lithuanian State. Given that not all former employees of the KGB were affected by the Act, Article 14 of the Convention was not therefore applicable. Accordingly, there was no violation of Article 8 of the Convention, either taken alone or in conjunction with Article 14.

33. The applicants contested the Government's submissions. They complained in particular that they had lost their private-sector jobs, and that they had furthermore been deprived of the possibility to seek employment in various private-sector fields until 2009 as a result of their statutory status as “former KGB officers”. The applicants submitted that they had not been given any possibility under the Act either to present their personal cases in the evaluation and establishment of their loyalty to the State, or to avoid the application to them of the employment restrictions prescribed by Article 3 of the Act. In particular, the applicants stressed that they had left the KGB almost a decade before their dismissals. Furthermore, the applicants contended that their jobs in the private sector had not constituted any threat to the national security of Lithuania. However, the domestic courts imposed the employment restrictions solely on the ground of their former employment in the KGB. Finally, the applicants submitted that, as a result of the negative publicity caused by the adoption of the “KGB Act” and its application to them, they had been subjected to daily embarrassment on account of their past.

34. The Court recalls the case of *Sidabras and Džiautas* where it found a violation of Article 14 of the Convention, in conjunction with Article 8, to the extent that the Act precluded those applicants from employment in the private sector on the basis of their "former KGB officers" status under the Act (*loc. cit.*, §§ 33-62). The present applicants' complaints are very similar, albeit wider: they relate not only to their hypothetical inability to apply for various private-sector jobs until 2009 (as in *Sidabras and Džiautas*), but they also concern their actual dismissal from existing employment in that sector.

35. Nevertheless, this extra element does not prompt the Court to depart from the reasoning developed in *Sidabras and Džiautas*. The applicant's dismissal from their jobs as private-sector lawyers and their current employment restrictions pursuant to the Act constituted a statutory distinction of their status on the basis of their KGB past, affecting directly the applicants' right to respect for their private life. As a result the applicants' complaints fall to be examined under Article 14 of the Convention, taken in conjunction with Article 8 (*loc. cit.*, §§ 38-50).

36. As to the justification of this distinction, the Government's main line of argument was that the application of the Act was well balanced in view of the legitimate interest to protect national security of the State, the impugned employment restrictions being imposed on persons such as the applicants by reason of their lack of loyalty to the State. However, the Court emphasises that the State-imposed restrictions on a person's opportunity to find employment with a private company for reasons of lack of loyalty to the State cannot be justified from the Convention perspective in the same manner as restrictions on access to their employment in the public service (*loc. cit.*, §§ 57-58). Moreover, the very belated nature of the Act, imposing the impugned employment restrictions on the applicants a decade after the Lithuanian independence had been re-established and the applicants' KGB employment had been terminated, counts strongly in favour of a finding that the application of the Act vis-à-vis the applicants amounted to a discriminatory measure (*loc. cit.*, § 60). The respondent Government have thus failed to disprove that the applicants' inability to pursue their former professions as, respectively, a lawyer in a private telecommunications company and barrister, and their continuing inability to find private-sector employment on the basis of their "former KGB officer" status under the Act, constitutes a disproportionate and thus discriminatory measure, even having regard to the legitimacy of the aims sought after (see, *mutatis mutandis*, *Sidabras and Džiautas* cited above, §§ 51-62).

37. Consequently, there has been a violation of Article 14 of the Convention, taken in conjunction with Article 8.

38. The Court considers that, since it has found a breach of Article 14 of the Convention taken in conjunction with Article 8, it is not necessary also to consider whether there has been a violation of Article 8 taken alone (*ibid.*, § 63).

II. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION, TAKEN ALONE AND IN CONJUNCTION WITH ARTICLE 14

39. The applicants also complained that the loss of their former jobs and the subsequent employment restrictions under Article 2 of the Act also breached Article 10 of the Convention (which guarantees freedom of expression), and constituted discrimination in breach of Article 14 of the Convention. The Court observes however that in the *Sidabras and Džiautas* case it found no scope for the application of Article 10 of the Convention, either alone or taken together with Article 14 of the Convention (*loc. cit.*, §§ 64-73). The Court finds no basis on which to distinguish the present cases from that conclusion.

40. The Court finds, for the same reasons as in the *Sidabras and Džiautas* judgment, that there has been no violation of these provisions.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

41. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Pecuniary damage

42. The first applicant claimed EUR 40,927.36 in relation to the loss of his former salary at the telecommunications company, following his dismissal on 23 February 2000 until 1 March 2004 (the date on which the applicant's claim was presented to the Court). He requested a further amount, to be determined at the Court's discretion, to compensate for the loss of salary since 1 March 2004, and for his lost career opportunities.

43. The second applicant claimed EUR 29,069 in pecuniary damages for the loss of his former income as a barrister, following his disbarment, from 29 May 2001 until 1 March 2004 (the date when his claim was presented to the Court). He requested a further amount, to be determined at the Court's discretion, to compensate for the loss of salary since 1 March 2004, and for his lost career opportunities.

44. The Government considered these claims to be unjustified. In particular, they stated that there was no reasonable link between the violation of the Convention alleged by the applicants and the damage claimed. At the same time, the Government made no comment on the assessment of the applicants' former income, attested by the documents presented by the applicants to the Court.

45. The Court notes that the applicants lost their former jobs as, respectively, a lawyer in a private telecommunications company and

barrister, in view of the application of the Act which the Court has found to be discriminatory, in breach of Article 14 of the Convention. The loss of employment in turn deprived the applicants of the main source of income, and undoubtedly adversely affected their future career prospects. Hence, there is a direct causal link between the violation found and the pecuniary damage claimed, which has to be reimbursed in such a way as to restore, as far as possible, the situation existing before the breach (see, *mutatis mutandis*, *Smith and Grady v. the United Kingdom* (just satisfaction), nos. 33985/96 and 33986/96, 25.7.2000, § 18, ECHR 2000-IX).

46. The Court also observes that in the *Sidabras and Džiautas* case cited above the Court found no violation of the Convention as a result of those applicants' dismissal as State officials. Consequently, the Court's award of just satisfaction in that case concerned pecuniary damage only to the extent that the breach of the Convention had adversely affected those applicants' private-sector career prospects following the dismissal (*loc. cit.,* § 78). However, in the present case the violation found directly related to the applicants' loss of employment as private-sector lawyers, warranting a claim for a substantively higher award for pecuniary damage than that in the *Sidabras and Džiautas* case.

47. At the same time, the Court notes that a precise calculation of the sums necessary to make complete reparation (*restitutio in integrum*) in respect of the pecuniary losses suffered by the applicants is prevented by the inherently uncertain character of the damage flowing from the violations. The greater the interval since the dismissal of the applicants, the more uncertain the damage becomes. Accordingly, the Court considers that the question to be decided is the level of just satisfaction, in respect of both past and future pecuniary loss, which it is necessary to award to each applicant, the matter to be determined by the Court at its discretion, having regard to what is equitable (see *Smith and Grady* cited above, §§ 18-19).

48. As regards the first applicant, the Court notes that he has had apparent difficulties in finding a stable economic activity after his dismissal as a lawyer in a telecommunications company on 23 February 2000. He has been unemployed since 26 February 2002. While it is not for the Court to speculate whether his current unemployment may also be the result of his own fault, the fact remains that his dismissal under the Act instigated his present career difficulties. In fact, to date the first applicant continues to be exposed to various employment restrictions in the private sector pursuant to the impugned domestic legislation. In these circumstances, and on the basis of the assessment of the first applicant's former salary at the telecommunications company as attested by the documents presented by the parties, the Court awards the first applicant EUR 35,000 for pecuniary damage.

49. While the second applicant has been able to find and retain employment after being disbarred on 29 May 2001, the fact remains that the application of the Act instigated the necessity for him to look for new fields

of economic activity in regard to which he may not have been educated or trained as a lawyer. It is also to be noted that to date the Act continues to impose on the second applicant various employment restrictions in the private sector (also see § 48 above). Against this background, and by way of the calculation on the basis of the second applicant's former income as a barrister as attested by the documents submitted to the Court, it awards him EUR 7,500 for pecuniary damage.

B. Non-pecuniary damage

50. The first applicant requested EUR 200,000 in non-pecuniary damage. The second applicant claimed EUR 100,000 in this respect.

51. The Government considered these claims to be exorbitant.

52. Makings its assessment on an equitable basis, the Court awards each of the applicants EUR 5,000 under this head (see *Sidabras and Džiautas* cited above, §§ 75-78).

B. Costs and expenses

53. The first applicant claimed EUR 10,136.70 for legal costs and expenses. The second applicant asked for EUR 8,721 in this respect.

54. The Government stated that the claims were excessive.

55. According to the Court's established case-law, costs and expenses will not be awarded under Article 41 unless it is established that they were actually and necessarily incurred and were also reasonable as to quantum. In addition, legal costs are only recoverable in so far as they relate to the violation found (see *Former King of Greece and Others v. Greece* (just satisfaction) [GC], no. 25701/94, 28.11.2002, § 105).

56. The Court notes that both applicants have been represented by the same lawyer, Mr Paškauskas, and it is thus not necessary to make two separate awards under this head. Furthermore, it is noted that the applicants have been granted legal aid under the Court's legal-aid scheme, by which the sum of EUR 981 has already been paid to the lawyer.

57. In view of these considerations, the Court awards the applicants, jointly, EUR 4,000 for legal costs and expenses (see*, inter alia*, *Sidabras and Džiautas* cited above, §§ 79-83).

C. Default interest

58. 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 14 of the Convention, taken in conjunction with Article 8;

2. *Holds* that the Court is not required to rule under Article 8 of the Convention taken on its own;

3. *Holds* that there has been no violation of Article 10 of the Convention, taken alone or in conjunction with Article 14 of the Convention;

4. *Holds* that:

(a) the respondent State is to pay, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following amounts, to be converted into the national currency of the respondent State on the date of payment:

(i) EUR 35,000 (thirty five thousand euros) to the first applicant for pecuniary damage;

(ii) EUR 5,000 (five thousand euros) to the first applicant for non-pecuniary damage;

(iii) EUR 7,500 (seven thousand five hundred euros) to the second applicant for pecuniary damage;

(iv) EUR 5,000 (five thousand euros) to the second applicant for non-pecuniary damage;

(v) EUR 4,000 (four thousand euros) to the applicants jointly for legal costs and expenses;

(vi) any tax that may be chargeable on these amounts;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 7 April 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Boštjan M. ZUPANČIČ
President