



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

FIRST SECTION

**CASE OF POČUČA v. CROATIA**

*(Application no. 38550/02)*

JUDGMENT

STRASBOURG

29 June 2006

**FINAL**

*29/09/2006*

*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 Počuča v. Croatia,**

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

Mr C.L. ROZAKIS, *President*,

Mr L. LOUCAIDES,

Mrs F. TULKENS,

Mrs N. VAJIĆ,

Mr A. KOVLER,

Mrs E. STEINER,

Mr K. HAJIYEV, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 8 June 2006,

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

## PROCEDURE

1. The case originated in an application (no. 38550/02) against the Republic of Croatia 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 Nikola Počuča (“the applicant”), on 30 September 2002.

2. The Croatian Government (“the Government”) were represented by their Agents, first by Mrs L. Lukina-Karajković and subsequently by Mrs Š. Stažnik.

3. On 11 October 2004 the Court decided to communicate the complaint concerning the length of the proceedings to the Government. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1935 and lives in Split. He is a pensioner.

5. The applicant submitted that his pension had been regularly adjusted in line with the increase in wages according to section 30 of the 1991 Pension Insurance Act (*Zakon o osnovnim pravima iz mirovinskog i invalidskog osiguranja*, Official Gazette no. 53/1991 of 8 October 1991).

6. On 19 February 1997 the Act on Adjustment of Pensions and Other Benefits from Pension and Invalidity Insurance Funds and on Management

of the Pension and Invalidity Insurance Funds (*Zakon o usklađivanju mirovina i drugih novčanih primanja iz mirovinskog i invalidskog osiguranja, te upravljanju fondovima mirovinskog i invalidskog osiguranja*, Official Gazette no. 20/1997 of 19 February 1997 – “the Pension Adjustment Act”) entered into force, derogating, *inter alia*, section 30 of the 1991 Pension Insurance Act. Section 3 of the new law provided that the pensions were to be adjusted in line with the increase in living expenses.

7. On 12 May 1998 the Constitutional Court quashed certain provisions, including section 3, of the aforementioned 1997 legislation as unconstitutional. The Government submitted that, as a result thereof, 427,809 applications had been filed with the Croatian Pension Fund’s regional offices by those seeking adjustment of their pensions in accordance with the Constitutional Court’s decision, that is, in line with the increase in wages.

8. On 23 June 1998 the applicant applied to the Croatian Pension Fund, Split Office seeking adjustment of his pension for the period between August 1993 and June 1998.

9. Since the Split Office did not render a decision within the statutory time-limit of two months, on 25 August 1998 the applicant lodged an appeal for failure to respond (see paragraph 25 below) with the Croatian Pension Fund, Central Office as if his request had been denied.

10. Given that the Central Office also failed to decide on this appeal within the statutory time-limit of two months, on 5 November 1998 the applicant brought an action for failure to respond (see paragraph 26 below) with the Administrative Court (*Upravni sud Republike Hrvatske*) under the Administrative Disputes Act.

11. On 8 December 2000 the Pensions Increase Act (*Zakon o povećanju mirovina radi otklanjanja razlika u razini mirovina ostvarenih u različitim razdobljima*, Official Gazette no. 127/2000 of 20 December 2000) entered into force. Stating as its aim the implementation of the Constitutional Court’s decision, the Act increased the pensions of those retired before 31 December 1998. On 19 December 2001 the Constitutional Court refused to institute proceedings for abstract constitutional review of the Act.

12. On 28 December 2001 the Administrative Court adopted a judgment ordering the Central Office to decide on the applicant’s appeal within 60 days. It also instructed the Central Office to adjust the applicant’s pension for the period between January 1997 and June 1998 in line with the increase in wages, pursuant to the section 30 of the 1991 Pension Insurance Act, but also taking into consideration the increase already provided by the Pensions Increase Act.

13. On 5 March 2002 the applicant lodged a constitutional complaint challenging the Administrative Court’s judgment and complaining about the length of the proceedings. He argued that the court had instructed the Central Office wrongfully. He also alleged that the Croatian Pension Fund

and the Administrative Court had failed to decide on his case within a reasonable time.

14. On 4 July 2002 the Constitutional Court declared the applicant's complaint inadmissible. In respect of the Administrative Court's judgment, it found the complaint premature since the administrative proceedings were still pending. In respect of the length of the proceedings, it held that the applicant had lodged the constitutional complaint when the case had already been decided; however that remedy could only be used while the proceedings before the Administrative Court were still pending.

15. Meanwhile, following the judgment of the Administrative Court of 28 December 2001, on 2 April 2002 the Central Office ordered the Split Office to issue a decision in the applicant's case.

16. On 23 July 2002 the Split Office dismissed the applicant's request. It held that it was not possible to adjust the applicant's pension for the period and in the manner indicated by the Administrative Court since no subordinate legislation had been adopted enabling the Fund to calculate the exact amount of the applicant's pension for that period in line with increase of wages. In any event, the applicant's pension had been increased by the Pensions Increase Act, which had fully implemented the Constitutional Court's decision of 12 May 1998. The applicant appealed.

17. On 21 October 2002 the Central Office dismissed the appeal.

18. On 29 November 2002 the applicant brought an action with the Administrative Court challenging the decision of the Central Office.

19. On 5 August 2004 the Act on the Implementation of the Constitutional Court's Decision of 12 May 1998 (*Zakon o provođenju odluke Ustavnog suda od 12. svibnja 1998.*, Official Gazette no. 105/2004 of 28 July 2004 – "the Implementation Act") entered into force. Section 2 provides that retired persons whose pensions were reduced in the period between 1 September 1993 and 31 December 1998 ("the pensioners") have a right to compensation calculated as a difference between the pension to which they had been entitled and the pension actually received during that period, taking into account the increases provided by the Pensions Increase Act. The compensation was to be obtained through a special fund that was to be established by subsequent legislation.

20. On 29 July 2005 the Pensioners Fund Act (*Zakon o umirovljeničkom fondu*, Official Gazette no. 93/2005 of 29 July 2005) entered into force. The Act provides that each pensioner has a right to a share in the Fund depending on the amount of compensation he or she is entitled to. In particular, section 41(1) provides that pensioners, who had already been compensated on the basis of a final and enforceable court decision, are not entitled to compensation from the Pensioners Fund. Section 41(2) provides that pensioners involved in pending administrative proceedings, instituted with a view to obtaining compensation (adjustment of their pensions), shall obtain that compensation pursuant to the Pensioners Fund Act.

21. On 29 December 2005 the Administrative Court gave judgment dismissing the applicant's claim. It found that the applicant actually retired under a special statute regulating the pensions of military personnel and that therefore the Constitutional Court's decision of 12 May 1998 had not mandated the increase of his pension. This had been confirmed by the subsequent legislation (see paragraphs 11, 19 and 20 above) implementing that decision. In any event, the legal gap that had followed the decision of the Constitutional Court had been overcome by that legislation. Therefore, the applicant's claim for the adjustment of his pension would have already been satisfied by increases provided therein. The judgment was served on the applicant on 26 January 2006.

22. On 17 February 2006 the applicant lodged a constitutional complaint with the Constitutional Court against that judgment. The proceedings are currently pending before that court.

## II. RELEVANT DOMESTIC LAW AND PRACTICE

### A. The Constitution

23. Article 29 § 1 of the Constitution (*Ustav Republike Hrvatske*, Official Gazette no. 41/2001 of 7 May 2001) reads as follows:

“In the determination of his rights and obligations or of any criminal charge against him, everyone is entitled to a fair hearing within a reasonable time by an independent and impartial court established by law.”

### B. The relevant legislation

24. The relevant part of section 63 of the Constitutional Act on the Constitutional Court (*Ustavni zakon o Ustavnom sudu Republike Hrvatske*, Official Gazette no. 49/2002 of 3 May 2002 – “the Constitutional Court Act”) reads as follows:

“(1) The Constitutional Court shall examine a constitutional complaint whether or not all legal remedies have been exhausted if the competent court fails to decide a claim concerning the individual's rights and obligations or a criminal charge against him or her within a reasonable time ...

(2) If a constitutional complaint ... under paragraph 1 of this section is upheld, the Constitutional Court shall set a time-limit within which the competent court must decide the case on the merits...

(3) In a decision issued under paragraph 2 of this section, the Constitutional Court shall assess appropriate compensation for the applicant for the violation of his or her constitutional rights ... The compensation shall be paid out of the State budget within three months from the date a request for payment is lodged.”

25. The relevant provisions of the Administrative Procedure Act (*Zakon o općem upravnom postupku*, Official Gazette no. 53/1991 of 8 October 1991) provide as follows:

Section 218(1) provides that in simple matters, where there is no need to undertake separate examination proceedings, an administrative authority shall give a decision and serve it on a party within one month following the submission of an application. In all other, more complex cases, the authority shall give a decision and serve it on a party within two months.

Section 218(2) provides that a party whose application has not been decided and served within the time-limits set out in paragraph (1) may lodge an appeal (appeal for failure to respond, *žalba zbog šutnje administracije*) as if his or her application had been dismissed.

Section 247(1) provides that the decision on the appeal shall be given and served on a party as soon as possible but at the latest within two months following the submission of the appeal.

Section 246(1) provides that the second-instance administrative authority deciding on the appeal for failure to respond shall request the first-instance authority to give reasons for its omission. If it finds that the failure to respond was attributable to the party or the reasons for such omission were otherwise justified, the second-instance authority shall order the first-instance authority to give a decision within one month. If it finds that the omission was not justified, it shall request the case-file.

Section 246(2) provides that if the case-file contains sufficient information, the second-instance administrative authority shall decide the case. Otherwise, it shall first hear the case and take evidence, and then give a decision. Exceptionally, if it considers that such a procedure would save time and costs, it shall order the first-instance authority to hear the case and take evidence within a specified time-limit, whereupon it shall decide the case itself. Such a decision shall be final.

26. The relevant provisions of the Administrative Disputes Act (*Zakon o upravnim sporovima*, Official Gazette nos. 53/1991, 9/92 and 77/92) provide as follows:

Section 26(1) provides that if the appellate authority fails to give a decision on a party's appeal against the first-instance decision within sixty days, and fails to do so upon a repeated request within a further period of seven days, the party may bring an action in the Administrative Court (action for failure to respond, *tužba zbog šutnje administracije*), as if his or her appeal had been dismissed.

Section 26(2) provides that when the first-instance administrative authority fails to give a decision against which no appeal lies, the party may directly bring an action in the Administrative Court.

Section 26(3) provides that, in matters where the right of appeal exists, if a first-instance administrative authority fails to give a decision on a party's application within sixty days, the party may submit his or her application to

the appellate administrative authority. Against the latter authority's decision the party may bring an action in the Administrative Court, and if the authority fails to give a decision, the party may bring an administrative action under the conditions set out in paragraph 1.

Section 42(5) provides that when the Administrative Court, following the action for failure to respond, finds for the plaintiff, it shall either instruct the respondent administrative authority how to decide the case on points of law, or shall itself rule on the application (acting as a court of full jurisdiction under paragraph 2 of section 64).

Section 64(1) provides that, in the execution of the judgment rendered under section 42(5), the administrative authority shall issue its decision immediately but at the latest within 30 days. Otherwise, a party may by a special submission request it to do so. If the authority does not issue a decision within seven days following that request, a party may apply to the Administrative Court.

Section 64(2) provides that if such an application is made, the Administrative Court shall first ask the administrative authority to give reasons for its omission. The authority shall reply immediately but at the latest within seven days. If the authority fails to do so, or if the reasons given do not justify the failure to decide, the Administrative Court shall give a decision entirely substituting for the decision of the administrative authority.

### **C. The Constitutional Court's practice**

27. In case no. U-III A/635/2004 of 25 November 2004, the Constitutional Court was seized under Section 63 of the Constitutional Court Act to examine the length of administrative proceedings instituted in July 1996 when the complainant had brought an action in the Administrative Court for the Ministry of Defence's failure to give a decision in his case. In October 1998 the Administrative Court ordered the Ministry to give a decision within 30 days. The Ministry gave a negative decision in July 1999. The complainant then brought a second administrative action, challenging that decision. In September 2000 the Administrative Court quashed the impugned decision and remitted the case. The Ministry again gave a negative decision and served it on the complainant in January 2004. On 18 February 2004 the complainant had brought a third administrative action, which was dismissed by the Administrative Court in June 2004. Meanwhile, on 25 February 2004 he lodged his constitutional complaint arguing that the Constitutional Court should, like the European Court of Human Rights, take into consideration the overall length of administrative proceedings when examining whether or not they exceeded a reasonable time.

Following its previous practice (decisions no. U-III-2467/2001 of 27 February 2002, and U-III/3638/2003 of 18 February 2004), the Constitutional Court held that only the inactivity of the judicial authorities was relevant for a breach of Article 29 § 1 of the Constitution. In its view it was not possible for proceedings before the administrative authorities to last unreasonably long because the statutes regulating those proceedings contained the presumption that the application had been dismissed if the administrative authorities failed to give a decision within the statutory time-limits (see paragraphs 25 and 26 above). The Constitutional Court therefore examined only the length of the proceedings in their part between the introduction of the complainant's third action in the Administrative Court and the lodging of the constitutional complaint. It dismissed the constitutional complaint finding that the proceedings had lasted only seven days.

## THE LAW

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

28. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, provided in Article 6 § 1 of the Convention, which reads as follows:

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

29. The Government contested that argument.

30. As regards the period to be taken into consideration, the Court firstly observes that the administrative proceedings were instituted on 23 June 1998. However, the period to be taken into consideration began only on 25 August 1998 when the applicant lodged his appeal for failure to respond. It was then that a "dispute" within the meaning of Article 6 § 1 arose (see, *mutatis mutandis*, *Janssen v. Germany*, no. 23959/94, § 40, 20 December 2001). The period in question has not yet ended. It has so far lasted some seven years and nine months during which three decisions concerning the applicant's principal claim were given.

#### A. Admissibility

31. The Government invited the Court to reject the application on the ground that the applicant had failed to exhaust domestic remedies as required under Article 35 § 1 of the Convention. They submitted that the applicant had an opportunity to lodge a constitutional complaint and to

complain about the length of the proceedings in the period between 29 November 2002 and 29 December 2005 i.e. while his second action was pending before the Administrative Court. However, he had not done so.

32. The Government admitted that the Constitutional Court, when deciding a constitutional complaint concerning the length of proceedings pending before the Administrative Court, did not take into account the period during which the case had been pending before the administrative authorities. However, restating the position of the Constitutional Court (see paragraph 27 above), the Government explained that this was so because the Croatian legal system provided for remedies effectively preventing delays in administrative proceedings in their part conducted before the administrative authorities (see paragraphs 25 and 26 above). In this connection they noted that the Court had already found similar remedies to be effective for the purposes of Article 35 § 1 of the Convention (see *Pallanich v. Austria*, no. 30160/96, §§ 27-33, 30 January 2001). That being so, the Government argued, it was reasonable that the Constitutional Court had limited its review to the length of administrative proceedings in their part before the Administrative Court.

33. The applicant contested that argument.

34. The Court recalls that it recognised a constitutional complaint under section 63 of the Constitutional Court Act as an effective remedy for the length of proceedings still pending in Croatia (see *Slaviček v. Croatia* (dec.), no. 20862/02, ECHR 2002-VII). The Court sees no reason to depart from this established case-law in respect of civil and criminal proceedings. However, in the light of the subsequent practice of the Constitutional Court (see paragraph 27 above), it finds it necessary to review that case-law in respect of administrative proceedings (see *Jeftić v. Croatia* (dec.), no. 57576/00, 3 October 2002, and *Barbača v. Croatia* (dec.), no. 63779/00, 18 September 2003).

35. In this connection the Court reiterates that a remedy available to a litigant at domestic level for raising a complaint about the length of proceedings is “effective”, within the meaning of Article 13 and 35 § 1 of the Convention, only if it is capable of covering all stages of the proceedings complained of and thus, in the same way as a decision given by the Court, of taking into account their overall length (see *Wyszczelski v. Poland*, no. 72161/01, § 26, 29 November 2005, *Raguž v. Croatia*, no. 43709/02, § 36, 10 November 2005, *Majewski v. Poland*, no. 52690/99, § 35, 11 October 2005, *Kopecká v. Slovakia*, no. 69012/01, § 31, 31 May 2005, *Bako v. Slovakia* (dec.), no. 60227/00, 15 March 2005).

36. Regarding the question of the beginning of the proceedings, the Court further recalls that when under the national legislation an applicant has to exhaust a preliminary administrative procedure before having recourse to a court, the proceedings before the administrative authorities are to be included when calculating the overall length of the proceedings for the

purposes of Article 6 of the Convention (see, for example, *Kiurkchian v. Bulgaria*, no. 44626/98, § 51, 24 March 2005).

37. The above-cited practice (paragraph 27) indicates that the Constitutional Court, when deciding a constitutional complaint concerning the length of proceedings pending before the Administrative Court, does not take into consideration their overall duration. It excludes the period during which the case was pending before the administrative authorities on account of a special means available for speeding up proceedings before those authorities (see *Štajcar v. Croatia* (dec.), no. 46279/99, 20 January 2000). That approach of the Constitutional Court differs from the one of the Court as it does not cover all stages of the proceedings. It follows that a constitutional complaint cannot be considered an “effective” remedy in respect of the length of administrative proceedings.

38. However, the Court notes that even if a single remedy does not by itself entirely satisfy the requirement of “effectiveness”, the aggregate of remedies afforded by domestic law may do so (see, as the most recent authority, *Lukenda v. Slovenia*, no. 23032/02, § 67, 6 October 2005). Therefore it remains to be examined whether or not the aggregate of remedies, as suggested by the Government, could satisfy the requirement of effectiveness under Article 35 § 1 of the Convention.

39. The Court also notes that a remedy for the length of proceedings still pending can only be considered effective if particular attention is paid to the speediness of the remedial action itself since the adequate nature of a remedy can be undermined by its excessive duration (see *Doran v. Ireland*, no. 50389/99, § 57, ECHR 2003-X (extracts); and, *mutatis mutandis*, *Erdős v. Hungary* (dec.), no. 38937/97, 3 May 2001).

40. In this connection, the Court does not consider it necessary to decide *in abstracto* whether or not the aggregate of remedies relied on by the Government satisfy the requirements of Article 35 § 1. In the instant case it is sufficient to note that it took more than three years for the Administrative Court to decide on the applicant’s action for failure to respond. Such a delay had undermined already at that point the potential effectiveness of the aforementioned aggregate of remedies. Accordingly, the applicant cannot be expected to have continued pursuing these remedies by lodging another constitutional complaint about the length of proceedings.

41. It follows that the Government’s objection must be dismissed.

42. The Court further notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It also notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

## B. Merits

43. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

44. As to the complexity of the case and the conduct of the authorities, the Court takes note of the Government's argument that the Constitutional Court's decision of 12 May 1998 affected an entire category of pensioners and resulted in 427,809 applications being filed with the Croatian Pension Fund's regional offices by those seeking adjustment of their pensions. In the Government's view, the legal gap created by the Constitutional Court's decision could not have been resolved by deciding individual applications but rather mandated comprehensive legislative measures which eventually implemented that decision while taking into account the State's financial capabilities.

The Court reiterates that a situation where a significant number of claims for large sums of money are lodged against a State may call for some further regulation by the State and that in this respect the States enjoy a certain margin of appreciation (see, *mutatis mutandis*, *Kutić v. Croatia*, no. 48778/99, § 31, ECHR 2002-II). However, the exercise of the State's discretion cannot entail consequences which are at variance with Convention standards.

For the Court, it has to be noted that it took more than seven years following the aforementioned Constitutional Court's decision to pass legislation which implemented that decision, thereby establishing the requisite legal certainty and enabling the courts and the administrative authorities to decide on the pensioners' claims. This delay affected the applicant adversely by prolonging the proceedings complained of to a considerable extent. In these circumstances, the Court cannot accept that the situation described by the Government alone justifies the protraction of the applicant's proceedings over seven years.

45. As regards the applicant's conduct, the Court observes that he availed himself of the means designated to speed up the administrative proceedings. He lodged an appeal and brought an action for failure to respond. Accordingly, the length of the proceedings cannot be attributed to him (see, by converse implication, *Štajcar v. Croatia* (dec.), cited above).

46. As regards what was at stake for the applicant, the Court reiterates that special diligence is necessary in pension disputes (see, *inter alia*, *H.T. v. Germany*, no. 38073/97, § 37, 11 October 2001). The applicant's pension had previously been reduced and therefore, in view of his age, the proceedings complained of were of undeniable importance for him.

47. Having examined all the material submitted to it, and having regard to its case-law on the subject, the foregoing considerations are sufficient to enable the Court to conclude that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

There has accordingly been a breach of Article 6 § 1.

## II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

48. The applicant also complained of the infringement of his rights under Articles 7, 14 and 17 of the Convention, which provide, respectively, for no punishment without law, prohibition of discrimination in the enjoyment of Convention rights and prohibition of abuse of these rights.

49. In the light of all the material in its possession, and in so far as the matters complained of were within its competence, the Court considers that the present case does not disclose any appearance of a violation of any of the above Articles of the Convention. It follows that these complaints are inadmissible under Article 35 § 3 as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 of the Convention.

## III. 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 98,460 Croatian kunas (HRK) in respect of pecuniary damage and HRK 14,842 in respect of non-pecuniary damage.

52. The Government contested these claims.

53. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, it awards the applicant 2,000 euros (EUR) in respect of non-pecuniary damage, plus any tax that may be chargeable.

### B. Costs and expenses

54. The applicant also claimed HRK 36,181 for the costs and expenses incurred before the Court.

55. The Government contested the claim.

56. 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. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the applicant, who was not represented by a lawyer, the sum of EUR 500 under this head, plus any tax that may be chargeable.

### 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. *Declares* the complaint concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
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, the following amounts which are to be converted into the national currency of the respondent State at a rate applicable at the date of settlement:
    - (i) EUR 2,000 (two thousand euros) in respect of non-pecuniary damage;
    - (ii) EUR 500 (five hundred euros) in respect of costs and expenses;
    - (iii) any tax that may be chargeable on the above 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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 29 June 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN  
Registrar

Christos ROZAKIS  
President