



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

FIRST SECTION

CASE OF KUNIĆ v. CROATIA

(Application no. 22344/02)

JUDGMENT

STRASBOURG

11 January 2007

FINAL

23/05/2007

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 Kunić v. Croatia,

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

Mr C.L. ROZAKIS, *President*,

Mrs N. VAJIĆ,

Mr A. KOVLER,

Mrs E. STEINER,

Mr K. HAJIYEV,

Mr D. SPIELMANN,

Mr S.E. JEBENS, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 7 December 2006,

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

PROCEDURE

1. The case originated in an application (no. 22344/02) 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 Petar Kunić (“the applicant”), on 11 April 2002.

2. The applicant, who had been granted legal aid, was represented by Mr T. Vukičević, a lawyer practising in Split. The Croatian Government (“the Government”) were represented by their Agent, Mrs Š. Stažnik.

3. The applicant alleged, in particular, that his rights to a hearing within reasonable time and to peaceful enjoyment of his possessions had been violated on account of the length of the proceedings he had instituted with a view to repossessing his property. He relied on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 thereto.

4. By a decision of 1 September 2005 the Court declared the application partly admissible.

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

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1951 and lives in Krnjak, Croatia.

7. The applicant and his family lived in a family house in Krnjak where he also ran a restaurant. The owner of that property was his father, who died in 1992. In January 1999 the applicant was declared his legal heir.

8. In August 1995 the applicant and his family left for Bosnia and Herzegovina.

9. On 27 September 1995 the Temporary Takeover and Managing of Certain Property Act (“the Takeover Act”) entered into force. It provided that property situated in the previously occupied territories, and belonging to persons who had left Croatia, was to be taken into the care of, and controlled, by the State. It also authorised local authorities (takeover commissions) to entrust such property for temporary use by third persons.

10. On 23 May 1996 the Commission for Temporary Takeover and Use of Property of the Municipality of Krnjak (*Komisija za privremeno preuzimanje i korištenje imovine Općine Krnjak* – “the Takeover Commission”) entitled a certain V.P. to use the applicant's property temporarily, with a view to running the restaurant.

A. Administrative and civil proceedings

11. On 15 September 1997 the applicant applied for repossession of his property to the Takeover Commission. He received no reply.

12. In January 1998 the applicant reiterated his request for repossession and sought annulment of the Takeover Commission's decision of 23 May 1996.

13. On 4 June 1998 the Takeover Commission replied, without issuing a formal decision, that it had given no decision concerning the applicant's property and that it had no competence to decide on his repossession request.

14. In June 1998 Parliament adopted the Programme for the Return of Refugees and Displaced Persons (“the Programme for Return”), regulating the principles for their return and repossession of their property.

15. In August 1998 the Act on Termination of the Takeover Act (“the Termination Act”) entered into force. It incorporated and gave legal force to the provisions of the Programme for Return providing that those persons, whose property had during their absence from Croatia been given for accommodation of others, had to apply for repossession of their property with the competent local authorities – the housing commissions.

16. According to the above legislation, on 13 August 1998 the applicant applied for repossession of his property to the Housing Commission of the Municipality of Krnjak (*Stambena Komisija Općine Krnjak* – “the Housing Commission”).

17. On 31 August 1998 the Housing Commission informed the applicant about the status and degree of the damage to his property and, on 1 December 1998, invited him to prove the ownership of the property in

question. The applicant did so in April 1999, once the inheritance proceedings after his late father had ended in January 1999.

18. On 4 October 1999 the Housing Commission set aside the Takeover Commission's decision of 23 May 1996. V.P. appealed.

19. On 14 February 2000 the Municipality of Krnjak, acting as the second-instance administrative authority, dismissed V.P.'s appeal. It also ordered him to vacate the house within 15 days following the receipt of the decision and indicated that otherwise it would bring a civil action against him in the competent municipal court.

20. Since V.P. failed to comply with the order, on 13 March 2000 the Housing Commission brought an action in the Karlovac Municipal Court (*Općinski sud u Karlovcu*) seeking his eviction from the property in question.

21. On 16 May 2000 that court declared the Housing Commission's action of 13 March 2000 inadmissible since, under the Termination Act, the Municipality did not have competence to decide on V.P.'s appeal. It should have rather sent the case-file to the competent appellate authority in the matter, i.e. to the Karlovac Municipal Court.

22. Following the transfer of the case-file by the Municipality of Krnjak to the Karlovac Municipal Court, on 13 February 2001 that court dismissed V.P.'s appeal against the Housing Commission's decision of 4 October 2000, which thereby became final.

23. On 20 March 2001 the Housing Commission again brought a civil action against V.P. in the Karlovac Municipal Court seeking his eviction.

24. The court held hearings on 6 June, 11 October and 22 November 2001. On the last-mentioned date the applicant joined the proceedings as an intervener (*umješac*) on the side of the Housing Commission.

25. At the hearing held on 20 February 2002 the court gave judgment accepting the Housing Commission's claim and ordering V.P. to vacate the premises. On 18 March 2002 V.P. appealed.

26. On 4 March 2003 the Karlovac County Court (*Županijski sud u Karlovcu*) dismissed the appeal and upheld the first-instance judgment, which thereby became final.

27. On 22 March 2003 V.P. lodged an appeal on points of law (*revizija*). After it was declared inadmissible by the Karlovac Municipal Court on 5 May 2003 and that decision was upheld on 19 May 2003 by the Karlovac County Court, V.P. brought the issue of admissibility of his appeal on points of law to the Supreme Court. It appears that the Supreme Court has so far not given its decision.

B. Enforcement proceedings

28. Since V.P.'s appeal of 18 March 2002 did not suspend the enforceability, on 11 March 2002 the Housing Commission applied to the

Karlovac Municipal Court for enforcement of the judgment of 20 February 2002.

29. On 18 April 2002 the court issued a writ of execution (*rješenje o izvrši*). V.P. appealed against the writ on 7 May 2002.

30. On 5 March 2003 the Karlovac County Court dismissed the appeal and the writ thereby became final.

31. Meanwhile, on 1 October 2002 the Amendments to the Act on Areas of Special State Concern (“the 2002 Amendments”) entered into force. They transferred the jurisdiction in the matter from the housing commissions (which were abolished) to the Ministry of Public Works, Reconstruction and Construction (*Ministarstvo za javne radove, obnovu i graditeljstvo* – “the Ministry”). Accordingly, the State, represented by the State Attorney's Office, took over the proceedings from the Housing Commission.

32. On 30 April 2003 V.P. requested the Municipal Court to postpone the enforcement. On 2 September 2003 the court dismissed his request and scheduled an intervention of the bailiff for 1 October 2003. On 12 September 2003 V.P. appealed requesting at the same time transfer of jurisdiction (*svrsishodna delegacija*) from the Karlovac to the Zagreb Municipal Court. On 15 October 2003 the Supreme Court dismissed his request.

33. On 27 May 2003 the applicant joined the enforcement proceedings as an intervener on the side of the State.

34. The bailiff's intervention scheduled for 1 October 2003 was adjourned pending a decision on V.P.'s request for transfer of jurisdiction and because the State Attorney's Office did not receive the summons. The next intervention was scheduled for 22 December 2003.

35. On 18 December 2003 V.P. filed a new request for postponement of enforcement, which was dismissed.

36. On 23 December 2003 the bailiff evicted V.P. and the applicant repossessed his property.

C. Compensation

37. On 6 May 2003 the Ministry invited the applicant to contact its competent regional office in order to negotiate a settlement and receive compensation for the prolonged inability to use his property, in accordance with the 2002 Amendments.

38. The applicant did not reply.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The Takeover Act

39. The Takeover Act (*Zakon o privremenom preuzimanju i upravljanju određenoj imovinom*, Official Gazette nos. 73/1995 and 7/1996) in its relevant part provided as follows:

Section 2(1) provided that property situated in the previously occupied territories, and belonging to persons who had left Croatia, was to be taken into the care of, and controlled, by the State.

Section 5, *inter alia*, authorised the takeover commissions to entrust the property under Section 2 for temporary use by refugees, displaced persons, returnees whose property has been destroyed or damaged during the Homeland War, war invalids, families of Croatian defenders killed or missing in the Homeland War, and other citizens performing duties vital for the security, reconstruction and development of the previously occupied areas.

Section 11 provided for competence of the takeover commissions to decide owners' repossession requests.

B. The Programme for Return and the Termination Act

40. Section 9 of the Programme for Return (*Program povratka i zbrinjavanja prognanika, izbjeglica i raseljenih osoba*, Official Gazette no. 92/1998) provided as follows:

“Persons with Croatian [citizenship] documents who are owners of property in Croatia in which other persons are temporarily accommodated may apply to the municipal housing commission and seek repossession of their property. The commission shall inform the owner within five days about the status of his property. Relying on proof of ownership, the commission shall set aside any previous decision allowing the temporary accommodation of other persons and order the temporary occupant to vacate the premises. The commission shall serve a written decision on the owner and on the temporary occupant within seven days. The decision shall contain a time-limit for eviction and an offer of alternative accommodation for the temporary occupant in a house or flat under state ownership.

...

If a temporary occupant fails to vacate the premises within the fixed time-limit, the commission shall institute eviction proceedings in the competent municipal court within seven days. The court shall apply the provisions concerning summary procedure in civil matters. The court's decision shall be immediately enforceable. An appeal shall not interfere with the enforcement proceedings or the repossession of the property by the owner.”

41. Section 2(3) and 2(4) of the Termination Act (*Zakon o prestanku važenja Zakona o privremenom preuzimanju i upravljanu određenom imovinom*, Official Gazette no. 101/1998) provided that the Programme for Return applied to proceedings concerning the temporary use, management and control of the property of persons who had left Croatia and that such proceedings were to be conducted by housing commissions in the first instance and by municipal courts in the second instance. They were required to apply the Administrative Procedure Act.

C. The Act on Areas of Special State Concern and related subordinate legislation

42. Section 27(4) of the Act on Areas of Special State Concern (*Zakon o područjima od posebne državne skrbi*, Official Gazette nos. 44/1996, 57/1996 (errata), 124/1997, 73/2000, 87/2000 (errata), 69/2001, 94/2001, 88/2002, 26/2003 (consolidated text), 42/2005), as amended by the 2002 Amendments, provides that the State shall pay compensation for the damage sustained by an owner who applied for repossession of his or her property prior to 30 October 2002 but to whom the property was not returned by that date.

43. The Decision on the Level of Compensation Due to Owners for Damage Sustained (*Odluka o visini naknade vlasnicima za pretrpljenu štetu*, Official Gazette no. 68/2003) establishes the amount of that compensation at seven Croatian kunas (HRK) per square metre.

THE LAW

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

A. The parties' submissions

1. The applicant

44. The applicant complained that the length of the consecutive administrative, civil and enforcement proceedings following his request for repossession had been incompatible with the “reasonable time” requirement, laid down 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...”

45. The applicant admitted that the case had been complex. However, its complexity was not a consequence of its subject-matter but rather of the envisaged scheme according to which he had first been required to institute administrative proceedings before the local authorities, which had then been entitled to institute civil and, subsequently, enforcement proceedings for eviction. In the applicant's view, that doubled the procedural steps to be taken and the length originating from the complexity of the case was therefore attributable to the State.

46. As to V.P.'s conduct, the applicant argued that he had been abusing the available remedies and that it was for the State to prevent such conduct.

47. As to the conduct of the authorities, the applicant submitted that on 4 June 1998 the Takeover Commission had falsely informed him, with a view to evading its competence, that it had issued no decision concerning his property; that V.P.'s appeal against the Housing Commission's decision of 4 October 1999 had been deliberately transmitted to the Municipality of Krnjak – an authority with no competence in the matter – instead of the Karlovac Municipal Court, and that the bailiff's intervention in the enforcement proceedings scheduled for 1 October 2003 had been adjourned because the State Attorney's Office – a public authority – had not received the summons.

2. The Government

48. The Government claimed that the case was complex insofar as it included administrative, civil and enforcement proceedings. Admitting the importance of the case for the applicant, the Government emphasised that it must be viewed in the context of the inflow of a large number of similar cases, which had been a consequence of the war and the subsequent process of the return of refugees and displaced persons. In these circumstances, there had been no reason to treat the applicant's case differently from other similar cases.

49. The Government further argued that the applicant contributed to the length of the proceedings in that he had failed to prove the ownership of the property in question immediately. While in the further proceedings the applicant had not contributed to their protraction, V.P. had done so by availing himself of all the available remedies. In this connection the Government noted that the State could not be held responsible for delays attributable to the parties of a civil dispute.

50. In conclusion, the Government considered that the domestic authorities had shown due diligence and acted rather expeditiously in the circumstances.

B. The Court's assessment

1. Period to be taken into consideration

51. The Court reiterates 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).

52. The Court further recalls that execution of a judgment given by any court must be regarded as an integral part of the “hearing” for the purposes of Article 6 (see *Hornsby v. Greece*, judgment of 19 March 1997, *Reports of Judgments and Decisions* 1997-II, pp. 510–11, § 40). Therefore, the enforcement proceedings must be regarded as the second stage of civil proceedings (see *Zappia v. Italy*, judgment of 26 September 1996, *Reports of Judgments and Decisions* 1996-IV, pp. 1411-1412, § 20).

53. The Court notes that the proceedings complained of commenced on 15 September 1997, when the applicant for the first time applied for repossession of his property. However, the period to be taken into consideration began on 6 November 1997, the day after the entry into force of the Convention in respect of Croatia. The period in question ended on 23 December 2003 when the enforcement was completed and the applicant reposessed his property. It thus lasted some six years and one month.

54. The Court does not attach importance to the fact that the proceedings concerning admissibility of V.P.'s appeal on points of law are still pending before the Supreme Court since they concern merely procedural issues rather than the determination of the applicant's civil rights and obligations.

2. Reasonableness of the length of the proceedings

55. The Court reiterates that the reasonableness of the length of proceedings must be assessed 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, *Cocchiarella v. Italy* [GC], no. 64886/01, § 68, to be published in ECHR 2006; and *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

56. The Court notes, however, that its case-law is based on the fundamental principle that the reasonableness of the length of proceedings is to be determined in the light of the particular circumstances of the case. Since in the present case those circumstances call for a global assessment, the Court does not find it necessary to consider the above criteria in detail (see *Obermeier v. Austria*, judgment of 28 June 1990, Series A no. 179, p. 23 § 72). It is sufficient to note that it took more than six years for the

domestic authorities to give and enforce a final decision in a case of undeniable importance for the applicant, which was of no particular complexity.

57. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see, for example, *Ruianu v. Romania*, no. 34647/97, 17 June 2003; and *Zappia v. Italy*, cited above).

58. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers 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. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

A. The parties' submissions

1. The applicant

59. The applicant further complained that he was prevented from using his property for a prolonged period of time, contrary to Article 1 of Protocol No. 1, which reads as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

60. The applicant argued that there had been interference with his property rights when the local authorities had allowed V.P. to use his house. The interference had not ended when the decision allowing V.P. to do so had been set aside on 4 October 1999. Rather, it had continued in a different form – a prolonged impossibility to access his property – and had ended only on 23 December 2003 when he had reposessed it.

61. The applicant further submitted that the interference was not proportionate to the general interest. While it could be maintained that it had been in the general interest to provide accommodation for refugees,

displaced persons or persons whose property had been destroyed in the war, these considerations were not applicable in the present case since V.P. did not fall within these categories. Rather, he had been awarded to run a restaurant in the applicant's property and, unlike the applicant, had been in no need for accommodation.

2. The Government

62. The Government admitted that there had been an interference with the applicant's right to peaceful enjoyment of his possessions when the domestic authorities had allowed V.P. to use his property. They argued that this measure amounted to control of use of property and that it was not disputed that the interference had been based on law and had been in the general interest. As to proportionality, the State had been amending the relevant legislation as the circumstances and the need for the control of possessions had been changing. Namely, the legislation granting rather extensive powers to temporary occupants at the beginning had been amended over time to benefit the owners. Therefore, the interference had met the conditions of the extraordinary post-war situation and had not placed an excessive individual burden on the applicant.

63. The Government submitted that the interference had lasted until the decision allowing V.P. to use the applicant's property had been set aside. From then on, the State had no longer interfered with the applicant's right to peaceful enjoyment of his possessions but had rather attempted to provide for the repossession of his property. The Government admitted that the repossession proceedings had lasted for a long period of time. However, in this respect they referred to their arguments concerning the applicant's length complaint.

B. The Court's assessment

64. In the Court's view there has indisputably been an interference with the applicant's right to property as his house was allocated for use to another person and he was unable to use it for a prolonged period of time.

65. The Court further notes that the applicant was not deprived of his title. Therefore, the interference complained of constituted a control of use of property within the meaning of second paragraph of Article 1 of Protocol No. 1.

66. The Court considers that it does not have to decide whether the very fact of giving the applicant's house to a third person was justified under Article 1 of Protocol No.1 to the Convention. Even assuming so, the situation became significantly different once the applicant instituted the relevant proceedings for repossession of his house thereby making it clear that he needed it for himself and his family. In those proceedings the domestic authorities recognised the applicant's right to repossession, issued

an order to the occupant to vacate the house and later on brought a civil action for eviction. The only issue to be examined is whether the length of those proceedings contravened Article 1 of Protocol No. 1.

67. It goes without saying that the proper administration of justice takes time. However, the Court has already found that the proceedings for repossession of the applicant's property had lasted unreasonably long (see paragraph 58 above). In the Court's view, their inordinate length also had a direct impact on the applicant's right to peaceful enjoyment of his possessions for over six years. The Court considers, having regard to the circumstances of the present case, that this delay imposed an excessive individual burden on the applicant and therefore upset the fair balance that has to be struck between the applicant's right to peaceful enjoyment of his possessions and the general interest involved (see, *mutatis mutandis*, *Immobiliare Saffi v. Italy* [GC], no. 22774/93, § 59, ECHR 1999-V).

There has accordingly been a breach of Article 1 of Protocol No. 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

68. Article 41 of the Convention provides:

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

A. Pecuniary damage

1. *The parties' submissions*

69. The applicant claimed 262,445 euros (EUR) in respect of pecuniary damage, out of which EUR 200,000 for the damage caused by the temporary occupant's construction works, and EUR 62,445 for the loss of earnings.

70. The applicant claimed that the loss of earnings corresponded to the earnings V.P. had made by running a restaurant in his house during the impugned period. He was however unable to quantify the loss because the data on V.P.'s earnings from the restaurant were kept confidential by the fiscal authorities. In the alternative, he claimed that the loss could not have been lower than the amount obtainable from letting the premises under a commercial lease. Therefore, the applicant argued that he should be awarded that amount.

71. In the applicant's view, the monthly market rent for commercial lease amounted to approximately EUR 10 per square metre. In support of his claim, he presented letters from several real estate agencies, according to

which the rent for letting business premises in the nearby towns of Karlovac and Duga Resa amounted to EUR 10 per square metre. According to the applicant, the total surface area of his house susceptible of being let under a commercial lease amounted to 292 sqm.

72. The Government contested these claims. They submitted information collected by the fiscal authorities according to which the average monthly rent for letting business premises in the Municipality of Krnjak in the period between 1997 and 2002 had amounted to 20 Croatian kunas (HRK), and in the year 2003 HRK 21 per square metre. The Government also emphasised that, in May 2003, the applicant had been offered compensation but that he had not replied to the offer.

73. The applicant submitted that the amounts the Government alleged to have corresponded to the market rent in the relevant period represented, in fact, the lowest amounts of rent tolerated by the fiscal authorities for the purposes of taxation, whereas the average rent had in reality been substantially higher.

2. The Court's assessment

74. The Court considers that the applicant must have suffered pecuniary damage as a result of his lack of control over his property from 5 November 1997 (being the date of the entry into force of the Convention in respect of Croatia) until 23 December 2003 (see, *mutatis mutandis*, *Prodan v. Moldova*, no. 49806/99, § 71, ECHR 2004-III (extracts)).

75. For assessing the loss sustained, the Court considers acceptable the general approach proposed by the applicant. However, it does not accept the amount of the monthly rent of EUR 10 per square metre presented by him. That amount reflects the market rent in urban areas, i.e. the towns of Karlovac and Duga Resa, whereas the applicant's property is located in the Municipality of Krnjak, which is a rural area. Therefore, and in the absence of any evidence concerning rents in that municipality presented by the applicant, the Court decides to take as the point of reference for its calculation the amount of rent presented by the Government, namely HRK 20 per square metre in the years 1997-2002, and HRK 21 in 2003. According to the evidence in its possession, the Court considers the total surface area of the applicant's house susceptible of being let under a commercial lease, covering the indoor premises and a terrace, to represent a total of 235 sqm (indoor part 124 sqm and terrace 111 sqm).

76. In making its assessment, the Court takes into account the fact that the applicant would inevitably have incurred certain maintenance expenses in connection with the premises and would also have been subjected to taxation (see, *mutatis mutandis*, *Prodan v. Moldova*, cited above, § 74; and *Popov v. Moldova (no. 1)* (just satisfaction), no. 74153/01, § 13, 17 January 2006).

77. Having regard to the foregoing, and deciding on an equitable basis, the Court awards the applicant EUR 16,000 on account of the loss of rent, plus any tax that may be chargeable on that amount.

78. As regards the damage caused by the temporary occupant's construction works, the Court does not discern any causal link between the violation found and the pecuniary damage alleged. It therefore rejects this claim.

B. Non-pecuniary damage

79. The applicant claimed EUR 5,000 in respect of non-pecuniary damage.

80. The Government contested the claim.

81. The Court finds that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards him EUR 2,500 under that head, plus any tax that may be chargeable on that amount.

C. Costs and expenses

82. The applicant, who received legal aid, also claimed EUR 315 for the costs and expenses incurred before the domestic courts and EUR 3,000 for those incurred before the Court.

83. The Government contested these claims.

84. 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 rejects the claim for costs and expenses in the domestic proceedings and considers it reasonable to award the sum of EUR 1,000 for the proceedings before the Court, plus any tax that may be chargeable on that amount.

D. Default interest

85. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to 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 16,000 (sixteen thousand euros) in respect of pecuniary damage;
 - (ii) EUR 2,500 (two thousand five hundred euros) in respect of non-pecuniary damage;
 - (iii) EUR 1,000 (thousand euros) in respect of costs and expenses;
 - (iv) 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 11 January 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President