



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

THIRD SECTION

CASE OF BULGAKOVA v. RUSSIA

(Application no. 69524/01)

JUDGMENT

STRASBOURG

18 January 2007

FINAL

18/04/2007

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 Bulgakova v. Russia,

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

Mr B.M. ZUPANČIČ, *President*,

Mr C. BÎRSAN,

Mr A. KOVLER,

Mr V. ZAGREBELSKY,

Mrs A. GYULUMYAN,

Mr E. MYJER,

Mr DAVID THÓR BJÖRGVINSSON, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 12 December 2006,

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

PROCEDURE

1. The case originated in an application (no. 69524/01) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Ms Mayya Filippovna Bulgakova (“the applicant”), on 21 April 2001. She was self-represented.

2. The Russian Government (“the Government”) were represented by Mr P. Laptev, the Representative of the Russian Federation at the European Court of Human Rights.

3. The applicant complained that a judgment in her favour was reviewed because of a new legislation passed after the judgment had become final and binding.

4. By a decision of 5 April 2005, the Court declared the application partly admissible.

5. The Government, but not the applicant, filed further written observations (Rule 59 § 1). The Chamber decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*). The Chamber also decided, after having examined the request of the Government, that there is no need to relinquish jurisdiction in favour of the Grand Chamber under Rule 72 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1933 and lives in Novosibirsk.

7. Since 1988, the applicant had been receiving an old-age pension. From February 1998, her pension was to be calculated under the Law on Calculating and Upgrading State Pensions. The law introduced a new method for calculating pensions. This method, “a pensioner's individual multiplier” was meant to link the pensioner's pension to his or her previous earnings.

8. The authority in charge of the applicant's pension, the Pension Fund Agency of the Zayeltsovskiy District of Novosibirsk, fixed the applicant's multiplier at 0.525. The applicant considered that the agency had misread the law, and that her multiplier should be higher. On an unspecified date in 1999 she challenged the agency's decision in a court. Thus, in her view the net underpayments from February 1998 until December 1999 amounted to 1,627.5 Russian Roubles, without taking into account the raise of the local cost of living index.

9. The case came before the Zayeltsovskiy District Court of Novosibirsk. On 21 October 1999 the court held for the applicant. It found that the agency had misread the law: as from 1 February 1998 the multiplier should have been 0.7. Consequently, the agency was ordered to recalculate the applicant's pension accordingly and pay it.

10. The agency appealed against the judgment, but on 14 December 1999 the Novosibirsk Regional Court dismissed the appeal, and the judgment came into force. On the same day the court issued a writ of execution where it invited the local branch of the Pension Fund to recalculate the applicant's old age pension, applying the multiplier 0.7, and pay it to the applicant. The enforcement proceedings against the Agency were initiated. The agency recalculated the pension in accordance with the judgment of 14 December 1999 and requested the federal Pension Fund to allocate respective amounts.

11. On 29 December 1999 the Ministry of Labour and Social Development had passed an Instruction on the Application of Limitations Established by the Law on Calculating and Upgrading State Pensions (hereinafter – “Instruction”). The Instruction clarified how to apply the law.

12. Some time thereafter a group of individuals challenged the Instruction before the Supreme Court. On 10 April 2000 the enforcement of the judgment in the applicant's favour was suspended in connection with the proceedings before the Supreme Court. On 24 April 2000 the Supreme Court dismissed the complaint. It found that contrary to what the plaintiffs suggested the Ministry of Labour had not trespassed its authority when it

issued the Instruction, and that the Ministry's interpretation of the Pensions Law had been correct. On 25 May 2000 the Cassation Section of the Supreme Court upheld this judgment on appeal.

13. On 21 August 2000, the agency asked the District Court to re-open the case due to discovery of new circumstances. They argued that the interpretation of the law on pensions given by the Instruction was different from that of the Zayeltsovskiy District Court. Further, they referred to the decision of the Supreme Court of the Russian Federation which confirmed the lawfulness of the Instruction. The agency argued that it had not known about those facts until after the litigation, and that the case should therefore be reconsidered.

14. On 16 January 2001, the district court granted the agency's request and reopened the judgment under Article 333 of the Code of Civil Procedure. Under this Article, a court might reopen a judgment, if a party discovered significant circumstances that were not and could not have been known to this party during the litigation.

15. Having reconsidered the case, on 12 February 2001 the district court dismissed the applicant's claims in full. On 22 March 2001, the regional court upheld the judgment on appeal.

II. RELEVANT DOMESTIC LAW AND PRACTICE

16. The Code of Civil Procedure of 1964 ("CCivP"), as in force at the material time, provided as follows:

Article 333. Grounds for re-consideration

"[Judgments] which have come into force may be re-considered on the basis of newly-discovered circumstances. The grounds for re-consideration ... shall be:

1. significant circumstances which were not and could not have been known to the party who applies for re-consideration;...

4. cancellation of a court [judgment] or of another authority's decision which served as legal basis for the [judgment] in question."

Article 334. Making of application

"... [An application for re-consideration of a [judgment] due to newly-discovered circumstances] is to be made within three months after the discovery of the circumstances."

Article 337. Ruling on the re-reconsideration of the case

"... The ruling ordering the re-consideration of the judgment ... due to newly-discovered circumstances is not subject to any appeal".

17. On 2 February 1996 the Constitutional Court of the Russian Federation adopted a ruling concerning certain provisions of the Code of Criminal Procedure (CCrP). In that ruling the Constitutional Court decided that Article 384 of the CCrP (“Grounds for re-consideration of a [criminal] case on the basis of newly discovered circumstances”, which was in many respect similar to Article 333 of the Code of Civil Procedure) was unconstitutional in that it limited the grounds for the re-opening of a criminal case by the situations of “newly discovered circumstances”. In that ruling the Constitutional Court suggested that this provision of the CCrP prevented rectification of judicial errors and miscarriages of justice.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 AND ARTICLE 1 OF PROTOCOL NO. 1

18. The applicant complained that the State had reconsidered a final judgment favourable to her. This complaint falls to be examined under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 (see in this respect *Pravednaya v. Russia* (dec.), no. 69529/01, 25 September 2003).

Article 6 § 1 of the Convention, as far as relevant, reads as follows:

“In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal....”

Article 1 of Protocol No. 1 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.”

A. The parties' submissions

1. *The Government*

19. The Government submitted that the re-opening of the case did not constitute a violation of Article 6 § 1 or Article 1 of Protocol No. 1.

a) Applicability of Article 6 § 1

20. First, the Government stressed that the judgment of 21 October 1999 did not determine any definite amount, but rather established how the pension should be calculated. In their words, “the subject-matter of the dispute was not the applicant's claim to award her monetary sums, but the matter of lawfulness and reasonability of application of the Instruction”. In this respect they recalled the Court's findings in *Kiryanov v. Russia* (dec., no. 42212/02, 9 December 2004), where the Court held that the judgment at issue “required the competent authority to take a measure of general application,” without establishing “how and to what extent such a measure would have affected the applicant's potential individual entitlement”. In *Kiryanov* the Court held that the proceedings did not relate to the “civil rights and obligations” of the applicant.

21. Further, the Government maintained that the dispute at issue concerned the pension law, which was outside the area of “civil rights and obligation”. In support of this assertion the Government referred to *Schouten and Meldrum v. the Netherlands*, judgment of 9 December 1994, Series A no. 304). In that case the Court held that there may be disputes of pecuniary nature which, nevertheless, “belong exclusively to the realm of public law and are accordingly not covered by the notion of civil rights and obligations” (§ 50). Thus, in *Finkelberg v. Latvia* (dec., no. 55091/00, 18 October 2001) the Court held that a taxation dispute did not fall under Article 6 of the Convention. In *Pančenko v. Latvia*, (dec., no. 40772/98, 28 October 1999) the Court recalled that the Convention does not guarantee, as such, socio-economic rights. Referring to this case-law the Government claimed that “the determination of the order of calculation of pensions belong to the realm of public law”.

b) Applicability of Article 1 of Protocol No. 1

22. The Government contested that the pension awarded to the applicant by virtue of the judgment of 21 October 1999 was her “possession” within the meaning of Article 1 of Protocol No. 1. They noted that in the case *Pravednaya v. Russia* (no. 69529/01, 18 November 2004) the Court regarded a judicial award of that type as the applicant's “possessions”. In that case the Court ordered restoring the initial judgment in the applicant's favour and paying pension in the amount defined by that judgment. However, in the Government's view, such approach creates confusion. If the sum awarded by the court is the “possession” of the pensioner, it should not be affected by future raises of the pension rates. Therefore, in *Pravednaya* the applicant has to return the money she has already received from the Pension Fund by virtue of the recent changes in the legislation on the State pensions. They conclude that in order to avoid such situations the Court should not regard the amounts of pension awarded by the domestic courts as

the claimants' "possessions" within the meaning of Article 1 of Protocol No. 1. Consequently, this provision is not applicable in the present case.

c) As to the merits of the complaint

23. The Government also claimed that the District Court reopened the case not capriciously, but because of the Instruction and the ensuing decision of the Supreme Court which confirmed its lawfulness, which were both an important clarification of the law on pensions. Enforcement of the erroneous decision in the applicant's favour would be unfair towards other people receiving their pensions from the Pension Fund. In their request for re-opening the Agency referred to the decision of the Supreme Court of 24 April 2000, which meant that the request was lodged within the three-month time-limit, established by law. This was the major difference with the *Pravednaya* case where the request for the re-opening was made without reference to that decision of the Supreme Court.

24. Second, the Instruction was issued after the initial judgment became final, so the court had good reason to reopen the case. The Constitutional Court held that nullification of a law because of its incompatibility with the Constitution could be considered as a newly discovered circumstance warranting the re-opening of the case. This was another difference with the *Pravednaya* case, where the Instruction was adopted while the proceedings were still pending.

25. The Government invited the Court to conclude that the complaint was incompatible with the Convention *ratione materiae*, or, alternatively, that there was no breach of Article 6 § 1 or Article 1 of Protocol No. 1 on account of the re-opening of the case concerning the applicant's pension.

2. The applicant

26. The applicant insisted on her complaint. First, the Instruction should not have been considered a newly discovered circumstance because it arose after the litigation, not before or during it. Second, the agency missed the time-limit for the reopening: it applied to the court eight months after it had learned about the instruction, instead of three months as the civil procedure required. Third, the Constitutional Court's opinion was irrelevant, because it concerned only the changes caused by a law's unconstitutionality; the pensions law was constitutional.

B. The Court's assessment

1. As to the Government's objection on applicability

27. The Court will first address the Government's contention that Article 6 § 1 under its "civil" limb is not applicable to the present case.

28. First, the Government claimed that the dispute at issue was not “civil” because the court did not award the applicant any money but just indicated how the law should have been applied. The Court agrees that not every dispute which is “civil” in domestic terms necessarily determines “civil rights and obligation” within the meaning of Article 6 of the Convention. Thus, in *Kiryanov v. Russia*, referred to by the Government (see the Government's submissions above), the applicant obtained an injunction ordering the Government to issue a general directive on low-interest loans for the veterans. However, the court was not supposed to establish particular conditions of the low-interest loans' system – it was the Government's prerogative. Thus, there was no evidence that the applicant would be eligible for such a loan or, even more, that he would be interested in getting it under conditions established by the Government. In other words, in that case there was only a very tenuous connection between the applicant's civil rights and the subject-matter of the litigation.

29. The present case, however, should be distinguished from the *Kiryanov v. Russia* case. What the applicant sought before the domestic courts was the raising of her pension. The courts' decisions did not specify a precise amount to be paid. However, the courts ordered the application of a certain multiplier to her existing pension; therefore, the amount due to her could easily have been calculated and the Pension Fund had no discretion in this respect, unlike the Government in the *Kiryanov* case (see also *Mihailov v. Bulgaria*, no. 52367/99, § 34, 21 July 2005). The enforcement proceedings were initiated, and as follows from the writ of execution of 14 December 1999 the bailiffs invited the Pension Fund to pay money to the applicant. Therefore, even if the indication of the precise amount was missing from the judgment, the proceedings at issue established a particular pecuniary obligation of the State vis-à-vis the applicant.

30. Secondly, the Government indicated that the dispute was about a State pension, and, therefore, was not a “civil” one within the meaning of Article 6 of the Convention. The Court is aware that various socio-economic rights, such as the right to a State pension, have their origin in the public law and as such are not protected by the Convention. However, the fact that a substantive right is not protected by the Convention does not exclude a dispute over such a right from the scope of Article 6. It is beyond doubt that the pension and the related benefits, which are purely economic in nature, are “civil” rights within the meaning of Article 6 § 1 (see *Francesco Lombardo*, cited above, pp. 26-27, § 17, *Schuler-Zgraggen v. Switzerland*, judgment of 24 June 1993, Series A no. 263, p. 17, § 46, and *Massa v. Italy*, judgment of 24 August 1993, Series A no. 265-B, p. 20, § 26; applicability of Article 6 to the pensions disputes was assumed in many Russian cases – see, for example, *Androsov v. Russia*, no. 63973/00, § 48 et seq., 6 October 2005). It follows that Article 6 § 1 is applicable.

31. The Government also contests the applicability of Article 1 of Protocol No. 1. The Court underlines in this respect that Article 1 of Protocol No. 1 does not include a right to acquire property, in particular, to receive a social security benefit or pension. It places no restriction on the Contracting State's freedom to decide whether or not to have in place any form of social security scheme, or to choose the type or amount of benefits to provide under any such scheme (see *Stec and Others v. the United Kingdom* [GC], no. 65731/01, § 53, 12 April 2006). However, it was a long and well-established practice of this Court to regard court awards of pecuniary nature against the State, whatever their origin may be, as “possessions” within the meaning of Article 1 of Protocol no. 1 (see, among many other authorities, *Brumărescu v. Romania*, judgment of 28 October 1999, *Reports of Judgments and Decisions* 1999-VII; see also *Ryabykh v. Russia*, no. 52854/99, § 52, ECHR 2003–X; see also *Androsov* mentioned above, § 55). Whereas a mere expectation to receive a pension is not protected by the Convention, a “legitimate” one does attract protection of Article 1 of Protocol no. 1. An expectation may become “legitimate”, for example, by virtue of a final court judgment, as in the present case. The Court reiterates in this respect that the judgment was sufficiently clear and specific to be enforceable (see paragraphs 28 and 29 above). Therefore, its annulment constituted an interference with the applicant's “possessions” within the meaning of Article 1 of Protocol no. 1.

32. The Court concludes that the reversal of a final decision in the applicant's favour constituted an interference with her rights under both Article 6 and Article 1 of Protocol no. 1 to the Convention. It remains to be established whether this interference was justified.

2. Alleged violation of Article 6 § 1

(a) General principles

33. The right to a fair hearing before a tribunal as guaranteed by Article 6 § 1 of the Convention must be interpreted in the light of the Preamble to the Convention, which declares, in its relevant part, the rule of law to be part of the common heritage of the Contracting States. One of the fundamental aspects of the rule of law is the principle of legal certainty, which requires, among other things, that where the courts have finally determined an issue, their ruling should not be called into question (see *Brumărescu*, cited above, § 61). This principle insists that no party is entitled to seek a review of a final and binding judgment merely for the purpose of a rehearing and a fresh decision of the case.

34. Indeed, the Convention in principle tolerates the reopening of final judgments if new circumstances are discovered. For example, Article 4 of Protocol no. 7 expressly permits the State to correct miscarriages of criminal justice. A verdict ignoring key evidence may well be such a miscarriage.

However, the power of review should be exercised for correction of gross judicial mistakes and miscarriages of justice, and not just as an “appeal in disguise” (see *Ryabykh*, cited above, § 52).

35. The Court should be especially mindful of the dangers inherent in the use of retrospective legislation which has the effect of influencing the judicial determination of a dispute to which the State is a party. Respect for the rule of law and the notion of a fair trial require that any reasons adduced to justify such measures be treated with the greatest possible degree of circumspection (see *The National & Provincial Building Society, the Leeds Permanent Building Society and the Yorkshire Building Society v. the United Kingdom*, judgment of 23 October 1997, *Reports 1997-VII*, § 112; *Zielinski and Pradal & Gonzalez and Others v. France* [GC], nos. 24846/94 and 34165/96 to 34173/96, § 57, ECHR 1999-VII). Thus, in *Smokovitis and Others v. Greece* (no. 46356/99, § 23, 11 April 2002) the Court held as follows:

“The Court reaffirms that while in principle the legislature is not precluded in civil matters from adopting new retrospective provisions to regulate rights arising under existing laws, the principle of the rule of law and the notion of fair trial enshrined in Article 6 preclude any interference by the legislature – other than on compelling grounds of the general interest – with the administration of justice designed to influence the judicial determination of a dispute to which the State was a party.”

36. In another Greek case (*Stran Greek Refineries and Stratis Andreadis v. Greece*, judgment of 9 December 1994, Series A no. 301-B, § 47) the State, by adopting new legislation, determined the outcome of a pending dispute to which it was a party. The Government argued that the new law had been democratically passed and that it was aimed at the eradication of negative consequences of a unfair business arrangement made under the military regime. However, in the Court's view, even such important considerations could not outweigh the rule of law. Having analysed the “timing and manner” of the adoption of the law at issue, the Court concluded that the legislative interference upset the fairness of the proceedings.

37. The Court finally recalls its findings in the *Pravednaya* case, cited above, where it held (§ 28 et seq.) as follows:

“The procedure for quashing of a final judgment presupposes that there is evidence not previously available through the exercise of due diligence that would lead to a different outcome of the proceedings. The person applying for rescission should show that there was no opportunity to present the item of evidence at the final hearing and that the evidence is decisive. Such a procedure is defined in Article 333 of the CCivP and is common to the legal systems of many member States.”

However, this procedure can be misused, as it happened in the *Pravednaya* case. In that case the State Pension Agency, referring to the same Instruction as in the present case, obtained the re-opening of the case and quashing of the initial judgment with a retroactive effect. The Court

concluded that it constituted a breach of Article 6 § 1 and Article 1 of Protocol No. 1.

(b) Application to the present case

38. The Court notes that from 1998 the applicant's pension was to be calculated under the new law on pensions. The law contained an equivocal term, and each opposing party – pensioners and pension agencies – read it in their own favour. Negotiations exhausted, the applicant brought a civil action against the agency. The court read the law in the applicant's favour and granted her claims. The judgment was upheld on appeal and became final in December 1999. Two weeks later, the Ministry of Labour issued a detailed instruction on how to apply the law. The instruction supported the agency's reading of the law, and in August 2000 the agency asked the court to reconsider the case because the instruction was a “newly discovered circumstance”. The court agreed, reconsidered the case, and held against the applicant. In the applicant's view, that re-opening was arbitrary.

39. The first question to answer is whether instruments issued after litigation may count as a “newly discovered circumstance”, as it was qualified by the domestic court. In this respect it is important to tell “newly discovered circumstances” from “new”. Circumstances which concern the case, exist during the trial, remain hidden from the judge, and become known only after the trial, are “newly discovered”. Circumstances which concern the case but arise only after the trial are “new”. It appears that in the present case the domestic court has confused the two.

40. The Government may be understood as claiming that even if the Instruction was a “new” and not “newly discovered” circumstance, it was nevertheless possible to reopen the case. The ruling of the Constitutional Court interpreting somewhat similar provisions of the Code of Criminal Procedure (see paragraph 17 above) speaks in favour of this position, although indirectly. Therefore, the second question to answer is whether the adoption of a new instrument might have justified the annulment of the initial decision.

41. It is conceivable that a judgment loses its legal force when the legislative framework changes. For instance, the decriminalisation of certain acts by the legislator may lead to the discontinuation of the enforcement of a penal sentence, without, however, annulling the initial conviction. As regards statutory pensions regulations, they are “liable to change and a judicial decision cannot be relied on as a guarantee against such changes in the future” (see *Sukhobokov v. Russia*, no. 75470/01, § 26, 13 April 2006), even if such changes are to the disadvantage of certain welfare recipients. Therefore, the Government is wrong when they assume that, once established by a court judgment, the amount of the pension may not be increased by virtue of the new legislation (see the Government's argument in paragraph 22 above).

42. However, the State cannot interfere with the process of adjudication in an arbitrary manner. Thus, when the authorities lose the case in a court but then obtain the reopening of the case by introducing new legislation with retroactive effect, an issue under Article 6 § 1 may arise. That problem – the retroactive application of the new legislation – was at the heart of several cases, such as *Pravednaya v. Russia*, cited above, and *Vasilyev v. Russia* (no. 66543/01, § 41, 13 October 2005).

43. Turning to the present case the Court notes that the annulment of the judgment of 21 October 2000, as upheld on 14 December 1999, could not be explained by the “newly discovered” circumstances. The only reason for the revision of the settled dispute was the adoption of the Instruction, which gave new interpretation of the law underlying the judgment in the applicant's favour. The Court further notes that the interpretation was given by the same State authority which was a party to the proceedings. Finally, what is decisive in this case is that the application of those new rules led to a retrospective recalculation of the amounts due to the applicant by virtue of the judgment of 21 October 2000. Therefore, not only had the agency established a new rule applicable for future cases, it also nullified the final judgment, replacing a “wrong” judicial interpretation of the law with a “correct” one, favourable for that agency.

44. Such situation, in the opinion of the Court, is incompatible with the principles of legal certainty and equality of arms, enshrined in Article 6 § 1 of the Convention. Accordingly, there has been a violation of this provision.

3. Alleged violation of Article 1 of Protocol No. 1

45. The Court reiterates that the judicial award of a pecuniary nature against the State was the applicant's “possession” within the meaning of Article 1 of Protocol No. 1 (see paragraphs 31 and 32 above). Annulment of such an award clearly constituted an interference with the applicant's rights guaranteed by this provision.

46. To justify that interference the Government claimed that it had been lawful and pursued a legitimate aim: to correct a judicial error. The Court accepts that this measure pursued the public interest; however, its compliance with the “lawfulness” requirement of Article 1 of Protocol No. 1 is questionable. Thus, the case was re-opened because the domestic court viewed the Instruction as a “newly discovered circumstance”. However, this reading of Article 333 of CCivP is more than liberal (see paragraph 39 above). Even assuming that the court's reading of the domestic law was not absolutely arbitrary (see in this respect paragraph 17 above), it still remains to be established whether the interference was proportionate to the legitimate aim pursued.

47. In this respect the Court recalls that it has already examined a similar argument in the *Pravednaya* case, where it held that “the State's possible interest in ensuring a uniform application of the Pensions Law should not

have brought about the retrospective recalculation of the judicial award already made” (§ 41). The recalculation of a pension and its subsequent reduction does not, as such, violate Article 1 of Protocol No. 1 (*Skorkiewicz v Poland* (dec.), no. 39860/98, 1 June 1998). However, backdating the recalculation with the effect that the sums due were reduced involved an individual and excessive burden for the applicant and was incompatible with Article 1 of the Protocol no 1.

48. The Court does not see any reason to depart from this position in the circumstances of the present case. It concludes that the quashing of the judgment of 21 October 1998 constituted a violation of Article 1 of Protocol No. 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

49. 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.”

50. The Court points out that under Rule 60 of the Rules of Court any claim for just satisfaction must be itemised and submitted in writing together with the relevant supporting documents or vouchers, “failing which the Chamber may reject the claim in whole or in part”.

51. In the instant case, the Court notes that in her initial application to the Court the applicant specified her preliminary claims for just satisfaction under Article 41. Furthermore, following the admissibility decision of 5 April 2005, the Court invited the applicant to submit her final claims for just satisfaction before 7 June 2005. However, the applicant submitted her claims only in September 2005, that was outside the specified time-limit. The reasons why the applicant failed to produce her claims under Article 41 in a timely manner are unclear to the Court. The Court pays special attention to the fact that the applicant is 73 years old, that she was self-represented and that apparently she does not speak either English or French. In such circumstances the Court considers it appropriate to reserve the determination of her claims for just satisfaction, due regard being had to the possibility that on this point also a friendly settlement may be reached between the respondent State and the applicant (Rule 75 § 1 of the Rules of Court).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1;
2. *Holds* that the question of the application of Article 41 is not ready for decision;
accordingly:
 - (a) *reserves* the said question;
 - (b) *invites* the Government and the applicants to submit, within two months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, their written observations on the matter and, in particular, to notify the Court of any agreement that they may reach;
 - (c) *reserves* the further procedure and *delegates* to the President of the Chamber the power to fix the same if need be.

Done in English, and notified in writing on 18 January 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Boštjan M. ZUPANČIČ
President