



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

FIFTH SECTION

CASE OF LAUDON v. GERMANY

(Application no. 14635/03)

JUDGMENT

STRASBOURG

26 April 2007

FINAL

24/09/2007

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 Laudon v. Germany,

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

Mr P. LORENZEN, *President*,

Mrs S. BOTOCHAROVA,

Mr K. JUNGWIERT,

Mr V. BUTKEVYCH,

Mrs M. TSATSA-NIKOLOVSKA,

Mr R. MARUSTE, *judges*,

Mrs B. MAYEN, *ad hoc judge*,

and Mrs C. WESTERDIEK, *Section Registrar*,

Having deliberated in private on 27 March 2007,

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

PROCEDURE

1. The case originated in an application (no. 14635/03) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a German national, Ms Barbara Laudon (“the applicant”), on 4 May 2003.

2. The German Government (“the Government”) were represented by their Agent, Mrs A. Wittling-Vogel, *Ministerialdirigentin*, of the Federal Ministry of Justice.

3. On 6 June 2006 the Court decided to give notice of the application 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

THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1961 and lives in Frankenthal. She was represented by counsel throughout the proceedings before the national authorities and courts.

1. Background to the case

5. On 9 December 1987 the applicant was operated at the lymphatic gland by doctor M. In the course of that operation, her cranial nerve was

damaged. As a consequence, she could no longer properly move her head and shoulders and suffered from considerable pain and a loss of sensibility of her neck and her right arm and hand. Because of this, the applicant became partially unfit for work in her former job as a cleaning lady. She has not been working since her operation and has been living on social security benefits.

6. On 30 March 1989 the applicant, following a suggestion of the defendant's medical malpractice insurance company, had recourse to the arbitration board of the Rhineland-Palatinate Medical Council (*Landesärztekammer*). On 12 June 1990 expert B., who had been called to give an opinion, found that doctor M. had caused an avoidable paralysis of the applicant's cranial nerve by improper medical treatment. On 1 February 1991 the commission of experts of the arbitration board expressed the opinion that the applicant could not be expected to subject herself to another operation aimed at reconstructing the cranial nerve due to the risk that her state of health might deteriorate following such surgery.

7. The medical malpractice insurance company of doctor M. subsequently refused to pay the compensation for non-pecuniary damage and the occupational disability pension claimed by the applicant.

2. Court proceedings

a. Proceedings in the Frankenthal Regional Court

8. On 12 March 1991 the applicant brought an action for damages against doctor M. in the Frankenthal Regional Court. She claimed to be paid 12,000 Deutschmarks (DEM) in compensation for the non-pecuniary damage suffered by medical malpractice and a monthly occupational disability pension of DEM 1,800. She further requested the court to establish by declaratory judgment that the defendant was obliged to compensate her for any pecuniary or non-pecuniary damage she suffered or would suffer in the future from the incorrect medical treatment.

9. On 23 April 1991 the Frankenthal Regional Court decided to grant the applicant legal aid.

10. On 17 September 1991 the Frankenthal Regional Court held an oral hearing in which it made a friendly settlement proposal.

11. In a further hearing held on 19 November 1991 the applicant rejected the court's friendly settlement proposal which had previously been accepted by the defendant. The Regional Court requested the applicant further to reason her damages claim by submitting documents.

12. On 14 January 1992 the Regional Court appointed an expert for neurology, H., to give an opinion about the consequences of the paralysis of the applicant's cranial nerve on her capacity to perform manual work, in particular in her former job as a cleaning lady and in her own household.

13. On 25 February 1992 the applicant was medically examined by the expert for neurology, who rendered his report on 26 March 1992.

14. On 30 April 1992 the expert for neurology gave another report.

15. On 22 September 1992 the Regional Court appointed a further orthopaedic expert to give an opinion on the question of whether the applicant would have been healed if she had subjected herself to another operation aimed at reconstructing the cranial nerve.

16. On 25 February 1993 the orthopaedic expert, He., rendered his report.

17. On 6 July 1993 the Regional Court held a hearing in which the parties concluded a revocable friendly settlement. The applicant validly revoked the agreement on 20 July 1993.

18. On 1 November 1993 the expert for neurology supplemented his report on the court's request by giving an opinion on questions concerning the degree of the applicant's incapacity to work.

19. On 8 March 1994 the Regional Court held another hearing.

20. On 26 April 1994 the Regional Court requested the transmittal of the case-file concerning the applicant from the Landau Pension Office (*Versorgungsamt*). The applicant failed to give her necessary consent until 5 January 1995. The files reached the Regional Court on 2 February 1995.

21. On 8 February 1995 the Regional Court, in view of the contents of the case-file transmitted by the Pension Office, requested the expert for neurology to give another supplementary medical advice notably on the applicant's objection that the degree of her disability was higher than the 40 per cent diagnosed by the expert.

22. On 18 March 1995 the expert for neurology gave the supplementary report to his medical opinion requested.

23. On 2 April and 6 May 1995 the applicant complained to the Regional Court about the length of the proceedings.

24. On 4 July 1995 the Regional Court held another oral hearing. It proposed the parties to reach a friendly settlement of their case, with the defendant paying a lump sum of DEM 100,000 to the applicant. The applicant subsequently failed to accept the terms of the settlement.

25. On 19 September 1995 the Frankenthal Regional Court delivered its judgment (running to ten pages). It ordered the defendant to pay to the applicant DEM 12,000 in non-pecuniary damages and a monthly pension of DEM 720 compensating her loss of earnings as of 12 June 1991. It further declared that the defendant had to indemnify the applicant for all pecuniary and non-pecuniary damage incurred by the incorrect medical treatment.

26. On 4 October 1995 the judgment was served on the applicant.

b. Proceedings in the Zweibrücken Court of Appeal

27. On 6 November 1995 both the applicant and doctor M. lodged an appeal against the Regional Court's judgment, which they reasoned on 3 January and 9 January 1996 respectively.

28. On 26 March 1996 the Zweibrücken Court of Appeal granted the applicant legal aid.

29. In a letter dated 11 October 1996 the applicant urged the Court of Appeal to further the proceedings in view of the fact that they had lasted already for many years. On 19 October 1996 the Court of Appeal informed the applicant that despite the court's workload the case would be heard in due course.

30. On 10 December 1996 the Court of Appeal heard the parties' representatives and ordered the applicant to submit further information and documents concerning her claim until 30 January 1997.

31. On 19 June 1997 the Court of Appeal discontinued the proceedings pending the outcome of the applicant's request lodged with the Rhineland-Palatinate Insurance Institution to be granted an occupational disability pension. Both parties had agreed to the court's proposal to proceed in this manner. The Court of Appeal made a friendly settlement proposal to the parties, which, after further correspondence between the parties and the court, was subsequently rejected by the defendant.

32. By letters dated 20 October and 1 December 1998 the applicant complained to the Court of Appeal that there has not been a hearing since December 1996 and about the protracted length of the proceedings.

33. On 28 September 1999 the Court of Appeal, having heard the parties in court, decided that the proceedings should remain suspended until the termination of the applicant's proceedings in the social courts concerning her motion to be granted an occupational disability pension. It agreed with the parties that the amount of the applicant's pension claim against doctor M. depended on the outcome of these proceedings.

34. On 7 March 2001 the Court of Appeal, having obtained the applicant's consent requested on 10 January 2001, consulted the files of the applicant's proceedings in the social courts in which, in particular, further expert reports had been rendered as to the applicant's incapacity for work.

35. On 6 February 2001, following the termination of the proceedings in the social courts, the Speyer Insurance Institution issued a new notice of pension to the applicant, granting her a monthly occupational disability pension of some DEM 1,024 as of March 2001. A copy of the decision reached the Court of Appeal on 23 April 2001.

36. On 22 May 2001 the Court of Appeal resumed the proceedings and held a hearing. It set the parties a deadline until 12 June 2001 to declare whether they agreed to the terms of a friendly settlement of the case proposed by the court.

37. On 6 June 2001 the applicant lodged a motion to resume the hearing in order to examine her capability of being a party to an action (*Prozessfähigkeit*) and to allow her the extension of her claim.

38. On 3 July 2001 the Zweibrücken Court of Appeal delivered its judgment (running to 16 pages). Modifying the Regional Court's judgment in this respect, it ruled that doctor M. had to pay the applicant a monthly pension of some DEM 775 compensating her loss of earnings, but only as of 1 June 2001. It observed that the applicant could not claim a higher amount of pension, as, pursuant to the notice of pension dated 6 February 2001, she also received a monthly occupational disability pension of DEM 1,024 by the Insurance Institution after 1 June 2001. She could not, therefore, claim that additional amount from the defendant herself in the future as her claim had passed to the Insurance Institution in this respect. Moreover, having regard to the fact that the applicant had already in the past received social security benefits, the court found that the applicant had failed to provide sufficient evidence that she still had a claim herself for the period of time preceding 1 June 2001, despite the court's repeated invitations to do so. Apart from that, the Court of Appeal upheld the remainder of the Regional Court's judgment.

c. Proceedings in the Federal Court of Justice

39. On 5 March 2002 the Federal Court of Justice granted the applicant legal aid for the proceedings concerning the appeal on points of law lodged by doctor M. while refusing to grant her legal aid for lodging an appeal on points of law herself.

40. On 18 June 2002 the Federal Court of Justice refused to admit the applicant's appeal on points of law as it had no prospects of success. It decided to admit doctor M.'s appeal on points of law in so far as he complained against the order to pay pension to the applicant after 30 June 2026.

41. In its judgment delivered on 5 November 2002 (running to five pages), the Federal Court of Justice, after having held a hearing, partly modified the judgment of the Court of Appeal. It held that doctor M. was obliged to pay the applicant a monthly pension compensating her loss of earnings of some DEM 775 as of 1 June 2001, but only until 30 June 2026. In that month the applicant would attain the age of 65 and would have retired if she had worked.

42. The judgment was served on the applicant on 9 December 2002.

d. Proceedings in the Federal Constitutional Court

43. On 8 January 2003 the applicant lodged a complaint with the Federal Constitutional Court. She argued, in particular, that her right to a fair trial, as guaranteed by Article 2 § 1 read in conjunction with Article 20 § 3 of the Basic Law, had been breached, as the length of her proceedings in the civil

courts had been excessive. She further argued that her right to general freedom of action (*allgemeine Handlungsfreiheit*) as protected by Article 2 § 1 of the Basic Law had been violated because the civil courts had dismissed her claim to be paid a pension also after she had attained the age of 65.

44. On 17 January 2003 the Registry of the Federal Constitutional Court informed the applicant that it was doubtful whether she had sufficiently substantiated her constitutional complaint within the one-month time-limit. It argued that the copy of the judgment of the Federal Court of Justice had reached the Constitutional Court only one day after the expiry of that time-limit.

45. On 29 January 2003 the applicant requested to be restored to her original legal position, adding a copy of the judgment of the Federal Court of Justice of 5 November 2002. The Government claimed that page 4 of that judgment, containing the reasoning of the court, was missing in that request. This was contested by the applicant.

46. On 19 February 2003 the Federal Constitutional Court refused to admit the applicant's constitutional complaint. It found that it was not necessary to decide on the applicant's motion to be restored to her original legal position as, in any event, the applicant's complaint did not concern matters of fundamental significance from a constitutional law perspective. Adjudicating on the applicant's complaint was also not necessary in order to enforce the fundamental rights invoked by her. Even assuming that she had submitted a copy of the judgment of the Federal Court of Justice within the prescribed time-limit for filing the fully documented constitutional complaint, her complaint had no prospects of success. The applicant's submissions did not warrant the conclusion that this judgment violated the rights invoked by the applicant.

47. The decision was served on the applicant's representative on 27 February 2003.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION – FAIRNESS OF THE PROCEEDINGS

48. The applicant claimed that some of the findings of fact and law by the civil courts in her damages proceedings had not been correct. This complaint falls to be examined under Article 6 § 1 of the Convention which, in so far as relevant, provides:

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

49. The Government contested that argument.

A. Exhaustion of domestic remedies

50. The Government submitted that the applicant did not exhaust domestic remedies in respect of her complaint about the fairness of the proceedings. As the applicant had failed to submit a complete copy of the judgment taken by the Federal Court of Justice in the proceedings before the Federal Constitutional Court, the latter court had not been in a position to examine her complaint about the amount of pension awarded.

51. The applicant contested this view. She claimed that she had sent a complete copy of the Federal Court of Justice's judgment to the Federal Constitutional Court.

52. The Court reiterates that, whereas Article 35 § 1 of the Convention must be applied with some degree of flexibility and without excessive formalism, it does not require merely that applications should be made to the appropriate domestic courts and that use should be made of remedies designed to challenge decisions already given. It normally requires also that the complaints intended to be brought subsequently before the Court should have been made to those same courts, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law (see, *inter alia*, *Cardot v. France*, judgment of 19 March 1991, Series A no. 200, p. 18, § 34; *Elçi and others v. Turkey*, nos. 23145/93 and 25091/94, § 604, 13 November 2003). Non-exhaustion of domestic remedies cannot, however, be held against the applicant if, in spite of the latter's failure to observe the forms prescribed by law, the competent authority has nevertheless examined the substance of the appeal (see, among other authorities, *Skalka v. Poland* (dec.), no. 43425/98, 3 October 2002; *Uhl v. Germany* (dec.), no. 64387/01, 6 May 2004).

53. The Court observes that in the present case, the Federal Constitutional Court proceeded on the assumption that the applicant had submitted a (complete) copy of the judgment delivered by the Federal Court of Justice within the prescribed time-limit. The Federal Constitutional Court therefore expressly chose not to dismiss the applicant's constitutional complaint for failure to comply with a formal requirement, namely to sufficiently substantiate her complaint by submitting copies of the relevant decisions within the one-month time-limit. Instead, it refused to admit the applicant's constitutional complaint as it had no prospects of success on the merits, there being no appearance of a violation of the applicant's Basic Law rights by the impugned judgment.

54. The Court concludes that in these circumstances, the applicant must be found to have exhausted domestic remedies in compliance with the

prescribed formal requirements and time-limits as required by Article 35 § 1 of the Convention.

B. Fairness of the proceedings

55. In the applicant's submission, the findings of fact and the application of the law by the civil courts had partly been incorrect. In particular, the courts had not awarded her a sufficient amount of pension, as they had failed to acknowledge that the degree of her occupational disability amounted to 50 per cent and had decided that her pension was only payable until the age of 65. Moreover, the courts had failed to recognize that as a consequence of the paralysis of her right arm following the erroneous medical treatment, her left arm had also been injured. She claimed that she was entitled to further compensation in order to be able to pay the contributions for a health insurance, the costs of further medicaments, medical devices and domestic help.

56. The Court reiterates that it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention. In particular, the assessment of facts or evidence is primarily a matter for regulation by national law and the national courts; the Court's task is to ascertain whether the proceedings in their entirety, including the way in which the evidence was assessed, were "fair" (see, *inter alia*, *Schenk v. Switzerland*, judgment of 12 July 1988, Series A no. 140, p. 29, §§ 45-46; *Dombo Beheer BV v. the Netherlands*, judgment of 27 October 1993, Series A no. 274, pp. 18-19, § 31, and *García Ruiz v. Spain* [GC], no. 30544/96, ECHR 1999-I, § 28). Moreover, the Court will not question the national courts' interpretation of domestic law unless there has been a flagrant non-observance or arbitrariness in the application of the said provisions (see, *inter alia*, *Société Colas Est and Others v. France*, no. 37971/97, § 43, ECHR 2002-III and, *mutatis mutandis*, *Lavents v. Latvia*, no. 58442/00, § 114, 28 November 2002).

57. The Court finds that the applicant in substance complained about the findings of facts, the assessment of evidence and the application of national law by the domestic courts. As regards the civil courts' findings of fact and the assessment of evidence, the Court observes that the domestic courts reached their findings on the consequences of the applicant's injuries caused by medical malpractice on the basis of and agreeing with a total of five reports and supplementary reports by two experts. It cannot discern any element of unfairness in this respect. Likewise, the application of the national law, which has duly been reasoned by the civil courts in three levels of jurisdiction, does not disclose any appearance of arbitrariness in dealing with the applicant's case.

58. It follows that this part of the application must be dismissed as manifestly ill-founded pursuant to Article 35 §§ 3 and 4 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION – LENGTH OF THE PROCEEDINGS

59. The applicant complained that the length of the proceedings she had instituted for compensation in the civil courts was 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...”

60. The Government contested that argument.

61. With the proceedings before the arbitration board not being a necessary precondition for bringing civil proceedings, the period to be taken into consideration began on 12 March 1991, when the applicant brought her action in the Frankenthal Regional Court.

62. As to the date on which the applicant's proceedings ended, the Court observes that, in her complaint to the Federal Constitutional Court, the applicant complained not only about the length of the proceedings, but also about the extent of her pension entitlements. The Federal Constitutional Court proceedings were therefore directly decisive for a dispute over the applicant's civil rights. It further notes that prior to the delivery of its judgment in the case of *Sürmeli v. Germany* ([GC], no. 75529/01, ECHR 2006-...) on 8 June 2006, the Convention institutions have taken the view that a constitutional complaint to the Federal Constitutional Court was an effective remedy in respect of complaints concerning the length of civil proceedings (see *Sürmeli*, cited above, § 103). At the relevant time when the application was lodged with the Court (compare *Charzynski v. Poland* (dec.), no. 15212/03, § 35, ECHR 2005-V) on 4 May 2003, a complaint to the Federal Constitutional Court about the proceedings' length was therefore a domestic remedy which had to be exhausted prior to bringing the same complaint before the Court. As a consequence, the duration of the proceedings before the Federal Constitutional Court have to be taken into consideration when calculating the total length of the applicant's proceedings. These proceedings thus ended on 27 February 2003, when the decision of the Federal Constitutional Court was served on her representative (compare *Gast and Popp v. Germany*, no. 29357/95, § 69, ECHR 2000-II). They lasted almost twelve years for four levels of jurisdiction.

A. Admissibility

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

B. Merits

64. The applicant argued that the duration of the proceedings was clearly excessive. She submitted in particular that the courts had not held hearings in due course despite her repeated requests to further the proceedings. Moreover, she contested having requested the discontinuance of the proceedings by the Court of Appeal awaiting the outcome of the proceedings before the Rhineland-Palatinate Insurance Institution, which had considerably delayed the proceedings. She further claimed that her civil proceedings had been independent of the outcome of her proceedings in the social courts. As a consequence of the proceedings' length, she had not yet received any payment by doctor M.'s medical malpractice insurance company.

65. According to the Government, the length of the proceedings in the civil courts had not been excessive in the particular circumstances of the case. They argued that the proceedings had been complex, as the consequences of the injuries caused to the applicant had to be examined in a total of five reports and supplementary reports by both a neurological and an orthopaedic expert. The applicant had caused delays in the proceedings before the Regional Court by rejecting friendly settlement proposals, requesting expert opinions and failing to give her consent to the transmittal of the files of other authorities and courts in due course. Moreover, she had agreed to the Court of Appeal's proposal to discontinue the proceedings without subsequently requesting the proceedings to be resumed and had failed speedily to submit documents requested by that court.

66. In the Government's submission, it could not be imputed to the domestic courts that the proceedings had been lengthy. It had been necessary to consult different experts and the case-files of the Pension Office and the social courts. It had been also on the applicant's demand that the courts had made several friendly settlement proposals. The Court of Appeal had properly handled the case when it discontinued the proceedings with the consent of both parties for some four years. Even during this period, it attempted to arrive at a friendly settlement between the parties.

67. 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).

68. The Court accepts that the compensation proceedings brought by the applicant were not simple. In particular, the calculation of the amount of damages payable to the applicant necessitated the consultation of two medical experts. However, the Court also notes that certain facts which were decisive for the applicant's compensation claim had already been verified by independent experts prior to the impugned proceedings in the civil courts, namely in the (independent) proceedings before the arbitration board of the Rhineland-Palatinate Medical Council. In particular, the fact that there had been an improper medical treatment by the defendant which had caused the paralysis of the applicant's cranial nerve had already been confirmed by an expert in these proceedings. Likewise, the commission of experts of that board had found that the applicant could not be expected to subject herself to another operation aimed at reconstructing the cranial nerve. The Court accepts that these findings, which were available when the applicant instituted the proceedings at issue in the Frankenthal Regional Court, did not substitute taking evidence by the Regional Court. Nevertheless they must be considered to have simplified these proceedings.

69. The Court observes that the applicant's conduct appears to have contributed to a certain extent to the delays caused in the proceedings. In particular, she failed speedily to give her consent to the transmittal of her case-file from the Landau Pension Office (or to otherwise express her view on this issue) in the proceedings before Regional Court. Moreover, she had not submitted all relevant documents to reason her damages claim already at the outset of the proceedings.

70. As to the conduct of the competent authorities, the Court notes, in particular, that the case has been pending for more than four and a half years in the Regional Court. There were repeatedly periods of inactivity in the proceedings before that court, notably between the rendering of the expert report on 30 April 1992 and the appointment of a further expert on 22 September 1992 and between the submission of the report of the orthopaedic expert on 25 February 1993 and the hearing on 6 July 1993. The proceedings were further delayed between the submission of the supplementary report of the expert for neurology on 1 November 1993 and the court's hearing on 8 March 1994 and between the submission of the further supplementary report of the expert for neurology on 18 March 1995 and the court's hearing on 4 July 1995. Having regard to the successive and repeated consultation of the two experts heard, it further appears that the medical expert advice necessary to adjudicate the case could have been obtained in a more expeditious and efficient manner.

71. As to the conduct of the proceedings in the Court of Appeal, the Court notes that this court only held one hearing between 9 January 1996 and 19 June 1997. Having obtained the parties' consent, it then suspended

the proceedings between 19 June 1997 and 22 May 2001 – that is, for almost four years – pending the outcome of the proceedings brought by the applicant in the social courts. The Court accepts that the outcome of the applicant's proceedings in the social courts were of some relevance for the proceedings at issue. Following the notice of pension dated 6 February 2001 granting her a monthly occupational disability pension of some DEM 1,024, the applicant could no longer claim this amount from the defendant herself in the future. However, the Court reiterates in this respect that even in civil proceedings, where it is for the parties to take the initiative with regard to the progress of the proceedings, the national courts are not dispensed from ensuring compliance with the requirements of Article 6 of the Convention as regards the reasonable time requirement (compare, for example, *Duclos v. France*, judgment of 17 December 1996, *Reports of Judgments and Decisions* 1996-VI, p. 2180, § 55; *H.T. v. Germany*, no. 38073/97, §§ 35-37, 11 October 2001). Having regard to the fact that at the time of their suspension, the proceedings had already been pending in the civil courts for more than six years, the Court finds that the Court of Appeal did not duly further the proceedings by keeping them suspended for another four years in order to determine the scope of the applicant's future claims after the new notice of pension dated 6 February 2001.

72. Furthermore, the Court cannot but conclude that the proceedings at issue were of vital importance to the applicant. She has been unable to work in her previous job since the improper medical treatment she had received when she was only 26 years old. The proceedings, which were notably aimed at securing her a monthly pension for loss of earnings since the operation, were therefore decisive for the way in which she would make her living for possibly the rest of her working lifetime.

73. Having regard to all the circumstances of the present case, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

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

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

75. 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.”

76. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award her any sum on that account.

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. *Decided* to make no award under Article 41 of the Convention.

Done in English, and notified in writing on 26 April 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK
Registrar

Peer LORENZEN
President