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

FIRST SECTION

CASE OF LEVOCHKINA v. RUSSIA

(Application no. 944/02)

JUDGMENT

STRASBOURG

5 July 2007

FINAL

31/03/2008

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 Levochkina v. Russia,

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

Mr C.L. ROZAKIS, *President,*
Mr L. LOUCAIDES,
Mrs N. VAJIĆ,
Mr A. KOVLER,
Mr K. HAJIYEV,
Mr D. SPIELMANN,
Mr S.E. JEBENS, *judges,*
and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 14 June 2007,

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

PROCEDURE

1. The case originated in an application (no. 944/02) 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, Mrs Nadezhda Petrovna Levochkina ("the applicant"), on 4 July 2001.

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

3. The applicant alleged, in particular, that the domestic judicial authorities had reconsidered a judgment given in her favour having improperly used the procedure for reconsidering judgments on the basis of newly discovered circumstances.

4. By a decision of 17 November 2005 the Court declared the application partly admissible.

5. The Government, but not the applicant, filed further written observations (Rule 59 § 1). The Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*), the applicant replied in writing to the Government's observations.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1941 and lives in Novosibirsk.

7. The applicant receives an old-age pension. The Law of 21 July 1997 on the Calculation and Upgrading of State Pensions ("the Pensions Act") introduced, from 1 February 1998 onwards, a new method for calculating pensions. The idea behind this method, based on what is known as an "individual pensioner coefficient", was to link the pension to the pensioner's previous earnings.

8. The authority in charge of the applicant's pension, the Pension Fund Agency of the Kirovskiy District of Novosibirsk ("the Agency"), fixed the applicant's coefficient at 0.525. The applicant challenged the Agency's decision in the Kirovskiy District Court of Novosibirsk. She argued that her coefficient should be 0.7.

9. On 31 August 1999 the District Court found for the applicant, considering that the Agency had misinterpreted the Pensions Act. In particular, it held as follows:

> "... Article 4 [of the 1997 Pensions Act] fixes an individual pensioner coefficient at the maximum rate of 0.7. This rate is subject to changes hereafter by a federal law at the adoption of a federal law on the budget of the RF PF [Pension Fund] for a next financial year."

The District Court decided that the Agency was to recalculate the applicant's pension using a coefficient of 0.7 from 1 February 1998 "until a change in the legislation".

10. The Agency appealed against the judgment. On 7 October 1999 the Novosibirsk Regional Court upheld the judgment, which became enforceable on the same day. The judgment was never executed.

11. On 29 December 1999 the Ministry of Labour and Social Development ("the Ministry") issued an Instruction on the "Application of Limitations" established by the Pensions Act ("the Instruction"). The Instruction clarified how to apply the Pensions Act.

12. On 23 August 2000 the Agency lodged an application with the District Court for the reconsideration of the applicant's case owing to newly discovered circumstances. They asked the court to take account of the Instruction, which supported their arguments that had been rejected by the court during the initial examination of the case.

13. Some time thereafter a group of individuals challenged the Instruction before the Supreme Court of the Russian Federation. On 24 April 2000 the Supreme Court dismissed the complaint. It found that, contrary to what the complainants had suggested, the Ministry of Labour had not acted *ultra vires* in issuing the Instruction, and that the Ministry's

interpretation of the Pensions Act had been correct. On 25 May 2000 the Cassation Division of the Supreme Court upheld this judgment on appeal.

14. On 16 January 2001 the District Court examined the Agency's request. The District Court noted that by virtue of Article 333 of the Code of Civil Procedure enforceable judgments may be reconsidered owing to newly discovered circumstances which could not have been known at the time when the judgment had been delivered. The court further noted that the Instruction had been upheld by the Supreme Court which, therefore, had found it lawful to interpret article 4 of the Pensions Act so that the rate of 0.7 should not apply to an “individual pensioner coefficient”.

15. In a decision of 16 January 2001 the District Court granted the Agency's application, under Article 337 of the Code of Civil Procedure, quashed the judgment of 31 August 1999, as upheld on 7 October 1999, and ordered a fresh examination of the case. It stated that its decision was not subject to appeal.

16. As a result of the fresh examination of the case the District Court delivered a judgment of 31 January 2001 in which it rejected the applicant's claims in full. The applicant appealed. On 13 March 2001 the Novosibirsk Regional Court dismissed the applicant's appeal and upheld the judgment of 31 January 2001.

17. From 1 May 2001, following changes to the pension regulations, the applicant's pension was calculated based on a coefficient of 0.84.

II. RELEVANT DOMESTIC LAW AND PRACTICE

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

Article 333. Grounds for reconsideration

> “[Judgments] which have come into force may be reconsidered on the basis of newly discovered circumstances. The grounds for reconsideration ... shall be as follows:
>
> 1. significant circumstances which were not and could not have been known to the party who applies for reconsideration; ...
>
> 4. cancellation of a court [judgment] or of another authority's decision which served as legal basis for the [judgment] in question.”

Article 334. Lodging of application

> “... [An application for reconsideration of a [judgment] owing to newly discovered circumstances] shall be lodged within three months after the discovery of the circumstances.”

Article 337. Court decision on reconsideration of a case

> "After examination of an application for reconsideration of a [judgment] owing to newly discovered circumstances, the court may either grant the application and quash the [judgment], or dismiss the application.
>
> The court decision by which an application for reconsideration of a [judgment] owing to newly discovered circumstances is granted shall not be subject to appeal. ..."

19. 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 reconsideration of a [criminal] case on the basis of newly discovered circumstances", which was in many respects similar to Article 333 of the CCivP) was unconstitutional in that it limited the grounds for the reopening of a criminal case to 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. In its ruling of 3 February 1998 the Constitutional Court came to the conclusion that Article 192 § 2 of the Code of Commercial Procedure was unconstitutional in so far as it had served as a basis for the dismissal of applications for reconsideration of judgments of the Presidium of the Supreme Commercial Court, where the judgment had been delivered as a result of a judicial error which had not been and could not have been established earlier.

20. The Instruction of the Ministry of Labour and Social Development of 29 December 1999 on the "Application of Limitations" established by the Pensions Act was registered by the Ministry of Justice on 31 December 1999 and became binding in February 2000, ten days after its official publication.

THE LAW

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

21. The applicant complained that the State had reconsidered a final judgment in her favour. The Court will examine this complaint under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

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

22. The Government submitted that the complaint was incompatible with the Convention *ratione materiae*, as it did not concern “civil rights and obligations” or “property” or, alternatively, that there had been no breach of Article 6 § 1 or Article 1 of Protocol No. 1 on account of the reconsideration of the case concerning the applicant's pension.

(a) Applicability of Article 6 § 1

23. The Government stressed that the judgment of 31 August 1999 had not determined any definite amount due to the applicant, but had 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 ... of application of the Instruction”. According to the Government, the dispute at issue was not a civil one because “the determination of the order of calculation of pensions belongs to the realm of public law”. They referred to *Schouten and Meldrum v. the Netherlands* (judgment of 9 December 1994, Series A no. 304, § 50), *Pančenko v. Latvia*, ((dec.), no. 40772/98, 28 October 1999), and *Kiryanov v. Russia* ((dec.), no. 42212/02, 9 December 2004).

(b) Applicability of Article 1 of Protocol No. 1

24. The Government contested that the pension awarded to the applicant by virtue of the judgment of 31 August 1999 constituted her “possession”. They noted that in the case of *Pravednaya v. Russia* (no. 69529/01, 18 November 2004) the Court had regarded a judicial award of that type as the applicant's “possession”. In that case the Court had ordered the restoration of the initial judgment in the applicant's favour and the payment of the pension in the amount established by that judgment. However, in the Government's view, such an approach created confusion. If the sum awarded by a court was a pensioner's “possession”, it should not be affected by any subsequent increase in pension rates. Therefore, in *Pravednaya* the

applicant would have had to return the money "excessively" paid to her by virtue of the later changes in the legislation on State pensions. They concluded that in order to avoid such situations the Court should not regard the pension amounts awarded by the domestic courts as the claimants' "possessions" within the meaning of Article 1 of Protocol No. 1.

(c) Merits of the complaint

25. The Government submitted that it was the Supreme Court's decision upholding the Instruction which had constituted a newly discovered circumstance and warranted the reopening of the case within the meaning of Article 333 of the CCivP. This was a major difference with the *Pravednaya* case (cited above). The Government explained that to consider the Supreme Court's decision as a newly discovered circumstance was in line with the position of the Constitutional Court set out in its decisions of 2 February 1996 and 3 February 1998. In another decision of 14 January 1999 the Constitutional Court had held that court judgments might be reconsidered if relevant provisions of law had been found unconstitutional.

26. The Government further submitted that the Instruction had been issued after the initial judgment had become final, so the Agency could not have relied on it in the appeal proceedings. This was another difference with the *Pravednaya* case, where the Instruction had been adopted while the proceedings were still pending. Therefore, the Agency's request to reopen the case had not been an "appeal in disguise" but a conscientious effort to make good a miscarriage of justice.

27. The Government observed that the reopening of the case had been lawful and complied with the procedure prescribed by law, the request having been lodged within the statutory three-month time-limit.

28. The Government concluded that the reopening of the case had not infringed the principle of legal certainty as guaranteed by Article 6 § 1 nor had it interfered with the applicant's property rights as guaranteed by Article 1 of Protocol No. 1.

2. The applicant

29. The applicant disagreed with the Government's arguments. She pointed out that there had been no lawful grounds for the quashing of the judgment of 31 August 1999, upheld on 7 October 1999. The Pensions Act underlying the judgment had not changed and the Ministry of Labour and the Supreme Court could not have substituted the law by their decisions. Furthermore, the Agency had missed the time-limit for reopening a case: it had applied to the court more than eleven months after the Instruction had been issued, instead of three months as required by the civil procedure.

B. The Court's assessment

1. *Applicability of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1*

30. The Court notes that the dispute as to the increase of the applicant's old-age pension entitlement was one of a pecuniary nature and undeniably concerned a civil right within the meaning of Article 6 § 1 of the Convention (see *Schuler-Zgraggen v. Switzerland*, judgment of 24 June 1993, Series A no. 263, p. 17, § 46; *Massa v. Italy*, judgment of 24 August 1993, Series A no. 265-B, p. 20, § 26; *Süßmann v. Germany*, judgment of 16 September 1996, *Reports of Judgments and Decisions* 1996-IV, p. 1170, § 42; and, as a recent authority, *Tričković v. Slovenia*, no. 39914/98, § 40, 12 June 2001).

31. It reiterates that Article 1 of Protocol No. 1 does not guarantee, as such, the right to an old-age pension or to any social benefit in a particular amount (see, for example, *Aunola v. Finland* (dec.), no. 30517/96, 15 March 2001). However a "claim" – even concerning a pension – can constitute a "possession" within the meaning of Article 1 of Protocol No. 1 if it is sufficiently established to be enforceable (see *Stran Greek Refineries v. Greece*, judgment of 9 December 1994, Series A no. 301, § 59). T judgment of the Kirovskiy District Court of 31 August 1999, which became final after it had been upheld on appeal by the Novosibirsk Regional Court on 7 October 1999, provided the applicant with an enforceable claim to receive an increased pension based on a coefficient of 0.7.

32. The Court notes that the objections and arguments put forward by the Government were rejected in the earlier similar case of *Bulgakova v. Russia* (no. 69524/01, §§ 27-32, 18 January 2007) and sees no reason to reach a different conclusion in the present case.

33. Accordingly, the Court considers that in the present case the applicant's dispute concerned a civil right within the meaning of Article 6, and that the applicant had a "possession" within the meaning of Article 1 of Protocol No. 1.

2. *Alleged violation of Article 6 § 1*

34. The Court reiterates that 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, in its relevant part, declares 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 v. Romania*, judgment of 28 October 1999, *Reports* 1999-VII, § 61). This principle underlines that no party is entitled to seek a

review of a final and binding judgment merely for the purpose of obtaining a rehearing and a fresh determination of the case. Review by higher courts should not be treated as an appeal in disguise, and the mere possibility of there being two views on the subject is not a ground for re-examination. A departure from that principle is justified only when made necessary by circumstances of a substantial and compelling character (see *Ryabykh v. Russia*, no. 52854/99, § 52, ECHR 2003-IX).

35. The Court examined the quashing of a final judgment on the ground of newly discovered circumstances in *Pravednaya* (cited above), a case with a similar set of facts, where it held:

> "27. 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.
>
> 28. This procedure does not by itself contradict the principle of legal certainty in so far as it is used to correct miscarriages of justice. ..."

36. In the case of *Pravednaya* the Instruction of the Ministry of Labour had been issued between the first-instance and appeal judgments. The relevant pension agency had not relied on the Instruction in the appeal proceedings but had only done so later, in their request for the judgment, then final, to be set aside owing to "newly discovered circumstances". The Court considered that the agency's request had been an "appeal in disguise" and found that by granting it the court had infringed the principle of legal certainty and the applicant's "right to a court" under Article 6 § 1 of the Convention (see *Pravednaya*, cited above, §§ 29-34).

37. The present case differs from *Pravednaya* in that the Instruction of the Ministry of Labour was issued after the first-instance judgment had been upheld on appeal. The Court's task is to determine whether, on the facts of the present case, the quashing of the judgment was exercised in a manner compatible with Article 6. To do so it will examine the reasons adduced by the Kirovskiy District Court for the quashing of the judgment (see paragraph 14 above).

38. The Kirovskiy District Court held that the interpretation of the Pensions Act by the Ministry of Labour, which had been upheld by the Supreme Court, was a "newly discovered circumstance". Therefore, the District Court decided that the Agency's request should be granted and the judgment be quashed.

39. The Court first notes that the Instruction and the Supreme Court's decision upholding it did not exist during the examination of the applicant's case. They were adopted after the judgment had been upheld on appeal. In the Court's view, the above-mentioned Instruction and decision were new legal acts and did not constitute newly discovered circumstances as

considered by the District Court (see Article 333 of CCivP, paragraph 18 above).

40. Further, the judgment of 31 August 1999 was a result of the District Court's interpretation and application of the Pensions Act to the applicant's case. As it transpires from the decision of 7 February 2001, the fact that the Ministry's interpretation of that Act in an Instruction, a subordinate legal instrument, differed from the court's findings, with the effect that it would have led to a different outcome of the proceedings, was considered by the District Court a sufficient reason to quash the judgment and reconsider the case. The Court finds that this reason as such could not justify the reopening of the case after a final and binding judgment.

41. The Court notes the Government's argument that the reopening was necessary to make good a miscarriage of justice. However, other than referring to the Ministry's interpretation of the law, upheld by the Supreme Court, as a reason for the reopening, the District Court said nothing in its decision to explain why its original findings were to be considered a "miscarriage of justice" such as to justify the reopening.

42. The Court finds that by granting the Agency's request to reconsider the applicant's case and setting aside the final judgment of 31 August 1999, as upheld on 7 October 1999, the domestic authorities infringed the principle of legal certainty and the applicant's "right to a court" under Article 6 § 1 of the Convention.

43. There has accordingly been a violation of that Article.

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

44. The Court notes that the "possession" in this case was the applicant's claim to a pension based on a coefficient of 0.7 from 1 February 1998, in accordance with the judgment of the Kirovskiy District Court of 31 August 1999, upheld on 7 October 1999.

45. The District Court held that this method of calculation should have been maintained until a change in the legislation. Indeed, when delivering its judgment it applied the statutory pension regulations which were in force at the time. Those regulations, however, "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). Thus the Court observes that, as a result of such changes, the coefficient for the calculation of the applicant's pension changed to 0.84 from 1 May 2001.

46. The Court notes that the applicant's concern under Article 1 of Protocol No. 1 was the loss of her entitlement to a pension based on a coefficient of 0.7 for the period between 1 February 1998 and 1 May 2001, as opposed to the pension calculated and actually paid. However, the Court further notes that before that period ended on 1 May 2001, the Instruction had removed the ambiguity of the Pensions Act with the effect that the applicant's dispute over the coefficient had been resolved, at the level of the

statutory regulations, in favour of the Agency. The Court considers that it was until the moment when the Instruction became binding in February 2000, and apparently changed the legislative framework relevant to the applicant's dispute, that the applicant's claim – and "possession" under Article 1 of Protocol No. 1 – had been secured by the judgment.

47. The effect produced by the decision of the Kirovskiy District Court of 16 January 2001, by which the application for reconsideration was granted, was that the applicant became deprived, retrospectively in respect of the above-mentioned period from February 1998 to February 2000, of the right to receive the pension in the amount initially determined by the court or, in other words, deprived of her possession within the meaning of the second sentence of the first paragraph of Article 1 of Protocol No. 1. The taking of property, in the light of this rule, can only be justified if it is shown, *inter alia*, to be "in the public interest" and "subject to the conditions provided for by law" (see *Pravednaya*, cited above, §§ 39-40).

48. While assuming that it was in the public interest to ensure a uniform application of the Pensions Act, the compliance of the reconsideration of the applicant's case with the "lawfulness" requirement is questionable (see paragraph 39 above). Even assuming that the court's interpretation of the domestic procedural law was not arbitrary (see the Government's argument concerning the Constitutional Court's decisions and the relevant domestic law in paragraphs 25 and 19 above), it still remains to be established whether the interference was proportionate to the legitimate aim pursued.

49. In this connection the Court reiterates its finding in *Pravednaya* 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" (*Pravednaya,* cited above, § 41). Having regard to the fact that the reconsideration of the case resulted in the full dismissal of the applicant's claim that had been granted in the initial judgment, the Court finds no reason to depart from that conclusion in the present case.

50. Based on the above considerations, the Court finds that by depriving the applicant of the right to benefit from the pension in the amount secured in a final judgment, the State upset the fair balance between the interests at stake.

51. There has, accordingly, been a violation of Article 1 of Protocol No. 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

52. Article 41 of the Convention provides:

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

A. Damage

53. In her letter of 11 January 2006, in reply to the Court's proposal to submit claims for just satisfaction, the applicant submitted that she wished "to reaffirm" her claims for just satisfaction according to Article 41 of the Convention since the violation of her rights in the court proceedings had adversely affected the state of her health and had caused her psychological suffering. In her application form the applicant claimed 21,000 roubles (RUR) in respect of pecuniary damage and RUR 30,000 in respect of non-pecuniary damage.

54. The Government asserted that it had followed from the applicant's letter of 11 January 2006 that she had failed to submit any claims in respect of pecuniary and non-pecuniary damage. The Government also submitted that no just satisfaction should be awarded to the applicant because there had been no violation of her rights under the Convention. Alternatively, the finding of a violation in itself would constitute sufficient just satisfaction.

55. The Court cannot agree with the Government that the applicant had failed to submit her claims for just satisfaction and, having regard to her submissions, will consider her claims as stated above.

1. Pecuniary damage

56. The applicant claimed RUR 21,000 in respect of pecuniary damage. This amount represented the underpayment of her pension between 1 February 1998 and 1 May 2001 and the relevant inflation-related losses. The difference in pension was based on an "individual pensioner coefficient" of 0.7 and a coefficient linked to the region of the applicant's residence.

57. The Court considers it appropriate to award the applicant, in respect of the violation of Article 1 of Protocol No. 1, the sum she would have received had the reduction of the pension as a result of the reconsideration of the case not been backdated (see, *mutatis mutandis*, *Vasilyev v. Russia*, no. 66543/01, § 47, 13 October 2005). The Court notes that the sum to be awarded by the Court should not take account of the coefficient linked to the region of the applicant's residence, as that claim was not secured by the judgment of 31 August 1999, upheld on 7 October 1999, having been

rejected by the first-instance court (see the facts in the *Levochkina v. Russia* admissibility decision of 17 November 2005). Nor should it cover the whole period between 1 February 1998 and 1 May 2001. The period relevant to the violation of Article 1 of Protocol No. 1 is indicated in paragraph 46 above. Those adjustments being made, the Court awards the applicant 464 euros (EUR) in respect of pecuniary damage.

2. *Non-pecuniary damage*

58. The applicant claimed RUR 30,000 in respect of non-pecuniary damage.

59. The Court considers that the applicant has sustained non-pecuniary damage as a result of the violations found and that this cannot be made good merely by the Court's finding of a violation. It awards the applicant EUR 871 corresponding to the amount claimed.

B. Costs and expenses

60. The applicant claimed RUR 250.20 for postal expenses incurred in connection with her application to the Court. She also submitted three receipts on which the sums paid are not readable.

61. The Government agreed with the claim of RUR 250.20.

62. 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. Having regard to the information in its possession, the Court awards the applicant EUR 7 in respect of costs and expenses.

C. Default interest

63. 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 in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:

(i) EUR 464 (four hundred and sixty-four euros) in respect of pecuniary damage;

(ii) EUR 871 (eight hundred and seventy-one euros) in respect of non-pecuniary damage;

(iii) EUR 7 (seven 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 5 July 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President