



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

FOURTH SECTION

**CASE OF ŠOBOTA-GAJIĆ v. BOSNIA AND HERZEGOVINA**

*(Application no. 27966/06)*

JUDGMENT

STRASBOURG

6 November 2007

**FINAL**

***06/02/2008***

*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 Šobota-Gajić v. Bosnia and Herzegovina,**

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

Mr J. CASADEVALL, *President*,

Mr G. BONELLO,

Mr S. PAVLOVSCHI,

Mr L. GARLICKI,

Mrs L. MIJOVIĆ,

Mr J. ŠIKUTA,

Mrs P. HIRVELÄ, *judges*,

and Mrs F. ARACI, *Deputy Section Registrar*,

Having deliberated in private on 9 October 2007,

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

**PROCEDURE**

1. The case originated in an application (no. 27966/06) against Bosnia and Herzegovina lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a citizen of Bosnia and Herzegovina, Ms Verica Šobota-Gajić (“the applicant”), on 27 May 2006.

2. The applicant was represented by Ms S. Nikšić, a lawyer practising in Gradiška. The Government of Bosnia and Herzegovina (“the Government”) were represented by Ms M. Mijić, Agent, and by Ms Z. Ibrahimović, Deputy Agent.

3. The applicant alleged that the national authorities failed to discharge their positive obligations to secure her rights under Article 8 of the Convention.

4. On 7 December 2006 the President of the Fourth Section of the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it was decided to examine the merits of the application at the same time as its admissibility. It was also decided to give priority to the application in accordance with Rule 41 of the Rules of Court.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1964 and lives in the vicinity of Gradiška.

6. On 8 May 1992 she married Z.G. The couple had two children, a daughter born in 1992 (“A”) and a son born in 1994 (“B”).

7. Following an alleged episode of domestic violence, in the beginning of 2001 the applicant left her husband. She succeeded in taking A whereas Z.G. kept B.

8. On 15 May 2001 the applicant requested the Social Work Centre in Gradiška (“Social Work Centre”) to award her custody of the children, pending the resolution of attempts at reconciliation. The Social Work Centre did not decide upon this request until 28 February 2003 (see paragraph 11 below).

9. On 30 May 2002 the applicant initiated proceedings before the Gradiška Court of First Instance seeking a divorce from Z.G. and custody of the children. On 23 December 2002 she sought interim measures in respect of custody, but she did not receive any response in this connection.

10. In a judgment of 19 February 2003, the Gradiška Court of First Instance granted the applicant a divorce and awarded her custody of A and B. Z.G. appealed.

11. On 28 February 2003 the Social Work Centre granted the applicant provisional custody of A and B pending the entry into force of the judgment of 19 February 2003. It relied on section 91(1) of the Family Act 1979 which was no longer in force (see paragraph 40 below). The decision was immediately enforceable.

12. On 12 March 2003 the applicant initiated proceedings for the enforcement of the decision of 28 February 2003. On 18 March 2003 the Social Work Centre forwarded the decision to the Department for General Administration (*Odjeljenje za opštu upravu*; another municipal body) for enforcement. Following a lengthy exchange of letters with the Social Work Centre and an initial refusal to enforce the decision, on 30 July 2003 the Department for General Administration accepted to enforce it.

13. On 28 April 2003 the applicant complained to the Human Rights Chamber, a domestic human-rights body (case no. CH/03/14055).

14. On 18 August and 26 September 2003 the Department for General Administration carried out two unsuccessful attempts to enforce the decision of 28 February 2003.

15. On 6 November 2003 the Human Rights Chamber found a violation of Article 8 of the European Convention on Human Rights. The decision reads, in the relevant part, as follows:

“64. The Chamber finds in these circumstances that the proceedings failed to meet the standard of speed and efficiency required under Article 8 of the Convention in order to secure the applicant's right to respect for her family life. The Chamber emphasises that it is essential in this field, if the family life of parents and children is to be respected, that the remedies available and the system for enforcing them should be clearly established by law, that the authorities involved should be properly aware of the law and that they should avoid undue delay and in particular deal promptly with appeals and other requests which come before them and respect applicable time limits. It is particularly unacceptable that family life should be jeopardised by interdepartmental disputes over administrative responsibilities, as has occurred here.

...

69. ... Since the applicant's rights have been violated by *inter alia* the fact that the decision of the Social Work Centre granting her provisional custody of the children has not been enforced yet, the Chamber considers it appropriate to order the respondent Party to take all necessary steps to execute the decision of the Social Work Centre, as soon as possible but in no case later than 5 January 2004.”

The decision, in the operative provisions, ordered the Republika Srpska “to take all necessary steps through its authorities, to promptly execute the decision of the Social Work Centre, in any event no later than 5 January 2004” and “to pay to the applicant, by 5 January 2004, 2,500 Bosnian markas [the equivalent of 1,280 euros] by way of compensation for non-pecuniary damages”. The decision was read out at a public hearing on 5 December 2003. Having been taken by the full Chamber, it entered into force immediately.

16. On 18 December 2003 the Department for General Administration handed over B to the applicant. On the next day Z.G. abducted B.

17. On 22 December 2003 the applicant sought from the Department for General Administration that the decision of 28 February 2003 be enforced anew. On the same day she submitted a criminal complaint against Z.G.

18. On 16 January 2004 the Department for General Administration concluded that the decision of 28 February 2003 had been enforced and terminated the enforcement proceedings. On 17 March 2004 the competent Ministry upheld the first-instance decision of 16 January 2004. It would appear that the Supreme Court of the Republika Srpska has not yet examined an application for judicial review submitted by the applicant.

19. On 12 March 2004 the Republika Srpska paid the damages awarded by the Human Rights Chamber.

20. On 23 April 2004 the competent public prosecutor, having been satisfied that there was sufficient evidence that Z.G. had committed child abduction, filed with the Gradiška Court of First Instance an indictment for confirmation. On 20 May 2004 the Gradiška Court of First Instance

confirmed the indictment. Following an initial appearance of Z.G, no further steps were taken prior to the death of Z.G. on 14 January 2006.

21. On 7 September 2004 the judgment of 19 February 2003 entered into force having been upheld by the Banja Luka District Court. The provisional decision of 28 February 2003 thereby ceased to have effect.

22. On 14 January 2006 Z.G. died. B remained with D.B., his paternal grandmother.

23. On 16 January 2006 the applicant addressed again the Social Work Centre seeking the return of B.

24. On 1 February 2006 B objected to being returned and the Social Work Centre decided not to use coercion.

25. On 27 February 2006 the Social Work Centre decided not to award custody of B to D.B. On 3 April 2006 the competent Ministry upheld the first-instance decision of 27 February 2006.

26. On 2 March 2006 the Social Work Centre unsuccessfully attempted to persuade D.B. to facilitate the return of B. According to the minutes of the meeting, D.B. expressed, in the presence of B, her disgust for the applicant and for the fact that she lived in the countryside. D.B. was described as manipulative, possessive, authoritarian and aggressive.

27. On 20 March 2006 a social worker submitted her expert opinion to the Social Work Centre. It stated that Z.G. had hindered B from seeing the applicant to the end of his life by, for example, threatening school teachers who tolerated his occasional meetings with the applicant at the school premises. The separation, coupled with Z.G.'s regular attempts to instil into B negative feelings towards the applicant, led to B becoming estranged from the applicant. The report concluded that the return of B would nevertheless be in B's best interests.

28. On 31 March 2006 the Gradiška Minor Offences Court convicted D.B. of subjecting B to psychological violence and ordered the Social Work Centre to secure the prompt return of B with police assistance if necessary. The decision was immediately enforceable.

29. On 4 April 2006 the Social Work Centre obtained another expert opinion recommending the prompt return of B.

30. On 11 April 2006 the Banja Luka District Court upheld the decision of 31 March 2006.

31. On 25 April 2006 B again objected to being returned.

32. On 11 May 2006 the local police refused to provide assistance to the Social Work Centre.

33. On 12 May 2006 B once again objected to being returned.

34. On 14 June 2006 the Social Work Centre closed the case and instructed the applicant to initiate proceedings for the enforcement of the judgment of 19 February 2003 before the competent court. The applicant appealed insisting that the Social Work Centre secure the return of her son. On 10 July 2006 the competent Ministry upheld the first-instance decision

of 14 June 2006. On 22 February 2007 the Banja Luka District Court, upon an application for judicial review, upheld the second-instance decision of 10 July 2006.

35. On 7 August 2006 the Social Work Centre informed the Gradiška Minor Offences Court that it was unable to enforce the decision of 31 March 2006 because of the lack of necessary secondary legislation.

36. On 22 August 2006 the applicant applied to the Gradiška Court of First Instance for the decision of 31 March 2006 to be enforced. The Gradiška Court of First Instance initially issued an execution writ (on 8 September 2006), but it subsequently decided (on 10 January 2007) that the applicant should have sought from the Social Work Centre that the impugned decision be enforced. The Gradiška Court of First Instance accordingly quashed the execution writ of 8 September 2006.

37. On 29 September 2006 B again objected to being returned, but continued to occasionally meet with the applicant at the school premises (on 26 October, 6 November and 19 December 2006).

38. On 22 January 2007 the Social Work Centre returned B to the applicant.

## II. RELEVANT DOMESTIC LAW

39. Two Acts regulate enforcement of judicial and administrative orders. While judicial orders and administrative orders for the payment of money are enforced by the courts pursuant to the Enforcement Proceedings Act 2003 (*Zakon o izvršnom postupku*; published in the Official Gazette of the Republika Srpska ("OG RS") no. 59/03 of 18 July 2003; amendments published in OG RS nos. 85/03 of 23 October 2003 and 64/05 of 28 February 2005), all other administrative orders are enforced by the administrative bodies pursuant to the Administrative Proceedings Act 2002 (*Zakon o opštem upravnom postupku*; published in OG RS no. 13/02 of 18 March 2002).

In connection with judicial orders for the return of a child, section 228 of the Enforcement Proceedings Act 2003 provides for repeated enforcement of one and the same order, if less than 60 days elapsed before the child has been abducted again. On the contrary, no such provision exists in connection with administrative orders for the return of a child (such as the orders of the social work centres).

40. In accordance with the old Family Act 1979 (*Porodični zakon*; published in the Official Gazette of the Socialist Republic of Bosnia and Herzegovina ("OG SRBH") no. 21/79; amendments published in OG SRBH no. 44/89), in the course of matrimonial proceedings, the social work centres were authorised to make interim orders in respect of the custody of children (section 91(1) of this Act), whilst the divorce courts were authorised to make interim orders in respect of the maintenance payments

(section 77(1) of this Act). Since 4 September 2002, when the new Family Act 2002 entered into force (*Porodični zakon*; published in OG RS no. 54/02 of 27 August 2002), the divorce courts have been authorised to make interim orders in respect of both custody and maintenance in the course of matrimonial proceedings. The following are the relevant provisions of the new Family Act 2002:

**Section 74(1)**

“In the course of matrimonial proceedings the court may indicate interim measures in respect of custody and maintenance of minor children ...”

**Section 291**

“The provisions of this Act concerning marriage, parental responsibility, adoption, guardianship and maintenance shall be applied in the proceedings pending before the court or the social work centre on the date of the entry into force of this Act, unless a first-instance decision was taken prior to that date.”

41. Pursuant to section 3 of the Domestic Violence Act 2005 (*Zakon o zaštiti od nasilja u porodici*; published in OG RS no. 118/05 of 21 December 2005), the social work centres, together with the police, the public prosecutors and the courts, are under a duty to protect the victims of domestic violence. Pursuant to section 19 of this Act, the social work centres keep record of all personal protection orders, monitor and report on enforcement thereof and propose termination, continuation or conversion thereof.

42. Child abduction is punishable by a fine or imprisonment for a term not exceeding two years (Article 205 § 1 of the Criminal Code 2003; *Krivični zakon Republike Srpske*; published in OG RS no. 49/03 of 25 June 2003; amendments published in OG RS nos. 108/04 of 14 December 2004, 37/06 of 5 April 2006 and 70/06 of 4 July 2006). If the suspended sentence is imposed, the criminal court may order that the perpetrator return the child at issue (Article 205 § 4 of this Code).

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

43. The applicant complained under Article 8 of the Convention that the national authorities had failed to take all reasonable measures to facilitate her reunion with her son, regardless of several domestic decisions in her favour. Article 8 reads as follows:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

### A. Admissibility

44. The Government invited the Court to examine separately the following periods: (a) the period until the first hand-over of B which took place on 18 December 2003; and (b) the period from B's abduction on 19 December 2003 until his definitive return to the applicant on 22 January 2007. In so far as the applicant complained about the former period, her application was out of time. In so far as she complained about the latter period, her application was inadmissible on non-exhaustion grounds, by reason of her failure to complain to the Constitutional Court of Bosnia and Herzegovina.

Alternatively, the Government maintained, and the applicant disagreed, that, following the return of B on 22 January 2007, the applicant could no longer claim to be the victim of the alleged violation of the Convention within the meaning of Article 34 of the Convention (even assuming that she could have previously claimed so). In this connection, they referred to the Human Rights Chamber's decision in the present case acknowledging a breach of Article 8 of the Convention and awarding damages.

45. To begin with, the Court does not consider it appropriate to divide the situation complained of in the manner suggested by the Government. It is crucial in this connection that the applicant did not complain under Article 6 of the Convention about non-enforcement of individual domestic decisions. On the contrary, she complained under Article 8 of the Convention about the overall conduct of the national authorities from her initial communication (on 15 May 2001) until the definitive return of B (on 22 January 2007).

Given that the applicant filed her application with the Court while the impugned situation was ongoing, the objection of the Government concerning the six-month time-limit must be rejected.

46. Secondly, the Court notes that the Constitutional Court of Bosnia and Herzegovina cannot examine a complaint that has already been examined by the former Human Rights Chamber (see *Jeličić v. Bosnia and Herzegovina* (dec.), no. 41183/02, ECHR 2005-...).

Having obtained a decision of the Human Rights Chamber concerning the impugned situation, the applicant was unable to complain about that situation also to the Constitutional Court of Bosnia and Herzegovina.

Accordingly, the objection of the Government that the applicant failed to exhaust all domestic remedies must also be rejected.

47. Thirdly, in its judgment of 25 June 1996 in the case of *Amuur v. France* the Court reiterated that “a decision or measure favourable to the applicant is not in principle sufficient to deprive him of his status as a 'victim' unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention” (*Reports of Judgments and Decisions* 1996-III, p. 846, § 36). It is further recalled that redress afforded by the national authorities must be appropriate and sufficient (see *Višnjevac v. Bosnia and Herzegovina* (dec.), no. 2333/04, 24 October 2006).

While the impugned situation ended on 22 January 2007 and the domestic Human Rights Chamber acknowledged a breach of Article 8 of the Convention in respect of that situation, the Court finds that the sum awarded (1,280 euros) no longer constitutes sufficient redress given, notably, the continuation of the impugned situation for more than three years after the award.

The objection of the Government concerning the applicant's victim status must thus also be dismissed.

48. Lastly, the Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and that it is not inadmissible on any other grounds. It must therefore be declared admissible.

## **B. Merits**

49. The parties disagreed as to whether the national authorities had discharged their positive obligations to secure the applicant's rights under Article 8 of the Convention. While the applicant maintained that the national authorities had demonstrated incompetence and an alarming lack of conscientiousness, the Government pleaded that the national authorities had done all they could given the obstinate attitude of B's father and paternal grandmother and B's objections to being returned.

50. The Court finds it undisputed that the relationship between the applicant and her son amounted to “family life” within the meaning of Article 8 of the Convention.

51. That being so, it must be determined whether there has been a failure to respect the applicant's family life. The Court reiterates that the essential object of Article 8 is to protect the individual against arbitrary action by the public authorities. There are in addition positive obligations inherent in an effective “respect” for family life (see *Keegan v. Ireland*, judgment of 26 May 1994, Series A no. 290, p. 19, § 49). In this context, the Court has repeatedly held that Article 8 includes a right for parents to have measures taken that will permit them to be reunited with their children and an

obligation on the national authorities to take such action (see *Eriksson v. Sweden*, judgment of 22 June 1989, Series A no. 156, pp. 26-27, § 71, *Margareta and Roger Andersson v. Sweden*, judgment of 25 February 1992, Series A no. 226-A, p. 30, § 91, *Olsson v. Sweden (no. 2)*, judgment of 27 November 1992, Series A no. 250, pp. 35-36, § 90, *Hokkanen v. Finland*, judgment of 23 September 1994, Series A no. 299-A, p. 20, § 55, *Ignaccolo-Zenide v. Romania*, judgment of 25 January 2000, *Reports 2000-I*, p. 265, § 94, *Nuutinen v. Finland*, judgment of 27 June 2000, *Reports 2000-VIII*, p. 83, § 127, and *Sylvester v. Austria*, nos. 36812/97 and 40104/98, § 58, 24 April 2003).

52. However, the national authorities' obligation to take measures to facilitate reunion is not absolute, since the reunion of a parent with children who have lived for some time with the other parent may not be able to take place immediately and may require preparatory measures to be taken. The nature and extent of such preparation will depend on the circumstances of each case, but the understanding and co-operation of all concerned are always an important ingredient. Whilst national authorities must do their utmost to facilitate such co-operation, any obligation to apply coercion in this area must be limited since the interests as well as the rights and freedoms of all concerned must be taken into account, notably the children's interests and their rights under Article 8 of the Convention. Where contacts with the parent might appear to threaten those interests or interfere with those rights, it is for the national authorities to strike a fair balance between them (see *Hokkanen*, cited above, p. 22, § 58, and *Ignaccolo-Zenide*, cited above, p. 265, § 94).

53. The Court, therefore, has to ascertain whether the national authorities took all such necessary steps to facilitate reunion as could reasonably be demanded in the special circumstances of the case (see *Hokkanen*, cited above, p. 22, § 58, *Ignaccolo-Zenide*, cited above, p. 266, § 96, and *Nuutinen v. Finland*, cited above, pp. 83-84, § 128) and whether the national authorities struck a fair balance between the interests of all persons concerned and the general interest in ensuring respect for the rule of law (see *Nuutinen*, cited above, § 129).

54. In this connection, the Court also reiterates that, in a case like the present one, the adequacy of a measure is to be judged by the swiftness of its implementation as the passage of time can have irremediable consequences for relations between the children and the parent who does not live with them (see, *Ignaccolo-Zenide*, cited above, p. 267, § 102).

55. Turning to the instant case, the Court notes that the applicant made her first submission to the national authorities with a view to reuniting with her son on 15 May 2001. The actual reunion took place on 22 January 2007. The impugned situation thus lasted more than four and a half years after the ratification of the Convention by Bosnia and Herzegovina on 12 July 2002 (the period which falls within the Court's jurisdiction *ratione temporis*).

56. At the date of the ratification of the Convention, the proceedings before the competent Social Work Centre for the determination of the applicant's custody rights must have been at an advanced stage, as they had already been pending for almost one year and two months. The actual decision was taken another seven months after ratification – on 28 February 2003. The Social Work Centre considered the reunion with the applicant to be in B's best interests and, accordingly, awarded custody of B to the applicant. On 12 March 2003 the applicant initiated proceedings for the enforcement of the decision as it was immediately enforceable. Nevertheless, owing to interdepartmental disputes over administrative responsibilities, the enforcement stage lasted more than nine months (until 18 December 2003). Responsibility for the above delays cannot be attributed to the applicant.

57. Z.G. abducted B the day after his hand-over – on 19 December 2003. Domestic law apparently does not provide for an administrative order for the return of a child to be enforced more than once (it is envisaged only in respect of judicial orders). In any case, the administrative order of 28 February 2003 ceased to have effect on 7 September 2004, on the termination of the matrimonial proceedings.

58. On 22 December 2003 the applicant submitted a criminal complaint against Z.G. The Government did not explain why the criminal proceedings had remained at a preliminary stage until the death of Z.G. (that is, more than two years after the abduction).

59. On 7 September 2004, while the criminal proceedings against Z.G. were still pending, the judgment of 19 February 2003 entered into force. It ordered, among other things, the return of B to the applicant. While it is true that the applicant could have initiated proceedings for the enforcement of that order, the Court considers that she was not required to do so since she had already submitted a criminal complaint which could have led to an order for the return of B pursuant to Article 205 § 4 of the Criminal Code 2003 (see paragraph 42 above).

60. The situation significantly changed on 14 January 2006 when Z.G. died: the criminal proceedings terminated and both parties pleaded that it was no longer possible to initiate civil proceedings for the enforcement of the judgment of 19 February 2003. However, even assuming that the applicant could have initiated such civil proceedings before the competent court, her failure to do so did not result in any additional delays. Indeed, the competent Social Work Centre continued attempting to secure the return of B, hampered at that stage by Z.G.'s mother.

61. On 31 March 2006 the Gradiška Minor Offences Court ordered the Social Work Centre to promptly secure the return of B with police assistance if necessary. The order of 31 March 2006, although immediately enforceable, was not enforced until 22 January 2007. It triggered some confusion as to the responsibility for enforcement: the Social Work Centre

initially refused to enforce the order (citing the lack of necessary secondary legislation) and the Gradiška Court of First Instance issued an execution writ on 8 September 2006, only to later decide that the Social Work Centre was responsible after all. The local police also refused to provide assistance, regardless of the clear instructions of the Gradiška Minor Offences Court. There is again no indication that the applicant contributed to any of these delays.

62. It is true that the reunion of a parent with a child who has lived for some time with the other parent may not be able to take place immediately and without the necessary preparation, particularly in the circumstances of B's case. However, there is no evidence that any such preparatory work explained the above-noted delays by the authorities.

There has accordingly been a violation of Article 8 of the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

63. 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

64. The applicant claimed 100,000 euros (EUR) in respect of non-pecuniary damage.

65. The Government considered the claimed amount to be excessive.

66. The Court sees no reason to doubt that the applicant suffered distress as a result of the violation found which justifies an award of non-pecuniary damage. Having regard to the amounts awarded in comparable cases (see, for example, *Karadžić v. Croatia*, no. 35030/04, § 71, 15 December 2005 and *Tomić v. Serbia*, no. 25959/06, § 121, 26 June 2007) and to the amount of compensation already awarded to the applicant (see paragraph 15 above) and making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant EUR 8,800 plus any tax that may be chargeable under this head.

### B. Costs and expenses

67. The applicant also claimed almost EUR 9,000 for the costs and expenses incurred in the domestic proceedings and EUR 3,000 for those incurred in the proceedings before the Court. She submitted a relatively detailed bill of costs.

68. The Government considered the claimed amounts to be excessive.

69. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were also reasonable as to their quantum (see, for example, *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI).

70. In the present case, the Court agrees with the Government that the amounts claimed by the applicant are excessive. Regarding being had to all the information in its possession and the above criteria, the Court considers it reasonable to award the applicant EUR 3,000 for the costs and expenses incurred domestically. As to the legal costs incurred before it, the Court notes that the applicant's representative submitted an initial application in one of the official languages of Bosnia and Herzegovina and, at the request of the Court, written pleadings in English. Having regard to the tariff fixed by the local bar associations which the Court considers reasonable in the circumstances of this case, she is entitled to approximately EUR 1,600. In addition, the Court awards the sum of EUR 100 for the secretarial and other expenses (including translating six pages from one of the official languages of Bosnia and Herzegovina into English).

71. The applicant should therefore receive EUR 4,700 in all plus any tax that may be chargeable under this head.

### **C. Default interest**

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

## **FOR THESE REASONS, THE COURT UNANIMOUSLY**

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 8 of the Convention;
3. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 8,800 (eight thousand eight hundred euros) in respect of non-pecuniary damage and EUR 4,700 (four thousand seven hundred euros) in respect of costs and expenses, plus any tax that may be chargeable;

(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 6 November 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş ARACI  
Deputy Registrar

Josep CASADEVALL  
President