



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

FIFTH SECTION

CASE OF SAAREKALLAS OÜ v. ESTONIA

(Application no. 11548/04)

JUDGMENT

STRASBOURG

8 November 2007

FINAL

08/02/2008

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 Saarekallas OÜ v. Estonia,

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 R. MARUSTE,

Mr J. BORREGO BORREGO,

Mrs R. JAEGER,

Mr M. VILLIGER, *judges*,

and Mrs C. WESTERDIEK, *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. 11548/04) against the Republic of Estonia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Saarekallas OÜ, a private limited company registered in Estonia (“the applicant company”), on 4 March 2004. Among the original applicants there were also seven natural persons and two unregistered non-profit organisations.

2. The applicant company was represented by Mr M. Fredman, a lawyer practising in Helsinki. The Estonian Government (“the Government”) were represented by their Agent, Ms M. Hion, Director of the Human Rights Division of the Legal Department of the Ministry of Foreign Affairs.

3. On 15 May 2006 the Court declared the application partly inadmissible and decided to communicate the applicant company's complaints concerning the length of the proceedings and the lack of remedies in that respect 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

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant company is a private limited company (*osaiühing*), registered in Estonia.

A. Request by K. for interlocutory measures

5. On 19 October 1998, T., the lawyer of K., lodged a request with the Saare County Court (*maakohus*) for securing a claim by K. against A. and P. According to K., she had been in the possession of six shares (corresponding to 50 per cent of the share capital) of Kallas AS, a public limited company, which had been unlawfully transformed into the applicant company, Saarekallas OÜ. The defendants had been entered in the commercial register as members of the management board of the company. K. submitted that P. intended to sell the company's buildings at 26 and 26a Pikk Street in Kuressaare. She requested the court to enter a notation in the Buildings Register prohibiting the disposal of the buildings concerned.

6. On the same date the County Court granted the request.

7. On 26 October 1998 the applicant company appealed against the interlocutory measure.

8. On 23 November 1998 the County Court annulled the interlocutory measure, as the plaintiff had not lodged the claim with the County Court within a one-month period. This decision became final on 4 December 1998.

9. On 14 December 1998 the Tallinn Court of Appeal (*ringkonnakohus*) took a decision concerning the appeal against the interlocutory measure. It noted that, although the appeal was well-founded, there was no need to quash the challenged decision as it had already been annulled.

B. Main proceedings against the applicant company

10. On 11 December 1998, K.'s lawyer lodged a claim against the applicant company with the County Court. The plaintiff alleged that she had been a shareholder of Kallas AS, which had been transformed into the applicant company. However, she had not been entered on the list of shareholders of the applicant company after the transformation. She alleged that the P. was about to sell the buildings belonging to the applicant company and that this would be in breach of her rights. She requested that the management board of the applicant company be obliged to transfer to her a share in the value of 5,000 Estonian kroons (EEK) and that a notation prohibiting the disposal of the buildings at 26 and 26a Pikk Street be entered in the Buildings Register.

11. On 14 December 1998 the County Court again ordered that a notation prohibiting the disposal of the buildings at 26 and 26a Pikk Street be entered in the Buildings Register in order to secure K.'s claim.

12. The County Court scheduled ten preliminary hearings from 30 March 1999 to 9 May 2000. They were adjourned for various reasons: because of the negotiations between the parties to settle the case, the plaintiff's requests to require documents from the applicant company,

the parties' or their representatives' absence, the plaintiff's applications to amend the object of the action and to bring additional claims.

13. On 9 May 2000 the judge hearing the case made a ruling concerning her withdrawal. The County Court had received copies of several petitions whereby the applicant company's statutory representatives had requested that criminal proceedings be initiated against the judge concerned and the chairperson of the Saare County Court, since they had, allegedly, continuously committed serious crimes against the petitioners, involving denial of human existence, violence and crimes against human rights.

14. On 3 July 2000 another judge of the County Court made a ruling concerning her withdrawal, since the representatives of the applicant company had made several petitions for initiating criminal proceedings also against her. On 5 September 2000 two further judges ruled on their withdrawal.

15. By a letter of 6 September 2000 the chairperson of the Saare County Court requested the chairperson of the Tallinn Court of Appeal to change the jurisdiction over the matter, since all of the judges of the County Court had withdrawn from hearing the case. The chairperson of the Court of Appeal considered the withdrawals unjustified and returned the case to the Saare County Court.

16. A preliminary hearing of the case was scheduled for 21 February 2001. However, on 20 February 2001 the plaintiff's lawyer informed the County Court that K., the plaintiff, had died on 4 February 2001. He requested that the proceedings be suspended. On 21 February 2001 the County Court decided to suspend the proceedings until ascertaining the identity of the plaintiff's successor.

17. On 3 April 2002 the County Court resumed the proceedings and invited R., K.'s heir, to act as the plaintiff.

18. On 30 April 2002 the County Court held a preliminary hearing. R. submitted to the court a request to amend the object of the action. N., member of the management board of the applicant company, asserted that he had not been authorised to represent the company.

19. On 5 June 2002 the court held a preliminary hearing. N., a member of the management board of the applicant company, again asserted that he had not been authorised to represent the company. The court agreed and decided that he could not take part in the proceedings. It heard the plaintiff's lawyer and scheduled a new hearing for 13 August 2002.

20. On 13 August 2002 the court again held a preliminary hearing. There appeared the plaintiff's lawyer; the applicant company's representatives lacked due authorisation to act on its behalf. The court concluded the preliminary hearing and scheduled the trial hearing for 23 September 2002.

21. On 23 September 2002 the County Court held a trial hearing in the presence of R. and his lawyer. N. was also present but had no authority to represent the applicant company.

22. The County Court delivered its judgment on 14 October 2002. R.'s claim was granted in part. The court obliged the management board of the applicant company to enter R. on the list of its shareholders with a share of a nominal value of EEK 5,000.

23. Both the applicant company and R. appealed against the judgment of the County Court. On 21 April 2003 the Tallinn Court of Appeal quashed the County Court's judgment and remitted the case back to it for fresh examination, since Tradeco Enterprises Inc, a shareholder of the applicant company, had not been involved in the proceedings.

24. On 10 September 2003 the Supreme Court (*Riigikohus*) refused the applicant company leave to appeal.

25. On 15 January 2004 the Saare County Court decided to resume the proceedings and to invite Tradeco Enterprises Inc to participate therein as a third party. It requested the plaintiff's lawyer to provide evidence concerning the status of Tradeco Enterprises Inc, including on whether this company had been dissolved and, if so, whether there was a successor.

26. In the spring of 2004 T., the plaintiff's lawyer, and the representatives of the applicant company were unsuccessfully seeking an opportunity to sell the buildings on Pikk Street.

27. The County Court held a preliminary hearing on 14 December 2004 in the presence of the plaintiff's representative and N. who had no authority to represent the applicant company. Tradeco Enterprises Inc, registered in Delaware, had refused the summonses sent by the court. The hearing was adjourned at the request of the plaintiff's lawyer in order to find out whether Tradeco Enterprises Inc was an existing legal entity.

28. On 3 February 2005 the plaintiff's lawyer informed the court that the parties had started negotiations to settle the case. By June 2005 it became evident that no agreement could be reached.

29. On 3 July 2005 and 25 January 2006 the County Court made requests to the authorities of the State of Delaware to receive information on Tradeco Enterprises Inc.

30. On 14 February 2006 the County Court received an agreement concluded between the plaintiff and the defendant company whereby they settled the case. On the same date, the County Court approved the settlement and annulled its interlocutory measure applied on 14 December 1998 to secure the action. The plaintiff and the applicant company declared that they abandon their right to appeal against the County Court's decision whereby the settlement was confirmed.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The Constitution

31. The relevant provisions of the Constitution of the Republic of Estonia (*Eesti Vabariigi põhiseadus*) read as follows:

Article 13

“Everyone has the right to the protection of the state and of the law. ...

The law shall protect everyone from the arbitrary exercise of state authority.”

Article 14

“The guarantee of rights and freedoms is the duty of the legislative, executive and judicial powers, and of local governments.”

Article 15

“Everyone whose rights and freedoms are violated has the right of recourse to the courts. Everyone has the right, while his or her case is before the court, to petition for any relevant law, other legislation or procedure to be declared unconstitutional.

The courts shall observe the Constitution and shall declare unconstitutional any law, other legislation or procedure which violates the rights and freedoms provided by the Constitution or which is otherwise in conflict with the Constitution.”

Article 25

“Everyone has the right to compensation for moral and material damage caused by the unlawful action of any person.”

B. The Code of Civil Procedure

32. The pertinent provisions of the Code of Civil Procedure (*Tsiviilkohtumenetluse seadustik*), applicable until 31 December 2005, read as follows:

Article 3 – Purpose of civil procedure

“The purpose of civil procedure is to hear and adjudicate civil matters justly and expeditiously.”

Article 149 – Return of statement of claim

“(1) A court shall decide on the acceptance of a statement of claim within twenty days after the filing thereof.

...”

Article 169 – Preliminary hearing

“(1) If a court holds a preliminary hearing, it shall be held within two months after the filing of the statement of claim. A court shall summon the participants in a proceeding to a preliminary hearing.

...”

Article 170 – Notification of court session

“...

(3) If possible, a court session shall be held by the court within three months after the filing of a statement of claim.

...”

Article 177 – Adjournment of hearing of matter

“...

(3) A court shall justify the adjournment of the hearing of a matter. The reason shall be recorded in the minutes of the court session. A new court session shall be held within a reasonable period of time. A court shall determine the time and place of a new court session, taking into consideration the opinions of the participants in the proceeding.

(4) If a court adjourns the hearing of a matter for more than three months, it shall make a written ruling.

(5) A participant in the proceeding may file an appeal against such ruling if the participant in the proceeding finds that the hearing of the matter is adjourned for an unreasonably long period of time. A ruling of a court of appeal concerning an appeal against such ruling is not subject to appeal.”

Article 215 – Appeal against ruling on suspension of proceeding

“An appeal may be filed against a ruling on the suspension of a proceeding. A ruling of a court of appeal concerning an appeal against such ruling is not subject to appeal.”

Article 297 - Right of appeal

“...

(3) The parties and other participants in a proceeding may file an appeal against a ruling of the court of first instance if the right to file an appeal against a ruling is prescribed in this Code, or if the court ruling hinders the further conduct of the proceeding.

...”

C. Case-law of the Supreme Court

33. In a decision of 13 June 1997, the Administrative Law Chamber of the Supreme Court (case no. 3-3-1-18-97) held that if no specific deadline had been provided for, the public authorities – the Privatisation Agency in the case at hand – had to perform actions within reasonable time. Otherwise, Article 13 § 2 of the Constitution would be violated. It found that administrative courts were authorised to examine such complaints under Article 3 of the Code of Administrative Court Procedure (*Halduskohtumenetluse seadustik*).

34. In a judgment of 22 December 2000, the plenary Supreme Court (case no. 3-3-1-38-00) noted that a right to effective proceedings for one's protection was guaranteed under Articles 13, 14 and 15 of the Constitution and Article 13 of the Convention. It would be contrary to Article 15 § 1 of the Constitution to exclude some basic rights from effective judicial protection. The Supreme Court concluded that administrative courts were authorised, under Article 3 of the Code of Administrative Court Procedure, to examine whether certain procedural measures in criminal proceedings – in that case search and seizure – infringed the fundamental rights and freedoms of an individual.

35. In a judgment of 17 April 2001, the Administrative Law Chamber of the Supreme Court (case no. 3-3-1-10-01) held that even in cases where a person accused of a criminal offence had been removed from his or her office in accordance with the law but he or she was subsequently acquitted or the criminal proceedings against him or her were discontinued, he or she had to have a possibility of obtaining just compensation from the State. The court noted that although the matter was not regulated by law, this omission could not exclude the State's responsibility before the individual. It held that in such cases compensation could be claimed on the basis of general principles of law even when no specific legal provisions existed.

36. In a judgment of 6 June 2002, the Administrative Law Chamber of the Supreme Court (case no. 3-3-1-27-02) found, relying on Articles 13 § 2 and 25 of the Constitution, that unlawful act or measure – including inaction or delay – in performing public functions served as grounds

for compensation for damage. Article 25 of the Constitution was considered directly applicable. This case concerned a delay by municipal authorities in privatisation proceedings.

THE LAW

I. THE GOVERNMENT'S PRELIMINARY OBJECTION AS TO THE ALLEGED LACK OF AUTHORITY OF THE REPRESENTATIVES OF THE APPLICANT COMPANY TO ACT ON ITS BEHALF

37. The Government argued that P. and K., who had signed the application to the Court on behalf of the applicant company, were not entered in the commercial register as members of the management board of the company and, accordingly, they were not authorised to act on its behalf. P. had been a member of the management board until 28 February 2005. However, according to the statutes of the applicant company, the company could be represented by the chairman of the board alone or by two members of the board together. There was no information that a chairman of the board had been elected.

38. The applicant company provided a copy of the minutes of the shareholder's meeting of 19 December 2004 where P., the chairman of the board until then, had been replaced T. as a new chairman of the board. Accordingly, P. had been in the position to sign the application on behalf of the company at the time when it was lodged with the Court, and T. had been authorised to sign a letter of authority for the lawyer representing the applicant company in the later stage of the proceedings.

39. In these circumstances, the Court finds that the applicant company has been represented by persons duly authorised to act on its behalf and, therefore, the preliminary objection is dismissed.

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

40. The applicant company complained that the length of the proceedings had been incompatible with the “reasonable time” requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

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

41. The Government contested that argument.

42. According to the applicant company, the period to be taken into consideration had begun on 19 October 1998 when the first interlocutory measure had been applied. Although the interlocutory measure had been

subsequently annulled – with effect from 4 December 1998 –, the applicant company had become aware thereof only on 22 December 1998 when it received the decision from its lawyer.

43. The Government disagreed and were of the opinion that the proceedings started on 11 December 1998 when K. lodged the main action against the applicant company. The measure applied on 19 October 1998 had been subsequently annulled and in essence no civil proceedings were initiated.

44. The parties agreed that the proceedings came to an end on 14 February 2006.

45. The Court recalls that Article 6 does not apply to provisional measures adopted prior to the proceedings on the merits, as such measures cannot, as a general rule, be regarded as involving the determination of civil rights and obligations (see, among other authorities, *Dogmoch v. Germany* (dec.), no. 26315/03, ECHR 2006-...; and *Biserica Sfântul Haralambie and Others v. Moldova* (dec.), no. 19967/02, 30 November 2004; and, *a contrario*, *Markass Car Hire Ltd v. Cyprus* (dec.), no. 51591/99, 23 October 2001).

46. In the present case, the interlocutory measure, applied on 19 October 1998, concerned the prohibition of the disposal of the applicant company's buildings, whereas in the main proceedings, instituted on 11 December 1998, K. claimed a share in the applicant company. The Court considers that the provisional measure did not coincide with or forestall any final decision in the main proceedings. It follows that Article 6 § 1 was not applicable to the proceedings before 11 December 1998.

47. The Court notes that the Government were of the view that the period of one year and two months – while the proceedings had been suspended because of the death of the original plaintiff – had to be deducted from the length of the proceedings. The Court finds that this impediment has to be taken into account in assessing the overall length of the proceedings in the light of the “reasonable time” requirement of Article 6 § 1 of the Convention.

48. Accordingly, the Court finds that the period to be taken into consideration began on 11 December 1998 and ended on 14 February 2006. It thus lasted slightly more than seven years and two months for three levels of jurisdiction.

A. Admissibility

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

B. Merits

50. 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 applicants and the relevant authorities and what was at stake for the applicants in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

51. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

52. The Court takes note of the fact that in the present case the civil proceedings had to be suspended for establishing the legal successor of the original plaintiff and that certain delays in the proceedings were caused by the accusations of the applicant company's representatives against the judges of the County Court. On several occasions the applicant company's representative lacked authorities to participate in the proceedings. Nevertheless, having examined all the material submitted to it and having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

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

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

53. In substance, the applicant company further complained that they had no effective remedies for excessive length of proceedings. This complaint falls to be examined under Article 13 of the Convention which reads as follows:

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. Admissibility

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

B. Merits

1. The parties' submissions

(a) The Government

55. The Government asserted that effective remedies were available to the applicant company at the domestic level concerning the complaint under Article 6 § 1 of the Convention.

56. In respect of preventive remedies which would expedite the proceedings, the Government referred to several provisions of the Code of Civil Procedure (see paragraph 32 above). Various time-limits were set out in the Code in order to ensure that the proceedings took place within reasonable time.

57. The Government admitted that in the present case the applicant company could not appeal against many of the decisions to adjourn the hearings as the hearings were usually adjourned for one month whereas an adjournment decision could be appealed against only if the hearing was adjourned for more than three months (Article 177 of the Code of Civil Procedure). This, however, did not mean that no remedy existed in law.

58. The Government noted that the applicant company had not requested that hearings were held at shorter intervals. Neither did the applicant company appeal against the decision of the County Court to suspend the proceedings.

59. In respect of the possibilities to obtain redress for delays in the proceedings, the Government made reference to the provisions of the Code of Administrative Court Procedure – according to which the administrative courts were empowered to adjudicate disputes in public law – and the Constitution (see paragraph 31 above). Furthermore, it quoted the case-law of the Supreme Court, according to which administrative courts were authorised to examine whether public authorities performed their actions within reasonable time. The Supreme Court had found that the administrative courts were authorised to award compensation to individuals for actions – including delays – of public authorities even in cases where no specific legal provisions existed to that effect (see paragraphs 33 to 36 above).

60. The Government concluded that a person could file a complaint with an administrative court against delays in judicial proceedings and against inaction of a court and also claim compensation for damage caused thereby.

61. The Government considered that even if the Court were to find that none of the above remedies individually constituted sufficient and effective remedy, the aggregate of remedies nevertheless ensured effective legal protection to the individuals in respect of the length of proceedings. The Government contended that there had been sufficient remedies available to

the applicant company, which, however, did not make any attempts to make use of them.

(b) The applicant company

62. The applicant company disputed the Government's position on the existence of remedies and argued that proclamations and rules of law did not constitute effective preventive remedies if no sanctions existed for their breach. In fact, the civil proceedings in the County Court were suspended and hearings adjourned on several occasions without the applicant company having had any possibility to make a formal appeal against it. The applicant company pointed out that no examples had been provided where the remedies referred to by the Government would have been used and where they would have been effective. Furthermore, no examples had been given where compensation would have been paid for the excessive length of court proceedings.

2. The Court's assessment

63. The Court reiterates that Article 13 guarantees an effective remedy before a national authority for an alleged breach of the requirement under Article 6 § 1 to hear a case within a reasonable time (see *Kudla v. Poland* [GC], no. 30210/96, § 156, ECHR 2000-XI).

64. Remedies available to a litigant at domestic level for raising a complaint about the length of proceedings are “effective” within the meaning of Article 13 of the Convention if they prevent the alleged violation or its continuation, or provide adequate redress for any violation that has already occurred. A remedy is therefore effective if it can be used either to expedite a decision by the courts dealing with the case, or to provide the litigant with adequate redress for delays that have already occurred (see *Sürmeli v. Germany* [GC], no. 75529/01, § 99, ECHR 2006-...; and *Mifsud v. France* (dec.) [GC], no. 57220/00, § 17, ECHR 2002-VIII).

65. Turning to the present case, the Court finds that the Government have failed to show how the preventive measures they referred to could have provided any relief to the applicant company. While it is true that the Code of Civil Procedure set several time-limits in order to ensure that proceedings were conducted within reasonable time, it does not appear that the failure of the County Court to comply with these time-limits could have resulted in any legal consequences. Neither have the Government explained how an appeal against the first instance court's decisions concerning adjournment or suspension of the proceedings – insofar as these decisions were open to appeal – could expedite the proceedings. The Government provided no pertinent examples from the domestic case-law.

66. As concerns the compensatory remedies, the Court notes that the provisions of the Constitution and the Code of Administrative Court

Procedure referred to by the Government are of a general nature and do not specifically concern compensation for damage related to unreasonably long civil court proceedings. The Supreme Court's case-law quoted by the Government indicates that the Supreme Court has interpreted these general provisions quite broadly. However, as the Government have not referred to any cases where the courts would have awarded compensation for excessive length of court proceedings, the Court is unable to conclude that there existed a compensatory remedy which was effective in practice as well as in law.

67. Having regard to the above findings the Court cannot consider that the remedies suggested by the Government taken together satisfy the requirements of Article 13.

68. In conclusion, the applicant company did not have an effective remedy within the meaning of Article 13 of the Convention which would have expedited the proceedings in the County Court or provided adequate redress for delays that had already occurred. There has therefore been a violation of this Article.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

69. 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

70. The applicant company claimed 400,000 euros (EUR) in respect of pecuniary damage. In its submission, it had to sell the buildings in Kuressaare in 2006 for a considerably lower price compared to an offer it had received before the first interlocutory measure was applied in 1998.

The applicant company claimed a further sum of EUR 10,000 in respect of non-pecuniary damage.

71. The Government contested these claims.

They submitted that the real estate prices had risen considerably in Estonia over the period concerned and that, in any event, there was no causal link between the alleged violations and any pecuniary damage.

The Government considered that the amount claimed for non-pecuniary damage was excessive. Should the Court find that the applicant company suffered some non-pecuniary damage due to the length of proceedings, they invited the Court to award the applicant company a reasonable sum under this head.

72. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, it awards the applicant company EUR 900 in respect of non-pecuniary damage.

B. Costs and expenses

73. The applicant company also claimed EUR 4,109.80 for the costs and expenses incurred before the Court.

74. The Government considered this amount excessive.

75. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,500 for costs and expenses in the proceedings before the Court.

C. Default interest

76. 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. *Dismisses* the Government's preliminary objection concerning the alleged lack of authority of the representatives of the applicant company to act on its behalf;
2. *Declares* the remainder of the application admissible;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds* that there has been a violation of Article 13 of the Convention;
5. *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 900 (nine hundred euros) in respect of non-pecuniary damage and EUR 1,500 (one thousand and five

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;

6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 8 November 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK
Registrar

Peer LORENZEN
President