



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

THIRD SECTION

CASE OF TEMEȘAN v. ROMANIA

(Application no. 36293/02)

JUDGMENT

STRASBOURG

10 June 2008

FINAL

01/12/2008

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 Temeșan v. Romania,

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

Josep Casadevall, *President*,

Elisabet Fura-Sandström,

Corneliu Bîrsan,

Alvina Gyulumyan,

Egbert Myjer,

Ineta Ziemele,

Ann Power, *judges*,

and Stanley Naismith, *Deputy Section Registrar*,

Having deliberated in private on 20 May 2008,

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

PROCEDURE

1. The case originated in an application (no. 36293/02) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Romanian national, Mr Răzvan Liviu Temeșan (“the applicant”), on 22 December 1999.

2. The Romanian Government (“the Government”) were represented by their Agent, Mr Răzvan-Horațiu Radu, from the Ministry of Foreign Affairs.

3. On 8 November 2005 the Court decided to communicate the complaints concerning Articles 5 §§ 1(c) and 3 and 6 § 1 of the Convention to the Government. Under the provisions of Article 29 § 3, it decided to examine the merits of the application at the same time as its admissibility.

4. On 1 September 2006 the applicant requested that an oral hearing be held in the case. However, on 24 October 2006, based on the evidence in its possession, the Court decided that a hearing was not needed and dismissed the applicant’s request.

THE FACTS**I. THE CIRCUMSTANCES OF THE CASE**

5. The applicant was born in 1951 and lives in Bucharest.

6. Between 1994 and 1996 the applicant, in his capacity as the President of Bank B., facilitated the sponsoring of the Government by the bank in the

production of a book promoting the image of Romania abroad. On 14 March 1997 the applicant was dismissed from his job.

A. The criminal proceedings against the applicant

7. On 24 September 1996 the company O.P. filed a criminal complaint against the applicant, accusing him of abuse of authority (*abuz în serviciu*, under Article 248 of the Criminal Code) and misappropriation of funds (*deturnare de fonduri*, under Article 302 of the Criminal Code) in relation to the above-mentioned sponsorship contract.

8. On 6 November 1996 the prosecutor attached to the Bucharest District Court took a statement from the applicant in connection with the allegations above.

9. On 14 November 1996 the prosecutor decided not to start criminal proceedings as the facts in the case did not disclose the commission of a crime.

On the same date, the applicant was informed of the decision.

10. On 26 September 1997 Bank B. filed a criminal complaint against the applicant for fraud (*înșelăciune*, under Article 215 of the Criminal Code) and abuse of authority (under Article 248 of the Criminal Code) in the handling of the same sponsorship contract mentioned above.

11. On 9 January 1998 the applicant made a statement to the prosecutor.

12. Witnesses' and co-defendants' depositions were taken in November 1996, November and December 1997, January, February, August and December 1998, and March and December 1999.

13. On 2 February 1998 a criminal investigation for fraud was started in respect of the applicant.

14. On 17 February 1998 the prosecutor attached to the Supreme Court of Justice enquired about French companies that had been involved in the publication of the book. He asked for evidence to be taken on commission (*comisie rogatorie*) by the prosecutor attached to the Paris *Tribunal de Grande Instance*. The request was reiterated on 13 October 1998. The documents were received from France on 13 November 1998.

15. On 12 October 1998 the prosecutor attached to the Supreme Court of Justice overturned the prosecutor's decisions of 14 November 1996 and 2 February 1998. He considered that as long as the decision of 14 November not to prosecute had not been overturned, the prosecutor could not have legally started the criminal prosecution on 2 February. He ordered the opening of a criminal prosecution for fraud through contracts.

16. On 3 November 1999 the prosecutor attached to the Supreme Court of Justice changed the legal classification of the offence from fraud to abuse of authority.

17. On 9 December 1999 the applicant was questioned by the prosecutor at the Supreme Court of Justice for the first time in connection with the new

classification of the offence. On the same day the applicant was arrested and remanded in custody until 7 January 2000 on the prosecutor's order.

18. On 15 December 1999 the applicant (in the presence of the lawyer of his choice) was informed of the content of his criminal file.

19. On 16 December 1999 the prosecutor attached to the Supreme Court of Justice issued an indictment for abuse of authority.

20. The case was registered with the Bucharest County Court. Thirteen hearings took place before this court, from five of which the applicant was absent for medical reasons. On four other occasions the court postponed the oral hearings for various reasons, including requests made by the applicant's counsel.

21. On 27 February 2001 the Bucharest County Court declared null and void the prosecution acts, referred the case back to the prosecutor and ordered him to carry out a complete review of the facts under investigation (*refacerea urmăririi penale*). Upon an appeal by the prosecutor, in a final decision of 22 May 2001 the Bucharest Court of Appeal considered that only the indictment of 16 December 1999 was null and void and therefore referred the case back to the prosecutor and ordered him to review that act.

The courts found that the prosecutor had not allowed enough time for the applicant to familiarise himself with the prosecution file and to formulate his requests, if any, in connection with it, and that the prosecutor had acted in haste in indicting the applicant only one day after presenting him with the file.

22. On 8 January 2002 the applicant made a statement to the prosecutor.

23. On 18 April 2002 the prosecutor attached to the Supreme Court of Justice decided to end the prosecution against the applicant, on the ground that the legal relationships under examination were of a civil and commercial nature and not of a criminal nature.

On 22 April 2002 he informed the applicant of his decision.

B. The applicant's detention and actions for compensation

24. On 10 December 1999 the applicant contested his detention pending trial. The Bucharest County Court ordered his release on 14 December 1999. However, this decision was overturned by the Bucharest Court of Appeal in a final decision of 28 December 1999. The applicant remained in custody.

25. He later requested the Bucharest County Court to revoke the order for his detention. On 7 January 2000 the court ordered his release from custody. The prosecutor appealed and the County Court's decision was quashed by the Bucharest Court of Appeal on 24 January 2000. The applicant's detention order was extended by thirty days.

26. Upon the applicant's request, the County Court concluded, on 2 February 2000, that his detention order had expired on 7 January. In a

final decision of 15 February 2000 the Bucharest Court of Appeal dismissed an appeal by the prosecutor.

27. Consequently, on 15 February 2000 the applicant was released from custody.

28. The applicant brought an action against Bank B. claiming compensation for illegal dismissal. In a final decision of 3 March 2003 the Bucharest County Court awarded the applicant 103,992 United States Dollars (USD) in respect of pecuniary damage (loss of earnings) and USD 33,000 in respect of non-pecuniary damage.

29. On 9 April 2004 the applicant lodged an action against the State, under Articles 504-505 of the Code of Criminal Proceedings, 998-999 and 1000 § 3 of the Civil Code and the Convention, seeking compensation for unlawful detention. He claimed 10,000,000,000 Old Romanian Lei (ROL) in respect of pecuniary and non-pecuniary damage, of which USD 12,999 represented salaries that he had not received from Bank B. during his arrest.

30. On 24 September 2004 the Bucharest County Court allowed the action and granted the applicant ROL 250,000,000 in respect of non-pecuniary damage. It held:

“The evidence in the file confirms the applicant’s right to compensation under Article 504 of the [Code of Criminal Procedure] for his detention...

The applicant’s detention for 30 days on the prosecutor’s order; the detention from 7 January 2000 to 15 February 2000 which, as decided by means of a final decision, contravened the Code of Criminal Procedure and the Constitution, which required that the arrest be ordered by a “judicial officer” and extended by a court...; and lastly, the decision to terminate the criminal prosecution against the plaintiff on the ground that the facts committed did not fall within the scope of the criminal law, required the State’s responsibility for the judicial error made in the case...

Concerning the salaries not received during his arrest, ... the court notes that the applicant was released from his position on 14 March 1997, [Bank B.’s] criminal complaint being posterior to his dismissal. Therefore ... the court considers that there is no causal link between the applicant’s arrest and loss of revenue.

Moreover, in the Bucharest County Court’s decision of 3 March 2003, ... [which became final], a causal link was established between ... the plaintiff’s dismissal of 14 March 1997, which had not been a consequence of his detention, and the damage incurred, that is, the loss of earnings; this decision awarded compensation for the damage...

...[[U]nlawful arrest and prosecution causes moral, social and professional suffering, and breaches dignity, honour and individual freedom, human rights protected by law. However, the amounts claimed by the plaintiff exceed by far the awards made by the European Court ... for just satisfaction under the ... Convention, the instrument invoked by the plaintiff as the legal basis for his claims.”

31. On 12 October 2005 the Bucharest Court of Appeal dismissed appeals lodged by the parties, upheld the County Court’s arguments and confirmed that:

“The plaintiff’s deprivation of liberty affected his honour and reputation, and the reparation can and must be made by a financial award.”

32. In a final decision of 22 February 2007 the High Court of Cassation and Justice (the former Supreme Court of Justice) dismissed for being out of time and ill-founded respectively, appeals on points of law lodged by the applicant and the State.

33. On 31 October 2007 the Government informed the Court that the applicant should request the execution of the final decision and communicate to the Ministry of Finance details of a valid bank account where the money could be transferred, but that to date no such steps had been taken by the applicant.

C. The applicant’s dismissal and arrest as reported by the press

34. The newspaper “*România Liberă*” presented in its 17 March 1997 edition the opinion of various political figures on the applicant’s dismissal and arrest:

“The former president of [Bank B.], Răzvan Temeșan, was called on Friday for questioning by the police, informs prosecutor G.M. from the General Prosecutor’s Office. G.M. pointed out that the hearings might continue in the following days.

The Prosecutor’s Office imposed an obligation on Răzvan Temeșan not to leave Bucharest for thirty days. The president of [Bank B.] was accused, in the press, of bad management...

S.D., the president of the FPS [the State Property Fund], stated that the members of [Bank B.]’s executive board had been asked on Friday ... to dismiss Răzvan Temeșan ... from his position...

C.A., deputy president of the PSDR [the Romanian Social-Democrat Party]: ‘We only comment when we know the exact content of the file. In the case at hand we can only say that, in principle, the investigation of Răzvan Temeșan is part of the general fight against corruption. ... [H]owever, his responsibility shall be determined after investigations by the police and the Prosecutor’s Office...’

H.R., leader of the PL ‘93 [the Liberal Party ‘93]: ‘I believe it is a good thing that the present political power, unlike the former one, is allowing the investigation of fraud in the banking world...’

The Romanian National Bank (BNR) considers that the changes in the administration of [Bank B.] reflect the shareholders’ right, in particular FPS’s right, as the major shareholder, to decide upon the bank’s fate, stated A.V., director for communications of BNR...

I.D., president of PNTCD [the Agrarian Party] and CDR [the Romanian Democratic Convention]: ‘The facts surrounding Răzvan Temeșan were predictable. Have you not seen what the press published? Maybe it would have been better not to coincide his

dismissal with the start of the criminal investigation by the police and the Prosecutor's Office. But these authorities know better how to proceed..."

35. On 15 March 1997 the newspaper "*Jurnalul Național*" published an article on the applicant's dismissal and arrest. The article presented the point of view expressed during a TV show on corruption and organised crime by E.C., the President of Romania at that time. He stated mainly that:

"Our objective is to save and protect the Romanian banking system, which needs consolidation. As from next week important action against corruption shall commence..."

Our decision was to fight corruption from the top to the bottom and the action will continue."

36. On a different occasion E.M. reiterated his intention to have criminal investigations started in relation to all the corruption scandals that had previously only been investigated by the press.

37. Other similar positions, as well as interviews with the applicant, were reported in the press.

38. On 21 January 2000 the Minister of Justice told the newspaper "*Cotidianul*" that the courts should be more careful when dealing with requests for release from pre-trial detention and noted that some of the most inappropriate decisions to release individuals from custody had been adopted by the Bucharest County Court.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 5 §§ 1 (c) AND 3 OF THE CONVENTION

39. The applicant complained, under Article 5 § 1 (c), that his detention pending trial had been unlawful, that the prosecutor's order had not comprised the reasons for his detention, that there had been no reasonable suspicion of him having committed an offence, and that the facts under investigation had not fallen within the scope of the criminal law. He also contended that his detention from 7 January to 15 February 2000 had not had a legal basis. Lastly, under Article 5 § 3 he complained that after his arrest he had not been brought promptly before a judge and that his detention had been too long. Article 5 of the Convention reads as follows, in so far as relevant:

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ...

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; ...

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

A. Submissions to the Court

40. The Government contended that the applicant could no longer claim to be a victim of the alleged violation of Article 5 § 1 (c) as a consequence of the domestic court’s decision of 24 September 2004 and of the compensation granted to him for his detention.

41. The applicant considered that the award made by the Romanian courts was not reasonable. Referring to a non-final decision of 7 June 2007 in which the Galați Court of Appeal awarded I.S. 5,000,000 New Romanian Lei (RON) in respect of pecuniary damage and RON 1,000,000 in respect of non-pecuniary damage for 62 days of detention, he contended that although his suffering had been even greater than that of I.S., his pecuniary damage had not been compensated and he had received less for non-pecuniary damage.

B. The Court’s assessment

42. The Court reiterates that a decision or measure favourable to the applicant is not sufficient to deprive him of his status as a “victim” unless the national authorities acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention (see among other authorities, *Amuur v. France*, judgment of 25 June 1996, *Reports of Judgments and Decisions* 1996-III, p. 846, § 36; *Dalban v. Romania* [GC], no. 28114/95, § 44, ECHR 1999-VI; *Labita v. Italy* [GC], no. 26772/95, § 142, ECHR 2000-IV and *Ilașcu and Others v. Moldova and Russia* (dec.) [GC], no. 48787/99, 4 July 2001).

43. The Court notes that although the Government’s objection refers only to the loss of victim status in respect of the alleged violation of Article 5 § 1 (c), bearing in mind the reasons advanced by the Romanian courts when awarding the compensation, the applicant’s victim status shall be examined in the light of all alleged violations of Article 5. In this connection the Court reiterates that its competence to decide whether an applicant is a victim does not depend on an objection being raised by the respondent Government (see *Hay v. the United Kingdom* (dec.),

no. 41894/98, ECHR 2000-XI; *Ekimdjiev v. Bulgaria* (dec.), no. 47092/99, 3 March 2005; and also, *mutatis mutandis*, *Blečić v. Croatia* [GC], no. 59532/00, §§ 66-68, ECHR 2006-III).

44. The Court notes that in the decision of 24 September 2004, the Bucharest County Court acknowledged that the applicant's arrest had not observed the principles laid down in Article 5 of the Convention and that the detention pending trial had been unlawful.

45. The Court is satisfied that the reasoning in the domestic courts' decisions covered all complaints raised by the applicant before it under Article 5. While it is true that the courts did not expressly mention the lack of reasons in the prosecutor's arrest order and the length of the detention, the Court considers that the domestic courts' finding that the detention was as a whole unlawful and the detailed reasoning given in their decisions represent sufficient acknowledgement of the violations alleged (see also, *mutatis mutandis*, *Staykov v. Bulgaria*, no. 49438/99, § 90, 12 October 2006).

46. It remains to be examined whether the authorities provided adequate redress. The Court reiterates that the question whether the applicant has received reparation for the damage incurred – comparable to just satisfaction as provided for under Article 41 of the Convention – is an important issue in this context (see, *mutatis mutandis*, *Cocchiarella v. Italy* [GC], no. 64886/01, § 72, ECHR 2006-V).

47. Turning to the facts of this case, the Court points out that the applicant was released from custody on the ground of a final decision recognising that his detention had ended. Furthermore, the financial award made by the domestic courts (see paragraph 30 above) is comparable to what the Court itself grants for similar violations (see, among many other cases, *Lukanov v. Bulgaria*, judgment of 20 March 1997, *Reports* 1997-II, p. 529; *Nikolova v. Bulgaria* [GC], no. 31195/96, ECHR 1999-II; *Niedbala v. Poland*, no. 27915/95, 4 July 2000; *Ječius v. Lithuania*, no. 34578/97, ECHR 2000-IX; *Grauslys v. Lithuania*, no. 36743/97, 10 October 2000; *Eryk Kawka v. Poland*, no. 33885/96, 27 June 2002; *Dacewicz v. Poland*, no. 34611/97, 2 July 2002; *Shishkov v. Bulgaria*, no. 38822/97, ECHR 2003-I (extracts); *Pantea v. Romania*, no. 33343/96, ECHR 2003-VI (extracts); *Gusinskiy v. Russia*, no. 70276/01, ECHR 2004-IV; *D.P. v. Poland*, no. 34221/96, 20 January 2004; *Panchenko v. Russia*, no. 45100/98, 8 February 2005; *Czarnecki v. Poland*, no. 75112/01, 28 July 2005; *Hristova v. Bulgaria*, no. 60859/00, 7 December 2006; and *Castravet v. Moldova*, no. 23393/05, 13 March 2007).

48. Lastly, the Court shall consider the applicant's submissions concerning the compensation awarded to I.S. by the domestic courts for unlawful detention.

Even assuming that the two cases were similar and that the amount of compensation granted to I.S. was not changed by the court of last resort, the

fact that a domestic court awarded to a plaintiff more than the Court itself would grant in a similar case does not have a bearing on the Court's findings in the present case. However, the Court cannot but notice that the applicant failed to exhaust properly the domestic remedies in his action for damages, as his appeal on points of law was dismissed as out-of-time (see paragraph 32 above). It is not for the Court to speculate what the outcome of the proceedings would have been should the court of last resort have had the opportunity to examine the merits of the applicant's claims.

49. In view of the above, the Court is satisfied that the award made to the applicant by the domestic courts did adequately remedy the damage which the applicant had suffered on account of his detention and amounted, in the circumstances of the case, to sufficient redress in respect of the alleged violations of Article 5. There is furthermore no indication that the applicant will not be able to obtain the payment of the money due to him (see paragraph 33 above).

50. It follows that the applicant can no longer claim to be victim of a violation of Article 5 of the Convention. The Court therefore accepts the Government's preliminary objection. Accordingly, it finds that this complaint is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4.

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

51. The applicant complained that the length of the criminal proceedings instituted against him 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 ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

A. Admissibility

52. 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

53. The Government contended that the lapse of time between the two sets of proceedings should not be taken into account by the Court. In their view the proceedings lasted for four years, three months and twenty-three

days. They submitted that the case had been of a complex nature, as it dealt with economic crimes and involved a lot of evidence. While there had been no lengthy periods of inactivity on the part of the State organs, the applicant had contributed significantly to the protraction of the case as nine postponements were caused either by him or by his counsel.

54. The applicant contended that the criminal prosecution had lasted altogether four years, three months and twenty-one days, and pointed out that neither the complexity of the case nor his behaviour could justify that length. He further alleged that the Government were trying to make the Court's task more difficult by sending too many annexes to their observations, which comprised several copies of the same documents and irrelevant information.

55. The Court notes that there are two sets of proceedings which will be examined together (see *Stoianova and Nedelcu v. Romania*, nos. 77517/01 and 77722/01, § 21, ECHR 2005-VIII). The first one lasted from 6 to 14 November 1996 and the second from 9 January 1998 to 22 April 2002. The proceedings thus lasted four years, three months and twenty-three days.

56. 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, and the conduct of the applicant and the relevant authorities (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II)

57. 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 *Pélissier and Sassi*, and *Stoianova and Nedelcu*, cited above). Moreover, the Court notes that the two domestic courts that dealt with the case did not assess the merits of the accusation. They only examined the lawfulness of the prosecution acts and, in the end, had to refer the case back to the prosecutor in order for the procedural flaws to be remedied. This deficiency is imputable to the authorities and not to the applicant (see, *mutatis mutandis*, *Matica v. Romania*, no. 19567/02, § 24, 2 November 2006).

58. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. 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. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

59. Lastly, the applicant complained under Article 6 §§ 1, 2 and 3 that the presumption of his innocence had not been observed by the authorities, bearing in mind the declaration that had appeared in the press during the proceedings which had had an influence on the prosecutors, and that the principle of equality of arms had been breached in so far as he had been unlawfully kept in detention after 7 January 2002.

60. The applicant urged the Court to address his complaints and contended that should the Court choose to ignore or reject them summarily, such a decision would be neither fair nor reasonable under the Convention and the Court's case-law.

61. After the communication of the case to the Government (see paragraph 3 above), the applicant sent additional comments, unsolicited by the Court, in connection with these complaints. He submitted that the public declarations made by political leaders in power at the time of the facts explicitly depicted him as guilty of the charges against him. He referred to the former President's personal effort to have criminal investigations started in respect of all the corruption cases reported by the press. He also considered that the flaws in the prosecution and the repeated changes in the classification of the crimes allegedly committed by him had been the result of political pressure against prosecutors and judges to order his arrest.

62. He considered himself a victim of a press campaign designed by political and financial pressure groups to ruin his reputation as a businessman. His successful actions against the press for compensation for calumny were proof of that.

63. The Court notes that the newspaper articles sent by the applicant do not reflect the authorities' opinion on the question of the applicant's guilt or innocence. In fact none of the persons interviewed made any reference to the applicant's alleged guilt that could come within the scope of Article 6 § 2. Moreover, nothing in the file indicates that the prosecutors were influenced by those press articles. This being so, the Court does not discern any indication that the principle of equality of arms was breached in the case, other than the fact that the applicant was not allowed enough time to familiarise himself with the prosecution file before the indictment of 16 December 1999. However, this deficiency was remedied in the Bucharest Court of Appeal's final decision of 22 May 2001.

64. For all these reasons, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

65. 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

66. The applicant claimed 3,600,000 United States Dollars (USD) in respect of pecuniary damage, based on the impossibility to practise his profession and the salaries he had not received and will no longer receive because of the proceedings instituted against him, namely USD 15,000 per month, for 240 months, that is, until he reaches retirement age. He also claimed USD 1,400,000 in respect of non-pecuniary damage.

67. The Government submitted that the amounts claimed were highly speculative, unsubstantiated and excessive. They also reiterated that the non-pecuniary damage had already been compensated by the domestic courts in the final decision of 22 February 2007.

68. The Court notes that the applicant has already been awarded compensation for loss of income in the final decision of 3 March 2003 (see paragraph 28 above). It also reiterates that it has found a violation of Article 6 § 1 in respect of the length of the criminal proceedings against the applicant and that only the damage that has a causal link with that violation can be compensated by means of this judgment.

The Court does not discern any such link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, the Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards him 1,600 euros under that head.

B. Costs and expenses

69. The applicant made no claim for costs and expenses.

70. Therefore the Court will not award any sum under this head.

C. Default interest

71. 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 complaint concerning Article 6 § 1 (length of criminal proceedings) admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *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 1,600 (one thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the respondent State's national currency at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount 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 10 June 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith
Deputy Registrar

Josep Casadevall
President