



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

FOURTH SECTION

CASE OF KITA v. POLAND

(Application no. 57659/00)

JUDGMENT

STRASBOURG

8 July 2008

FINAL

08/10/2008

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 Kita v. Poland,

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

Nicolas Bratza, *President*,

Lech Garlicki,

Giovanni Bonello,

Ljiljana Mijović,

Ján Šikuta,

Päivi Hirvelä,

Ledi Bianku, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 17 June 2008,

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

PROCEDURE

1. The case originated in an application (no. 57659/00) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Polish national, Mr Sławomir Kita (“the applicant”), on 4 August 1999.

2. The applicant, who had been granted legal aid, was represented by Mr Z. Cichoń, a lawyer practising in Kraków. The Polish Government (“the Government”) were represented by their Agent, Mr J. Wołosiewicz of the Ministry for Foreign Affairs.

3. The applicant alleged, in particular, that the proceedings brought against him under section 72 of the Local Elections Act had given rise to an infringement of his right to freedom of expression under Article 10.

4. On 29 January 2006 the President of the Fourth Section of the Court decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 3).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1968 and lives in Kazimierza Wielka.

6. The applicant works as a teacher in Kazimierza Wielka. In 1998 he was also a member of the Municipal Electoral Commission (*Miejska Komisja Wyborcza w Kazimierzy Wielkiej*).

7. In August 1998 the applicant wanted to publish an article in the local newspaper (*Gazeta Kazimierska*) on alleged financial irregularities in the municipality. As the newspaper had been closed down, the applicant published the article himself. On 5 October 1998 he distributed it in the form of leaflets.

8. In his article entitled “Information Bulletin: What the president of the City Council and the City Council Board have to hide”, he referred to six municipality officials. He stated that Z. J. and H. O. had been so busy interfering with the employment policies of the local schools that they had not had time to administer the municipal educational funds properly. As a consequence teachers and employers of the municipal educational institutions had not received allowances (for protective clothing) which under relevant legal provisions they should have received. In addition, the physical education teachers had received lower salaries without a certain 25 % allowance. In the applicant’s opinion the teachers did not claim this allowance as they had been afraid to lose their jobs. When the applicant had informed the mayors - T. B., K. S. and the president of the City Council Board W. M. - about the financial irregularities, he had been dismissed from his post. He had eventually been reinstated.

9. The applicant further claimed that the municipality had received subsidies from the State to provide transport for children to schools. However, the schools had been required to pay an additional contribution to the municipality. The applicant maintained that H. O. had known about this situation but had failed to take appropriate action. In addition she had not acted for the benefit of the school employees. Parties which had been organised for city council members had been wholly financed from public funds.

10. Lastly, the applicant stated that he was not surprised that W. M. had not replied to an inquiry from the Supreme Control Chamber (*Najwyższa Izba Kontroli*) as the municipal budget surplus had probably been used to pay bonuses and per diem allowances for the council members.

He concluded:

“I encourage the readers to reconsider whether between 1994 and 1998 the city was governed by the right people; whether these people can be offered yet another term of office in the October elections.

Whether during those four years they have indeed acted honestly for the common well-being of the Kazimierza Wielka community or in their own personal interests.

Can these people be trusted again with the city council mandates?”

11. On an unknown later date the Social Democrat group in Kazimierza Wielka (representing W. M., H. O. and K. S.) instituted proceedings against the applicant under section 72 of the Local Election Act. The applicant had not been aware of that fact.

12. On 8 October 1998 the applicant’s mother was informed that the applicant was supposed to appear before the court next day at 11 a.m. She could not inform the applicant as he was in Krakow on 8 and 9 October.

13. On 9 October 1998 the Kielce Regional Court (*Sąd Okręgowy*) held a hearing and gave a decision. It ordered the applicant to publish in the local newspaper *Ślowo Ludu* an apology and a statement that he had included untrue information in his leaflet. It further ordered the applicant to pay a fine of 1,000 Polish zlotys (PLN) (approx. 280 euros (EUR)) for the benefit of the Children’s Hospital in Kielce.

14. On 10 October 1998 the applicant went personally to the Regional Court and was informed about the decision taken on 9 October. On the same date he lodged an appeal.

15. The local elections took place on 11 October 1998.

16. On 13 October 1998 the Cracow Court of Appeal (*Sąd Apelacyjny*) quashed the first-instance decision and remitted the case. The court considered that the applicant had not been duly summoned to the hearing held on 9 October. The applicant had not been able to defend himself in person and accordingly the proceedings had been invalid.

17. On 26 November 1998 the Kielce Regional Court gave a decision. The court ordered the applicant to publish in the local newspaper *Ślowo Ludu* an apology for the fact that he had included untrue information in his leaflet. It further ordered the applicant to pay a fine of PLN 700 (approx. EUR 200) for the benefit of the Children’s Hospital in Kielce. The court held that the applicant’s article concerned six municipal officials but amongst them only three were members of the Social Democrat group. None of them had been elected to the City Council in the local elections. The court heard evidence from these persons and considered that the applicant’s statements had been untrue. The article distributed by the applicant contained statements which lacked any factual basis. In addition, it could have caused the fact that H.O. and K.S. had not been elected to the city council and W.M. had received fewer votes. The court further stressed

that the applicant had not mentioned that he had a criminal record. On 26 May 1992 he had been convicted of participation in a hooligan scuffle and sentenced to one year's imprisonment, suspended for four years. Lastly, in the court's opinion, the applicant had deliberately distributed the leaflet during the election campaign. The court did not quote the statements made by the applicant in his article but made a general assessment of the content of the article.

18. On 3 March 1999 the Krakow Court of Appeal dismissed an appeal by the applicant as lodged outside the prescribed time-limit. The court considered that as the proceedings had been conducted under the Local Elections Act the appeal should have been lodged within twenty-four hours.

19. On 4 March 1999 the applicant asked to be allowed to lodge an appeal out of time. In his appeal the applicant claimed that since 1997 he had informed various institutions about financial irregularities on the part of the municipal authorities. He added that he had planned to publish his article in a local newspaper, *Gazeta Kazimierowska*; however the newspaper had been closed down. Relying on Article 10 of the Convention he maintained that he had been punished for criticising the local authority. However, as it emerged from the European Court of Human Rights' case-law the limitations of acceptable criticism were wider as regards politicians than as regards private individuals. He further stressed that the court had based its opinion, that the applicant's statements were untrue, only on the testimonies of the persons concerned by the article. The court had not referred to other pieces of evidence such as documents submitted by the applicant. He further claimed that the Regional Court had not heard evidence from him. Finally, he stressed that in his article he had never mentioned the Social Democrat group but had only referred to the municipal officials.

20. On 28 April 1999 the Kielce Regional Court allowed the applicant to appeal out of time.

21. On 8 June 1999 the Krakow Court of Appeal gave its decision. The court amended the first-instance decision, in that it ordered the applicant to pay PLN 300 PLN (approx. EUR 85) for the benefit of the Children's Hospital in Kielce and dismissed the remainder of his appeal. The court did not quote passages from the leaflet but made a general assessment of the content of the article. With reference to the applicant's allegations that the process of obtaining evidence had been unfair, the court held that the applicant could have produced evidence of this during the hearing on 26 November 1998; however he had not done so. It further considered that the applicant's untrue statements could not be considered as part of "acceptable criticism" within the meaning of Article 10 of the Convention. It considered that proceedings provided for under section 72 of the Local Elections Act were aimed at ensuring the proper conduct of the electoral campaign by preventing infringements of the personal rights of those

standing for election. The Court of Appeal considered that the content of the leaflet put the claimants in an unambiguously negative light as candidates for the local council and was aimed at preventing them from being elected. The court in particular referred to the concluding remarks of the article. The Court of Appeal considered that they were incompatible with section 72 § 1 of the Local Elections Act. In these circumstances the Court of Appeal found that the decision of the Regional Court was correct.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The Local Elections Act

22. Section 72 of the Law of 16 July 1998 on Elections to Municipalities, District Councils and Regional Assemblies (*Ordynacja wyborcza do rad gmin, rad powiatów i sejmików województw*) (“the Local Elections Act”) provided, in so far as relevant:

“§ 1. If posters, slogans, leaflets, statements or other forms of propaganda and campaigning contain untrue data and information, a candidate standing for local election or a representative of an electoral committee has the right to make an application asking the Regional Court to:

- 1) order the confiscation of such materials,
- 2) issue an injunction restraining [the defendant] from publishing such data and information,
- 3) order the information to be corrected,
- 4) order [the defendant] to apologise to the aggrieved party,
- 5) order [the defendant] to pay to a charity up to PLN 10,000,
- 6) order [the defendant] to pay to the claimant up to PLN 10,000 in damages.

§ 2. The Regional Court, sitting as a single judge, shall examine the application referred to in § 1 within 24 hours in [civil] non-contentious proceedings. [...]. The court shall serve on the interested party referred to in § 1, the relevant regional electoral commissioner and the person obligated to execute the court’s decision, without undue delay, a decision terminating the proceedings in the case.

§ 3. Decisions of the Regional Court may be appealed to the Court of Appeal within 24 hours of the time they are pronounced. The Court of Appeal, sitting as a panel of three judges, shall examine the appeal in [civil] non-contentious proceedings, according to the same procedure and within the time-limit referred to in § 2. No appeal shall lie against decisions of the Court of Appeal and any decision shall be enforceable with immediate effect.”

On 26 July 2002 Parliament amended section 72 § 1 of the Local Elections Act by repealing subsection 6, which allowed a claimant to seek compensation from a person who has divulged untrue information about him/her.

B. Case-law of Polish courts

23. On 1 October 1998 the Katowice Court of Appeal gave a decision in case no. I ACz 972/98 in which it stated:

1. Section 72 of the Local Elections Act applies to factual statements contained in materials pertaining to an electoral campaign. It does not apply to conclusions or opinions based on those factual statements. Only factual statements have an objective character. Every opinion is subjective and depends on the point of view of the person holding it.

2. No one can be prevented from expressing his views and making judgments as long as they do not infringe the rights of others. However, even an infringement of personal rights which does not meet the conditions specified in section 72 cannot be afforded protection under that provision which is an exception [to the general rule] and thus cannot be interpreted extensively.

24. On 7 November 2002 the Katowice Court of Appeal gave a decision in the case no. IACz 1956/02 in which it held:

“Section 72 of the Local Elections Act [...] is an exceptional provision and as such cannot be construed extensively. That provision is applicable solely to untrue information included in electoral materials. It is not applicable to comments and opinions concerning the character of a candidate [standing for election]. If such comments and opinions infringe the candidate’s personal rights, he may seek redress under the general rules [of protection of personal rights], and not on the basis of Section 72 of the Local Elections Act.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

25. The applicant complained that the decisions given in the proceedings brought against him under section 72 of the Local Elections Act had infringed his right to freedom of expression. He relied on Article 10 of the Convention, which provides in its relevant part as follows:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

A. Admissibility

26. 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

27. The Government admitted that the domestic courts' decision had amounted to an interference with the applicant's right to freedom of expression. That interference was prescribed by law and was aimed at protecting the rights and reputation of the members of the Social Democrat election committee.

28. They further maintained that the interference was proportionate to the legitimate aim pursued. The applicant's allegations had not been based on precise or correct facts. In their opinion the leaflet distributed by the applicant had contained statements of fact which could have been verified as true or false. During the proceedings before the domestic courts the applicant had failed to prove their correctness and accuracy. They claimed that the applicant had overstepped the limits of political debate as he had defamed several local politicians in order to lessen their chances in the forthcoming elections, during a very sensitive period just before the elections.

29. Furthermore, they observed that the applicant had been a member of the Municipal Electoral Commission, and therefore he should have remained impartial during the election campaign.

30. Lastly, they stressed that the proceedings had been instituted by the politicians and not the authorities. The amount which the applicant was finally ordered to pay was very small, PLN 300.

31. They concluded that the domestic authorities had not exceeded the margin of appreciation available to them in assessing the need for such interference.

(b) The applicant

32. The applicant argued that he had been deprived of his right to freedom of expression. Firstly, the domestic courts had not taken into account the evidence submitted by him. Secondly, the statements had been made in the public interest and during a political debate. Therefore, the interference with his right to freedom of expression could not be justified under Article 10 § 2 of the Convention.

2. The Court's assessment.

33. It was not disputed that the court decisions given against the applicant and the sanctions imposed on him amounted to an "interference" with his right to freedom of expression as guaranteed by Article 10 § 1 of the Convention.

(a) Prescribed by law

34. The interference was undoubtedly prescribed by law, the applicant's conviction having been based on section 72 of the Local Elections Act.

(b) Legitimate aim

35. The Court further accepts that the interference pursued the legitimate aim of protection of the reputation or rights of others, namely the named individual members of a political group, within the meaning of Article 10 § 2 of the Convention.

(c) Necessary in a democratic society

(i) The general principles

36. According to the Court's case-law freedom of expression constitutes one of the essential foundations of a democratic society. Subject to paragraph 2, it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no "democratic society". As set out in Article 10, this freedom is subject to exceptions, which must however be interpreted strictly, and the need for any restrictions must be established convincingly (see, among

many other authorities, *Janowski v. Poland* [GC], no. 25716/94, § 30 ECHR 1999-I, and *Nilsen and Johnsen v. Norway* [GC], no. 23118/93, § 43, ECHR 1999-VIII).

37. The Court has also repeatedly upheld the right to impart, in good faith, information on matters of public interest, even where this involved damaging statements about private individuals (see, *mutatis mutandis*, *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, ECHR 1999-III), and has emphasised that the limits of acceptable criticism are still wider where the target is a politician (see *Feldek v. Slovakia*, no. 29032/95, § 74, ECHR 2001-VIII). While precious for all, freedom of expression is particularly important for political parties and their active members, as well as during election campaigns when opinions and information of all kinds should be permitted to circulate freely (see *Bowman v. the United Kingdom*, judgment of 19 February 1998, *Reports* 1998-I, § 42).

38. The Court observes that account also has to be taken of whether the impugned expressions concerned the private life or behaviour of an individual acting in an official capacity (see *Filipovic v. Serbia*, no. 27935/05, § 55, 20 November 2007).

39. The Court also notes that the nature and severity of the penalty imposed, as well as the “relevance” and “sufficiency” of the national courts’ reasoning, are matters of particular relevance in assessing the proportionality of the interference under Article 10 § 2 (*Pakdemirli v. Turkey*, no. 35839/97, § 32, 22 February 2005; and *Steel and Morris v. the United Kingdom*, no. 68416/01, § 87, ECHR 2005-II).

40. Lastly, the Court reiterates that in order to assess the justification of the impugned statements, a distinction needs to be made between statements of fact and value judgments. While the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof. The requirement to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10 (see *Feldek* cited above § 75). The classification of a statement as a fact or as a value judgment is a matter which in the first place falls within the margin of appreciation of the national authorities, in particular the domestic courts. However, even where a statement amounts to a value judgment, there must exist a sufficient factual basis to support it, failing which it will be excessive (see, for example, *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99, § 76, ECHR 2004-XI).

(ii) Application of the principles

41. In exercising its supervisory jurisdiction the Court must look at the impugned interference with the applicant's right to freedom of expression in the light of the case as a whole, including the content of the statements concerned, the context in which they were made and also the particular circumstances of those involved.

42. Turning to the facts of the instant case, the Court notes that the applicant had clearly written and distributed the impugned article in the course of an ongoing election campaign. The targets of the applicant's criticism were the president and named members of the City Council Board.

43. It is certainly true that the article at issue reflected a rather critical approach to the work of the local politicians. In this respect the Court reiterates that in a democratic society, public authorities and their representatives expose themselves in principle to the permanent scrutiny of citizens and that everyone must be able to draw public attention to situations that they consider unlawful provided that they do so in good faith (see *Kwiecień v. Poland*, no. 51744/99, § 54, ECHR 2007-).

44. As regards the categorisation of the applicant's statements the Court observes that the Polish courts unreservedly qualified all of them as statements which lacked any factual basis without examining the question whether they could be considered to be value judgments.

45. While it is true that some of these statements, such as "the municipality had received subsidies from the State for transport of children to schools" or "the employees of the municipal educational institutions had not received special allowances" could be considered statements which lacked a sufficient factual basis, the Court notes that the thrust of the applicant's article was to cast doubt on the suitability of the local politicians for public office. It related to issues of public interest and concerned specific acts of the local municipal councillors carried out in the exercise of their public mandate. The Court further considers that the article also included statements which could reasonably be considered value judgments, such as "H. O. had not acted to the benefit of the school employees" or "teachers did not claim the allowance as they were afraid of losing their jobs".

In the circumstances of the present case it does not seem that the applicant acted in bad faith. Having regard to the above the Court considers that the applicant's statements formed part of a debate on matters of public interest.

46. In any event, the Court would observe that the distinction between statements of fact and value judgments is of less significance in a case such as the present, where the impugned statements were made in the course of a lively political debate at local level, and where the members of the community should enjoy a wide freedom to criticise the actions of a local

authority, even where the statements made may lack a clear basis in fact (see *Lombardo and Others v. Malta*, no. 7333/06, § 60, 24 April 2007).

47. As regards the reasons adduced by the domestic courts to justify the interference the Court observes that they have failed to recognise that the present case involved a conflict between the right to freedom of expression and the protection of the reputation and the rights of others and so did not carry out the relevant balancing exercise (see, *mutatis mutandis*, *Keller v. Hungary* (dec.), no. 33352/02, 4 April 2006). Nor did they give any consideration to the fact that the limits of acceptable criticism of the members of the City Council Board – W.M., H.O. and K.S. were wider than in relation to a private individual.

48. Furthermore, the Court notes that in none of their decisions did the domestic courts quote passages from the applicant's article or particular statements that he had made but merely considered the general meaning of his article (see paragraphs 17 and 21 above).

49. In addition, the Court observes that the Regional Court in its judgment of 26 November 1998 expressly referred to the fact that the applicant had been convicted of an offence of hooliganism, which had no relevance to the proceedings at issue (see paragraph 17 above).

50. Furthermore, the Court considers that a special feature of the present case was the summary nature of the proceedings brought against the applicant under the Local Elections Act, which are conducted within very short time-limits. As pointed out by the Krakow Court of Appeal, they are aimed at ensuring the proper conduct of the electoral campaign by preventing infringements of the candidates' personal rights, which are capable of affecting the result of the elections. However, in the present case the decisions of the Kielce Regional Court and the Krakow Court of Appeal were given some time after the local elections (one month and three weeks and eight months respectively). That was in breach of the statutory time-limit and at time when the proceedings at issue had lost all relevance to the electoral prospects of the claimants. The Court notes that in these circumstances the domestic courts could have discontinued the proceedings, especially as the parties had at their disposal the possibility of issuing ordinary civil proceedings against the applicant (see *Kwiecień* cited above, § 55).

51. In the light of the above considerations and taking into account the context of a political debate, the Court finds that the applicant did not exceed the acceptable limits of criticism. The fact that the proceedings were civil rather than criminal in nature and that the applicant was finally ordered to pay a small amount, does not detract from the fact that the standards applied by the courts were not compatible with the principles embodied in Article 10 since they did not adduce "relevant and sufficient" reasons justifying the interference at issue.

52. In view of the above, the Court concludes that the authorities failed to strike a fair balance between the relevant interests of, on the one hand, the protection of the politicians' rights and, on the other, the applicant's right to freedom of expression and the general interest in promoting this freedom where issues of public interest are concerned.

53. There has accordingly been a violation of Article 10 of the Convention.

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

54. The applicant complained that he had been denied a fair hearing in the proceedings before the Kielce Regional Court and the Krakow Court of Appeal brought against him under section 72 of the Local Elections Act. He alleged, in particular, that the statutory time-limits applicable to those proceedings had not been respected. Article 6 § 1 provides, in so far as relevant:

"1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair ... hearing within a reasonable time by [a] tribunal ..."

55. The Government contested the applicant's allegation that the proceedings had been unfair. They further argued that the applicant failed to exhaust the domestic remedies. The applicant disagreed with the Government's submissions.

56. The Court notes that this complaint is linked to the complaint examined above and must therefore likewise be declared admissible.

57. Having regard to its findings relating to Article 10 of the Convention (see paragraph 52 above), the Court does not find it necessary to examine whether, in this case, there has been a violation of Article 6 § 1 (see, among other authorities, *Kwiecień*, cited above, § 62).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. 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

59. The applicant claimed 50,000 United States dollars (USD) in respect of non-pecuniary damage.

60. The Government submitted that a finding of a violation would constitute sufficient just satisfaction. In the alternative, they invited the Court to assess the amount of just satisfaction on the basis of its case-law in similar cases and having regard to the national economic situation.

61. The Court considers that the applicant sustained damage as a result of the breach of Article 10. Having regard to the nature of the violation found in the present case and deciding on an equitable basis, the Court awards the applicant 2,000 euros (EUR) in compensation for non-pecuniary damage.

B. Costs and expenses

62. The applicant, who received legal aid from the Council of Europe in connection with the presentation of his case, claimed EUR 3,000 for 30 hours of legal work by his lawyer before the Court at an hourly rate of EUR 100.

63. The Government contested that claim, stating that the amount of the lawyer's fee could not be considered reasonable and necessary. In any event they considered the rate of EUR 100 per hour to be excessive.

64. 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 are reasonable as to quantum. The Court notes the applicant was paid EUR 850 in legal aid by the Council of Europe. 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 3,000 for the proceedings before it, less the amount received by way of legal aid from the Council of Europe. The Court thus awards EUR 2,150 for costs and expenses.

C. Default interest

65. 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 10 of the Convention;
3. *Holds* that there is no need to examine the complaint under Article 6 § 1 of the Convention;
4. *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:
 - (i) EUR 2,000 (two thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 2,150 (two thousand one hundred and fifty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 8 July 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President