



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

FOURTH SECTION

CASE OF MALAI v. MOLDOVA

(Application no. 7101/06)

JUDGMENT

STRASBOURG

13 November 2008

FINAL

13/02/2009

This judgment may be subject to editorial revision.

In the case of Malai v. Moldova,

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

Nicolas Bratza, *President*,

Lech Garlicki,

Ljiljana Mijović,

David Thór Björgvinsson,

Ján Šikuta,

Päivi Hirvelä,

Mihai Poalelungi, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 21 October 2008,

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

PROCEDURE

1. The case originated in an application (no. 7101/06) against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Moldovan national, Mr Nicolai Malai (“the applicant”), on 2 February 2006.

2. The applicant, who had been granted legal aid, was represented by Mr R. Zadoinov, a lawyer practising in Chişinău. The Moldovan Government (“the Government”) were represented by their Agent, Mr V. Grosu.

3. The applicant complained about his pre-trial detention and about various alleged violations in that connection, namely of Article 3 (conditions of detention), Article 5 § 3 (insufficient reasons given by the courts for pre-trial detention) and Article 5 § 4 (failure to examine a *habeas corpus* request).

4. On 17 October 2006 the Fourth Section of the Court, to which the case was allocated, decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it was decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1963 and lives in Chişinău. On 28 November 2004 he was charged with unlawful fishing and misappropriation of seventy-three kilograms of fish.

6. On 21 December 2004 the Orhei District Court, in a closed sitting, heard an application to remand the applicant in custody, which it granted. The reasons for remanding him in custody relied upon by the court were that he had changed his address and that he might re-offend. Neither the applicant nor his lawyer was present at the hearing and they found out about the detention order only one year later, when the applicant was arrested.

7. On 22 December 2005 at approximately 6 p.m. the applicant was arrested at his home in Chişinău and taken to the Orhei District Court where an investigating judge saw him and confirmed the detention warrant of 21 December 2004. He was then taken to the Orhei detention centre.

8. According to the applicant, he was kept in a small cell called the “aquarium” until approximately 10 p.m. the next day, when he was moved to cell no. 9. The “aquarium” was approximately two metres long and 0.80 metres wide and did not have a bed, chair, toilet or sink. It was intended for periods of detention not longer than three hours. Cell no. 9 was located below floor level and did not have windows. There was no ventilation. The electric light was always on, although it was so weak that it was difficult to distinguish the faces of the co-detainees. The cell was approximately seven metres long and three metres wide and there were six detainees in it. The cell was not equipped with a toilet but instead had a big bucket in a corner which was not separated from the rest of the cell. There was no sink and the detainees had to keep water in plastic bottles which they were allowed to refill once in a while outside the cell. There were no beds, but only a brick shelf a little higher than the floor on which four people could sleep. The cell was not provided with any bedding and the applicant alleged that he was only able to sleep for one hour per day. The cell was infested with insects, with the result that the applicant was covered with painful bites, some of which later became wounds. The applicant sent the Court photographs showing the bites on his body. The food was insufficient and of very poor quality. The detainees were fed only once a day from dirty plates and the applicant was permanently hungry. His relatives were not allowed to bring him food because he would not confess to the charges against him. The applicant was unable to have any contact with his relatives and the outside world. He did not have any paper, pen or envelopes. The room was not provided with a radio or television and due to the lack of natural light the applicant never knew what time of day it was.

9. On 4 January 2006 the applicant's wife hired a lawyer and learned about the detention warrant of 21 December 2004. On 5 January 2006 the applicant's lawyer challenged the detention order before the Chişinău Court of Appeal. He complained, *inter alia*, under Article 3 of the Convention, of the inhuman and degrading conditions of the applicant's detention. After giving a detailed description of the conditions in which the applicant was being detained, he asked the court to find that the applicant's rights guaranteed by Article 3 of the Convention had been breached and to award him compensation.

10. On 13 January 2006 the applicant's lawyer repeated the *habeas corpus* request and the complaint under Article 3 of the Convention before the Chişinău Court of Appeal. The above complaints have never been examined by the Chişinău Court of Appeal.

11. In the meantime the applicant complained on several occasions to the prison authorities and to the sanitation department about the poor conditions of detention. However, his complaints were unsuccessful.

12. On 12 January 2006 the applicant's lawyer complained to the Orhei district prosecutor about the applicant's poor conditions of detention. As a result of that complaint the prison authorities moved the applicant to another cell without disinfecting it and reported to the prosecutor that the problem had been remedied. According to the applicant, the only shower in the prison was fixed then.

13. On 20 January 2006 the detention warrant expired and the applicant was released.

14. The criminal proceedings against the applicant ended with the judgment of the Chişinău Court of Appeal of 5 October 2006, by which the applicant was ordered to pay a fine of 3,000 Moldovan lei (the equivalent of 178 euros (EUR)).

II. RELEVANT NON-CONVENTION MATERIAL

15. The relevant findings of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT, unofficial translation) read as follows:

a. Visit to Moldova of 10-22 June 2001:

“B. Establishments visited

... - EDP of Chişinău Police Inspectorate (Follow-up visit)

... b. remand centres (EDPs)

53. In its report on the 1998 visit (paragraph 56), the CPT was forced to conclude that material conditions of detention in the remand centres (EDPs) visited amounted in many respects to inhuman and degrading treatment and, in addition, constituted a

significant risk to the health of persons detained. While recognising that it was not possible to transform the current situation in these establishments overnight, the CPT recommended a certain number of immediate palliative measures to guarantee basic conditions of detention that respect the fundamental requirements of life and human dignity.

54. Unfortunately, during the 2001 visit, the delegation found barely any traces of such palliative measures, in fact quite the opposite. ...

55. One can only regret that in their efforts to renovate these premises - which under the current economic circumstances deserve praise - the Moldovan authorities have paid no attention to the CPT recommendations. In fact, this state of affairs strongly suggests that, setting aside economic considerations, the issue of material conditions of detention in police establishments remains influenced by an outdated concept of deprivation of liberty.

56. Turning to the other EDPs visited across Moldova, with very few exceptions the delegation observed the same types of disastrous and insalubrious material conditions. A detailed description is superfluous, since it has all been highlighted already in paragraphs 53 to 55 of the report on the 1998 visit.

In Chişinău EDP, these conditions were exacerbated by serious overcrowding. At the time of the visit, there were 248 prisoners for 80 places, requiring nine persons to cram into a cell measuring 7 m² and between eleven and fourteen persons into cells of 10 to 15 m².

57. The delegation also received numerous complaints about the quantity of food in the EDPs visited. This normally comprised tea without sugar and a slice of bread in the morning, cereal porridge at lunch time and hot water in the evening. In some establishments, food was served just once a day and was confined to a piece of bread and soup. ...

...Concerning the issue of access to toilets in due time, the CPT wishes to stress that it considers that the practice according to which detainees comply with the needs of nature by using receptacles in the presence of one or several other persons, in a confined space such as the EDP cells which also serve as their living space, is in itself degrading, not only for the individual concerned but also for those forced to witness what is happening. Consequently, the CPT recommends that clear instructions be given to surveillance staff that detainees placed in cells without toilets should – if they so request – be taken out of their cell without delay during the day in order to go to the toilet.

59. The CPT also recommends that steps be taken to:

- reduce the overcrowding in Chişinău EDP as rapidly as possible and to comply with the official occupancy level;
- supply persons in custody with clean mattresses and clean blankets;
- authorise persons detained in all EDPs to receive packages from the outset of their custody and to have access to reading matter.

In the light of certain observations made, particularly in the EDP of the Chişinău Police Inspectorate, the CPT also reiterates its recommendation concerning strict compliance, in all circumstances, with the rules governing separation of adults and minors.”

b. Visit to Moldova of 20-30 September 2004

“4. Conditions of detention.

a. Institutions of the Ministry of Internal Affairs

41. Since 1998, when it first visited Moldova, the CPT has serious concern for the conditions of detention in the institutions of the Ministry of Internal Affairs.

The CPT notes that 32 out of 39 EDPs have been subjected to “cosmetic” repair and that 30 have been equipped with places for daily walks. Nevertheless, the 2004 visit did not allow lifting the concern of the Committee. In fact, most recommendations made have not been implemented.

42. Whether one refers to the police stations or EDPs visited, the material conditions are invariably subject to the same criticism as in the past. Detention cells had no access to daylight or a very limited such access; artificial light – with rare exceptions – was mediocre. Nowhere did the persons obliged to pass the night in detention receive mattresses and blankets, even those detained for prolonged periods. Those who had such items could only have obtained them from their relatives...

45. As for food ... in the EDPs the arrangements made were the same as those criticised in 2001 (see paragraph 57 of the report on that visit): generally three modest distributions of food per day including tea and a slice of bread in the morning, a bowl of cereals at noon and tea or warm water in the evening. Sometimes there was only one distribution of food per day. Fortunately, the rules for receiving parcels have been relaxed, which allowed detainees with relatives outside to slightly improve these meagre daily portions.

47. In sum, the material conditions remain problematic in the police stations; they remain disastrous in EDPs, continuing in many aspects to amount, for the detainees, to inhuman and degrading treatment.”

a. Visit to Moldova of 14-24 September 2007

“II. Institutions of the Ministry of Internal Affairs

In so far as the conditions of detention in the police establishments are concerned, it appears that this is the field in which the least progress has been achieved. It is not necessary to enumerate here in detail all the shortcomings observed by the delegation, which are more or less the same as those observed during past visits (and of which the Ministry of Internal Affairs is perfectly aware). ... Numerous persons are still detained overnight in police establishments, in cells which should not be used to detain persons for more than a few hours. It is high time to remedy these problems, in particular by placing accused persons under the supervision of institutions of the Ministry of Justice

and building new prisons corresponding to CPT standards and to the norms laid down by the Moldovan legislation.”

16. According to Article 313 of the Code of Criminal Procedure, a party to criminal proceedings can contest the actions or inactions of the criminal investigator before the investigating judge.

THE LAW

17. The applicant complained under Article 3 of the Convention that he had been detained in inhuman and degrading conditions. Article 3 of the Convention reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

18. He also complained under Article 5 § 3 of the Convention that the Orhei District Court had not given relevant and sufficient reasons for his pre-trial detention and that he had not been brought before a judge after his arrest. The relevant part of Article 5 § 3 reads:

“Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

19. The applicant also complained under Article 5 § 4 that the Court of Appeal had failed to examine his *habeas corpus* request. Article 5 § 4 of the Convention reads:

“4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.”

20. The applicant complained under Article 13 of the Convention that he had not had an effective remedy in respect of the alleged breach of Article 3 of the Convention. Article 13 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.”

I. THE GOVERNMENT’S REQUEST TO STRIKE OUT THE APPLICATION UNDER ARTICLE 37 OF THE CONVENTION

21. The Government, in their additional observations of 24 May 2007, submitted a unilateral declaration similar to that in the case of *Tahsin Acar v. Turkey* ((preliminary objection) [GC], no. 26307/95, ECHR 2003-VI) and informed the Court that they were ready to accept that there had been a

violation of the applicant's rights under Articles 3, 5 and 13 of the Convention. The Government proposed paying him EUR 2,000 in respect of non-pecuniary damage and argued that this amount would constitute sufficient just satisfaction in the present case, bearing in mind the intensity and duration of the applicant's suffering, the fact that the applicant's health had not been affected as a result of it and the Court's case-law in such cases as *Sarban v. Moldova* (no. 3456/05, 4 October 2005) and *Becciev v. Moldova* (no. 9190/03, 4 October 2005). With regard to costs and expenses, the Government argued that the applicant had received legal aid from the Court and that, in their opinion, that amount was sufficient. The Government invited the Court to strike out the application in accordance with Article 37 of the Convention.

22. The applicant disagreed with the Government's proposal and argued that the amount proposed by them was too small. Referring to *Sarban* and *Becciev*, he submitted that the conditions of detention in the Orhei detention centre were more severe than those in Chişinău. He gave an example of the case-law of the Moldovan Supreme Court (the case of D.G.) in which the court had awarded the applicant EUR 9,500 for non-pecuniary damage suffered as a result of the quashing of a final judgment under a *Brumarescu*-type procedure and EUR 1,000 for costs and expenses. According to the applicant the violations in his case were more serious than in that case and the lawyer had had to spend more time.

23. The Government argued that the applicant could not know how much time had been spent by the lawyer in the G.D. case and the level of suffering of the applicant in that case. They argued that the amount proposed by them was reasonable.

24. The Court refers to the principles established in its case-law (see, for instance, *Melnic v. Moldova*, no. 6923/03, §§ 20-31, 14 November 2006) regarding the examination of unilateral declarations. It recalls, in particular, that it will "depend on the particular circumstances whether the unilateral declaration offers a sufficient basis for finding that respect for human rights as defined in the Convention does not require the Court to continue its examination of the case (Article 37 § 1 *in fine*)".

25. As to whether it would be appropriate to strike out the present application on the basis of the unilateral declaration made by the Government, the Court notes that the Government conceded that there had been a violation of Articles 3, 5 and 13 of the Convention and offered to pay the applicant non-pecuniary damage. Bearing in mind the circumstances of the present case, the Court considers that the amount proposed by the Government does not bear a reasonable relationship to the level of suffering endured by the applicant. It therefore considers that respect for human rights as defined in the Convention and its Protocols requires the Court to continue its examination of the case (see, by contrast, *Akman v. Turkey* (striking out), no. 37453/97, §§ 23-24, ECHR 2001-VI).

26. That being so, the Court rejects the Government's request to strike the application out under Article 37 of the Convention and will accordingly pursue its examination of the admissibility and merits of the case.

II. ADMISSIBILITY OF THE CASE

A. The complaint under Article 5 § 1 of the Convention

27. In his initial application, the applicant complained under Article 5 § 1 of the Convention that his arrest and detention had been unlawful. However, in his observations on the admissibility and merits, he asked the Court not to proceed with the examination of this complaint. The Court finds no reason to examine it.

B. The complaint under Article 5 § 4 of the Convention

28. The applicant complained under Article 5 § 4 of the Convention that the domestic courts had failed to examine his appeal against the decision by which the detention order was issued.

29. The Court reiterates that Article 5 § 4 guarantees no right, as such, to appeal against decisions ordering or extending detention as the above provision refers to "proceedings" and not to appeals. The intervention of one organ satisfies Article 5 § 4, on condition that the procedure followed has a judicial character and gives to the individual concerned guarantees appropriate to the kind of deprivation of liberty in question (see *Ječius v. Lithuania*, no. 34578/97, § 100, ECHR 2000-IX). It follows that the complaint is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4.

C. The remaining complaints

30. The Court considers that the applicant's remaining complaints raise questions of fact and law which are sufficiently serious that their determination should depend on an examination of the merits, and that no other grounds for declaring them inadmissible have been established. The Court therefore declares these complaints admissible. In accordance with its decision to apply Article 29 § 3 of the Convention (see paragraph 4 above), the Court will immediately consider the merits of the complaints.

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

31. The applicant complained of his conditions of detention in the Orhei detention centre. He argued that in contesting the fact of his detention in the “aquarium”, the Government had failed to provide any evidence such as records concerning the occupancy of the cells. Moreover, the Government’s contention that in October-November 2005 the Orhei detention centre had been refurbished was false. The Government had failed to produce any evidence in support of it. They had not presented any evidence concerning the financing of the refurbishment work, any copy of a contract with a contractor or any evidence concerning the moving of the detainees to another location during the alleged work. Referring to the Government’s decision of 2003, the applicant argued that it concerned the refurbishment of prisons for convicted prisoners, but not of detention centres. Moreover, the Government had failed to make any comments concerning the photographs showing insect bites on the applicant’s body and the fact that immediately after his release from detention a doctor had concluded that his body was covered in insect bites and that he had pneumonia.

32. The Government argued that the applicant had been placed from the very beginning in cell no. 9 and not in the “aquarium”. According to them, cell no. 9 was located on the ground floor of the detention centre. It measured 5.4 x 2.5 metres and three to four persons were detained in it at the time of the applicant’s detention. According to the Government, the cell was equipped with a heating device and a window through which natural light passed. The cell had all the necessary sanitary facilities. In October-November 2005 the Orhei detention centre had undergone complete refurbishment. The heating system had been repaired. A boiler for heating water had been installed. The wooden beds had been repaired and mattresses bought. The cells had been equipped with ventilation and new windows through which natural light would pass. Once a week the cells were disinfected. According to the Government the CPT reports relied on by the applicant were no longer up to date. They submitted that in 2003 the Government of Moldova had adopted a decision setting out plans for reforming the penitentiary system.

33. The Court recalls that the general principles concerning conditions of detention have been set out in *Ostrovar v. Moldova* (no. 35207/03, §§ 76-79, 13 September 2005).

34. It notes that all the applicant’s submissions are consistent with the findings of the CPT in its reports relating to the detention establishments of the Moldovan Ministry of Internal Affairs. The findings of the CPT provide at least to some degree a reliable basis for the assessment of the conditions in which the applicant was imprisoned (see, for another example of the Court’s taking into account the reports of the CPT, *Kehayov v. Bulgaria*, no. 41035/98, § 66, 18 January 2005). The Government denied most of the

allegations by arguing that the CPT reports were outdated and that the prison had been refurbished one month before the applicant's detention there. However, they did not submit any evidence to substantiate their submissions concerning the refurbishment (compare *Ostrovar*, cited above, § 80). Moreover, the Government did not dispute some of the allegations made by the applicant, such as the lack of adequate food, the fact that a very weak electric light was always on in the cell, the fact that the sanitary facilities were not separated from the rest of the cell and the fact that the applicant's body had been covered with insect bites on his release from detention.

35. In such circumstances the Court considers that the hardship endured by the applicant went beyond the unavoidable level inherent in detention and reached a threshold of severity contrary to Article 3 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

36. The applicant submitted that the court that issued the detention warrant order on 21 December 2004 had not relied on relevant and sufficient reasons.

37. The Government argued that the detention warrant had been issued by an investigating judge, within the limits of his competence, who had relied on the fact that the applicant had changed his address and that he might re-offend. The offence of which the applicant was suspected was an extremely serious one, punishable by imprisonment of up to twenty years. According to the Government, there had been no violation of Article 5 § 3 of the Convention.

38. The Court refers to the general principles established in its case-law on Article 5 § 3 of the Convention regarding, in particular, the need for relevant and sufficient reasons for depriving someone of his or her liberty (see, among others, *Castravet v. Moldova*, no. 23393/05, §§ 29-33, 13 March 2007, and *Sarban*, cited above, §§ 95-99).

39. In the present case the domestic courts, when ordering the applicant's detention, cited parts of the relevant law without showing the reasons why they considered the allegations that the applicant was liable to abscond or re-offend to be well-founded. Hence, the circumstances of this case are similar to those in *Becciev* (cited above, §§ 61-62) and *Sarban* (cited above, §§ 100-101), in which this Court found violations of Article 5 § 3 of the Convention on account of insufficient reasons given by the courts for the applicants' detention. Since the Government presented no reasons for distinguishing this case from the above cases, the Court considers that the same approach should be adopted in the present case.

40. In the light of the above, the Court considers that the reasons relied on by the Orhei District Court in its decision concerning the applicant's pre-

trial detention were not “relevant and sufficient”.

41. There has accordingly been a violation of Article 5 § 3 of the Convention in this respect.

V. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

42. The applicant submitted that no effective remedies existed against inhuman and degrading conditions of detention. According to him, inhuman conditions of detention constituted an administrative practice in Moldova, since all the prisons were in the same situation as the one in which he had been detained. According to the applicant all the cells in the Orhei detention centre were similar and there was nothing the authorities could have done to put an immediate end to his suffering. The authorities were well aware of the conditions of detention but did nothing.

43. The Government disputed the applicant’s submissions and argued that it was open to the applicant under Moldovan law to complain about illegal actions of the criminal investigator in accordance with Article 313 of the Code of Criminal Procedure. According to the Government, there had been several such complaints in the districts of Drochia and Criuleni, whereby persons had complained about acts of torture and ill-treatment by police officers, but they had all been dismissed.

44. As the Court has held on many occasions, Article 13 of the Convention guarantees the availability at national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they may happen to be secured in the domestic legal order. The effect of Article 13 of the Convention is thus to require the provision of a domestic remedy to deal with the substance of an “arguable complaint” under the Convention and to grant appropriate relief.

45. The Court recalls that it has examined on numerous occasions the issue of domestic remedies by which to complain of poor conditions of detention in Moldova (see *Sarban*, cited above, §§ 57-62; *Holomiov v. Moldova*, no. 30649/05, §§ 101-107, 7 November 2006; *Istratii and Others v. Moldova*, nos. 8721/05, 8705/05 and 8742/05, § 38, 27 March 2007; *Modarca v. Moldova*, no. 14437/05, § 47, 10 May 2007; and *Stepuleac v. Moldova*, no. 8207/06, § 46, 6 November 2007), and concluded on each occasion that the remedies suggested by the Government were not effective. The present case is no exception as it is clear that Article 313 of the Code of Criminal Procedure has nothing to do with conditions of detention but merely affords the possibility to challenge the actions or inactions of investigation officers.

46. In such circumstances, the Court considers that it has not been shown that effective remedies existed in respect of the applicant’s complaint under Article 3. There has therefore been a breach of Article 13 of the Convention.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

47. 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

48. The applicant claimed EUR 12,000 for non-pecuniary damage.

49. The Government contested the claim and argued that it was ill-founded and excessive.

50. Having regard to the violations found above, the Court considers that an award of compensation for non-pecuniary damage is justified in this case. Making its assessment on an equitable basis, the Court awards the applicant EUR 3,500.

B. Costs and expenses

51. The applicant's lawyer claimed EUR 10,705 for the costs and expenses incurred before the Court. He submitted a detailed time-sheet.

52. The Government considered the amount claimed excessive and disputed the number of hours worked by the applicant's lawyer.

53. The Court awards EUR 1,500 for costs and expenses, less EUR 850 already paid in legal aid by the Council of Europe.

C. Default interest

54. 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. *Rejects* the Government's unilateral declaration;
2. *Declares* the complaint under Article 5 § 4 of the Convention inadmissible and the remainder of the application admissible;
3. *Holds* that there has been a violation of Article 3 of the Convention;

4. *Holds* that there has been a violation of Article 5 § 3 of the Convention;
5. *Holds* that there has been a violation of Article 13 of the Convention taken together with Article 3;
6. *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 3,500 (three thousand five hundred euros) in respect of non-pecuniary damage and EUR 1,500 (one thousand five hundred euros), less EUR 850 (eight hundred and fifty euros) already received in legal aid, in respect of costs and expenses, plus any tax that may be chargeable, to be converted into the currency of the respondent State 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 amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
7. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 13 November 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President