



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

FOURTH SECTION

CASE OF G. v. FINLAND

(Application no. 33173/05)

JUDGMENT

STRASBOURG

27 January 2009

FINAL

27/04/2009

This judgment may be subject to editorial revision.

In the case of G. v. Finland,

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

Nicolas Bratza, *President*,

Giovanni Bonello,

David Thór Björgvinsson,

Ján Šikuta,

Päivi Hirvelä,

Ledi Bianku,

Nebojša Vučinić, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 6 January 2009,

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

PROCEDURE

1. The case originated in an application (no. 33173/05) against the Republic of Finland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Finnish national (“the applicant”), on 14 September 2005. The President of the Chamber decided of his own motion that the applicant’s identity should not be disclosed (Rule 47 § 3 of the Rules of Court).

2. The applicant was represented by Mr Heikki Salo, a lawyer practising in Helsinki. The Finnish Government (“the Government”) were represented by their Agent, Mr Arto Kosonen of the Ministry for Foreign Affairs.

3. On 14 January 2008 the President of the Fourth Section decided to communicate to the Government the complaint concerning the length of the proceedings. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

THE FACTS**THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1944.

5. The applicant worked as a judge in a District Court (*käräjäoikeus, tingsrätten*) since 1976. Since the 1980s she has suffered from backache which has prevented her from working long hours and sometimes made it impossible for her to work. The supervising court, the Appeal Court

(*hovioikeus, hovrätten*), questioned on several occasions her ability to continue to work. In 1991 and 1994 the Appeal Court concluded, however, that the applicant's condition was not serious enough to justify her dismissal.

6. In 2000 the issue was again brought up. On 6 June the senior judge of the District Court informed the Appeal Court about the applicant's situation. On 19 June the Appeal Court requested the applicant to submit a medical certificate.

7. On 8 September 2000 the applicant submitted a certificate which showed that she was capable of performing her judicial functions. On 18 September she submitted several other medical certificates to the court showing her fitness for work. On 16 October the Appeal Court decided to carry out an inspection of the District Court. The inspection was carried out on 10 November without the applicant's knowledge. The head of personnel of the Appeal Court went to the District Court to interview the applicant's colleagues about her situation. The colleagues and supervisors were given a questionnaire which they had to complete in writing. They were apparently also shown statistics on the court's workload, the division of work and the applicant's absences.

8. On 21 December 2000 the applicant sent the Appeal Court the results of her medical examinations as well as a further medical opinion drawn up by her doctor. She requested that her case be decided on the basis of these materials together with the medical opinions which she had previously submitted.

9. On 3 January 2001 the Appeal Court prepared a report on the inspection of the District Court carried out on 10 November 2000. According to that report, the applicant's share of the work had been minimal in comparison with the other judges' workload. The report concluded that the medical examinations conducted so far did not give a correct picture of the applicant's state of health and capacity to work, and that the conditions justifying a further medical examination under the Civil Servants Act were therefore fulfilled. On 9 March 2001 the Appeal Court decided that the case could not be decided on the basis of the existing materials. It thus requested the applicant to undergo a thorough and objective medical examination at the State's expense.

10. On 22 March 2001 the President of the Appeal Court, the head of personnel and the applicant's counsel met and decided to give the applicant an opportunity to express her point of view on the request for a medical examination. The applicant stated in her reply of 20 April that there were no grounds for making her undergo a further examination since she had already provided several medical certificates on her state of health.

11. On 4 May 2001 the Appeal Court found that the applicant's reply did not give cause for changing the court's decision of 9 March 2001. The court requested a new medical examination and, in order to avoid any lack of

objectivity, sent the complete file to the doctor responsible for occupational health care. The doctor contacted the State Treasury (*Valtiokonttori, Statskontoret*) in order to ascertain the kind of medical examination needed to obtain a disability pension. As a result, neuropsychological examinations were carried out in May and June 2002. They showed that the applicant was fit to work as a judge. Both the doctor responsible for occupational health care and the State Treasury concluded, on 30 October 2002 and in January 2003 respectively, that, on the basis of all the medical examinations, the applicant was fit to work. These conclusions were sent to the Appeal Court on 5 February 2003.

12. On 3 March 2003, on the State Treasury's initiative, a meeting was called in the District Court in order to discuss possibilities for improving the applicant's ability to work. The applicant did not attend the meeting and informed the meeting through her counsel that any measures to be implemented would require her consent. On 10 March and 23 April, respectively, the Appeal Court requested the applicant and the State Treasury to submit in writing the results of all the various medical examinations. On 25 March 2003 and 4 June, respectively, both the applicant and the State Treasury refused to provide this information, basing their refusal on domestic law provisions regulating the protection of privacy.

13. On 17 June 2003 the applicant requested that the administrative proceedings in the Appeal Court be accelerated. On 27 June the applicant was summoned to an oral hearing to be held on 26 September. On 1 and 5 September the applicant's counsel asked the court to indicate the material that would be used against the applicant and the issues on which she would be questioned. On 3 September a summary of the case was sent to the applicant. On 16 September the applicant informed the court that she wanted 14 witnesses and experts to be heard under oath at the hearing. On 19 September the plenary court, presided by its president, refused to hear all the applicant's witnesses. It reminded her that the case was an administrative one and that it could be decided on the basis of the written materials alone. Since the case concerned the applicant personally, she was given the possibility to be heard in person. The hearing of witnesses was unnecessary as many of them had already submitted written statements. Moreover, the court was familiar with the relevant law as well as the circumstances obtaining in the District Court in question.

14. The applicant complained about the refusal to hear her witnesses to the Parliamentary Ombudsman (*eduskunnan oikeusasiamies, riksdagens justitieombudsman*), who declined to examine her complaint since the case was still pending before the Appeal Court.

15. On 22 September 2003 the applicant sought the disqualification from the proceedings of the president of the Appeal Court, one of the judges and the head of personnel. At the oral hearing on 26 September the plenary

court, under the presidency of another judge, noted that it had already been decided on 19 September that the head of personnel would not participate in the deliberations on the case. It rejected the applicant's request for the disqualification of the president and one of the judges.

16. At the oral hearing on 26 September 2003, the Appeal Court made a short summary of unanswered issues that it considered relevant, including the question as to why more extensive examination had not been carried out of the applicant's fitness for work. The court decided immediately after the oral hearing to order a more extensive examination of the applicant's fitness for work. This request was also directed to the State Treasury. On 15 October the applicant wrote to the court, maintaining that she had already undergone all the medical examinations which the occupational health care doctor and the State Treasury had deemed necessary.

17. On 21 October 2003 the court wrote to the State Treasury requesting it to ensure that the applicant underwent an additional examination. On 13 January 2004 the applicant requested the court to correct its decision of 26 September 2003, claiming that she had already been given an additional examination. On 16 January 2004 the court rejected this request, stating that no such examination had as yet been carried out of her health seen from the perspective of her fitness for work and her right to receive a disability pension. On 19 January 2004 the State Treasury informed the court that the applicant had not applied for rehabilitation and that it could not conduct the medical examinations without her consent. However, in her letters of 10 and 17 February 2004 to the court, the applicant stated that, even though she had not applied for rehabilitation, she had informed the State Treasury on 23 December 2003 that she was ready to undergo an additional examination.

18. On 9 and 10 June 2004 respectively, a specialist and the occupational health care doctor concluded that the applicant was fit to work as a judge. On 22 June the applicant requested that the case be decided as soon as possible. Prior to this, the applicant had on several occasions asked for the proceedings to be accelerated.

19. On 23 August 2004 the Appeal Court found in its decision that since the late 1980s the applicant had been absent on many occasions because of chronic backache and, for that reason, her output had been very modest. There was no doubt that she had become unable to carry out the duties of a district court judge due to her illness. This overall assessment was not influenced by the fact that her condition could not be satisfactorily determined given her failure to undergo detailed medical examinations on her health. As the applicant had refused to give up her post, the Appeal Court dismissed her with immediate effect. The decision indicated that no appeal was possible.

20. The applicant lodged an appeal and a request for the reopening of the case with the Supreme Court (*korkein oikeus, högsta domstolen*). On

8 September 2004 the court annulled the Appeal Court's decision in so far as it indicated that no appeal was possible and set a deadline for the submission of an appeal. The court found that, according to Article 21 of the Constitution of Finland, everyone had the right to have his or her case dealt with appropriately by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ responsible for the administration of justice. As a decision to dismiss a person necessarily affected that person's rights and obligations, it followed that there should have been a possibility to challenge that decision in a court of law. The fact that no appeal was possible in this kind of case would therefore be in contradiction with the Constitution.

21. On 8 October the applicant submitted her appeal against the Appeal Court's decision in its entirety. She complained, *inter alia*, that the Appeal Court had failed to consider a number of medical opinions and to call some of her witnesses and that it had based its decision on interviews with her colleagues which had not been given under oath.

22. On 29 November 2004 the Supreme Court held a preparatory session at which the applicant requested that several witnesses and experts be heard. On 3 December the court informed the applicant that it refused to hear eight of her twelve witnesses and experts since it was not necessary to hear them. It added that it intended to hear two witnesses of its own motion. On 16 December the applicant requested three of her witnesses be heard so as to rebut the evidence of the court's own witnesses. On 20 December this request was rejected by the court on the same grounds as those indicated in the decision of 3 December. The court pointed out that the normal procedural rules for civil and criminal cases did not apply to her case since it was an administrative procedure. For this reason the case could be examined on the basis of the written materials and the court was responsible for obtaining evidence to the extent necessary to decide the case.

23. On 4 January 2005 the Supreme Court obtained statistical information from the District Court, which was received by the applicant the following day. She asked for a postponement of the case on 6 January, but the court did not respond to this request.

24. The oral hearing took place on 10 and 12 January 2005. On 15 March 2005 the Supreme Court rejected the applicant's appeal. It found, on the same grounds as the Appeal Court, that the applicant was no longer fit for work and that this state of affairs was permanent.

25. On 27 July 2005 the applicant was granted a disability pension, backdated to 1 September 2004.

II. RELEVANT DOMESTIC LAW AND PRACTICE

26. According to Article 21 of the Constitution of Finland (*perustuslaki, grundlagen*; Act no. 731/1999), everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ responsible for the administration of justice.

27. Section 46, subsection 2, of the State Civil Servants Act (*valtion virkamieslaki, statstjänstemannalagen*; Act no. 750/1994) provides that a judge shall resign from government service if he or she is incapable of working due to illness, defect or injury. If the judge does not resign in such a situation, the court competent to charge him or her for misconduct in public office shall dismiss him or her without application. Before dismissal the judge shall be granted an opportunity to give a statement within a reasonable time limit.

28. According to section 3 of the Administrative Procedure Act (*hallintomenettelylaki, lag om förvaltningsförfarande*; repealed by the Act No. 434/2003, *hallintolaki, förvaltningslag*, which entered into force on 1 January 2004), this Act was applicable when the courts dealt with administrative issues. According to section 17 of the same Act, the authorities were responsible for investigating the case.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION CONCERNING LENGTH OF PROCEEDINGS

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

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

30. The Government contested that argument.

A. Admissibility

31. As to the applicability of Article 6, the Government submitted that the Court had reviewed its case-law in that respect in a recent Grand Chamber judgment (see *Vilho Eskelinen and Others v. Finland* [GC], no. 63235/00, ECHR 2007-). In that judgment it had been presumed that

Article 6 applied, unless the Government demonstrated that a civil servant applicant had not had a right of access to a court under national law and that this exclusion had been justified under Article 6. The Government pointed out that in the present case, the applicant had not had, according to an express provision in national legislation, any right to appeal against the Appeal Court's decision of 23 August 2004 but that the Supreme Court had annulled that decision on the basis of Article 21 of the Constitution on 8 September 2004 and had granted the applicant a right to appeal. This meant that, according to the Court's interpretation, Article 6 would be applicable in the present case.

32. The Government, however, maintained that a judge's status and right to stay in office were unique and could not possibly be equated with "ordinary labour disputes", as pointed out by the Court in the above-mentioned judgment (cited above, § 62). Moreover, it could be argued that the right of access to a court under Article 21 of the Constitution could have a wider scope than that of Article 6 of the Convention, as had been found by the Supreme Administrative Court in its recent judgment in case KHO:2008:25. Accordingly, Article 6 might not have automatically applied to all situations covered by Article 21 of the Constitution.

33. The applicant agreed that the principles enumerated in the *Vilho Eskelinen and Others v. Finland* judgment applied to the present case.

34. The Court reiterates that, according to its case-law, there can in principle be no justification for the exclusion from the guarantees of Article 6 of ordinary labour disputes on the basis of the special nature of the relationship between the particular civil servant and the State in question. There will, in effect, be a presumption that Article 6 applies. It will be for the respondent Government to demonstrate, first, that a civil-servant applicant does not have a right of access to a court under national law and, second, that the exclusion of the rights under Article 6 for the civil servant is justified (see *Vilho Eskelinen and Others v. Finland* [GC], no. 63235/00, § 62, ECHR 2007-). In the present case, it is common ground that the applicant had *de facto* access to a court at the national level. Accordingly, Article 6 § 1 is applicable.

35. The Court concludes 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

36. The parties disagree as to the date when the proceedings started. The applicant took the view that the proceedings started on 8 June 2000, when the letter from the District Court's senior judge about the applicant's situation was received by the Appeal Court, whereas the Government

submitted that the period to be taken into consideration began on 19 June 2000 when the applicant was asked to submit a medical certificate on her health. The Court agrees with the Government that the period to be taken into consideration began on 19 June 2000, the date on which the Appeal Court took its first decisive step in the proceedings. It ended on 15 March 2005 when the Supreme Court rendered a final decision in the case. Consequently, the proceedings lasted some four years and nine months for two levels of jurisdiction.

37. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). The Court reiterates that special diligence is necessary in employment disputes (see *Ruotolo v. Italy*, 27 February 1992, § 17, Series A no. 230-D).

38. The Government maintained that there had been no periods of inactivity, except from May 2001 until February 2003 when new medical examinations had been ordered and carried out. The proceedings in the Appeal Court had been somewhat lengthy but the proceedings in the Supreme Court had been swift. The case had been quite complex and the issue at stake had been important to the applicant. Taking into account the special circumstances of the case and the applicant's conduct, the Government were of the opinion that the length of the proceedings had been reasonable.

39. The applicant submitted that the proceedings in the Appeal Court had been very lengthy and that she had tried to expedite them on several occasions but she had had no influence over the decisions taken. The case itself had not been very complex but the applicant had had a great personal interest in its outcome.

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

41. 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.

II. REMAINDER OF THE APPLICATION

A. Complaints under Article 6 of the Convention, taken alone or in conjunction with Articles 13 and 14 of the Convention

42. The applicant complained that the proceedings in the Appeal Court had been unfair, as the court had based its judgment on allegedly false and unlawful evidence. She also claimed that she had not been given an opportunity to see the investigation materials, which had been used against her in the proceedings, nor had she been able to ask for an additional investigation. She further complained about unfairness in the proceedings in the Supreme Court, maintaining that the oral hearing had been too long and unbalanced to her disadvantage, and that the court had ignored the medical opinions given by several doctors.

43. The Court notes that the applicant had several opportunities during the Appeal Court proceedings to comment on the investigation materials, both at an oral hearing and in writing. She also submitted her own investigation materials to the Appeal Court. Moreover, the oral hearing in the Supreme Court took place on 10 and 12 January 2005. Nothing in the case file indicates that it was conducted in an unfair manner. As to the assessment of evidence, the Court reiterates that, while Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (see *Schenk v. Switzerland*, 12 July 1988, §§ 45-46, Series A no. 140; *García Ruiz v. Spain* [GC], no. 30544/96, ECHR 1999-I, § 28). The Supreme Court heard four of the applicant's witnesses and two witnesses of its own in the oral hearing. It does not appear that the court ignored any of the medical opinions but only evaluated them differently from the applicant.

44. The applicant also complained that the Appeal Court had not been impartial as the president of the court had acted both as investigator and judge in her case. For the same reason, it was alleged that another judge who had been involved in the investigation had not been impartial.

45. The Court observes that the Appeal Court functioned in this case as an administrative body making the initial administrative decision and that it applied the Administrative Procedure Act to the case. Since in this case it was not a question of judicial proceedings but of internal administrative procedures, the Court considers that the duty to investigate and decide falls necessarily within the same authority and the question of impartiality does not arise.

46. The applicant further complained under Articles 6 § 1 and 13 of the Convention that she had had no right to appeal against the Appeal Court's decision.

47. The Court observes that the Supreme Court annulled the decision of the Appeal Court in so far as it stated that no appeal was possible. The applicant filed an appeal with the Supreme Court on 8 October 2004 and that court gave its decision on 15 March 2005. Even assuming that it was a procedural mistake to state in the Appeal Court's decision that no appeal was possible, the Court finds that this mistake was corrected when the Supreme Court annulled this part of the decision and allowed the appeal. No separate admissibility issue arises therefore under Article 13.

48. Lastly, the applicant complained under Articles 6 § 3 (d) and 14 of the Convention that the proceedings had been unfair as none of her witnesses was heard at the oral hearing in the Appeal Court and only some of them were heard in the Supreme Court.

49. Even assuming that Article 6 § 3 (d) could give guidance also for civil and administrative cases from the standpoint of the general Article 6 § 1 requirement of fairness, the Court points out that this Article does not give the applicant an absolute right to have all her witnesses heard (see for example *M.A. v. Austria*, no. 23228/94, 11 May 1994). Bearing in mind that the Supreme Court was the only judicial body in the present case and that several of the applicant's witnesses were heard and others not in accordance with the Supreme Court's perception of relevance, it does not appear that the applicant's rights were violated in this respect. Consequently, no admissibility issue arises under Article 14 either.

50. In conclusion, the Court finds that the matters complained of do not disclose any appearance of a violation of the applicant's rights set out in Articles 6, 13 and 14 of the Convention. It follows that these complaints must be rejected as being manifestly ill-founded within the meaning of Article 35 §§ 3 and 4 of the Convention.

B. Complaints under Article 8 of the Convention

51. The applicant complained that her private life had been violated as a result of the unfairness of the proceedings, that the Appeal Court had illegally obtained medical information about her and had communicated the results of her medical examination to her colleagues for comments and that both the Appeal Court and the Supreme Court had published their decisions, which contained information on her health, in a manner that allowed the applicant to be identified.

52. As concerns the alleged violation of the applicant's right to respect for her private life as a result of the allegedly unfair proceedings, the Court notes that, on the facts of the case, no arguable issue arises under Article 8. As far as the medical information is concerned, the Court observes that

there is no indication in the case file that the Appeal Court illegally obtained medical information about the applicant or communicated any of this information to her colleagues. As concerns the publication of the decisions, the Court notes that there is no indication in the case file that the Appeal Court decision was published. As the Supreme Court decision was a precedent decision, it was published on the Internet but without mentioning the applicant's name. Even assuming that the Appeal Court decision was published or that the applicant could be identified from the Supreme Court decision, the Court notes that the applicant did not complain about this issue to the domestic authorities.

53. The Court finds that these complaints are thus either manifestly ill-founded or inadmissible for non-exhaustion of the domestic remedies and must be rejected under Article 35 §§ 1, 3 and 4 of the Convention.

C. Complaints under Article 14 of the Convention

54. The applicant complained that she had been discriminated against due to her poor health and due to the fact that she had been dismissed without being granted a disability pension even though the right to such a pension was guaranteed by law to all civil servants who had been dismissed for health reasons.

55. The Court does not find any substantiation of these complaints. In any event, on 27 July 2005 the applicant was granted a disability pension with retroactive effect from 1 September 2004. The Court finds that the matters complained of do not disclose any appearance of a violation of the applicant's rights set out in Article 14 of the Convention. It follows that these complaints must be rejected as being manifestly ill-founded within the meaning of Article 35 §§ 3 and 4 of the Convention.

D. Complaints under Article 1 of Protocol No. 1 to the Convention

56. The applicant complained that the lengthy proceedings had violated her right to property as she had been obliged to pay the costs of her defence.

57. The Court finds that this was a normal requirement attaching to the conduct and presentation of the applicant's case. There is no indication that the decisions of the domestic courts interfered with the applicant's property rights contrary to Article 1 of Protocol No. 1 to the Convention.

58. It follows that these complaints must be rejected as being manifestly ill-founded within the meaning of Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

59. 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

60. The applicant claimed 101,849.98 euros (EUR) in respect of pecuniary and EUR 15,000 in respect of non-pecuniary damage.

61. The Government contested the claims, considering that there was no causal link between the alleged violation of Article 6 and the pecuniary damage sustained. As to the non-pecuniary damage, the Government considered that the applicant’s claim was excessive as to *quantum* and that the award should not exceed EUR 2,000.

62. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, it awards the applicant EUR 4,000 in respect of non-pecuniary damage.

B. Costs and expenses

63. The applicant also claimed EUR 29,634.31 for the costs and expenses incurred before the domestic courts and EUR 4,000 for those incurred before the Court.

64. The Government contested these claims. The Government maintained that the costs and expenses in the domestic proceedings did not relate to the length of proceedings and that no compensation should be paid for the applicant’s own time and work. As concerns the costs and expenses incurred before the Court, the Government maintained that, as no invoices had been submitted to the Court, no award should be made in this respect. In any event, the applicant’s claims were excessive as to *quantum* and any award under this head should not exceed EUR 1,000 (inclusive of value-added tax).

65. The Court reiterates that an award under this head may be made only in so far as the costs and expenses were actually and necessarily incurred in order to avoid, or obtain redress for, the violation found (see, among other authorities, *Hertel v. Switzerland*, 25 August 1998, § 63, *Reports of Judgments and Decisions* 1998-VI). In the present case, regard being had to the information in its possession and the above criteria, the Court rejects the claim for costs and expenses in the domestic proceedings. As to the costs and expenses incurred before the Court, the Court notes that no documentation, as required by Rule 60 of the Rules of Court, has been submitted within the time allowed. This claim must therefore also be rejected.

C. Default interest

66. 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 the excessive length of the 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 4,000 (four thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (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 27 January 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Nicolas Bratza
President