



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

FOURTH SECTION

CASE OF CEBOTARI AND OTHERS v. MOLDOVA

(Applications nos. 37763/04, 37712/04, 35247/04, 35178/04 and 34350/04)

JUDGMENT

STRASBOURG

27 January 2009

FINAL

27/04/2009

This judgment may be subject to editorial revision.

In the case of Cebotari and others v. Moldova,

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 five applications (nos. 37763/04, 37712/04, 35247/04, 35178/04 and 34350/04) 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 Mr Nicolai Cebotari, Mr Nicolai Gorbati, Ms Zinaida Curganov, Mr Ion Nedin and Mr Petru Anin (“the applicants”), on 18 August and 8 September 2004.

2. On 10 March and 1 May 2007 Mr Anin’s wife – Ms Larisa Anin, and Mr Cebotari’s son – Mr Sergiu Orlov, respectively, informed the Court that Mr Anin and Mr Cebotari had died; they stated that they wanted the proceedings to continue. For reasons of convenience Ms Anin and Mr Orlov will continue to be referred to in this judgment as the applicants, although it is now Mr Anin’s widow and Mr Cebotari’s son who are to be regarded as having this status (see *Vocaturu v. Italy*, judgment of 24 May 1991, Series A no. 206-C, § 2).

3. Mr Nicolai Cebotari was represented by Mr Corneliu Moraru. The Moldovan Government (“the Government”) were represented by their Agent, Mr Vladimir Grosu.

4. The applicants complained that the failure to enforce the judgment of 23 October 2001 violated their right to have their civil rights determined by a court within a reasonable time, as guaranteed by Article 6 of the Convention, and their right to peaceful enjoyment of their possessions, as guaranteed by Article 1 of Protocol No. 1 to the Convention.

5. The applications were allocated to the Fourth Section of the Court. On 30 August 2006 the President of that Section decided to communicate the

applications to the Government. Under the provisions of Article 29 § 3 of the Convention, it was also decided to examine the merits of the applications at the same time as their admissibility.

6. Judge Poalelungi, the judge elected in respect of Moldova, withdrew from sitting in the case (Rule 28 of the Rules of Court). On 29 October 2008, the Government, pursuant to Rule 29 § 1 (a), informed the Court that they were content to appoint in his stead another elected judge and left the choice of appointee to the President of the Chamber. On 1 December 2008, the President appointed Judge Šikuta to sit in the case.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASES

7. The applicants, Mr Nicolai Cebotari, Mr Nicolai Gorbatii, Ms Zinaida Curganov, Mr Ion Nedin and Mr Petru Anin, are Moldovan nationals, who were born in 1936, 1942, 1931, 1957 and 1939 respectively and live in Chişinău.

8. The facts of the case, as submitted by the parties, may be summarised as follows.

9. The applicants were employees of a private company (“the company”) and were entitled to receive invalidity benefit. Since the company stopped paying them benefit in 1998, the applicants jointly brought an action against it, seeking payment of benefit arrears and requiring the former to pay the benefit for the rest of their lives.

10. On 23 October 2001 the Botanica District Court ruled in favour of the applicants. It ordered the company to pay each of them invalidity benefit for the period 1 April 2000 to 1 November 2001 as follows: 9,507 Moldovan lei (MDL) (823 euros (EUR)) to Mr Nicolai Cebotari; MDL 6,245.4 (EUR 541) to Mr Nicolai Gorbatii; MDL 6,320.33 (EUR 548) to Mrs Zinaida Curganov; MDL 6,345.61 (EUR 550) to Mr Ion Nedin; and MDL 8,123.61 (EUR 550) to Mr Petru Anin. It also ordered the company to recalculate their respective benefits periodically and to pay it for the rest of their lives. On the same date the court issued enforcement warrants. The company’s appeal was dismissed on 8 May 2002 by the Chişinău Regional Court and on 13 June 2002 by the final judgment of the Court of Appeal.

11. The enforcement warrants were sent to the bailiff on 5 January 2002.

12. Between 2001 and 2004 the applicants lodged numerous complaints with various authorities about the non-enforcement of the judgment in their favour. In its replies the Ministry of Justice informed the applicants about the actions taken by the Bailiff’s Office to enforce the judgment. On several

occasions a bailiff made enquiries of the Tax Authority, the Land Registry and the Vehicle Registration Department about the company's assets. He was informed that the company held numerous bank accounts which had been frozen by the Tax Authority, that the company did not have any real estate and that it owned several vehicles, later found to have been dismantled and allegedly to be of no value.

13. In order to enforce the judgment in favour of the applicants, on 5 February 2002 a bailiff seized a building, which, according to a certificate of 22 February 2002 issued by the Land Registry, belonged to a third company. On 25 February 2002 a court annulled the sale by auction of that building.

14. On 22 July 2002 the company proposed to pay to each applicant MDL 1,300 (EUR 94), but they refused the offer.

15. On 13 August 2002 a bailiff seized four items of the company's machinery and arranged for their sale at auction. On 22 August 2002 a third party bank ("the bank") sought annulment of the bailiff's actions on the ground that the machinery had been mortgaged by the company in 1996 in order to guarantee a loan. Although the company's machinery was auctioned on 18 December 2002, following a request from the bank, on 26 December 2002 the Botanica District Court annulled the auction. On 13 February 2003 the Botanica District Court ordered a stay of the enforcement proceedings in respect of the seized machinery, relying on a judgment of the Economic Court of 18 March 1999 by which a judicial dispute between the company and the bank had been determined in favour of the latter.

16. By judgments of 21 May 2002 and 31 March 2003 the Economic Court dismissed a third party bank action for the institution of insolvency proceedings against the company, relying on the company's financial report for the first quarter of 2002 and its annual report for 2002, revealing assets worth MDL 88,291,286 (EUR 7,047,235) and MDL 83,590,250 (EUR 5,373,263), respectively.

17. On 3 March 2003 a bailiff made an enquiry of the Centre for Fighting Economic Crimes and Corruption ("CFECC") and was informed that the company had been inactive since 1999 and held no assets and that on 14 June 2002 the company's accounting records had been destroyed by fire.

18. On 5 September 2003 the company became the subject of insolvency proceedings and all enforcement proceedings against it were suspended.

19. On an unspecified date in 2004 the applicants brought an action against the Bailiff's Office and complained that the measures taken to enforce the judgment in their favour were inefficient. By a decision of 11 March 2004 the Botanica District Court upheld their action and held that the Bailiff's Office had failed to take effective action to enforce the

judgment in favour of the applicants and ordered it to seize the company's assets recorded in the financial reports of 2002 (see paragraph 16 above).

20. On 12 March 2004 a representative of the company informed the bailiff in charge of the enforcement about a change of the company's address and about the fact that it did not possess any assets in the Botanica District. According to a report drawn up by a bailiff on 26 April 2004 the company was not located at the newly indicated address.

21. On 24 September and 7 October 2004 a bailiff requested CFECC, the Tax Authority, the Land Registry and the Prosecutor's Office for assistance in enforcing the judgment in favour of the applicants. According to the information from the Department of Information Technology ("the Department") the company owned three trucks, and on 24 December 2004 the Botanica District Court ordered the traffic police to search and to seize the vehicles. The decision however remained inoperative.

22. On 14 December 2004 the applicants lodged with the Botanica District Court a complaint against the bailiff's failure to comply with the decision of the Botanica District Court of 11 March 2004. They also sought MDL 8,000 (EUR 484) each in compensation for pecuniary and non-pecuniary damage suffered as a result of the inefficiency of the bailiff's actions. On 18 February 2005 the Botanica District Court dismissed their complaint on the ground of lack of jurisdiction *ratione materiae* and instructed them to initiate contentious proceedings against the bailiff.

23. On 13 December 2005 the applicants complied with the court's ruling and initiated contentious proceedings against the bailiff. On the same date, the Botanica District Court dismissed their action on the ground of *res judicata*, referring to the decision of the Botanica District Court of 11 March 2004.

24. In the meantime, in May 2005, a bailiff seized 49% of the company's shares in the statutory capital of a third company as well as eighteen items of machinery. In June and August 2005 he requested the National Institute of criminology and judiciary ("the Institute") to evaluate the seized shares and assets. On both occasions the Institute refused to comply with the bailiff's request, stating that it had to be paid for the valuation in advance and that it had not been provided with certain documents. On 21 November 2005 the Institute informed the bailiff that it could not comply with the request to evaluate the shares since it did not have qualified personnel for that purpose.

25. On 5 April 2006 a private company performed an evaluation of the shares and machinery. It estimated the value of the latter at MDL 582,422 (EUR 36,780), but the shares could not be evaluated since it did not have qualified personnel.

26. On several occasions a bailiff requested the creditors of the company, including the applicants, to bear the fees for the announcement of

an auction. On 7 June 2006 an auction to sell the machinery took place but there were no buyers.

27. On 19 August 2006 a bailiff fixed another date for the auction. Since the debtors, including several State authorities, did not comply with the bailiff's request to bear the fees for the announcement of the auction, it has not taken place to date.

28. On an unspecified date in 2006 a bailiff enforced a 2003 judgment in favour of the company, according to which it had to be paid by private third parties MDL 25,353 (EUR 1,643). Since the company had debts worth MDL 429,727 (EUR 24,580), on 8 December 2006 a bailiff distributed the amount recovered from the third parties between several of the company's creditors, including Mr Nicolai Gorbatii, Mrs Zinaida Curganov and Mr Ion Nedin, who received MDL 1,419.43 (EUR 81), MDL 1,409.42 (EUR 80) and MDL 1,442.20 (EUR 82), respectively.

29. On 18 July 2007 a bailiff evaluated 49% of the company's shares in the statutory capital of the third company at MDL 300,000 (EUR 17,930) and seized it. The company's appeal against the bailiff's decision was dismissed on 1 August 2007. On the same date, the third company appealed against the bailiff's decision of 18 July 2007. The outcome of the proceedings is unknown.

30. On 16 February 2008 a bailiff issued a decision according to which the following amounts were to be distributed to the applicants: MDL 821.32 (EUR 50) to Mr Nicolai Cebotari; MDL 528.43 (EUR 32) to Mr Nicolai Gorbatii; MDL 524.70 (EUR 32) to Mrs Zinaida Curganov; MDL 536.91 (EUR 33) to Mr Ion Nedin; and MDL 687.35 (EUR 42) to Mr Petru Anin.

31. On 18 March 2008 Mr Gorbatii and Mr Nedin received MDL 1,947.86 (EUR 115) and MDL 1,979.11 (EUR 117), respectively.

32. The judgment of 23 October 2001 in favour of the applicants has not been fully enforced to date.

II. RELEVANT DOMESTIC LAW

33. The relevant domestic law has been set out in *Prodan v. Moldova* (no. 49806/99, ECHR 2004-III (extracts)).

THE LAW

34. The applicants complained under Article 6 § 1 and Article 1 of Protocol No. 1 to the Convention about the failure to fully enforce the judgment of 23 October 2001.

Article 6 § 1 of the Convention, in so far as relevant, reads as follows:

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

Article 1 of Protocol No. 1 reads as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

I. ADMISSIBILITY OF THE COMPLAINTS

35. The Court considers that the period to be taken into consideration began on 13 June 2002, when the judgment in favour of the applicants became final, and continues to date, since the applicants have only been partially paid the sums due. It thus lasted six years and six months.

36. The Court considers that the applicants' complaints under Article 6 § 1 and under Article 1 of Protocol No. 1 to the Convention raise questions of law which are sufficiently serious that their determination should depend on an examination of the merits, and 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 5 above), the Court will immediately consider the merits of these complaints.

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

37. The applicants complained that the failure to fully enforce the judgment of 23 October 2001 had violated their rights under Article 6 § 1 of the Convention.

38. The Government submitted that the circumstances of the case should be examined in the light of their complexity, the conduct of the applicants and that of the authorities. They further advocated that the domestic authorities had fulfilled their positive obligations to ensure the enforcement of the final judgment in favour of the applicants. They also argued that on 5 September 2003 the company became the subject of insolvency proceedings and it could no longer fulfil its obligations in respect of the applicants. The Government submitted that the State did not have shares or other forms of participation in the debtor company and therefore could not be held responsible for its debts. They pointed out that the bailiff had taken reasonable steps and had even seized and auctioned the company's assets;

however, the auctions had later been annulled at the request of third companies.

39. The Court reiterates that execution of a final judgment given by any court must be regarded as an integral part of the “trial” for the purposes of Article 6 of the Convention. (see *Hornsby v. Greece*, 19 March 1997, § 40, *Reports* 1997-II, and *Immobiliare Saffi v. Italy* [GC], no. 22774/93, § 63, ECHR 1999-V). However, the right of “access to court” does not impose an obligation on a State to execute every judgment of a civil character without having regard to the particular circumstances of a case (see *Sanglier v. France*, no. 50342/99, § 39, 27 May 2003). The Court noted that State responsibility for enforcement of a judgment against a private company extends no further than the involvement of State bodies in the enforcement procedures (see *Fuklev v. Ukraine*, no. 71186/01, § 67 and §§ 90-91, 7 June 2005). When the authorities are obliged to act in order to enforce a judgment and they fail to do so, their inactivity can engage the State’s responsibility on the ground of Article 6 § 1 of the Convention (see *Scollo v. Italy*, 28 September 1995, § 44, Series A no. 315-C).

40. The Court is not called upon to examine whether the internal legal order of the State is capable of guaranteeing the execution of judgments given by courts. Indeed, it is for each State to equip itself with legal instruments which are adequate and sufficient to ensure the fulfilment of positive obligations imposed upon the State (see *Ruianu v. Romania*, no. 34647/97, § 66, 17 June 2003). The Court’s only task is to examine whether the measures applied by the Moldovan authorities in the present case were adequate and sufficient. In cases such as the present one, which necessitate actions by a debtor who is a private person, the State, as the possessor of the public force, has to act diligently in order to assist a creditor in execution of a judgment (see *Fociac v. Romania*, no. 2577/02, § 70, 3 February 2005).

41. On the facts of the present case the Court firstly notes that the company was made subject to insolvency proceedings on 5 September 2003 (see paragraph 18 above). The Government considered this as an important argument for the bailiff not being able to ensure the enforcement of the final judgment in favour of the applicants. The Court, taking into account the considerations as to the liability of the State for the acts or omissions of private persons (see paragraphs 39 and 40 above), finds that there was a lack of action on the part of the bailiff between 13 June 2002 and 11 March 2004, as was acknowledged by the Botanica District Court on 11 March 2004 (see paragraph 19 above), to enforce the judgment given in the applicants’ favour. It also considers that even though the domestic courts declared the bailiff liable for the delay in enforcement, they did not afford any redress or reparation for its failure (see paragraphs 19, 22 and 23 above).

The Court further notes that the Government's argument as to the impossibility to enforce the judgment due to the company's insolvency is refuted by the bailiff's subsequent successful actions to seize its assets and partially pay the applicants the sums due (see paragraphs 28, 30 and 31 above).

42. Secondly, the Court does not find pertinent the Government's argument that the bailiff had taken reasonable steps to ensure the enforcement of the judgment in favour of the applicants by auctioning the company's real estate. It is to be noted that the bailiff had access to the Land Register at any time and could have acted more diligently by checking before the auction whether the real estate to be sold belonged to the company (see paragraph 13 above), thus avoiding annulment of the auctions by third parties.

43. Thirdly, the Court points out that the measures ordered by the domestic courts to search for and seize the vehicles owned by the company have remained ineffective to date (see paragraph 21 above).

44. Fourthly, the Government did not put forward any argument to explain the belated seizure of the company's shares and assets in the third company (see paragraph 24 above). Nor did it provide any explanation for the delay in valuing those shares and assets (see paragraphs 24, 25 and 29 above). To that end, it is to be noted that the applicants failed to pay for the valuation of the company's shares and assets (see paragraph 24 above) and to bear the fees for the announcement of the auction (see paragraphs 26 and 27 above). The Court, therefore, considers it necessary to examine whether the applicants' conduct hindered the bailiff's actions to enforce the judgment in their favour.

45. The existence of a final and enforceable judgment in the applicants' favour stands as an indication of the fact that their litigation was meritorious. Consequently, the imposition of the obligation to pay expenses in order to have that judgment enforced constitutes a restriction of a purely financial nature and therefore calls for particularly rigorous scrutiny from the point of view of the interests of justice (see *Podbielski and PPU Polpure v. Poland*, no. 39199/98, § 65, 26 July 2005).

46. The Court notes that the company owed different sums to numerous private parties as well as to State authorities (see paragraph 27 above). In their letters to the applicants the enforcement authorities had never specified what proportion of the enforcement-related expenses was to be borne by the applicants and whether they were to be fully reimbursed after the enforcement. The Government also failed to produce any evidence that the State authorities, who were also creditors of the company, had paid their part of the enforcement-related expenses and that the only reason the auction could not be organised by the bailiff was because the applicants had failed to bear their parts of the fees for the announcement of the auction.

47. The Court reiterates that fulfilment of the obligation to secure effective rights under Article 6 § 1 of the Convention does not mean merely the absence of an interference but may require the State to take various forms of positive action (see *Kreuz v. Poland*, no. 28249/95, § 59, ECHR 2001-VI). It considers that by shifting to the applicant the responsibility of bearing part of the costs of the enforcement proceedings the State tried to escape its positive obligation to organise a system for enforcement of judgments that is effective both in law and in practice (see *Apostol v. Georgia*, no. 40765/02, § 64, ECHR 2006-...).

48. Finally, according to the judgment in favour of the applicants, the Botanica District Court ordered the company not only to pay them invalidity benefit for the period 1 April 2000 – 1 November 2001, but also to recalculate their benefit periodically and to pay it until the end of their lives (see paragraph 10 above). The Court observes that the Government did not submit any evidence that the bailiff had complied with this part of the judgment and had calculated the applicants' outstanding invalidity benefits, if not paid.

49. The Court considers therefore that the failure of the bailiff to act for well over six years and six months or to effectively control the enforcement proceedings in the present cases is sufficient to conclude that there has been a violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

50. Having regard to its case-law, the Court notes that it has already established the principles relating to the alleged violation of the applicant's property rights owing to the State's failure to ensure the enforcement of a final judgment issued against a private party. In particular, in the case of *Fuklev v. Ukraine* the Court found as follows:

“89. The Court reiterates that by virtue of Article 1 of the Convention, each Contracting Party ‘shall secure to everyone within [its] jurisdiction the rights and freedoms defined in ... [the] Convention’. The obligation to secure the effective exercise of the rights defined in that instrument may result in positive obligations for the State. In such circumstances, the State cannot simply remain passive and ‘there is ... no room to distinguish between acts and omissions’....

91. As regards the right guaranteed by Article 1 of Protocol No. 1, those positive obligations may entail certain measures necessary to protect the right to property even in cases involving litigation between private individuals or companies. This means, in particular, that States are under an obligation to ensure that the procedures enshrined in the legislation for the enforcement of final judgments... are complied with.

92. The Court considers that the failure of the bailiffs to act and the domestic courts' failure to exercise appropriate control over the situation, created permanent uncertainty as to the enforcement of a judgment in the applicant's favour and as to the

payment of the debt owed to him. Consequently, the applicant had to cope with that uncertainty during a lengthy period of time...

93. Having regard to the foregoing considerations and to its findings in respect of Article 6 § 1 of the Convention, the Court is of the view that the manner in which the enforcement proceedings were conducted, their total length and the uncertainty in which the applicant was left, upset the 'fair balance' that had to be struck between the demands of the public interest and the need to protect the applicant's right to the peaceful enjoyment of his possessions. Consequently, the State failed to comply with its obligation to secure to the applicant the effective enjoyment of his right of property, as guaranteed by Article 1 of Protocol No. 1." (no. 71186/01, 7 June 2005)

51. The Court sees no reasons to depart from these findings in the present cases. Applying these principles and having regard to the findings set out in paragraphs 41, 42, 43, 47 and 49 above, the Court considers that owing to the bailiffs' failure to take adequate and sufficient measures with a view to securing enforcement of the judgment in favour of the applicants, they were left for many years in a situation of uncertainty and since 2002 have been unable to fully enjoy their possessions. Accordingly, there has been a violation of Article 1 of Protocol No. 1.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

52. 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

53. Mr Nicolai Gorbatîi was the sole applicant who submitted his claims for just satisfaction within the time-limit allowed by the Court. He claimed MDL 47,488.22 (EUR 2,779) in respect of pecuniary damage and EUR 30,000 in respect of non-pecuniary damage caused to him by the failure to enforce the final judgment in his favour. The rest of the applicants claimed EUR 50,000 under the same heads in their initial applications before the Court.

54. The Government commented only on the claims for just satisfaction submitted by Mr Gorbatîi and considered that the amounts were excessive and unsubstantiated. In view of the fact that the rest of the applicants had not submitted any claim, they considered that no award should be made.

55. The Court first notes that the judgment in favour of the applicants has been partially enforced (see paragraphs 28, 30 and 31 above). They are therefore still entitled to receive their outstanding invalidity benefits for the period 1 April 2000 until 1 November 2001 (see paragraph 10 above). The

Court further points to the fact that according to the same judgment the Botanica District Court ordered the company to recalculate their benefits periodically and to pay it for the rest of their lives. The Court, therefore, notes that the State's outstanding obligation to ensure the effective enforcement of the judgment in the applicants' favour is not in dispute. Accordingly, the applicants are still entitled to recover the remaining part of their judgment debts in the domestic proceedings and to be paid the recalculated benefits for the rest of their lives, except Mr Anin and Mr Cebotari for the latter case (see paragraph 2 above). The Court reiterates that the most appropriate form of redress in respect of a violation of Article 6 is to ensure that the applicants as far as possible are put in the position they would have been had the requirements of Article 6 not been disregarded (see *Piersack v. Belgium* (Article 50), 26 October 1984, § 12, Series A no. 85, and, *mutatis mutandis*, *Gençel v. Turkey*, no. 53431/99, § 27, 23 October 2003). The Court finds that in the present cases this principle also applies, having regard to the violations found. It therefore considers that the Government shall secure, by appropriate means, the compliance with the judgment of 23 October 2001 in respect of the applicants.

56. As regards the applicants' claims in respect of non-pecuniary damage, the Court considers that the applicants suffered distress, anxiety and frustration exacerbated by the unreasonable length of the enforcement proceedings and the domestic authorities' failure to secure enforcement of the judgment of 23 October 2001. However, the amount claimed by Mr Gorbatîi in his claims for just satisfaction and those claimed by the rest of the applicants in their initial applications appear excessive. Making its assessment on an equitable basis, the Court awards the applicants EUR 2,000 each in respect of non-pecuniary damage.

B. Costs and expenses

The applicants made no claims under this head.

C. Default interest

57. 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. *Joins* the applications;

2. *Declares* the applications admissible;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the late enforcement of the judgment of 23 October 2001;
4. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention on account of the same delayed enforcement;
5. *Holds*
 - (a) that the respondent State shall secure, by appropriate means, the enforcement of the judgment of 23 October 2001;
 - (b) that the respondent State is to pay each of the applicants, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 2,000 (two thousand euros), in respect of non-pecuniary damage, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable;
 - (c) 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;
6. *Dismisses* the remainder of the applicants' 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