



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

FOURTH SECTION

CASE OF Z. v. POLAND

(Application no. 34694/06)

JUDGMENT

STRASBOURG

20 April 2010

FINAL

20/07/2010

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Z. v. Poland,

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

Nicolas Bratza, *President*,

Lech Garlicki,

Giovanni Bonello,

Ljiljana Mijović,

David Thór Björgvinsson,

Ledi Bianku,

Mihai Poalelungi, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 23 March 2010,

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

PROCEDURE

1. The case originated in an application (no. 34694/06) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Polish national, Mr Z. (“the applicant”), on 10 August 2006. The President of the Chamber acceded to the applicant's request not to have his name disclosed (Rule 47 § 3 of the Rules of Court).

2. The applicant was represented by Mr Z. Hołda, a lawyer practising in Warsaw, and subsequently by Mr A. Bodnar, a lawyer practising in Warsaw. The Polish Government (“the Government”) were represented by their Agent, Mr J. Wołosiewicz of the Ministry of Foreign Affairs.

3. The applicant complained, in particular, under Article 8 of the Convention that he had not been able to have his contact rights enforced as the domestic authorities failed to give him adequate assistance. He further alleged a breach of Article 13 claiming that the remedies in Polish law to enforce contact rights were not effective in practice.

4. On 1 September 2008 the President of the Fourth Section decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Rule 29 § 3).

5. The applicant and the Government each submitted observations on the merits (Rule 59 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1957 and lives in Bytom.

A. The applicant's divorce, regulation of his visiting rights and their enforcement

7. On 27 April 1996 the applicant married M.N. In November 1996 M.N. gave birth to their daughter, D.Z.

8. In 2000, following a conflict between the spouses, the applicant moved out of their place of residence.

9. On 15 May 2000 the applicant requested the Bytom District Court (*Sąd Rejonowy*) to regulate contact with his child.

10. On 6 July 2000 the Bytom District Court allowed the application and regulated contact with the applicant's daughter. In particular, the court granted him the right to visit his daughter on given days of each week and to spend summer holidays with her in August without the presence of the child's mother.

11. On 4 September 2000 the applicant requested the Bytom District Court to seize his daughter's passport. He reasoned his request by a reasonable fear that M.N., who had many contacts in Scandinavian countries, could try to take their daughter to Norway. It is unclear from the case file whether the request was granted.

12. On 29 September 2000, following an appeal by M.N., the Katowice Regional Court (*Sąd Okręgowy*) upheld the decision of the District Court of 6 July 2000.

13. The court's order was not enforced and therefore, on 8 January 2001, the applicant requested the court to impose a fine on his former wife.

14. In October 2000 the applicant's former wife and their daughter moved from Bytom to Zakopane, so the case file had to be transmitted to the court with jurisdiction there. The relevant decision was taken on 3 July 2001. However, the transfer did not take place until November 2001.

15. On an unspecified date M.N. filed for divorce. The issue of the applicant's visiting rights was therefore examined by the divorce court.

16. On 30 March 2001 the Katowice Regional Court gave a decision regulating the applicant's contact with his daughter. In particular, the court granted him the right to visit his daughter every Friday between 1 p.m. and 5 p.m. at a location other than the flat in which she lived with her mother. The applicant was also allowed to collect his daughter from kindergarten. The contact was to take place in the presence of a court officer (*kurator sądowy*).

17. The decision of 30 March 2001 was not complied with by the applicant's former wife, who prevented the applicant from exercising his visiting rights.

18. Between 20 April 2001 and 8 March 2002 the applicant saw his daughter on 27 occasions. A further sixteen meetings were cancelled for various reasons: eight for the daughter's failure to appear, one at M.N.'s request, three for the applicant's failure to appear and four for the guardian's failure to appear.

19. On 5 March 2002, relying on Article 1050 of the Code of Civil Procedure, the applicant requested the court to impose a fine on M.N.

20. The applicant's request was not examined by the court.

21. In the summer holiday period of 2002 the applicant's former wife moved from Zakopane to Bytom, so the Zakopane District Court transmitted the case file concerning the application for a fine to be imposed on M.N. to Bytom.

22. On 20 May 2003 the Bytom District Court gave a decision and gave M.N. one month to comply with the court order. At the same time the court conditionally imposed on her a fine of 1,000 Polish zlotys (PLN) in the event of default.

23. M.N. continued to prevent the applicant from exercising his visiting rights.

24. On 5 July 2003 the applicant again requested the court to impose a fine on his former wife.

25. In the meantime, on 23 September 2003, the Katowice Regional Court gave a new decision regulating the applicant's visiting rights. The decision was similar to the previous one, but the court additionally obliged M.N. to prepare the child to be picked up by his father on given dates (*przygotowania dziecka i wydania w terminie wyznaczonym*).

26. On 28 November 2003 the Katowice Regional Court granted a divorce. It also indicated the manner in which the parental authority should be exercised. The court made a residence order under which the child was to live with her mother, but the applicant was granted visiting rights, in particular the right to visit his child on given days of the week, without the presence of the mother and the right to spend one month of summer holidays, one week of winter holidays and the second day of the Christmas holidays with his daughter. The court also ordered that all decisions crucial for the child's upbringing were to be taken by both parents.

27. The judgment was not challenged by M.N.

28. M.N. still did not comply with the court order. She prevented the applicant from collecting his daughter from kindergarten (by instructing the staff not to let the applicant collect the child) and organised the child's holidays in such a way that she was abroad with her mother or grandparents for the whole two months of the summer holidays.

29. On 13 January 2004 the Bytom District Court imposed on M.N. a fine of PLN 600 for her failure to comply with the court's order as regards the applicant's visiting rights. The court also gave M.N. one month to make it possible for the applicant to exercise his visiting rights and held that, should she fail to comply with this order, another fine of PLN 800 would be imposed on her.

30. On an unspecified date M.N. appealed against this decision and, on 19 March 2004 the decision was upheld by the Katowice Regional Court.

31. However, these decisions were once more not enforced.

32. On 15 March 2004 the applicant again requested the court to impose a fine on his former wife.

33. On 26 August 2004 the Bytom District Court again ordered M.N. to pay the fine of PLN 800 and gave her one month to allow the applicant to exercise his visiting rights. The court also held that, should she fail to comply with its order, a further fine of PLN 1,000 would be imposed on her.

34. On 5 November 2004, following an appeal by M.N., the Katowice Regional Court upheld that decision.

35. The court's orders still remained unenforced.

36. On 16 November 2004 the applicant again requested the court to impose a fine on M.N.

37. On 30 March 2006 the court fined M.N. PLN 1,000.

38. On 26 May 2006 M.N. appealed against that decision. It is unclear from the case file whether the decision of 30 March 2006 was upheld by the second-instance court.

39. On 26 September 2006 the Bytom District Court again regulated the applicant's visiting rights and ordered that the contacts would take place in the Bytom Family Consultation Centre (*Rodzinny Ośrodek Diagnostyczno-Konsultacyjny*) in the presence of a psychologist, on every first and third Monday of each month, between 3.30 p.m. and 5 p.m.

40. On an unspecified date in March 2008 the applicant requested the court to change the rules governing his contact with his daughter.

41. On 30 April 2008 the Bytom District Court gave a decision and regulated the applicant's visiting rights, ordering that contact should take place on every second and fourth Saturday of each month between 2 p.m and 5 p.m., outside the applicant's daughter's place of residence. The court also ordered M.N. not to disrupt this contact.

42. Both parties appealed against that decision.

43. On 19 September 2008 the Katowice Regional Court extended the applicant's contact with his daughter by ordering that it should take place between midday and 6 p.m. on the days specified in the Bytom District Court's decision. The court dismissed M.N.'s appeal.

44. On 6 May 2009 the Bytom District Court gave a decision and ordered M.N. to fulfil an obligation imposed on her in the Bytom District Court's decision of 30 April 2008 and the Katowice Regional Court's

decision of 19 September 2009 under pain of a fine in the amount of PLN 500.

45. The applicant made several attempts to contact his daughter but, according to his submissions, the doors of the apartment where she lives were locked.

46. On 20 July 2009 the applicant requested the Bytom District Court for assistance in establishing the current address and place of residence of his daughter.

47. M.N. submitted to the court a medical certificate indicating that she would not be able to appear before the court in person until 2 January 2010.

48. According to the applicant, he is deprived of any contact with his daughter.

B. Criminal proceedings against the applicant

49. On an unspecified date M.N. tried to have criminal proceedings instituted against the applicant. She accused him of having sexually abused their daughter. According to an expert's opinion the testimony of D.Z had been influenced by a third party. The proceedings against the applicant were discontinued.

II. RELEVANT DOMESTIC LAW

50. The relevant domestic law concerning the enforcement of a parent's visiting rights is set out in the Court's judgment in the case of *P.P. v. Poland*, no. 8677/03, § 69-74, 8 January 2008.

51. According to the Supreme Court's resolution, if a parent who has been obliged by a court decision to respect the other parents' contact rights refuses to comply with it, contact decisions are liable to enforcement proceedings. The provisions of the Code of Civil Procedure on enforcement of non-pecuniary obligations are applicable to enforcement of court decisions on parental rights or contact rights (resolution of the Supreme Court of 30 January 1976, III CZP 94/75, OSNCP 1976 7-8).

“1. If the debtor is obliged to take measures which cannot be taken by any other person, the court in whose district the enforcement proceedings were instituted, on a motion of a creditor and after hearing the parties, shall fix the time-limit within which the debtor shall comply with his obligation, on pain of a fine (...).

2. If the debtor fails to comply with this obligation, further time-limits may be fixed and further fines may be imposed by a court.”

If the court obliges a parent exercising custody rights to ensure access to a child to the other parent, Article 1050 of the Code of Civil Procedure is applicable to the enforcement of this obligation.

52. Article 1052 of the Code of Civil Procedure provides as follows:

“In one decision the court may impose a fine not exceeding 1,000 Polish zlotys (PLN) unless the fine had been already imposed three times and this had proved ineffective. The total amount of fines in the same case may not exceed PLN 100,000 (...).”

53. Article 1053 of the Code of Civil Procedure in its relevant part provides as follows:

“The court, while imposing a fine, shall at the same time impose an arrest in case the fine is not paid. One day of arrest shall be equivalent to between five and one hundred and fifty zlotys of fine. The total duration of arrest in the same case shall not exceed six months.”

54. On 28 August 2008 the Supreme Court, in reply to a legal question asked by the Wrocław Regional Court, adopted a resolution (III CZP 75/08) which read as follows:

“Decisions regulating contact between parents and a child, ordering the parent who has the custody of the child to put the child in the disposal of the other parent and ordering the other parent to return the child (to accompany the child back), are enforced in the proceedings regulated in Article 598¹ and subsequent of the Code of Civil Procedure”

55. Article 598⁶ of the 1964 Code of Civil Procedure (*Kodeks Postępowania Cywilnego*) provides that if a person who is ordered to return a child does not comply with the court's order, the court will instruct the guardian to forcibly remove the persons concerned (*przymusowe odebranie osoby*).

56. Under Article 598¹⁰,

“Upon a request of a court-appointed guardian, the police are obliged to help him or her to carry out the forcible removal of [a minor].”

57. Article 598¹¹ § 1 provides as follows:

“If forcible removal of [a minor] is hindered because that person is in hiding or because other action is taken with the aim of stopping the enforcement of the order, the court-appointed guardian shall inform a prosecutor.”

58. Pursuant to 598¹²,

“§ 1 The court-appointed guardian, in carrying out the removal of [a minor], shall be especially careful and shall do everything to ensure that the well-being of the child is not damaged and that [he or she] does not sustain physical or moral harm. If necessary, the guardian shall request the assistance of the social services or another institution tasked with this function.

§ 2 If the well-being of [a minor] would be placed at risk as a result of the removal, the guardian shall stop the enforcement of the order until the risk is over, unless by stopping the enforcement, the person would be placed at greater risk.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

59. The applicant complained that the Polish authorities had failed to take effective steps to enforce his right to contact with his daughter and that the process of enforcing the courts' decisions had lasted too long. He alleged a violation of Article 6 § 1 of the Convention. However, the Court considers that the applicant's complaints fall to be examined under Article 8 of the Convention which provides as follows:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

A. Applicability

60. It is not disputed that the matters concerned in the present case relate to “family life” within the meaning of Article 8 of the Convention and that this provision is applicable.

61. The Court notes that the application 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.

1. The parties' submissions

(a) The Government

62. The Government were of the view that their positive obligations could not extend to an obligation to ensure the applicant the exclusive custody of his daughter or unlimited access to her. In the present case the authorities had taken all possible measures in order to make it possible for the ties between the applicant and his child to develop. The obstacles the applicant encountered in respect of access to the child had stemmed from the mother's lack of cooperation, the responsibility for which could not be attributed to the State. The Government submitted that in their decisions the domestic authorities had essentially been guided by the interests of the child. Their decisions were also in accordance with applicable provisions of domestic law.

63. The Government further submitted that between 20 April 2001 and 8 March 2002 the applicant met his daughter on twenty-seven occasions. A further sixteen meetings were cancelled for various reasons including the daughter's negative attitude towards the applicant (see paragraph 17 above). As of 15 May 2000 until November 2007, that is during a period of seven years and five months, the applicant was afforded the right of "quite regular and uninterrupted contacts with his daughter" for altogether two years and three months.

64. The Government further submitted that, according to the provisions of the Code of Civil Procedure, the courts could apply more coercive measures in respect of M.N. only after the third imposition of a fine. The courts were not given such a chance because the applicant gave up requesting the imposition of a fine after the third one.

(b) The applicant

65. The applicant did not agree with the Government's submissions that between 20 April 2001 and 8 March 2002 he had had "regular contacts" with his daughter. He pointed to the number of meetings which had been cancelled for reasons not attributable to him. Even accepting the Government's submissions of regular contacts for two years and three months in the period between 15 May 2000 and November 2007, this did not even constitute one-third of the period under consideration and did not change the fact that since the separation from his ex-wife in the year 2000, he had not been given a chance to exercise his visiting rights regularly in accordance with the courts' decisions.

66. The applicant further pointed to the excessive length of examination by the courts of his requests to impose a fine on his former wife. He submitted that he had lodged altogether five and not three requests. The first request was lodged with the domestic court on 8 January 2001. The request of 5 March 2002 was not examined until 20 May 2003, which was over one year later. The request of 5 July 2003 was not examined until 13 January 2004. The fourth request of 15 March 2004 was examined on 26 August 2004 and the fifth and final request of 16 November 2004 was examined only a year and a half later, that is on 30 March 2006.

67. As regards the Government's argument regarding the daughter's negative attitude towards the applicant, he submitted that when he and his former wife separated, their child was only three years' old. Since then M.N. has been gradually trying to turn their daughter against him. In the applicant's view, the Polish authorities were responsible for that through their failure to act and to force M.N. to execute the courts' orders. Therefore, the Government should not rely on that argument to justify the irregular contacts between the applicant and his daughter.

2. *The Court's assessment*

68. The Court reiterates that the essential object of Article 8 is to protect the individual against arbitrary interference by public authorities. There may however be positive obligations inherent in an effective “respect” for family life. These obligations may involve the adoption of measures designed to secure respect for family life even in the sphere of relations between individuals, including both the provision of a regulatory framework of adjudicatory and enforcement machinery protecting individuals' rights and the implementation, where appropriate, of specific steps (see, amongst other authorities, *X and Y v. the Netherlands*, judgment of 26 March 1985, Series A no. 91, p. 11, § 23, and, *mutatis mutandis*, *Osman v. the United Kingdom*, judgment of 28 October 1998, Reports 1998-VIII, p. 3159, § 115). In both the negative and positive contexts, regard must be had to the fair balance which has to be struck between the competing interests of the individual and the community, including other concerned third parties, and the State's margin of appreciation (see, amongst other authorities, *Keegan v. Ireland*, judgment of 26 May 1994, Series A no. 290, p. 19, § 49).

69. Where the measures in issue concern parental disputes about their children, however, it is not for the Court to substitute itself for the competent domestic authorities in regulating contact issues, but rather to review under the Convention the decisions that those authorities have taken in the exercise of their power of appreciation. In so doing, it must determine whether the reasons purporting to justify any measures taken with regard to an applicant's enjoyment of his right to respect for family life are relevant and sufficient (see, amongst other authorities, *Olsson v. Sweden*, judgment of 24 March 1988, Series A no. 130, p. 32, § 68).

70. The Court's case-law has consistently held that Article 8 includes a right for a parent to have measures taken with a view to his or her being reunited with their child, and an obligation for the national authorities to take such measures. This applies not only to cases dealing with the compulsory taking of children into public care and the implementation of care measures (see, *inter alia*, the *Olsson v. Sweden (no. 2)*, judgment of 27 November 1992, Series A no. 250, pp. 35-36, § 90), but also to cases where contact and residence disputes concerning children arise between parents and/or other members of the children's family (for example, *Hokkanen v. Finland*, judgment of 23 September 1994, Series A no. 299, p. 20, § 55).

71. The obligation of the national authorities to take measures to facilitate contact by a non-custodial parent with children after divorce is not, however, absolute (*mutatis mutandis*, *Hokkanen*, cited above, § 58). The key consideration is whether those authorities have taken all necessary steps to facilitate contact as can reasonably be demanded in the special circumstances of each case (*mutatis mutandis*, *Hokkanen*, cited above, § 58). Other important factors in proceedings concerning children are that

time takes on a particular significance as there is always a danger that any procedural delay will result in the *de facto* determination of the issue before the court (see *H. v. the United Kingdom*, judgment of 8 July 1987, Series A no. 120, pp. 63-64, §§ 89-90), and that the decision-making procedure provides requisite protection of parental interests (see *W. v. the United Kingdom*, judgment of 8 July 1987, Series A no. 121, pp. 28-29, §§ 62-64).

72. In the present case the Court observes that, firstly, on 6 July 2000, the Bytom District Court regulated the applicant's contact with his daughter (see paragraph 10 above). The contact decision was subsequently altered on several occasions; however, all decisions given in the present case granted the applicant a right to regular contact with his daughter.

73. The applicant's former wife failed to comply with the court's orders and, on 8 January 2001, the applicant for the first time petitioned the court to impose a fine on M.N. (see paragraph 13 above). The applicant lodged altogether five such requests (apart from the petition referred to above, he lodged requests on 5 March 2002, 5 July 2003, and 15 March and 16 November 2004). Thus, contrary to the Government's submissions (see paragraph 64 above) it was open to the domestic authorities to make use of further provisions of the Code of Civil Procedure and to take more coercive measures against M.N. by imposing on her a larger fine; apparently the fines of PLN 1,000 imposed by the courts had not had enough of an impact to force M.N. to comply with the court's orders. The Court notes that the domestic authorities have never made use of more coercive measures and have continued to apply measures which in this particular case have proved ineffective.

74. The Court further notes that the applicant's requests that a fine be imposed on M.N. were not examined promptly. The request of 5 March 2002 was not examined until 20 May 2003, over a year later. The request of 5 July 2003 was not examined until 13 January 2004. The fourth request of 15 March 2004 was examined on 26 August 2004 and the fifth and final request of 16 November 2004 was examined only a year and a half later, that is on 30 March 2006. The Court considers that the amounts of the fines, which were apparently insignificant to M.N., combined with the delays in the proceedings, constituted important factors that rendered the remedies accessible to the applicant ineffective. What is more, the delays in examining the applicant's requests might have had irreversible effects on the emotional ties between the applicant and his minor daughter. The Court considers that in the circumstances of this particular case where the applicant had been for a prolonged period of time deprived of contacts with his daughter, where the latter had been in the mother's custody and where the mother was trying to turn her daughter against the father, such requests as lodged by the applicant, in order to be effective, should be treated with utmost priority.

75. The Court acknowledges that the task of the domestic courts was rendered difficult by the strained relationship between the applicant and his former wife. However, lack of cooperation between separated parents is not a circumstance which can of itself exempt the authorities from their positive obligations under Article 8. It rather imposes on the authorities an obligation to take measures that would reconcile the conflicting interests of the parties, keeping in mind the paramount interests of the child.

76. The Court reiterates in this connection that the cooperation and understanding of all concerned will always be an important ingredient in such proceedings. While national authorities must do their utmost to facilitate such cooperation, any obligation to apply coercion in this area must be limited, since the interests as well as the rights and freedoms of all concerned must be taken into account, and more particularly the best interests of the child and his or her rights under Article 8 of the Convention (see *Hokkanen*, cited above, § 58, and *Olsson (no. 2)*, cited above, § 90). In the applicant's case the authorities failed to take practical steps that would, firstly, encourage the parties to cooperate in the enforcement of the access arrangements and, secondly, to secure concrete and appropriate assistance by competent State agents within a specific legal framework suited to the needs of separated parents and their underage child. The Court emphasises that this resulted in the applicant permanently losing contact with his child.

77. The Court notes that the interferences complained of took place mostly between the years 2000-2008, that is before the date on which the Supreme Court adopted Resolution III CZP 75/08 where it found that the provisions providing for the forcible removal of a person by a court guardian were applicable in circumstances similar to the applicant's case (see paragraphs 54 and 55 above).

Therefore, the Court considers that the applicant displayed due diligence in handling his matters; he did everything that he could reasonably be expected to do to enforce the courts' decisions regulating contact with his daughter.

78. The Court concludes that in the circumstances of the case the domestic authorities failed in their positive obligation to provide the applicant with prompt and effective assistance which would make it possible for the applicant to effectively enforce his parental and contact rights.

79. Accordingly, there has been a violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

80. The applicant further complained that the remedies provided for in Polish law to enforce the court's decisions concerning visiting rights were ineffective. He relied on Article 13 of the Convention, which 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.”

81. The Government refrained from making any comments in this respect.

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

83. Having regard to the reasons underlying the finding of a violation of Article 8 (see paragraphs 72-79 above), the Court considers that it is not necessary to examine separately whether, in this case, there has been a violation of the applicant's right to an effective remedy under Article 13.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

84. 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

85. The applicant claimed EUR 10,000 in respect of non-pecuniary damage.

86. The Government did not comment on the applicant's claims.

87. The Court considers that the applicant must have sustained non-pecuniary damage and awards him EUR 5,000.

B. Costs and expenses

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

C. Default interest

89. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 8 of the Convention;
3. *Holds* that it is not necessary to examine the complaint under Article 13 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 5,000 (five thousand euros), plus any tax that may be chargeable to the applicant, in respect of non-pecuniary damage, to be converted into Polish zlotys 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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 20 April 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President