

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

THIRD SECTION

CASE OF ILDANI v. GEORGIA

(Application no. 65391/09)

JUDGMENT

STRASBOURG

23 April 2013

FINAL

23/07/2013

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



In the case of Ildani v. Georgia,

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

Josep Casadevall, *President,*
Alvina Gyulumyan,
Corneliu Bîrsan,
Ján Šikuta,
Luis López Guerra,
Nona Tsotsoria,
Valeriu Griţco, *judges,*
and Santiago Quesada, *Section Registrar,*

Having deliberated in private on 2 April 2013,

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

PROCEDURE

1. The case originated in an application (no. 65391/09) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Georgian national, Mr Giorgi Ildani ("the applicant"), on 30 November 2009.

2. The applicant was represented by Ms Tsira Javakhishvili, a lawyer practising in Tbilisi. The Georgian Government ("the Government") were represented by their Agent, Mr Levan Meskhoradze, of the Ministry of Justice.

3. On 18 January 2011 the Court decided to communicate the applicant's complaints under Articles 3 and 13 of the Convention concerning lack of adequate medical care in prison and poor conditions of detention, and lack of effective domestic remedies in this regard (Rule 54 § 2 (b) of the Rules of Court). It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

4. The Government and the applicant each submitted, on 13 May and 30 June 2011 respectively, observations on the admissibility and merits of the communicated complaints (Rule 54 (a) of the Rules of Court). The Government submitted additional comments on the applicant's submissions on 16 September 2011.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1986 and is currently serving a prison sentence in Rustavi no. 1 Prison.

A. The criminal proceedings against the applicant

6. The applicant was arrested on 4 October 2007 on suspicion of unlawful purchase and possession of firearms.

7. On 19 November 2007 the firearms case was merged with another criminal case which concerned the applicant's alleged involvement in several incidents of armed robbery.

8. On 8 December 2007 the applicant was placed in Gldani no. 8 Prison. The applicant alleges that on an unspecified date he was beaten there by prison officers. He did not complain before the law-enforcement authorities about the alleged beating.

9. On 24 June 2008 the Bolnisi District Court found the applicant guilty of unlawful possession of firearms and two distinct incidents of aggravated armed robbery, and imposed on him a sentence of twenty years and seven months' imprisonment and a fine. On 6 January 2009 the Tbilisi Court of Appeal slightly modified the classification of the offences committed, maintaining the applicant's conviction but reducing his sentence, fixing it at seventeen years and seven months' imprisonment, plus a fine. On 1 June 2009 the Supreme Court rejected an appeal by the applicant on points of law. The applicant failed to submit to the Court copies of the domestic court decisions.

B. The applicant's state of health

10. As disclosed by his medical file, the applicant suffers from epilepsy, which condition he had developed prior to his arrest.

11. On 18 July 2008 the applicant was placed in Rustavi no. 6 Prison. A medical certificate dated 27 November 2008 issued by the head doctor of that prison further diagnosed the applicant with chronic bronchitis and neurocirculatory dystonia.

12. According to the applicant, at that time he was denied any medical care in prison; his family provided him with the required medication. In support of that assertion he provided two receipts from pharmacies indicating procurement of several drugs. Further, the applicant alleged that the conditions of his detention in Rustavi no. 6 Prison were poor: he was

kept in conditions of inadequate sanitation and hygiene, without proper toilet facilities, and denied regular outdoor exercise.

13. On an unspecified date the applicant's mother complained to the governor of Rustavi no. 6 Prison about a deterioration in her son's medical condition and requested his transfer to the medical establishment of the prison authority ("the prison hospital"). The governor replied on 13 August 2009, claiming that the applicant's medical condition was stable, that he had benefited from medical supervision and drugs in prison, and that no transfer to the prison hospital was envisaged.

14. On 30 January 2010 the applicant's lawyer wrote to the Governor and the head doctor of Rustavi no. 6 Prison, drawing their attention to the deterioration in the medical condition of the applicant. The lawyer whilst referring to the applicant's alleged ill-treatment in Gldani no. 8 Prison claimed that he had sustained a head injury and suffered from epileptic seizures and diminished hearing as a result. She also noted that according to the applicantm, he had not been administered with any medical care in prison and he had severely suffered from, *inter alia*, mobility and speech problems. The applicant's lawyer requested the prison governor to arrange for a comprehensive medical examination of her client. She also sought access to his complete medical file.

15. On 10 and 12 February 2010 bacteriological sputum tests were performed on the applicant. Consequently, on 17 February 2010 the applicant was diagnosed with smear-positive focal pulmonary tuberculosis ("TB") at the stage of infiltration and was classified as a moderately serious patient. On 23 February 2010 the applicant was placed on the DOTS programme (Directly Observed Treatment, Short-course – the treatment strategy for the detection and cure of TB recommended by the World Health Organisation) and started receiving conventional, first-line anti-tuberculosis agents. In addition, he was provided with vitamins.

16. On 4 March 2010 the applicant was transferred for the purpose of treatment to Ksani no. 8 Prison, where prisoners with TB were housed.

17. On 28 April 2010 the applicant's lawyer requested from the head of the medical department at the Ministry of Prisons a copy of all the medical records concerning the applicant's state of health from the very first day of his detention. On 19 May 2010 the applicant's lawyer was provided with a copy of the applicant's medical file, documenting the treatment administered to her client starting from February 2010.

18. On 21 May 2010 the applicant underwent another bacteriological sputum test, which was smear-negative, that is, showed no microbacterium tuberculosis. The first phase of the treatment had proved successful. Hence, on 23 July 2010 the applicant was transferred from Ksani no. 8 Prison to the medical unit of Rustavi no. 1 Prison, where the second phase of his anti-TB treatment was initiated. The applicant was continuing to receive the anti-TB drugs.

19. The latest medical records in the file relating to the applicant's condition are dated April-May 2011. The results of blood and urine analyses, and also of bacterioscopic phlegm analysis, and various X-ray and other examinations, reveal that the applicant's TB was then in a non-active phase. As regards the applicant's other medical disorders, they had not evolved negatively. The applicant was being provided with drug-based treatment on an out-patient basis at Rustavi no. 1 Prison.

II. RELEVANT DOMESTIC LAW AND OTHER NATIONAL AND INTERNATIONAL DOCUMENTS

20. The relevant legal provisions concerning the protection of prisoners' rights, as well as excerpts from the relevant national and international documents bearing on medical problems in the custodial institutions of Georgia at the material time are set out in the following judgments: *Goginashvili v. Georgia*, no. 47729/08, §§ 32-44, 4 October 2011; *Makharadze and Sikharulidze v. Georgia*, no. 35254/07, §§ 40-48, 22 November 2011, and *Jeladze v. Georgia*, no. 1871/08, §§ 28-32, 18 December 2012 with further references therein.

THE LAW

I. ALLEGED VIOLATIONS OF ARTICLES 3 AND 13 OF THE CONVENTION

21. The applicant complained, under Articles 3 and 13 of the Convention, of having contracted TB in prison, of insufficient medical care for his various diseases throughout the entire period of his detention, and of having been deprived of effective remedies in this respect. He further challenged the conditions of his detention in Rustavi nos. 1 and 6 Prisons in the periods between 18 July 2008 and 4 March 2010 and 23 July 2010 up to the present as inadequate. Articles 3 and 13 of the Convention read as follows:

Article 3

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 13

"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."

A. Admissibility

1. The parties' arguments

22. The Government argued that the complaint about poor conditions of detention was unsubstantiated. In support, they submitted two letters from the Governors of the prison facilities involved, describing in detail the conditions of the applicant's detention. According to these letters, the applicant was being kept in satisfactory conditions; the sanitary and hygienic norms were met; he was allowed to take a shower at least once a week and had been provided with all basic items of hygiene. In Rustavi no. 1 Prison, an open-type prison, the applicant was allowed six hours' outdoor exercise on a daily basis, whilst in Rustavi no. 6 Prison, a closed institution, he had been allowed at least a one-hour walk per day. On the basis of the relevant service provider contracts, the Government further argued that the food available to the applicant in both establishments was prepared in accordance with the legally approved norms, and that the applicant was regularly provided with the basic items of hygiene. In sum, the conditions of the applicant's detention were compatible with Article 3.

23. As regards the applicant's alleged infection with TB and the inadequacy of the medical treatment provided to him in prison, the Government submitted that these complaints were premature, as the applicant had neither filed, under the relevant administrative rules, complaints of a lack of medical care in prison, nor sought monetary compensation for non-pecuniary damage under the relevant provisions of the General Administrative Code and the Civil Code. In support of the latter argument they submitted a case where the domestic authorities had awarded compensation for the death in detention of the plaintiff's husband, which had been caused by a lack of appropriate medical treatment. This decision was adopted by the domestic court in the framework of the friendly settlement proceedings in the case of *Gamrekelashvili v. Georgia* ((dec.) no. 6439/10, 6 September 2011).

24. In reply, the applicant reiterated his general allegations about poor conditions of sanitation and hygiene, lack of outdoor exercise, and the diet, without providing any concrete details.

25. As regards the medical complaint, the applicant claimed that the administrative-law remedy proposed by the Government was completely ineffective, as it involved extremely time-consuming and inefficient court proceedings. He did not comment on the adequacy of the compensatory remedies suggested by the Government.

2. The Court's assessment

(a) Conditions of detention

26. The Court notes that information about conditions of detention falls within the knowledge of the domestic authorities. Accordingly, applicants might experience certain difficulties in procuring evidence to substantiate a complaint in that connection. Still, in such cases applicants may well be expected to submit at least a detailed account of the facts complained of and provide – to the greatest possible extent – some evidence in support of their complaints (see *Visloguzov v. Ukraine*, no. 32362/02, § 45, 20 May 2010, and *Ukhan v. Ukraine*, no. 30628/02, § 65, 18 December 2008).

27. Turning to the circumstances of the present case, the Court finds that the applicant's allegations were formulated as vague and general statements (see paragraphs 12 and 24 above). While it is aware of the fact that poor conditions of detention constituted a general structural problem in the penal sector in Georgia at the material time (see, *amongst others, Janiashvili v. Georgia,* no. 35887/05, § 70, 27 November 2012) the Court cannot ignore the simple fact that the applicant failed to provide a detailed account concerning the conditions in which he was held (see, for example, *Visloguzov*, cited above, §§ 48-49, and *Ukhan*, cited above, § 65). In view of the foregoing, the Court considers that this part of the application has not been properly substantiated by the applicant (see *Shkurenko v. Russia* (dec.) no. 15010/04, 10 September 2009). Therefore, it should be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

(b) Infection with TB

28. As to the alleged infection with TB in prison, the applicant in the current case has never attempted to bring a civil claim for damages for his alleged infection. The Court notes, however, that it has previously examined a similar situation and found that a civil claim for damages under Article 207 of the General Administrative Code and Article 413 of the Civil Code was the most effective remedy to be used (see *Goloshvili v. Georgia,* no. 45566/08, §§ 24-25 and 32-33, 23 October 2012; see also *Jeladze,* cited above, § 35). The Court sees no reason to depart from its previous conclusion and considers that this aspect of the complaint under Article 3 of the Convention must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

(c) Medical treatment

29. As to the alleged absence of adequate medical care in prison, the Court reiterates that prior to 1 October 2010, the Georgian law and practice did not provide for an effective legal remedy allowing a claimant to obtain injunctive relief in a situation concerning lack of medical care in prison.

Consequently, it was sufficient for an ill detainee, who wished to complain to the Court of a lack of adequate medical care, to have alerted the relevant domestic authorities about his or her state of health (see *Goginashvili,* cited above, §§ 51-54 and 57; *Makharadze and Sikharulidze,* cited above, §§ 53-55; *Goloshvili,* cited above, §§ 34-35, and *Irakli Mindadze,* cited above, §§ 31-33). In view of the relevant circumstances of the case, the Court considers that the prison authorities were made sufficiently aware of the applicant's medical situation and had an opportunity to offer redress (see paragraphs 11-14 above). Consequently, having regard to the above case-law on the subject matter, the Court dismisses the Government's objection of non-exhaustion.

30. The Court notes that the applicant's complaint under Article 3 of the Convention concerning the lack of adequate medical treatment in prison is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

31. The Government firstly submitted that the positive obligations under Article 3 of the Convention did not encompass an obligation on States to conduct compulsory screening for the presence of tuberculosis. They claimed in this connection that the first time the applicant had voiced his grievances concerning possible infection with TB was in January 2010, and by February 2010 he had been provided with all the required medical examinations and treatment. Hence, the examination for TB was not belated.

32. With respect to the anti-tuberculosis treatment itself, the Government argued, relying on the relevant medical reports, that the applicant had been provided with the necessary medical assistance without interruption since his diagnosis was revealed. At the initial stage he had been administered with comprehensive in-patient treatment in the prison hospital and Ksani prison, which had included the relevant tests, repeated consultations with medical specialists, the necessary medication, and so on. Subsequently, the applicant had been transferred to Rustavi no. 1 Prison. The Government explained that this had become possible only after a significant improvement in the applicant's medical condition. They dismissed the applicant's allegation according to which Rustavi no. 1 Prison was not capable of providing him with adequate medical care. The Government submitted in this connection a letter dated 18 August 2010 from the Ministry of Prisons, according to which the DOTS programme, which allows for the provision of the relevant anti-tuberculosis drugs to

infected prisoners, has been administered in Rustavi no. 1 prison since 10 June 2010.

33. The Government also claimed with respect to his other diseases that the applicant had been provided with the requisite medical treatment from the very beginning of his detention. In support, they submitted, as regards the treatment allegedly available in Rustavi no. 6 Prison, a letter of the prison Governor dated 13 August 2009 (see paragraph 13 above) and an unnamed and undated one-page extract from a medical file, according to which Finlepsin had been provided to the applicant for his epilepsy. As regards the post-February 2010 period, the Government submitted a copy of the applicant's full medical file. The relevant excerpts showed, according to the Government, that the applicant had been provided with adequate drug-based treatment for his epilepsy, chronic bronchitis and other minor ailments. The applicant's diagnosis of circulatory dystonia had not been confirmed.

34. In reply, the applicant reiterated his complaint that the treatment dispensed to him in prison had been inadequate. Notably, he noted that firstly his medical examination, despite repeated medical complaints, had been conducted with substantial delay, which had had a detrimental effect on his medical condition; moreover, his eight-month anti-TB treatment course in Ksani no. 8 Prison had suddenly been interrupted by his unjustified transfer on 23 July 2010 to Rustavi no. 1 Prison, which had not been properly equipped to treat him. Lastly, the applicant vaguely claimed that he had not been treated for the rest of his diseases.

2. The Court's assessment

(a) General principles

35. The relevant general principles concerning the adequacy of medical treatment in prisons have been summarised by the Court in the cases of Goginashvili, cited above, §§ 69-70, *Jeladze,* cited above, §§ 41-42, and *Irakli Mindadze*, cited above, §§ 39-40.

(b) Application of the principles to the present case

36. The Court considers that the applicant's current complaint could be divided into two periods, before and after the applicant's diagnosis with TB in February 2010.

(i) Before February 2010

37. The Court notes that the applicant was arrested on 4 October 2007 and put immediately in pre-trial detention. In November 2008 he was diagnosed with, *inter alia,* chronic bronchitis.

38. At this point, the Court would first address the Government's argument concerning the timing of the applicant's TB test (see paragraph 31 above). The gravity of the problem of tuberculosis in the Georgian prisons, as well as the role of the above-mentioned screening in minimising the spread of this disease, was already acknowledged by the Court in its case-law on the matter (see *Ghavtadze v. Georgia*, no. 23204/07, §§ 103-105, 3 March 2009; see also, *Poghosyan*, cited above, § 69, and, *mutatis mutandis, Jeladze*, cited above, § 44). In the present case the applicant did not have a screening test for tuberculosis during the initial two and a half years of his detention. Even after his diagnosis with chronic bronchitis, his requests for medical assistance were left unnoticed (see paragraphs 11-14 above). The Court finds this negligence on the part of the relevant prison authorities to be incompatible with the general obligation to prevent the transmission of tuberculosis and other contagious diseases in prisons (see *Jeladze,* cited above, § 44, with further references therein).

39. On a more general note, the Court observes that the Government failed to submit any medical evidence concerning the applicant's medical condition during the initial period of his detention, or the treatment administered to him during that time (see, *a contrario, Goginashvili,* cited above, § 72, and *Janiashvili*, § 70, cited above). Neither the letter of the prison Governor nor the undated one-page extract from a medical file (see paragraphs 13 and 33 above) can serve as a sufficient proof in this case (see *Irakli Mindadze,* cited above, §§ 42-45).

40. That being so, the Government, in the Court's opinion, have failed in accounting for the detained applicant's state of health and thus in discharging their part of the burden of proof (see, *Jeladze*, cited above, § 45 and, *Irakli Mindadze,* cited above, § 47; see also, *a contrario, Goginashvili,* cited above, § 72, and *Janiashvili,* cited above, § 75). The Court, hence, considers that until February 2010 the applicant was left without appropriate medical care in violation of Article 3 of the Convention.

(ii) After February 2010

41. Turning now to the post-diagnosis period, the Court notes that in early February 2010 the applicant was diagnosed with smear-positive focal pulmonary TB at the stage of infiltration. He was immediately placed on the DOTS programme and started receiving all the required first-line anti-tuberculosis agents on the premises of Ksani no. 8 Prison. On 21 May 2010 the applicant underwent a bacteriological sputum test which was smear-negative. Subsequently, on 23 July 2010, he was transferred to the medical unit of Rustavi no. 1 Prison, where he began the second phase of his anti-TB treatment.

42. The Court notes that the applicant's transfer to a normal prison took place only after the first-phase anti-tuberculosis treatment had yielded positive results (see paragraphs 18 and 32 above). It further observes, on the

basis of the relevant medical evidence, that the applicant's eight-month treatment was not interrupted but rather continued at Rustavi no. 1 Prison (see paragraph 32 above). Hence, the only issue pending before the Court is to assess whether Rustavi no. 1 Prison was adequately equipped to provide the applicant with the second-phase anti-TB treatment.

43. The Court would make the following observations in this connection: firstly, the DOTS programme has been administered in Rustavi no. 1 Prison since 10 June 2010, whilst the applicant was transferred to that prison on 23 July 2010; secondly, according to the available medical evidence, the applicant has continued to receive second-phase anti-TB drugs in line with the DOTS standards; thirdly, the available medical evidence reveals that the applicant has been under permanent medical supervision since his transfer to Rustavi no.1 Prison, with periodic medical check-ups conducted in the prison hospital. Lastly, the latest bacteriological sputum tests performed on the applicant confirmed the smear-negative results.

44. Against this background the Court finds the applicant's argument concerning the inadequacy of the anti-tuberculosis treatment administered to him in Rustavi no. 1 Prison unsubstantiated. Whilst acknowledging that there may be advantages to anti-tuberculosis treatment provided on an in-patient basis, the Court nevertheless concludes, having duly examined the applicant's medical file, that there are not sufficient grounds for questioning the adequacy of the anti-tuberculosis treatment provided to the applicant following his diagnosis of February 2010.

45. As regards the applicant's other diseases, the Government submitted his full medical file, from which it appears that he has been placed under permanent medical supervision as far as the period after February 2010 concerns; the applicant's epilepsy has been under control, as no epileptic seizures have been recorded and he has been provided with the required drug-based treatment for this and other of his medical conditions. The applicant failed to point to any specific inadequacies in this area.

46. In view of the above, the Court finds no violation of Article 3 of the Convention on account of the medical treatment provided to be applicant following his diagnosis of tuberculosis in February 2010.

47. In the light of the conclusions reached above (see paragraphs 40 and 46 above), the Court does not consider that it is also necessary to consider this complaint under Article 13 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

48. The applicant alleged, relying on Article 3 of the Convention, that he had been beaten by unidentified prison officers on an unspecified date in Gldani no. 8 prison. Under Article 6 § 1 of the Convention, he also challenged the outcome of the criminal proceedings conducted against him. He maintained, *inter alia*, that the domestic courts had improperly assessed

the circumstances of his case and that, instead of endorsing the incriminating evidence, the courts should have subscribed to his arguments in defence. Invoking Article 13 of the Convention, in conjunction with the above-mentioned provision, the applicant also complained that an application to the Supreme Court was not an effective judicial remedy, as that court had rejected his cassation appeal as inadmissible.

49. In the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

50. 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

51. The applicant claimed 950 euros (EUR) in respect of expenses his family had incurred in supporting him in prison and EUR 23 for medicines he had purchased. In addition, he claimed EUR 4,250 in compensation for the expenses his family would have to incur to support him in prison for the remaining seventeen years of his imprisonment. In respect of non-pecuniary damage, the applicant claimed EUR 45,000.

52. The Government contested these claims, stating that they were groundless.

53. The Court rejects as unsubstantiated the costs borne for the medicines. As regards the remainder of the claim for pecuniary damage, the Court does not discern any causal link between the violation found and the pecuniary damage alleged in connection with the applicant's past and future living expenses in prison; it therefore rejects that claim. However, having regard to its conclusions under Article 3 of the Convention, and making its own assessment on an equitable basis, the Court awards the applicant EUR 4,500 for non-pecuniary damage.

B. Costs and expenses

54. The applicant claimed, on the basis of two bank statements, EUR 166 in respect of his representation before the domestic court. He also claimed a total of EUR 66 for postal expenses, without submitting any relevant bills in support.

55. The Government argued that this claim was unsubstantiated.

56. In the light of its well-established case-law on the matter (see, for instance, *Ghavtadze,* cited above, §§ 118 and 120 and *Saghinadze and Others v. Georgia*, no. 18768/05, § 164, 27 May 2010), and having due regard to the insufficient documentary evidence in its possession, the Court rejects this claim.

C. Default interest

57. The Court considers it appropriate that the default interest rate 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 complaints under Articles 3 and 13 of the Convention concerning the alleged absence of adequate medical treatment for the applicant in prison and the lack of effective remedies in this regard admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 3 of the Convention on account of the inadequate medical treatment provided to the applicant in prison until February 2010;

3. *Holds* that there has been no violation of Article 3 of the Convention on account of the medical treatment provided to the applicant after February 2010;

4. *Holds* that it is not necessary to consider the complaint under Article 13 of the Convention;

5. *Holds*
   (a) that the respondent State is to pay the applicant, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 4,500 (four thousand five hundred euros) in respect of non-pecuniary damage, plus any tax that

may be chargeable, to be converted into the currency of the respondent State at the rate applicable on 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 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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 23 April 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President