

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

SECOND SECTION

CASE OF PRIZZIA v. HUNGARY

(Application no. 20255/12)

JUDGMENT

STRASBOURG

11 June 2013

FINAL

11/09/2013

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



In the case of Prizzia v. Hungary,

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

Guido Raimondi, *President,*
Peer Lorenzen,
Dragoljub Popović,
András Sajó,
Nebojša Vučinić,
Paulo Pinto de Albuquerque,
Helen Keller, *judges,*

and Stanley Naismith, *Section Registrar,*

Having deliberated in private on 21 May 2013,

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

PROCEDURE

1. The case originated in an application (no. 20255/12) against the Republic of Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a national of the United States, Mr Gary Prizzia ("the applicant"), on 29 March 2012.

2. The applicant was represented by Ms E. Volni, a lawyer practising in Budapest. The Hungarian Government ("the Government") were represented by Mr Z. Tallódi, Agent, Ministry of Public Administration and Justice.

3. The applicant alleged, in particular, that the Hungarian authorities failed to ensure the enforcement of judicial decisions granting him visiting rights in respect of T.M.P, his minor son, in breach of Article 8 of the Convention. Moreover, relying on Article 6 § 1, he submitted that the proceedings had lasted an unreasonably long time.

4. On 14 November 2012 the application was communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1962 and lives in Glen Allen, Virginia, USA.

6. The applicant married a Hungarian citizen, Ms J.B., and the couple had one son, T.M.P., born on 3 February 2000. The family lived in Virginia.

7. In 2003, following a visit to relatives in Hungary, J.B. did not return to the USA and instituted divorce proceedings. The applicant initiated proceedings before the Hungarian courts in order to have the Hague Convention on the Civil Aspects of International Child Abduction ("the Hague Convention") applied and the child taken back to the USA.

By a decision of 14 September 2004, the Hungarian Supreme Court found that the retention of the child in Hungary by her mother without the father's consent was illegal but refused to grant a return order under the Hague Convention. The applicant's visiting rights were regulated through a number of interim measures pending the divorce proceedings.

8. On 19 March 2005, following the pronouncement of the divorce of the applicant and his wife, the Budapest Central District Court placed the couple's son with the mother. After appeals, on 27 March 2007 the Supreme Court regulated by a final judgment the applicant's access rights in a way that he had access to his son four consecutive days every month and was entitled to spend one month of the summer vacation with him, including the possibility to take him to the USA. The mother was obliged to hand over the necessary travel documents for this purpose.

The court explained that it was in the child's best interest to maintain emotional links with his father, which would become difficult should he be disconnected from the linguistic environment. In addition, the court, referring to the Hague Convention, found no evidence to support J.B.'s supposition that the applicant would fail to return the child to Hungary.

9. In August 2007 the applicant complained to the Budapest XII District Guardianship Authority that his access granted in respect of the months of August 2007 could not be exercised on account of the mother's reluctance to co-operate. In reply, J.B. maintained that the son was sick and needed medical treatment.

Despite assurances from the applicant that he would accompany T.M.P. to all medical appointments that were necessary, the mother left Budapest with the child for a place unknown to the applicant.

The Guardianship Authority established that the mother and son had not been available on 1 August 2007 as regulated in the Supreme Court's judgment. On 11 September 2007 the Authority warned the mother that she might be fined for her conduct. The applicant for his part initiated enforcement proceedings with no success.

10. On 1 July 2008 the mother again failed to comply with the applicant's access right. On 23 July 2008 the then competent Budapest XIII District Guardianship Authority imposed a fine of 100,000 Hungarian forints (HUF) (approximately 360 euros (EUR)) on her, ordering the handover of the child to the applicant on 1 August 2008. The mother stated that she would not comply with the court judgment as regards the child's

visit to the USA, since there was an international warrant in place to locate the child, which might impede his return to Hungary.

In the resumed first-instance administrative proceedings the Guardianship Authority ordered J.B. to pay a fine and to reimburse the applicant's travel costs in the amount of HUF 396,375 (approximately EUR 1,300). This decision was upheld by the Budapest Regional Court on 26 April 2010.

11. The applicant again requested the enforcement of the access arrangements. On 28 July 2008 a bailiff ordered J.B. to deliver the child's passport to the applicant within three days. Nonetheless, she did not comply with this decision but handed over the child's passport to an employee of the Ministry of Foreign Affairs on 19 August 2008. However, the Ministry did not transfer the passport to the applicant upon the bailiff's order but returned it to the mother on 15 October 2008.

12. The applicant lodged a criminal complaint against the employee of the Ministry of Foreign Affairs on charges of abuse of power. Eventually, on 19 October 2010 the Budapest Public Prosecutor's Office discontinued the investigation, finding no appearance of a criminal offence.

13. On 24 September 2009 the Authority established the mother's non-compliance with the access arrangements in respect of 1 August 2008 and imposed a further fine of HUF 200,000 (approximately EUR 720) for the overdue visit. Moreover, she was ordered to compensate the applicant for the costs incurred by travelling in vain. During the hearing before the Authority the mother reiterated that she would not allow the child to travel to the USA since the father would obstruct his return to Hungary. The mother's request for a judicial review was rejected by the Budapest Regional Court on 23 June 2010.

14. It appears that the applicant was otherwise able to have contact with his son in compliance with the Supreme Court's decision.

15. Meanwhile, both the applicant and the mother initiated actions before the Buda Central District Court in February 2007, the applicant seeking, in particular, a change in custody and the official deposit of the child's passport. The mother requested a restriction on the applicant's access rights, removing his entitlement to take the child to the USA. The cases were joined.

On 11 December 2008 the court rejected both actions. Nonetheless, the court allowed the applicant's request to have the annual summer visits moved to July (in which case a missed opportunity could be substituted for by a visit in August) and modified the scheme accordingly. The decision was upheld by the Budapest Regional Court, acting as a second instance court, on 25 January 2010.

16. The child's envisaged stay with his father, first scheduled for 1 July and then rescheduled for 1 August 2009, did not take place. The mother stated that she would not co-operate in this respect, unless the applicant saw

to it that the criminal proceedings allegedly initiated against her in the USA were discontinued.

On both occasions a police officer accompanied the applicant to the mother's flat, but his access right could not be enforced, since the mother had left with the child for an unknown place.

The applicant's first request seeking the enforcement of his right to July visit was dismissed by the Guardianship Authority as premature, because he was entitled to reschedule the visit to August. However, subsequent to the omission of the visit in August, the applicant initiated enforcement proceedings, following which a penalty in the sum of HUF 300,000 (approximately EUR 1,000) was imposed on the mother by the Guardianship Authority. This decision was confirmed by the Budapest Regional Court on 14 July 2011.

17. Furthermore, it appears that the applicant's access to his son of four consecutive days every month, as regulated by the Supreme Court's decision, did not take place at least in June 2009 and November 2009.

18. The applicant brought proceedings against J.B. in respect of the missing visit of July/August 2011. Based on the mother's statement that she had stayed at home and been available on the prescribed day in order to hand over the child to the applicant, his action was dismissed by the Government Office for Budapest, acting as the second-instance administrative authority, on 10 August 2012.

19. Meanwhile, the applicant initiated another action before the Pest Central District Court, again seeking a change of custody. In an interim measure of 15 June 2010, the court ruled that the applicant's access rights in respect of the 2010 summer holiday should be exercised in Hungary.

20. In its judgment of 19 May 2011 the court dismissed the applicant's action. It limited his access rights to the effect that the access visits during the child's summer holiday could take place in Hungary only, and this until the child's sixteenth birthday, explaining that the child was concerned about his father not bringing him back to Hungary. The applicant was granted access visits for some days during autumn, Christmas and spring holidays, to be exercised in Hungary as well. The court also regulated the exact days of every other month when the applicant was entitled to visit his son in Hungary in the coming years. It considered, among other things, that the child did not consider the applicant as being a member of his family, the disputes between the parents had negative impact on him and he seemed to be reluctant to leave for the USA with his father alone.

On 29 November 2011 the Budapest Regional Court upheld the first-instance decision, rejecting the applicant's request to establish the bi-monthly days of visit in a flexible way.

21. The applicant's petition for review is pending before the Supreme Court.

II. RELEVANT DOMESTIC LAW

22. The relevant rules concerning the enforcement of contact orders are contained in Government Decree no. 149/1997 (IX. 10.) on Guardianship Authorities, Child Protection Procedure and Guardianship Procedure, which provides as follows:

Section 33

"(2) A child's development is endangered where the person entitled or obliged to maintain child contact repeatedly fails, by his or her own fault, to comply or to properly comply with the [contact rules], and thereby fails to ensure undisturbed contact.

...

(4) Where, in examining compliance with subsections (1)-(2), the guardianship authority establishes [culpability on the parent's side], it shall, by a decision, order the enforcement of the child contact within thirty days from the receipt of the enforcement request. In the enforcement order it shall:

a) invite the omitting party to meet, according to the time and manner specified in the contact order, his or her obligations in respect of the contact due after the receipt of the order and to refrain from turning the child against the other parent,

b) warn the omitting party of the legal consequences of own-fault non-compliance with the obligations under subsection (a)

c) oblige the omitting party to bear any justified costs incurred by the frustration of contact.

(5) Where the person entitled or obliged to maintain contact fails to meet the obligations specified in the enforcement order under subsection (4), the guardianship authority may ...

a) initiate to involve the child contact centre of the child welfare service or to take the child into protection in case the maintenance of contact entails conflicts, is continuously frustrated by obstacles, or the parents have communication problems,

b) initiate child protection mediation procedure ....

...

(7) If it is proved that the person liable to contact brings up the child by continuously turning him/her against the person entitled to contact and, despite the enforcement measures specified under subsections (4)-(5), fails to comply with the contact order, the guardianship authority:

a) may bring an action seeking change of placement if it is the best interests of the child,

b) shall file a criminal complaint ...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

23. The applicant complained that his right to respect for his family life had been infringed as a result of the non-enforcement of the final judgments granting him visiting rights in respect of T.M.P., his minor son, with the possibility to take him abroad. He relied on Article 8 of the Convention as well as Article 2 §§ 2 and 3 of Protocol No. 4 and Article 5 of Protocol No. 7.

The Court considers that this complaint falls to be examined under Article 8 of the Convention alone, which reads 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.”

24. The Government contested the applicant’s views.

A. Admissibility

25. The Court notes that this complaint 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 of the parties

a. The applicant

26. The applicant submitted that although he had used all the legal remedies available to him in order to enforce the final judgment of the Supreme Court granting him access rights with the possibility to take his son to the USA, they all had proved ineffective. He argued that despite the

mother's non-cooperation, the authorities had failed to make sufficient efforts to enforce the judgment. Furthermore, although his former wife had been ordered by the Guardianship Authority to pay fines for not complying with the Supreme Court's decision, the situation remained unchanged.

27. Moreover, he submitted that an employee of the Ministry of Foreign Affairs had obstructed the enforcement proceedings in that she had unlawfully withheld the child's passport and had not handed it over to the bailiff. The applicant also observed that the administrative authorities had committed a number of procedural errors when examining his requests for enforcement of his access rights.

28. He further maintained that the non-enforcement of his right to take the child abroad during summer holidays paradoxically resulted in the complete revocation of this right by the domestic courts.

b. The Government

29. The Government emphasised at the outset, that apart from the periodic summer visits to the USA, the applicant could exercise his access rights undisturbed.

30. They contended that in the present case the mother had objected to the summer visits taking place in the USA, since she had feared that the applicant would not return the child to Hungary. In this respect they referred to the ambiguous situation as regards the mutual recognition and enforcement of custody-related decisions. They argued that the applicant should have behaved in a more cooperative manner by initiating proceedings before the US courts, seeking the recognition and enforcement of the final and binding court decision placing the child with J.B. They further argued that the initiation of criminal proceedings against the mother and the issuing of a warrant in the USA had constituted an obstacle to the access visits during summer holidays.

31. The Government further submitted that the Hungarian authorities had acted diligently and accomplished all their duties provided under the law in order to enforce the domestic court's decision. Amongst others, on a number of occasions they had imposed procedural fines on J.B. and ordered her to reimburse the applicant's travel costs.

32. The Government moreover noted that the somewhat protracted nature of the various enforcement proceedings was due to the fact that the authorities needed to adjudicate a large number of submissions filed by the applicant.

In sum, the Government were of the view that the State authorities had complied with their positive obligations under Article 8.

2. The Court's assessment

a. General principles

33. The Court reiterates that the mutual enjoyment by parent and child of each other's company constitutes a fundamental element of "family life" within the meaning of Article 8 of the Convention (see *Monory v. Romania and Hungary*, no. 71099/01, § 70, 5 April 2005).

34. The Court further reiterates that the essential object of Article 8 is to protect the individual against arbitrary action by public authorities. There are in addition positive obligations inherent in effective "respect" for family life. In both contexts regard must be had to the fair balance that has to be struck between the various interests involved, namely the interests of the child, the parents and other family members as well as the general interest in ensuring the respect for the rule of law; and in both contexts the State enjoys a certain margin of appreciation (see, for similar reasoning, *Keegan v. Ireland*, 26 May 1994, § 49, Series A no. 290). In cases of this type, the child's interest must come before all other considerations (see *Płaza v. Poland*, no. 18830/07, § 71, 25 January 2011).

35. In relation to the State's obligation to take positive measures, the Court has held that in cases concerning the implementation of the contact rights of one of the parents, Article 8 includes a parent's right to the taking of measures with a view to his or her being reunited with the child and an obligation on the authorities to facilitate such reunion. In so far as the interests of the child so dictate, those authorities must do their utmost to preserve personal relations and, if and when appropriate, to "rebuild" the family. However, the State's obligation is not one of result, but of means (see, among other authorities, *Pascal v. Romania*, no. 805/09, § 69, 17 April 2012).

36. In a case of this kind, the adequacy of a measure is to be judged by the swiftness of its implementation, as the passage of time can have irremediable consequences for relations between the child and the parent who does not live with him or her (see *Ignaccolo-Zenide v. Romania*, no. 31679/96, § 102, ECHR 2000-I).

37. The Court has also held that although coercive measures against the children are not desirable in this sensitive area, the use of sanctions must not be ruled out in the event of unlawful behaviour by the parent with whom the children live (see *Shaw v. Hungary*, no. 6457/09, § 67, 26 July 2011).

38. The Court further reiterates that active parental participation in proceedings concerning children is required under Article 8 of the Convention in order to ensure the protection of their interests, and that when an applicant applies for enforcement of a court order, his conduct as well as that of the courts is a relevant factor to be considered (see *Glaser v. the United Kingdom*, no. 32346/96, § 70, 19 September 2000).

b. Application of those principles to the present case

39. The Court observes that the applicant's complaint relates in essence to the non-enforcement of his access rights during summer vacations to be exercised in the USA and their subsequent limitation to the territory of Hungary until the child's sixteenth birthday. In the Court's view, given that the applicant lives in the USA and these holidays would have been the only way for him to spend time with his son in an appropriate environment, the enforcement proceedings at issue concerned the substance of the applicant's future relations with his child and related to a fundamental element of "family life" within the meaning of Article 8 of the Convention (see *H. v. the United Kingdom,* 8 July 1987, § 90, Series A no. 120).

40. The Court's task in the present case is therefore to consider whether the measures taken by the Hungarian authorities were adequate and effective, as could reasonably have been expected in the circumstances, in order to facilitate summer reunions between the applicant and his child.

41. The Court notes that the domestic courts granted sole custody of the child to the mother and the applicant was granted the right to take him for periodic summer visits to the USA. The problems concerning the implementation of those contact rights arose immediately after they had been determined by the domestic courts; the applicant thus had no choice but to initiate execution proceedings before the Guardianship Authority and request the services of a bailiff in order to enforce his contact rights.

42. In assessing the domestic authorities' conduct in respect of the enforcement of the relevant Supreme Court judgment, the Court notes that while it is true that they allowed the majority of the applicant's requests for injunctions, nonetheless this occurred mostly following a considerable lapse of time. In particular, the final decision on the applicant's request concerning the missing visit of August 2008 was issued on 23 June 2010 and the one concerning the missing visit of July/August 2009 only on 14 July 2011 (see paragraphs 13 and 16 above).

43. In this context to Court finds it difficult to accept the Government's explanation that the applicant contributed to the delays by lodging a large number of motions. It has been the Court's constant approach – in the context of Article 6 – that an applicant cannot be blamed for taking full advantage of the recourses afforded by national law in the defence of his interests (see *Skorobogatova v. Russia*, no. 33914/02, § 47, 1 December 2005), and the Court finds it appropriate to apply the same approach in the present circumstances.

44. In addition, the Court observes that the Supreme Court's judgment on access arrangements during summer vacations was in force but not implemented from 27 March 2007 until 19 May 2011 (the date of the Pest Central District Court's decision amending the applicant's access rights), that is, for over four years. The Court considers that this delay proved decisive for the applicant's future relations with his son and had a particular

quality of irreversibility (see *H. v. the United Kingdom*, 8 July 1987, § 89, Series A no. 120). The lapse of time in question led to the *de facto* determination of the matter, in that the Pest Central District Court eventually held that since the Supreme Court's judgment new circumstances had occurred and T.M.P no longer considered his father as a member of his family and seemed to be unwilling to visit him in the USA (see paragraph 20 above).

45. The Court further observes that the enforcement attempts were less than successful (see paragraphs 9 to 11 and 16 above). The Court acknowledges that the difficulties in ensuring the applicant's access rights were essentially due to the mother's behaviour. It is true that the applicant's enforcement requests led to the imposition on J.B. of an administrative fine that was subsequently increased due to her continued non-compliance with the final court judgment (see paragraphs 10, 13 and 16 above).

46. Nonetheless, the Court considers that the facts of the case indicated that the financial sanctions imposed on J.B. were inadequate to improve the situation at hand and overcome the mother's lack of cooperation. However, even if the domestic legal order did not allow for the imposition of effective sanctions, each Contracting State must equip itself with an adequate and sufficient legal arsenal to ensure compliance with the positive obligations imposed on it by Article 8 of the Convention and the other international agreements it has chosen to ratify (see *Maire v. Portugal*, no. 48206/99, § 76, ECHR 2003-VII). In the present case, the Court notes that, in certain circumstances, the Guardianship Authority could have filed an action to change the child's placement or file a criminal report against the mother notably on the ground that the latter had been reluctant to respect the judicial decisions on the other parent's visiting rights, but it did not avail itself of these legal avenues (see paragraph 22 above).

47. Concerning the Government's argument that non-compliance with the access arrangements was justified by the consideration that the applicant would not return T.M.P. to Hungary, in particular given the ambiguous situation concerning the mutual recognition of custody-related decisions (see paragraph 30 above), the Court refers to the judgment of the Supreme Court delivered on 27 March 2007. The Court is satisfied that, while allowing the applicant to take his son abroad for summer visits, the judgment had due regard to the mother's arguments and the questions related to the applicability of the Hague Convention, but no evidence was identified to support the mother's supposition (see paragraph 8 above).

48. Furthermore, the Court emphasises that the interests of the child are paramount in such cases, which requires that the question of access be determined primarily with regard to this consideration, rather than to the parents' own perceived interests.

As it was established by the Supreme Court's judgment, the child's best interest would have required the exercise, to some extent at least, of the

father's access rights in the USA so that no linguistic – and, as a consequence, emotional – barriers arose between him and his father.

There is nothing in the case file indicating that, until a late stage in the period complained of, the child was reluctant to meet his father. However, even when such reluctance eventually developed (see paragraph 20 above), it does not appear that this element was assessed by the authorities as an element justifying the non-enforcement of the Supreme Court's judgment – rather, those authorities merely acquiesced in the mother's obstructive behaviour.

49. Finally, the Court recognises that the passage of time may change the circumstances – which may call for an eventual re-assessment of the child's ties to his parents and their environments respectively and the re-regulation of access arrangements. The decisions of the Hungarian courts to the effect that the applicant's access rights as regards summer vacations should be exercised in Hungary until the child's sixteenth birthday can be seen as reflecting this principle. The Court would note in this connection that, in its judgment of 19 May 2011, the Pest Central District Court pointed to the child's own wishes as its reason for modifying the applicant's access rights established in the Supreme Court's judgment of 27 March 2007 (see paragraphs 8 and 20 above). However, the fact remains that the considerable time, during which the Supreme Court's above judgment remained unenforced, frustrated the applicant's rights, and had the eventual effect that his son became alienated from him.

50. Having regard to the above considerations, the Court concludes that, notwithstanding the margin of appreciation afforded to the State, the national authorities did not take all the steps which could be reasonably required to enforce the applicant's access rights.

51. The Court therefore finds that there has been a violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

52. The applicant also complained that the domestic proceedings, including the enforcement, lasted an unreasonably long time, in breach of Article 6 § 1 of the Convention.

53. The Government contested that argument.

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

55. Having regard to the finding relating to Article 8 (see paragraph 51 above), the Court considers that it is not necessary to examine whether, in this case, there has been a violation of Article 6 § 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

56. 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

57. The applicant claimed EUR 3,876 in respect of pecuniary damage. This amount corresponds to his expenditure incurred when hiring private investigators to locate his son.

58. In addition, he claimed EUR 100,000 euros in respect of non-pecuniary damage.

59. The Government found the claims to be excessive.

60. The Court finds no causal link between the violation found and the pecuniary damage claimed. It therefore rejects this claim. However, it considers that the applicant must be regarded as having suffered anguish and distress as a result of the withering ties with his son and the insufficient measures taken by the Hungarian authorities. On the basis of equity, the Court awards him the sum of EUR 12,500 in non-pecuniary damage.

B. Costs and expenses

61. The applicant also claimed altogether EUR 99,526 for the costs and expenses incurred through his efforts to exercise his access right. From his submissions, the following items belonging under this head could be deciphered: EUR 18,869 as travel costs, EUR 27,840 as legal fees billed by his lawyers for his representation before the domestic courts and EUR 5,000 for costs and expenses incurred before the Court.

62. The Government found the claim to be excessive.

63. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 10,000 covering costs under all heads, also having regard to the fact that the authorities repeatedly ordered the mother of the applicant's child to compensate him for the costs incurred by travelling in vain to Hungary (see paragraphs 10 and 13 above).

C. Default interest

64. 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 application admissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds* that there is no need to examine the complaint under Article 6 § 1 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, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 12,500 (twelve thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 10,000 (ten thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (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 11 June 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith Registrar	Guido Raimondi President