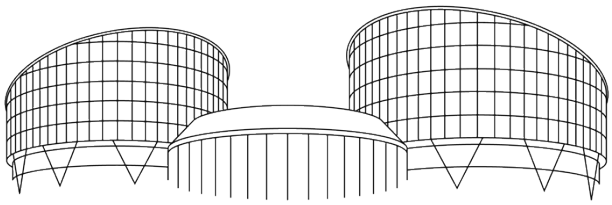

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

**CASE OF SIVOGRAK AND ZENOV v. RUSSIA**

*(Application no. 14758/08)*

JUDGMENT

STRASBOURG

13 June 2013

**FINAL**

13/09/2013

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

**In the case of Sivograk and Zenov v. Russia,**

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

Isabelle Berro-Lefèvre, *President,*
Elisabeth Steiner,
Khanlar Hajiyev,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Ksenija Turković,
Dmitry Dedov, *judges,*

and André Wampach, *Deputy 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. 14758/08) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Russian nationals, Mr Igor Georgiyevich Sivograk ("the first applicant") and Mr Valeriy Nikolayevich Zenov ("the second applicant"), on 31 January 2008.

2. The applicants were represented by Mr V.V. Sharovarin, a lawyer practising in Bryansk. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

3. On 9 January 2009 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).

4. In accordance with the pilot judgment in *Burdov v. Russia (no. 2)* (no. 33509/04, ECHR 2009), the applications were adjourned pending their resolution at the domestic level.

5. The Government later informed the Court that they saw no possibility of enforcing the judgments in the applicants' favour. The Court therefore decided to resume the examination of the present application.

## THE FACTS

6. The applicants are Russian nationals, who were born in 1969 and 1968, and live in Starodub, the Bryansk Region, and Saratov respectively.

## A. NON-ENFORCEMENT OF THE JUDGMENT OF 1 NOVEMBER 2005 IN THE APPLICANT'S FAVOUR

7. By a judgment of 1 November 2005 the Zavodskoy District Court, Grozny ("the District Court") ordered the Ministry of the Interior of the Chechen Republic to pay an allowance due to the applicants for participation in the counter-terrorist operation in the North Caucasus. The court awarded the first applicant 607,999 Russian roubles (RUB) for a period of service from June 2002 to December 2004 and the second applicant RUB 367,333 for a period of service from June 2003 to December 2004.

8. The judgment became binding and enforceable on 11 November 2005. The applicants repeatedly attempted to secure the enforcement of that judgment by contacting the debtor authority and other State authorities responsible for payment of the judgment debt. They provided the authorities with the necessary documents, including the writ of enforcement issued by the domestic court. However, their attempts were not successful and the judgment remained unenforced.

9. Following the authorities' prolonged failure to enforce the judgment, the applicants sued the Ministry of the Interior of the Russian Federation on the basis of its vicarious liability (*субсидиарная ответственность)*. On 29 September 2009 the Zamoskvoretskiy District Court, Moscow ("the Zamoskvoretskiy District Court") granted the applicants' claims and awarded RUB 847,999 in favour of Mr Sivograk and RUB 607,333 in favour of Mr Zenov. Those amounts corresponded to the total sum owed to the applicants under the judgments of 1 November 2005 and 10 May 2006 (see paragraph 13 below).

10. On 3 August 2010 the judgment of 29 September 2009 was quashed, following an application by the Ministry of the Interior for review on account of newly discovered circumstances.

11. By a new judgment of 9 November 2010, upheld on appeal on 20 July 2011, the Zamoskvoretskiy District Court dismissed the applicants' claims. The court noted that the debtor was not in possession of the writs of enforcement and thus could not enforce the judgment of 1 November 2005 in the applicant's favour. Furthermore, the court referred to the applicants' failure to prove that the principal debtor had refused or failed to pay the judgment debt.

12. The judgment of 1 November 2005 in the applicants' favour remains unenforced to the present date.

## B. A SECOND JUDGMENT ALLEGEDLY DELIVERED ON 10 MAY 2006 IN THE APPLICANT'S FAVOUR

13. The applicants submitted a copy of a judgment of 10 May 2006 allegedly delivered by the District Court in favour of five claimants, including the applicants. It transpires from the text of the judgment that the court heard the oral submissions of the parties to the case at a hearing and arrived at the following conclusions:

> "...
>
> The failure of the command of the United Group Alignment to issue orders to make the payments in due time does not in itself prove that the applicants did not take part in the counter-terrorist operation and are not entitled to receive combat allowance.
>
> The records of individual participation in the counter-terrorist operation on the territory of the North-Caucasus region reflect the dates of [the claimants'] participation which match the timeframe indicated by the claimants.
>
> The records submitted by the finance department of the Ministry of the Interior's regional office demonstrate that the claimants have indeed not received the remuneration due to them for participation in combat and other actions in defence of the public order ...
>
> The reports drawn up by the head of the personnel department in the Ministry of the Interior's regional office following an internal inquiry show that the claimants were included in the orders authorising the counter-terrorist operation and are entitled to relevant payments.
>
> In addition, the case file contains the minutes of meetings held by the commission supervising the putting together of orders concerning the involvement of personnel in the counter-terrorist operation which evidence that the applicants indeed took part in the operations during the aforementioned period and are entitled to extra reimbursement.
>
> ...
>
> The court concludes that the claimants indeed took part in the counter-terrorist operation. The respondent submitted to the court official documents evidencing [this fact] and thus *de facto* accepted their claims.
>
> ...
>
> The amounts to be recovered are calculated by the court based on the records provided by the respondent.
>
> ...
>
> Having regard to the above and relying on Articles 194 and 198 of the Code of Civil Procedure, the court orders the Ministry of the Interior of the Chechen Republic to

pay the following amounts for *de facto* participation in the counter-terrorist operation on the territory of the North Caucasus in favour of:

...

Valeriy Nikolayevich Zenov RUB 240,000 for the period from 1 January to 31 December 2005, and also to credit the above period in [the claimant's] length of service record in the proportion of one month for three months and in [the claimant's] length of special service record in the proportion of one month for three months;

Igor Georgiyevich Sivograk RUB 240,000 for the period from 1 January to 31 December 2005, and also to credit the above period in [the claimant's] length of service record in the proportion of one month for three months and in [the claimant's] length of special service record [in the proportion of one month for three months]."

14. On 20 July 2007 the Chechen Republic Department of the Federal Treasury returned the writs of enforcement related to the judgment of 10 May 2006 issued by the District Court for failure to indicate the creditor's addresses and discrepancies between the operative part of the judgment and the enforcement document.

15. By letter of 24 July 2008 the acting president of the District Court, replying to the applicants' request for correction of the irregularities in the enforcement documents and the judgment, informed them that the court had never delivered the judgment of 10 May 2006 or the related writs of enforcement and that the stamps and signatures on the documents had been falsified.

16. The Government submitted a copy of a decision to refuse the institution of criminal proceedings dated 26 January 2009, which read as follows:

"Senior police lieutenant I.A. Askhabov, an investigator at the Zavodskoy police station's investigative department, having examined the material submitted by the prosecutor's office for the Zavodskoy District of Grozny and registered by ... the Zavodskoy police station ... on 17 December 2008, concerning the falsification by an unidentified person of a judgment of the Zavodskoy District Court ordering the payment of an additional monetary allowance for participation in the counter-terrorist operation in the Chechen Republic, established [the following]:

The judgment by the Zavodskoy District Court of 10 May 2006 in [the applicants'] favour and the writs of enforcement dated 20 May 2006 [by which] the Ministry of the Interior for the Chechen Republic [was] ordered to pay [the applicants] RUB 240,000 each, which had been submitted by [the applicants] to the Chechen Republic Department of the Federal Treasury, are falsified and were never delivered or issued by the Zavodskoy District Court.

The above is confirmed by the information contained in [a letter] of the Zavodskoy District Court of 24 July 2008 ...

Accordingly, the actions of the unidentified person constitute the *corpus delicti* described in Article 327.1 of the Criminal Code.

The above crime belongs to the category of small-scale crimes and, considering that the judgment ... was falsified in May 2006, any prosecution would be time-barred in accordance with Article 78.1 (a) of the Criminal Code.

Based on the above ... it is decided:

1. To refuse to open a criminal case on account of a crime provided for in Article 327.1 of the Criminal Code [having taken place] ... due to the expiration of the statutory limitation period for criminal prosecution ...

...

5. To send a copy of this decision to [the applicants], V.V. Sharovarin and the prosecutor for the Zavodskoy District of Grozny.

This decision is amenable to appeal to the prosecutor for the Zavodskoy District of Grozny or the Zavodskoy District Court in accordance with Chapter 16 of the Code of Criminal Procedure.

..."

17. On the same date a copy of the decision was sent to the applicants.

18. On 29 September 2009 the Zamoskvoretskiy District Court considered the applicants' claims against the Ministry of the Interior brought on the basis of its vicarious liability and ordered it to pay RUB 847,999 to Mr Sivograk and RUB 607,333 to Mr Zenov. The amounts recovered corresponded to the total sums owed to the applicants under the judgments of 1 November 2005 and 10 May 2006 (see paragraphs 7 and 13 above).

19. By letter of 17 May 2010 the president of the District Court responded to an inquiry by the office of the Representative of the Russian Federation at the European Court of Human Rights as follows:

"In reply to your inquiry of 13 May 2010 [no. of the letter] the Zavodskoy District Court [...] informs you that the judgments of 1 November 2005 and 1 June 2006 on the claims of V. N. Zenov, I.G. Sivograk and [another person] in their favour against the Ministry of the Interior of the Republic of Chechnya ordered the payment of RUB 367,333, 607,999 and 746,468 respectively for *de facto* participation in the counter-terrorist operation on the territory of the North-Caucasus region (hereinafter "the CTO").

Pursuant to Articles 428 and 429 of the Code of Civil Procedure writs of enforcement were issued to the creditors upon entry of the judgments into force.

...

The court is not in possession of any information concerning the enforcement of the judgment of 1 November 2005 in respect of V. N. Zenov and I. G. Sivograk.

Since the date of the delivery of the judgment T. R. Khamidov, V. N. Zenov and I.T. Sivograk have not lodged with the court any claims or complaints of non-enforcement

of the judgment; hence it is impossible to provide you with any court decisions [in this respect].

As regards the judgment of 10 May 2006 which allegedly ordered the payment of monetary allowances by the Ministry of the Interior of the Republic of Chechnya to V.N. Zenov and I.G. Sivograk for *de facto* participation in the CTO, the court has never delivered such a judgment, nor have any claims to this effect been lodged with the court."

20. Based on the information contained in the above letter, the Ministry of the Interior challenged the judgment of 29 September 2009 before the Zamoskvoretskiy District Court on account of newly discovered circumstances. As a result, on 3 August 2010 the judgment of 29 September 2009 was quashed (see paragraph 10 above). By a new judgment of 9 November 2010, the Zamoskvoretskiy District Court rejected the applicants' claims (see paragraph 11 above). The court stated that, according to all available evidence, the judgment of 10 May 2006 had never been delivered. That judgment was upheld on appeal on 20 July 2011.

# THE LAW

21. The applicants complained that the non-enforcement of the judgments of 1 November 2005 and 10 May 2006 in their favour had breached Article 6 § 1 of the Convention and Article 1 of Protocol No. 1, which read in their relevant parts as follows:

**Article 6 § 1**

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

**Article 1 of Protocol No. 1**

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

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

# I. NON-ENFORCEMENT OF THE JUDGMENT OF 1 NOVEMBER 2005

## A. The arguments of the parties

22. The Government submitted that the Federal Treasury Department for the Chechen Republic had taken measures compelling the debtor authority to pay the judgment debt. However, their repeated attempts to secure enforcement of the judgment had not been successful. The Government admitted that the reasons for the prolonged non-enforcement of the judgment had been beyond the applicants' control and had mainly related to shortcomings in the enforcement documents and financial difficulties. The Government further submitted, however, that the authorities had been unable to enforce the judgment after 2009, as the applicants had withdrawn the enforcement documents at that point and had failed to resubmit them to the Federal Treasury Department for the Chechen Republic.

23. The applicants maintained their complaint.

## B. The Court's assessment

### *1. Admissibility*

24. The Court notes that the 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.

### *2. Merits*

25. The Court reiterates that an unreasonably long delay in the enforcement of a binding judgment may breach the Convention (see *Burdov v. Russia*, no. 59498/00, ECHR 2002-III). It has been the Court's consistent position that a person who has obtained a judgment against the State may not be expected to bring separate enforcement proceedings (see *Metaxas v. Greece*, no. 8415/02, § 19, 27 May 2004). In such cases, the defendant State authority will have been duly notified of the judgment and is thus well placed to take all necessary measures to comply with it or to transmit it to another competent State authority responsible for execution. This is particularly relevant in a situation where, in view of the complexities and possible overlapping of the execution and enforcement processes, an applicant may have reasonable doubts about which authority is responsible for the execution or enforcement of the judgment (see *Akashev v. Russia*, no. 30616/05, § 21, 12 June 2008, and *Burdov (no. 2)*, cited above, § 68).

Consequently, the Court has held that the burden of ensuring compliance with a judgment against the State lies primarily with the State authorities, starting from the date on which the judgment becomes binding and enforceable (*Burdov (no. 2),* cited above, § 69).

26. At the same time, the Court has accepted that a successful litigant may be required to undertake certain procedural steps in order to recover the judgment debt (see *Shvedov v. Russia*, no. 69306/01, § 32, 20 October 2005). Accordingly, it is not unreasonable for the authorities to ask a creditor to produce additional documents, such as bank details, to allow or speed up the execution of a judgment (see, *mutatis mutandis*, *Kosmidis and Kosmidou v. Greece*, no. 32141/04, § 24, 8 November 2007, and *Burdov (no. 2),* cited above, § 69). The creditor's uncooperative behaviour may be an obstacle to timely enforcement of a judgment, thus alleviating the authorities' responsibility for delays (see *Belayev v. Russia* (dec.), no. 36020/02, 22 March 2011). The Court has found, for example, that the authorities should not have been held responsible for the applicants' unexplained failure to follow the domestic enforcement procedure and, notably, for their deliberate and persistent refusal to provide the writs of enforcement (see *Gadzhikhanov and Saukov v. Russia*, nos. 10511/08 and 5866/09, §§ 27-31, 31 January 2012). It should be recalled, however, that the requirement of the creditor's cooperation must not go beyond what is strictly necessary and, in any event, does not relieve the authorities of their obligation under the Convention to take timely action of their own motion, on the basis of the information available to them, with a view to honouring the judgment against the State (see *Akashev*, cited above, § 22, and *Burdov (no. 2),* cited above, § 69).

27. Turning to the present case, the Court notes that the applicants have repeatedly attempted to recover the judgment debt since 11 November 2005, when the judgment in their favour became binding and enforceable. As the Government acknowledged, the prolonged non-enforcement of the judgment between 2005 and 2009 was not due to the applicants' behaviour, being totally within the authorities' control. Such a long delay in payment of a judicial award is on its face incompatible with the Convention requirements as they arise from the established case-law cited above, and the Court discerns no specific reason to reach a different conclusion in the circumstances of the present case.

28. Confronted with such inaction on the part of the authorities for several years, the applicants cannot be blamed for their decision to withdraw the execution documents from the Federal Treasury Department for the Chechen Republic in order to bring a new lawsuit against the Ministry of the Interior of the Russian Federation on the basis of its vicarious liability. Even assuming that the failure to resubmit the writ of enforcement to the Federal Treasury Department for the Chechen Republic at the present stage may constitute a legal obstacle to the enforcement of the judgment, the

delays that should thus be attributed to the applicants appear insignificant compared to those for which the authorities remain totally responsible. Contrary to what the Government's argument may suggest, the present situation should be distinguished from the rare cases where the applicants' uncooperative behaviour was the central obstacle making it legally or practically impossible for the authorities to comply with the domestic judgments in a timely manner (see *Belayev,* and *Gadzhikhanov and Saukov*, cited above).

29. In view of the foregoing, the Court concludes that the authorities' prolonged failure to ensure the enforcement of the judgment of 5 November 2005 amounts to a violation of Article 6 § 1 and Article 1 of Protocol No. 1.

## II. NON-ENFORCEMENT OF THE JUDGMENT ALLEGEDLY DELIVERED ON 10 MAY 2006 IN THE APPLICANTS' FAVOUR

### A. The arguments of the parties

30. The Government submitted that the judgment of 10 May 2006 had been forged and that the applicants had submitted false information to the Court, abusing their right of application. They requested that the application be declared inadmissible in accordance with Article 35 § 3 (a) of the Convention.

31. The applicants retorted that the allegation of falsification of the judgment of 10 May 2006 had not been supported by sufficient evidence. They asserted that they had only become aware of the decision to refuse the institution of criminal proceedings of 26 January 2009 as a result of their correspondence with the Court and had not followed the course of the investigation.

### B. The Court's assessment

32. The Court would highlight at the outset that according to Rule 47 § 6 of the Rules of Court applicants must keep the Court informed of all circumstances relevant to the application. It further reiterates that an application may be rejected as abusive under Article 35 § 3 of the Convention, among other reasons, if it was knowingly based on untrue facts (see *Varbanov v. Bulgaria*, no. 31365/96, § 36, ECHR 2000-X; *Popov v. Moldova (no. 1)*, no. 74153/01, § 48, 18 January 2005; *Řehák v. the Czech Republic* (dec.), no. 67208/01, 18 May 2004; and *Kerechashvili v. Georgia* (dec.), no. 5667/02, 2 May 2006). Incomplete and therefore misleading information may also amount to an abuse of the right of individual petition, especially if the information concerns the very core of the case and no sufficient explanation is given for the failure to disclose that

information (see *Poznanski and Others v. Germany* (dec.), no. 25101/05, 3 July 2007, and *Hadrabova and Others v. the Czech Republic* (dec.), nos. 42165/02 and 466/03, 25 September 2007).

33. Having examined the circumstances of the present case, the Court observes that on 24 July 2008 the acting president of the Zavodskoy District Court informed the applicants in writing that the judgment of 10 May 2006 and the related enforcement documents had been falsified. It further observes that on 17 December 2008 the applicants on their own initiative raised before the police a complaint of the alleged falsification of the judgment of 10 May 2006. It follows from the above that, even assuming that the applicants had believed that the judgment was genuine, they became aware of the tainted character of that judgment shortly after lodging their application with the Court. Whether they received the decision to refuse the institution of criminal proceedings in respect of their complaint in a timely manner appears to be immaterial, as the burden was upon the applicants in those circumstances to enquire about the results of the investigation and submit them to the Court.

34. Furthermore, the Court considers that if the applicants had indeed obtained the judgment of 10 May 2006 in a lawful manner, they had ample opportunity to prove it by submitting to the Court such evidence as copies of their statements of claim, the transcripts of any court hearings or witness statements by their fellow claimants. However, the applicants chose not to avail themselves of that course of action and did not attempt to explain this omission, which further supports the Court's doubts concerning the nature of that judgment.

35. The Court finds the above information to be sufficient to infer that the judgment of 10 May 2006 was falsified and that the applicants were aware of this fact during the entire lifetime of their application. Having regard to the importance of the information at issue for the proper determination of the present case, the Court finds that the applicants' conduct was inconsistent with the purpose and spirit of the right of individual petition, as provided for in Article 34 of the Convention.

36. In view of the above, the Court finds it appropriate to reject the applicants' complaint as an abuse of the right of individual application pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

## III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

37. 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

38. As regards pecuniary damage, the applicants claimed 847,999 Russian roubles (RUB) for Mr Sivograk and RUB 607,333 for Mr Zenov, corresponding to the total of the domestic awards made by the judgment of 1 November 2005 and those allegedly made by the judgment of 10 May 2006. They also claimed interest on those amounts without providing any calculation. Lastly, they claimed 10,000 Euros (EUR) each in respect of non-pecuniary damage.

39. The Government submitted that no just satisfaction should be awarded in respect of the alleged non-enforcement of the judgment of 10 May 2006, which had been forged. At the same time, they did not dispute the amount of compensation claimed by the applicants in respect of pecuniary damage as far as the judicial awards made by the judgment of 1 November 2005 were concerned. The Government did not accept, however, that any interest on those amounts should be awarded, since the applicants had failed to present any calculation in that respect. Lastly, the Government considered that the amounts claimed by the applicants in respect of non-pecuniary damage were excessive and submitted that the Court should not award each applicant more than EUR 3,200 under this head.

40. The Court acknowledges, like the Government, that the applicants sustained pecuniary damage as a result of the violations of the Convention arising from the State's failure to pay them the judicial awards made by the judgment of 1 November 2005. The Court further notes from the Government's submissions that the prospects for enforcement of that judgment are somewhat compromised at the present stage. In accordance with its established case-law, the most appropriate form of redress in respect of the violations found would be to put the applicants as far as possible in the position they would have been if the Convention requirements had not been disregarded (see *Piersack v. Belgium* (Article 50), 26 October 1984, § 12, Series A no. 85). The Court therefore finds it appropriate to grant the applicants the equivalent of the judicial awards made in their favour by the judgment of 1 November 2005, namely EUR 14,015 to the first applicant and EUR 8,468 to the second applicant. The Court finds at the same time that the applicants' claim for interest on those amounts was not supported by any detailed calculations and decides to reject that claim. Lastly, the Court reiterates that no compensation can be granted in respect of the alleged awards of 10 May 2006, since the applicants were found to have abused their right of individual petition in relation to that complaint.

41. The Court also considers that the violations found caused the applicants non-pecuniary damage which cannot be made good by the mere finding of a violation. At the same time, the Court concurs with the Government that the amount of EUR 10,000 claimed by each of the

applicants is excessive. While the damage sustained was inevitably heightened by the very long delay in enforcement of the judgment of 1 November 2005 and the Government's failure to settle the case in accordance with the pilot judgment (see paragraphs 4 and 5 above), the Court's assessment under Article 41 should also take account of the fact that the other part of the application was dismissed as an abuse of the right of individual petition. Having regard to all the information in its possession and making its assessment on an equitable basis, Court awards the applicants EUR 3,000 each in respect of non-pecuniary damage.

### B. Costs and expenses

42. Each applicant also claimed EUR 500 for costs and expenses without presenting any documents in support of the claim.

43. The Government considered that those claims should be rejected as unsupported by relevant documentation showing that the costs had actually been incurred.

44. 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 applicants' failure to present any documents in support of their claim, the Court makes no award in respect of costs and expenses.

### C. Default interest

45. 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 with regard to the applicants' complaint of the State's failure to enforce the judgment of 1 November 2005 and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 of the Convention and Article 1 of Protocol No. 1;

3. *Holds*

(a) that the respondent State is to pay, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:

(i) EUR 14,015 (fourteen thousand and fifteen euros) to the first applicant in respect of pecuniary damage;

(ii) EUR 8,468 (eight thousand four hundred and sixty-eight euros) to the second applicant in respect of pecuniary damage;

(iii) EUR 3,000 (three thousand euros), plus any tax that may be chargeable to the applicants on that amount, to each applicant in respect of non-pecuniary damage;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 13 June 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Isabelle Berro Lefèvre
President