



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

SECOND SECTION

CASE OF AZIZ v. CYPRUS

(Application no. 69949/01)

JUDGMENT

STRASBOURG

22 June 2004

FINAL

22/09/2004

In the case of Aziz v. Cyprus,

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

Mr J.-P. COSTA, *President*,

Mr A.B. BAKA,

Mr L. LOUCAIDES,

Mr C. BÎRSAN,

Mr K. JUNGWIERT,

Mr M. UGREKHELIDZE,

Mrs A. MULARONI, *judges*,

and Mr T.L. EARLY, *Deputy Section Registrar*,

Having deliberated in private on 8 April 2003 and 1 June 2004,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 69949/01) against the Republic of Cyprus lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Cypriot national, Mr Ibrahim Aziz (“the applicant”), on 25 May 2001.

2. The applicant was represented by Drakos S. & Associates, lawyers practising in Nicosia. The Cypriot Government (“the Government”) were represented by their Agent, Mr S. Nikitas, Attorney-General of the Republic of Cyprus.

3. The applicant complained under Article 3 of Protocol No. 1, taken alone or in conjunction with Article 14 of the Convention, that he was prevented from exercising his voting rights on the grounds of national origin and/or association with a national minority.

4. The application was allocated to the Third Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Second Section (Rule 52 § 1).

6. On 23 April 2002 the Court decided to adjourn the examination of the applicant's complaints and declare part of the application inadmissible.

7. By a decision of 8 April 2003, the Court declared the remainder of the application admissible regarding the complaints mentioned above (see paragraph 3).

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

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

9. The applicant was born in 1938 and lives in Nicosia.

10. On 30 January 2001 the applicant applied to the Ministry of the Interior, requesting to be registered on the electoral roll in order to exercise his voting rights in the parliamentary election of 27 May 2001.

11. On 8 February 2001 the Ministry of the Interior refused to enrol the applicant. The Ministry specified that, by virtue of Article 63 of the Constitution, members of the Turkish-Cypriot community could not be registered on the Greek-Cypriot electoral roll. Furthermore, the Ministry informed the applicant that the matter was under consideration by the Attorney-General of the Republic and that he would be informed of any developments.

12. On 27 April 2001 the applicant lodged an application with the Supreme Court against the decision of the Ministry of the Interior. He relied on Article 3 of Protocol No. 1 and submitted that, following the dissolution of the Communal Chambers, the Cypriot government had failed to set up two electoral lists in order to protect the electoral rights of members of both communities.

13. On 23 May 2001 the Supreme Court dismissed the application on the following grounds:

“... The right to vote is directly linked to the communal checks and balances which provide for the compilation of separate electoral lists and for separate elections of the representatives of each community. The ideal of democracy – one person, one vote in the person's place of residence – does not provide any grounds for the Court to assume the power to reform the Constitution. Such competence is not vested in us, nor can the judicial authorities claim such power. This would be against the principle of the separation of powers on which the Constitution is based ...

Article 63 is contained in Part IV of the Constitution, which governs the matters pertaining to the House of Representatives and provides for the compilation of separate electoral lists in which the members of each community are included. The applicant belongs to the Turkish community and is one of the small number of Turkish Cypriots residing in the part of the territory of Cyprus under the control of the Republic of Cyprus. The denunciation by the applicant of the Turkish invasion and his loyalty to the law do not alter what the Constitution provides with respect to the election of the members of the legislative body.

Article 5 of the [Election of Members of the House of Representatives] Law makes the right to vote conditional on the provisions of Article 63 of the Constitution. The applicant admits, as it transpires from his counsel's address, that the proviso to which the right to vote is subject under Article 5, if construed literally, excludes the inclusion in the electoral list of any person other than members of the Greek community in Cyprus. Nevertheless, he suggested that this reservation must be interpreted in the light of the current situation in Cyprus, which renders the compilation of an electoral list of the members of the Turkish community impossible. Given this fact, it had to be surmised that when the House of Representatives enacted Article 5 of the Law it had this situation in mind and the impossibility of compiling an electoral list of the members of the Turkish community. Hence, this justified the interpretation of the reservation contained in Article 5 as referring only to those provisions of Article 63 of the Constitution which were rendered inactive.

Adopting the interpretation of Article 5 proposed by the applicant would amount to it being reworded. The fact that the legislator was apprised of all the facts relating to the situation in Cyprus and chose to place the right safeguarded by Article 5 under the reservation of Article 63, supports the opposite of what the applicant is suggesting; it indicates an intention by the legislature to subject the compilation of the electoral list to the statutory provisions of Article 63. From the wording of Article 5 we conclude that the legislature's intention was to place the right to vote under the reservation of all provisions of Article 63. This conclusion refutes the allegation of the illegality of the administrative decision under appeal.

The second ground on which the applicant's appeal is based is the law of necessity. The necessity of his inclusion in the electoral list ... is derived from the impossibility of compiling an electoral list of the members of the Turkish community. Given this state of affairs, Mr Drakos submitted that the inclusion of the applicant in the electoral list of electors of the Greek community was justified and gave him the right to participate as an elector in the forthcoming parliamentary election. This was justified by the fact that the applicant resided in the areas controlled by the Republic of Cyprus where he operates, having the same rights and obligations as every other citizen. ...

Assessment of the necessity relied on by the applicant and the establishment of measures to deal with it ... is a duty that falls upon the legislature. The competence of the judiciary is limited, provided the matter is submitted to it or arises in a case brought before it, to determining the constitutionality of the law ... It is not for the judiciary to assess the need to fill in gaps in the function of the constitutional statutes nor to establish measures to tackle them, which is basically what the applicant pursues with his application.”

II. RELEVANT DOMESTIC LAW AND PRACTICE

14. Articles 31, 62 and 63 of the Cypriot Constitution provide as follows:

Article 31

“Every citizen has, subject to the provisions of this Constitution and any electoral law of the Republic or of the relevant Communal Chamber made thereunder, the right to vote in any election held under this Constitution or any such law.”

Article 62

“1. The number of representatives shall be fifty:

Provided that such number may be altered by a resolution of the House of Representatives carried by a majority comprising two-thirds of the Representatives elected by the Greek community and two-thirds of the representatives elected by the Turkish community.

2. Out of the number of representatives provided in paragraph 1 of this Article, seventy per cent shall be elected by the Greek community and thirty per cent by the Turkish community separately from amongst their members respectively, and in the case of a contested election, by universal suffrage and by direct and secret ballot held on the same day. ...”

Article 63

“1. Subject to paragraph 2 of this Article every citizen of the Republic who has attained the age of twenty-one years, and has such residential qualifications as may be prescribed by the Electoral Law, shall have the right to be registered as an elector in either the Greek or the Turkish electoral list:

Provided that the members of the Greek community shall only be registered in the Greek electoral list and the members of the Turkish community shall only be registered in the Turkish electoral list.

2. No person shall be qualified to be registered as an elector who is disqualified for such registration by virtue of the Electoral Law.”

Article 5 of the 1979 Election of Members of the House of Representatives Law (Law 72/79) provides as follows:

“The right to elect belongs to those who have the qualifications provided for under Article 63 of the Constitution, that is to say citizens of the Republic who have attained the age of twenty-one and have had their ordinary residence in Cyprus for a period of six months immediately before the date fixed by the Minister, by publication in the Official Gazette of the Republic, as the date of acquisition of the electoral qualifications.”

Article 146 of the Cypriot Constitution grants the Supreme Court exclusive jurisdiction to adjudicate finally on applications made to it complaining, *inter alia*, that a decision, act or omission of any organ, authority or person exercising any executive or administrative authority is contrary to any of the provisions of the Constitution or any law, or is made in excess or in abuse of powers vested in such organ, authority or person.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF PROTOCOL No. 1

15. The applicant complained that he had been prevented from exercising his voting rights in the parliamentary election of 27 May 2001, contrary to Article 3 of Protocol No. 1, which reads as follows:

“The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.”

A. The parties' submissions

1. *The applicant*

16. The applicant emphasised that Article 31 of the Constitution guaranteed every citizen, including himself, the right to vote. He noted that the Turkish Communal Chamber had ceased to operate in 1963 and that the Greek Communal Chamber had been abolished in 1965. However, he contended that in its judgment the Supreme Court had treated him as a member of the Turkish community despite the fact that this community no longer existed in the free government-controlled area. The applicant argued that no communities existed any more in that part of Cyprus but only citizens of the Republic with diverse ethnic origins. The Supreme Court could have ruled that the provisions of Law 72/79 were unconstitutional and constituted an obstacle to the applicant's right to vote. Furthermore, the Supreme Court had not applied the law of necessity in his case, as it had done in many other similar instances, but had interpreted the relevant constitutional and legal provisions in a restrictive manner, disregarding the spirit of the Constitution.

17. Finally, the applicant maintained that his case was clearly distinguishable from that of *Mathieu-Mohin and Clerfayt v. Belgium* (judgment of 2 March 1987, Series A no. 113). In the latter case, a mechanism had existed in practice for a person to exercise his voting rights and the impugned measure had been temporary in the continuing evolution of the legislative functions of the Belgian State. By contrast, the applicant only had a theoretical right to vote under the Cypriot Constitution and had been debarred from participating in the political life of the State in which he had chosen to live.

2. *The Government*

18. The Government stressed that there was no obligation under Article 3 of Protocol No. 1 to introduce a specific system for appointing the legislature and that Contracting States had a wide margin of appreciation in this respect.

19. Under Article 2 of the Constitution, citizens of the Republic had to belong to either the Greek or Turkish community. The essence of the constitutional framework, including the electoral system, was that each community participated and exercised functions in the organs of the State through its own representatives, elected or appointed by the members of their community, according to prescribed percentages or numbers allotted to each community under the Constitution.

20. The Government contended that, according to Article 62 of the Constitution, members of the Turkish community could not vote for members of the Greek community who stood as candidates for election to fill the prescribed 70% of House seats allotted to the Greek community. Likewise, members of the Greek community could not vote for members of the Turkish community who stood as candidates for election to fill the prescribed remaining 30% of House seats allotted to the Turkish community. Individual members of each of the two communities had to vote and elect representatives from their own community in their capacity as members of that community. It was for the above reasons that Article 63 § 1 provided that electors had to be registered either on the Greek or the Turkish electoral list according to the community they belonged to; in other words, members of either community could not be registered as electors on the other community's electoral list.

21. The Turkish community, to which the applicant belonged, had withdrawn from the constitutional organs of the State and, following the occupation of the northern part of the island, members of the two communities had been living separately. The applicant was part of the very small Turkish-Cypriot community (some 1,089 individuals) living in the non-occupied territory of Cyprus. However, owing to the absence of one of the two communities, the government of the Republic and the House of Representatives were not in practice bi-communally composed. Thus, the Government alleged that it had not been the electoral system as such that had prevented the applicant from voting for the legislature, but rather the absence of the majority of the Turkish community that had prevented him from voting, in his capacity as a member of the Turkish community, for candidates who were members of that community.

22. Any action of the government to enable members of the Turkish community living in the non-occupied part to participate in some form of election would have constituted a departure from a constitutional system devised for the purpose of granting special political rights to the Turkish community and might have been misunderstood as an attempt to impose a

new system to the disadvantage of that community, at a time when the whole political situation could have been described as delicate. The applicant's case did not concern the restriction of the right to vote by conditions, but the electoral system as a whole under Article 62 § 2 of the Constitution.

23. In support of their arguments, the Government relied on *Mathieu-Mohin and Clerfayt*, cited above, in which the Court had stressed that an electoral system had to be assessed in the light of the political evolution of the country concerned, and that the general context must not be forgotten (pp. 23-25, §§ 54 and 57). In this connection, they pointed out that the election arrangements in Cyprus, when viewed and assessed in the context of the totality of constitutional arrangements, pursued a legitimate aim and satisfied the condition of proportionality.

24. Finally, the Government maintained that, because of the deliberate non-participation in elections of the Turkish community, under Article 62 § 2 the applicant could not have voted for the House bearing in mind its composition. The system of legislative elections under Article 62 § 2 was one that fitted into the general institutional system of the State, as a bi-communal system, embracing all the administrative and political institutions and the distribution of their powers. In the particular circumstances, it was not unreasonable to have a system of election securing the Turkish community's parliamentary representation, even though, owing to the deliberate abstention of that community, a very small number of its members could not vote for candidates from that community. Otherwise, a notably insignificant part of the whole population (less than 2%) would have controlled 30% of the House, a fact that would have been intolerably undemocratic.

B. The Court's assessment

1. General principles

25. While Article 3 of Protocol No. 1 is phrased in terms of the obligation of the High Contracting Party to hold elections which ensure the free expression of the opinion of the people, the Court's case-law establishes that it guarantees individual rights, including the right to vote and to stand for election. Although those rights are central to democracy and the rule of law, they are not absolute and may be subject to limitations. The Contracting States have a wide margin of appreciation in this sphere, but it is for the Court to determine in the last resort whether the requirements of Article 3 of Protocol No. 1 have been complied with: it has to satisfy itself that the conditions do not curtail the rights in question to such an extent as to impair their very essence and deprive them of their effectiveness; that they are imposed in pursuit of a legitimate aim; and that the means

employed are not disproportionate (see *Mathieu-Mohin and Clerfayt*, cited above, p. 23, § 52; and more recently, *Matthews v. the United Kingdom* [GC], no. 24833/94, § 63, ECHR 1999-I; *Labita v. Italy* [GC], no. 26772/95, § 201, ECHR 2000-IV; and *Podkolzina v. Latvia*, no. 46726/99, § 33, ECHR 2002-II).

2. *Application in the present case*

26. The Court observes that the Cypriot Constitution came into force in August 1960. Article 63 thereof provided for two separate electoral lists, one for the Greek-Cypriot community and one for the Turkish-Cypriot community. Nonetheless, the participation of the Turkish-Cypriot members of parliament was suspended as a result of the anomalous situation that began in 1963. From then on, the relevant Articles of the Constitution providing for the parliamentary representation of the Turkish-Cypriot community and the quotas to be adhered to by the two communities became impossible to implement in practice.

27. In deciding the applicant's case, the Supreme Court held that Article 63 of the Cypriot Constitution and Article 5 of Law 72/79 (relating to the election of members of parliament) did not provide for members of the Turkish-Cypriot community living in the government-controlled part of Cyprus to vote in the parliamentary elections and admitted that it could not intervene on the basis of the law of necessity in order to fill the legislative gap in this respect.

28. Although the Court notes that States enjoy considerable latitude to establish rules within their constitutional order governing parliamentary elections and the composition of the parliament, and that the relevant criteria may vary according to the historical and political factors peculiar to each State, these rules should not be such as to exclude some persons or groups of persons from participating in the political life of the country and, in particular, in the choice of the legislature, a right guaranteed by both the Convention and the Constitutions of all Contracting States.

29. In the present case, the Court notes that the irregular situation in Cyprus deteriorated following the occupation of northern Cyprus by Turkish troops and has continued for the last thirty years. It further observes that, despite the fact that the relevant constitutional provisions have been rendered ineffective, there is a manifest lack of legislation resolving the ensuing problems. Consequently, the applicant, as a member of the Turkish-Cypriot community living in the government-controlled area of Cyprus, was completely deprived of any opportunity to express his opinion in the choice of the members of the House of Representatives of the country of which he is a national and where he has always lived.

30. The Court considers that, in the light of the above circumstances, the very essence of the applicant's right to vote, as guaranteed by Article 3 of

Protocol No. 1, was impaired. It follows that there has been a violation of that provision.

II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION

31. The applicant complained that he was prevented from exercising his voting rights on the grounds of national origin and/or association with a national minority contrary to Article 14 of the Convention, which reads as follows:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

A. The parties' submissions

1. *The applicant*

32. The applicant argued that, following the constitutional breakdown in 1964, the Cypriot government had passed different laws upholding the human rights of citizens. However, these laws had been conceived for the Greek Cypriots, no provisions being adopted safeguarding the rights of the Turkish Cypriots. Consequently, more than a thousand Turkish Cypriots, including the applicant, who were living in the free area, had not been able to exercise their fundamental right to vote or stand as candidates in parliamentary elections since 1964. Although the Cypriot authorities had been aware of the disenfranchisement of that part of the population, they had not taken measures to deal with the situation. Furthermore, the applicant submitted that the Supreme Court had not applied the law of necessity in order to resolve his case, as it had done in many other similar instances, because he was a Turkish Cypriot. Thus, he claimed that he had been deprived of his right to vote solely on the basis of his national origin.

2. *The Government*

33. The Government submitted that no issue arose under Article 14 of the Convention, because the applicant was not in a comparable situation to voters who were members of the Greek community and voted in this capacity for the candidates from their community.

B. The Court's assessment

1. General principles

34. According to the Court's case-law, a difference of treatment is discriminatory, for the purposes of Article 14 of the Convention, if it “has no objective and reasonable justification”, that is if it does not pursue a “legitimate aim” or if there is not a “reasonable relationship of proportionality between the means employed and the aim sought to be realised” (see *Abdulaziz, Cabales and Balkandali v. the United Kingdom*, judgment of 28 May 1985, Series A no. 94, pp. 35-36, § 72). Moreover, the Contracting States enjoy a certain margin of appreciation in assessing whether and to what extent differences in otherwise similar situations justify a different treatment (see *Willis v. the United Kingdom*, no. 36042/97, § 39, ECHR 2002-IV).

35. The Court further observes that Article 14 has no independent existence, but plays an important role by complementing the other provisions of the Convention and the Protocols, since it protects individuals, placed in similar situations, from any discrimination in the enjoyment of the rights set forth in those other provisions. Where a substantive Article of the Convention has been relied on, both on its own and in conjunction with Article 14, and a separate breach has been found of the substantive Article, it is not generally necessary for the Court to consider the case under Article 14 also, though the position is otherwise if a clear inequality of treatment in the enjoyment of the right in question is a fundamental aspect of the case (see *Dudgeon v. the United Kingdom*, judgment of 22 October 1981, Series A no. 45, p. 26, § 67, and *Chassagnou and Others v. France* [GC], nos. 25088/94, 28331/95 and 28443/95, § 89, ECHR 1999-III).

2. Application in the present case

36. The Court considers that, in the instant case, the complaint under Article 14 of the Convention is not a mere restatement of the applicant's complaint under Article 3 of Protocol No. 1. The Court notes that the applicant is a Cypriot national, resident in the government-controlled area of Cyprus. It observes that the difference in treatment in the present case resulted from the very fact that the applicant was a Turkish Cypriot. It emanated from the constitutional provisions regulating the voting rights between members of the Greek-Cypriot and Turkish-Cypriot communities that had become impossible to implement in practice.

37. Although the Court takes note of the Government's arguments, it considers that they cannot justify this difference on reasonable and objective grounds, particularly in the light of the fact that Turkish Cypriots in the applicant's situation are prevented from voting at any parliamentary election.

38. Thus, the Court concludes that there is a clear inequality of treatment in the enjoyment of the right in question, which must be considered a fundamental aspect of the case. There has accordingly been a violation of Article 14 of the Convention taken in conjunction with Article 3 of Protocol No. 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

39. 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

40. The applicant maintained that he had been politically active throughout a forty-year period but had been denied the opportunity to vote or stand as a candidate in parliamentary elections, solely on the ground that he was Turkish Cypriot. He submitted that this had had an effect on his social status and standing in the community. Furthermore, he contended that, owing to the fact that he lived in southern Cyprus, he had received threats from agents of the “Turkish Republic of Northern Cyprus” and had been criticised by the northern press and media as a traitor. Thus, the applicant claimed 50,000 Cypriot pounds (CYP) in compensation for the distress, hardship and psychological damage he had suffered because of a forty-year denial of his right to vote. In this connection, he stated that the claim was calculated so as to include every parliamentary election since 1964.

41. The Government submitted that the applicant's complaints before the Supreme Court as well as in the present proceedings only concerned his right to vote in the parliamentary election held in 2001, and not his right to stand in that election or any other elections held before this date. Furthermore, they submitted that it could not be said that the mere existence of the provisions in the Constitution and Electoral Laws, without reference to their actual effect, had caused the applicant distress, hardship and psychological damage in every parliamentary election since 1964 by explicitly denying him or not affording him the right to vote. The applicant had only discovered that he could not participate in the 2001 election following the rejection of his application for registration and the relevant judgment of the Supreme Court. Although they did not deny that the applicant must have suffered distress by not being able to exercise his right

to vote in the 2001 parliamentary election, they noted that his claims as to “hardship” and “psychological damage” were unsubstantiated.

42. Furthermore, the Government contended that, in the particular circumstances of the case, especially in view of the political situation on the island, the constitutional arrangements envisaged for the benefit of the applicant's community and the sensitive issues surrounding reform of the electoral system, the Government's culpability was not such as to warrant an award of damages against them. Thus, they were of the opinion that any finding of a violation, with its ensuing obligations for the respondent State, should constitute in itself just satisfaction for the applicant.

43. In the present case, the Court notes that the Cypriot Government will have to implement such measures as they consider appropriate to fulfil their obligations to secure the right to vote in compliance with this judgment. Accordingly, it considers that this inevitable reform, combined with the findings in the present judgment, constitute sufficient just satisfaction.

B. Costs and expenses

44. The applicant claimed a total of CYP 4,097.30 inclusive of value-added tax (VAT) as reimbursement for the costs and expenses incurred before the Supreme Court (CYP 1,436.80) and in the proceedings before this Court (CYP 2,660.50). In this connection, he submitted two bills of costs for the respective amounts.

45. The Government left this matter to the Court's discretion in the event of the finding of a violation, referring briefly to the general principles established by the Court concerning a possible award under this head.

46. The Court reiterates that only legal costs and expenses found to have been actually and necessarily incurred and which are reasonable as to quantum are recoverable under Article 41 of the Convention (see, among other authorities, *Nikolova v. Bulgaria* [GC], no. 31195/96, § 79, ECHR 1999-II, and *Smith and Grady v. the United Kingdom* (just satisfaction), nos. 33985/96 and 33986/96, § 28, ECHR 2000-IX). This may include domestic legal costs actually and necessarily incurred to prevent or redress the breach of the Convention (see, for example, *I.J.L. and Others v. the United Kingdom* (just satisfaction), nos. 29522/95, 30056/96 and 30574/96, § 18, 25 September 2001).

47. Although the Court does not doubt that the fees claimed were actually incurred, it observes that the applicant only furnished two receipts relating to expenses included in the bills of costs. These concerned the translation of the Supreme Court's judgment. Nevertheless, it is clear that the applicant did incur costs in the preparation of his case and various other expenses including facsimile transmissions and postage. Accordingly, making its assessment on an equitable basis as required by Article 41, the

Court considers it reasonable to make an award of EUR 3,500 under this head, to be converted into Cypriot pounds at the date of settlement.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 3 of Protocol No.1;
2. *Holds* that there has been a violation of Article 14 of the Convention taken in conjunction with Article 3 of Protocol No. 1;
3. *Holds* that the finding of these violations constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 3,500 (three thousand five hundred euros) in respect of costs and expenses, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable;
 - (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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 22 June 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence EARLY
Deputy Registrar

Jean-Paul COSTA
President