CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

CASE OF BAJRAMI v. ALBANIA

(Application no. 35853/04)

JUDGMENT

This judgment was revised in accordance with Rule 80 of the Rules of Court in a judgment of 18 December 2007

STRASBOURG

12 December 2006

FINAL

12/03/2007

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Bajrami v. Albania,

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

Sir Nicolas BRATZA, *President*,
Mr G. BONELLO,
Mr M. PELLONPÄÄ,
Mr K. TRAJA,
Mr L. GARLICKI,
Ms L. MIJOVIĆ,
Mr J. ŠIKUTA, *judges*,
and Mr T.L. EARLY, *Section Registrar*,

Having deliberated in private on 10 October 2006 and 21 November 2006,

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

PROCEDURE

1. The case originated in an application (no. 35853/04) against the Republic of Albania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an ethnic Albanian from Kosovo, Mr Agim Bajrami ("the applicant"), on 27 September 2004.

2. The applicant was represented by Ms E. Murataj, a lawyer practising in Fier. The Albanian Government ("the Government") were represented by their Agent, Mr S. Puto, of the Ministry of Foreign Affairs.

3. On 14 March 2005 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1964 and lives in Caralevë, in the municipality of Shtime (Kosovo).

5. On 28 April 1993 the applicant married F.M., an Albanian national. The couple had a child, I.B., who was born on 20 January 1997. In 1998 the applicant and F.M. separated.

6. F.M., together with her daughter, moved to her parents' house in Vlora, Albania.

7. On 6 May 1999, using forged documents, the applicant's wife married another person without being divorced from the applicant.

8. It appears that on 15 September 1999 the Vlora District Court annulled F.M.'s second marriage. On an unspecified date she married H.I., an Albanian national who resided in Greece.

9. During the years that followed F.M.'s third marriage, she frequently travelled to Greece, leaving her daughter for long periods with her parents in Vlora, or taking her to Greece without the applicant's consent.

10. F.M. and her parents prohibited the applicant from having contact with his daughter. Since his separation from F.M., the applicant has been permitted to see his daughter only twice, in September 2000 and May 2003.

1. Divorce and custody proceedings

11. On 24 June 2003 the applicant brought divorce proceedings before the Vlora District Court.

12. On 26 June 2003 the applicant requested the Vlora Police District to block his daughter's passport in view of the fact that his wife was planning to take her to Greece without his consent.

13. Despite the applicant's requests to the Vlora Police District, it appears that his wife took the child to Greece on 15 January 2004, using an official certificate in which the applicant's daughter had been registered with the name I.M., using F.M.'s surname.

14. The applicant's wife was not present at the hearings. The latter's father testified before the court that his grandchild was in Greece with her mother, who resided there as an economic refugee.

15. On 4 February 2004 the Vlora District Court decreed the parties' divorce. The court granted custody of the child to the applicant, having regard to the wife's lack of interest in the child's life, the instability of her residential arrangements and her long periods of separation from the child.

16. On 19 March 2004 the divorce and custody decisions became final.

2. Enforcement proceedings

17. On 5 April 2004 the Vlora District Court issued a writ for the enforcement of the Vlora District Court's judgment of 4 February 2004.

18. On 13 July 2004 the Vlora Bailiffs' Office informed the applicant that it was impossible to enforce the judgment since the child was not in Albania.

19. On 15 August 2004 and 13 January 2005 the applicant applied to the Albanian Ministry of Justice to secure the return of his daughter.

20. On 11 January 2005, when questioned by the bailiffs, F.M.'s father declared that F.M. and the child were living abroad and that he had no news of their whereabouts. The bailiffs went to F.M.'s home on three occasions between January 2005 and May 2005.

21. In May 2005 the Selenice District Police Station informed the bailiffs that F.M. and her daughter were not living in Athens and that F.M.'s father had moved to an unknown address in Tirana.

22. In July 2005 the Bailiffs' Office informed the applicant that in order to comply with the bilateral agreement between Albania and Greece he had to introduce a request and specify the precise address of the child in Greece.

23. The applicant sent numerous requests to the Albanian authorities, the Greek Embassy in Albania, the Ombudsperson of Albania (*Avokati i Popullit*) and the Ombudsperson of Kosovo, in order to obtain assistance in securing the enforcement of the custody decision.

3. Criminal proceedings for child abduction

24. On 14 August 2004 the applicant initiated criminal proceedings with the Vlora District Court against his former wife, accusing her of child abduction.

25. On 13 October 2004 the Vlora District Court informed the Albanian Ombudsperson that no lawsuit had been filed with it relating to the abduction of the applicant's daughter.

4. Criminal proceedings against A.C.

26. On 15 December 2003 the applicant initiated criminal proceedings against A.C., a Civil Status Office employee. He accused her of falsifying various documents that had enabled F.M. to remove I.B. from Albania, and particularly of forging documents declaring his wife to be unmarried and altering his daughter's surname.

27. On 26 January 2004 the Vlora District Court decided to discontinue the proceedings.

5. Recent developments

28. On 22 August 2006 the Government informed the Registry that on 31 March 2006 the Vlora Court of Appeal had repealed the custody judgment of 4 February 2004 on the grounds that F.M. had not been duly informed of the proceedings on the custody of her daughter. The domestic court decided to send the case to the Vlora District Court for a fresh examination and thus the custody proceedings are still pending.

29. On 23 August 2006, following the Registry's request, the applicant stated that he had neither been informed of the institution of the new proceedings nor about their outcome.

30. The proceedings had been brought by F.M.'s lawyer and held in the applicant's absence.

II. RELEVANT INTERNATIONAL AND DOMESTIC LAW

A. Relevant international law

1. Hague Convention on the Civil Aspects of International Child Abduction

31. At present, Albania has not ratified the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction.

2. United Nations Convention on the Rights of the Child

32. Article 11 of the Convention on the Rights of the Child of 20 November 1989, ratified by Albania on 27 February 1992, requires States Parties to take measures to combat the illegal transfer and non-return of children abroad. For that purpose, States should promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

3. Bilateral Agreement on Mutual Assistance in Civil and Criminal Matters between Greece and Albania

33. This Agreement, signed on 17 May 1993, was ratified by Albania pursuant to Law no. 7760 of 14 October 1993 and by Greece pursuant to Law no. 2311/1995. Articles 2, 3, 23 and 24 of the Agreement provide for the possibility for the Ministries of Justice of both Contracting Parties to cooperate in the recognition and execution in their territories of final judicial decisions given by the authorities of the other Party in civil, family and commercial matters.

B. Relevant domestic law and practice

34. The Code of Civil Procedure, which governs, *inter alia*, execution of final judgments, does not contain any provisions specifically applicable to the transfer of custody of children. As a result, the general procedural rules on the execution of judgments are applicable *mutatis mutandis*.

35. In cases where a parent's refusal to comply constitutes a criminal offence, the matter should be referred to the prosecuting authorities.

36. Failure to abide by a final decision concerning custody of children may be punishable under Article 127 of the Criminal Code.

THE LAW

I. THE GOVERNMENT'S PRELIMINARY OBJECTON

37. The Government contended that the applicant had not exhausted the domestic remedies at his disposal. They argued that the applicant had failed to raise the issue of the inactivity of the Bailiffs' Office with the Vlora District Court in accordance with Article 610 of the Code of Civil Procedure. In the Government's submission, that provision afforded individuals the right to contest actions by the bailiffs before the District Court. Consequently, the applicant had failed to make use of this remedy despite having addressed his claims alleging inactivity on the part of the bailiffs to the Minister of Justice and other authorities.

38. The applicant challenged the effectiveness of the remedy referred to by the Government. He argued that a further appeal could not have achieved his principal objective, namely reuniting him with his daughter. He stated that during the two years that followed the custody decision he had made several applications to the authorities. This included the initiation of criminal proceedings for the abduction of the child, and persistent requests to have the judgment speedily enforced in his daughter's interests. Consequently, the applicant submitted that the Government's statements were unsubstantiated.

39. The Court reiterates that the purpose of Article 35 is to afford the Contracting States the opportunity of preventing or putting right the violations alleged against them before those allegations are submitted to it (see, for example, *Hentrich v. France*, judgment of 22 September 1994, Series A no. 296-A, p. 18, § 33, and *Remli v. France*, judgment of 23 April 1996, *Reports of Judgments and Decisions* 1996-II, p. 571, § 33). Thus the complaint to be submitted to the Court must first have been made to the appropriate national courts, at least in substance, in accordance with the formal requirements of domestic law and within the prescribed time-limits. Nevertheless, the only remedies that must be exhausted are those that relate to the breaches alleged and at the same time are available and sufficient. The existence of such remedies must be sufficiently certain not only in theory but also in practice, failing which they will lack the requisite accessibility and effectiveness; it falls to the respondent State to establish that these various conditions are satisfied (see, in particular, *Vernillo v. France*, judgment of 20 February 1991, Series A no. 198, pp. 11-12, § 27, and *Akdivar and Others v. Turkey*, judgment of 16 September 1996, *Reports* 1996-IV, pp. 1210-11, §§ 65-68).

40. The Court notes that the applicant complained that the authorities had failed to take the necessary measures to identify his daughter's whereabouts in order to comply with the custody decision in his favour.

41. The applicant obtained a writ for the enforcement of the judgment of 4 February 2004, in accordance with the requirements of domestic civil

procedure, but the bailiffs were unable to enforce it since the applicant's daughter was no longer in Albania.

42. The Court finds that the Government have failed to substantiate their argument that the remedy referred to is either available or adequate to secure redress for the alleged breaches.

43. Furthermore, the Court observes that in a similar case against Albania it found that the Albanian legal system was organised in a manner that did not provide effective remedies against actions by the bailiffs, since the Constitutional Court considered that it lacked jurisdiction to determine claims concerning enforcement proceedings and thus systematically declared them inadmissible (see *Qufaj Co. Sh.p.k. v. Albania*, no. 54268/00, § 41, 18 November 2004). In any event, it was for the authorities to ensure the execution of the court decision since it is they who have the necessary legal means and resources to discover the whereabouts of the child and to secure her return. In the circumstances, the applicant could not be expected to make repeated overtures to the bailiffs or to complain about their inactivity to a court in order to have the judgment implemented.

44. Thus, the Court concludes that, at the relevant time, the remedies referred to by the Government did not offer reasonable prospects of success to the applicant.

45. Accordingly, the Government's preliminary objection must be dismissed.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

46. The applicant complained that the inefficiency of the Albanian authorities in failing to take the necessary measures to reunite him with his daughter in compliance with a final decision had violated his right to respect for family life as provided in Article 8 of the Convention, 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."

A. Admissibility

47. The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

48. The applicant complained that the authorities had neglected to make the efforts that could normally be expected of them to ensure that his rights were respected. He further alleged that the failure of the authorities to involve the Greek authorities in helping to discover the whereabouts of his daughter was based on their assumption that F.M. and her current husband were unlawfully resident in Greece and not on any established facts.

49. The Government contested the applicant's arguments. They maintained that, in accordance with the positive obligation enshrined in Article 8 of the Convention, the authorities had taken all possible steps at their disposal to reunite the applicant with his daughter. They observed that approximately 500,000 Albanian nationals lived in Greece and that half of them resided there illegally. The Government could not therefore be held responsible for the failure of the applicant to give precise details of his daughter's whereabouts and to request an urgent measure to be taken before F.M. left Albania taking the child with her. The Government maintained that since no precise address had been given for the child and her mother in Greece, the use of the instruments foreseen in the bilateral agreement between Albania and Greece had been ineffective (see paragraph 33 above).

2. The Court's assessment

(a) General principles

50. The Court 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 competing interests of the individual and of the community as a whole; and in both contexts the State enjoys a certain margin of appreciation (see *Keegan v. Ireland*, judgment of 26 May 1994, Series A no. 290, p. 19, § 49; *Ignaccolo-Zenide v. Romania*, no. 31679/96, § 94, ECHR 2000-I; *Iglesias Gil and A.U.I. v. Spain*, no. 56673/00, § 49, ECHR 2003-V; and *Sylvester v. Austria*, no. 36812/97, 40104/98, § 51, 24 April 2003).

51. In relation to the State's obligation to take positive measures, the Court has repeatedly held that Article 8 includes a parent's right to the taking of measures with a view to his being reunited with his child and an

obligation on the national authorities to facilitate such reunion (see, among other authorities, *Ignaccolo-Zenide*, cited above, § 94; *Iglesias Gil and A.U.I.*, cited above, § 48; and *Nuutinen v. Finland*, no. 32842/96, § 127, ECHR 2000-VIII).

52. In cases concerning the enforcement of decisions in the sphere of family law, the Court has repeatedly held that what is decisive is whether the national authorities have taken all necessary steps to facilitate the execution as can reasonably be demanded in the special circumstances of each case (see *Hokkanen v. Finland*, judgment of 23 September 1994, Series A no. 299-A, p. 22, § 58; *Ignaccolo-Zenide*, cited above, § 96; *Nuutinen*, cited above, § 128; and *Sylveste*r, cited above, § 59).

53. In cases 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. The Court notes that Article 11 of the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980 (to which Albania is not a State Party) requires the judicial or administrative authorities concerned to act expeditiously in proceedings for the return of children and any inaction lasting more than six weeks may give rise to a request for a statement of reasons for the delay (see *Ignaccolo-Zenide*, cited above, § 102).

54. The Court has also held that although coercive measures against 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 *Ignaccolo-Zenide*, cited above, § 106).

55. The Court reiterates that the Convention must be applied in accordance with the principles of international law, in particular with those relating to the international protection of human rights (see *Streletz, Kessler and Krenz v. Germany* [GC], nos. 34044/96, 35532/97 and 44801/98, § 90, ECHR 2001-II, and *Al-Adsani v. the United Kingdom* [GC], no. 35763/97, § 55, ECHR 2001-XI). Consequently, the Court considers that the positive obligations that Article 8 of the Convention lays on the Contracting States in the matter of reuniting a parent with his or her children must be interpreted in the light of the Hague Convention of 25 October 1980 (see *Ignaccolo-Zenide*, cited above, § 95).

(b) Application of the general principles to the present case

56. The Court notes, firstly, that it is common ground that the relationship between the applicant and his daughter falls within the sphere of family life under Article 8 of the Convention.

57. The events under consideration in this case, in so far as they give rise to the responsibility of the respondent State, clearly amounted to an interference with the applicant's right to respect for his family life, as the failure to enforce the custody decision impaired his enjoyment of his daughter's company.

58. Notwithstanding that according to the latest developments the custody proceedings in question have been reopened and are still pending,

the Court can but note that the custody judgment of 4 February 2004 had been valid and remained unenforced for approximately two years. Accordingly the Court must determine whether the national authorities took necessary and adequate steps to facilitate the enforcement of the judgment at issue.

59. In the present case the Court observes that the proceedings to enforce the decision in the applicant's favour have been pending since April 2004. It observes at the outset that this situation is not in any way attributable to the applicant, who has approached the national authorities to put an end to it and has regularly taken steps to secure the return of his daughter.

60. It was only in April 2005, more than one year after the adoption of the custody decision, that the bailiffs requested the police to transmit information to them about the whereabouts of F.M. and her daughter. While these attempts to enforce the decision all took place within a period of four months in 2005, the same diligence cannot be observed in relation to the crucial period immediately following the custody decision. As noted above, it was not until January 2005 that the bailiffs began to investigate the whereabouts of F.M. It is further to be noted that no steps were taken after May 2005.

61. The Court notes that no satisfactory explanation has put forward to justify those delays. Similarly, no explanation has been provided by the Government for the total inactivity of the authorities once they had ascertained that F.M. was living in Greece. It is to be observed in this connection that both the applicant and F.M.'s family had informed the authorities, including at the custody hearing, that F.M. was living in Athens as an economic migrant.

62. The Court considers that the Government's argument about the illegal status of F.M. in Greece is speculative. The authorities took no steps to try to ascertain the whereabouts of F.M. and her daughter from the Greek authorities, a possibility provided for by the bilateral agreement between the two countries.

63. The Government alleged that the failure to enforce the decision in question resulted from the fact that the child was no longer in Albania, a situation which had also been caused in part by the applicant's failure to apply for urgent measures during the custody proceedings.

64. However, it appears that the applicant's attempts to inform the authorities of the risk of the child's abduction had gone unheeded. The Court considers that the applicant's omission to request an interim measure cannot be taken to absolve the authorities from their obligations in the matter of execution of judgments, since it is they who exercise public authority and have the means at their disposal to overcome problems in the way of execution. Moreover, the applicant could not be blamed for not having addressed requests to the Greek courts since the bilateral agreement on the matter expressively required the involvement of the Ministries of Justice of both countries for the enforcement of custody judgments in their territory (see paragraph 33 above). As noted previously, the Government

have not explained to the Court's satisfaction what measures, if any, they took under that agreement to secure the return of the applicant's daughter from Greece or at least to trace the whereabouts of F.M.

65. The Court further observes that the wide range of legislative measures that have been implemented by the Albanian Government in order to comply with the rule of law as well as European and international treaties, do not include any effective measure for securing the reunion of parents with their children in a situation such as the applicant's. In particular, there is no specific remedy to prevent or punish cases of abduction of children from the territory of Albania (see paragraphs 34 et seq. above). At present, Albania is not a State Party to the above-cited Hague Convention and it has not yet implemented the UN Convention on the Rights of the Child of 20 November 1989 (see paragraphs 31 and 32 above).

66. The Court recalls that the European Convention on Human Rights does not impose on States the obligation to ratify international conventions. However, it does require them to take all necessary measures of their choosing to secure the individual's rights guaranteed by Article 8 of the Convention and in particular to secure the reunion of parents with their children in accordance with a final judgment of a domestic court.

67. Irrespective of the non-ratification by Albania of relevant international instruments in this area, the Court finds that the Albanian legal system, as it stands, has not provided any alternative framework affording the applicant the practical and effective protection that is required by the State's positive obligation enshrined in Article 8 of the Convention.

68. In the circumstances of the instant case, notwithstanding the respondent State's margin of appreciation in the matter, the Court concludes that the efforts of the Albanian authorities were neither adequate nor effective to discharge their positive obligation under Article 8.

69. There has accordingly been a violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

70. The applicant complained that the Albanian authorities failed to comply with a final judgment that granted him custody of his daughter. He relied on Article 6 § 1 of the Convention, which in its relevant part reads as follows:

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

71. The Government contested that argument.

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

73. The Court reiterates the difference in the nature of the interests protected by Articles 6 and 8 of the Convention. While Article 6 affords a procedural safeguard, namely the "right to a court" in the determination of

one's "civil rights and obligations", Article 8 serves the wider purpose of ensuring proper respect for, *inter alia*, family life. The difference between the purpose pursued by the respective safeguards afforded by Articles 6 and 8 may, in the light of the particular circumstances, justify the examination of the same set of facts under both Articles (see, for instance, *McMichael v. the United Kingdom*, judgment of 24 February 1995, Series A no. 307-B, p. 57, § 91, and *Sylvester*, cited above, § 76).

74. However, in the instant case and having regard to the finding relating to Article 8 (see paragraph 69 above), the Court considers that it is not necessary to examine whether in the instant case there has been a violation of Article 6 § 1 (see, among other authorities, *Sylvester*, cited above, § 77).

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

75. The applicant complained under Article 6 § 1 about the authorities' failure to initiate criminal proceedings against A.C., who, he alleged, had forged documents that had enabled his former wife to abduct his daughter. Lastly, with reference to the falsification of his daughter's birth certificate, the applicant complained under Articles 12, 13 and 17, without giving due reasons.

76. As to the applicant's complaint under Article 6 § 1, the Court reiterates that the right to bring criminal proceedings against private persons is not guaranteed under the Convention (see *X v. the Federal Republic of Germany*, no. 7116/75, Commission decision of 4 October 1976, Decisions and Reports 7, p. 91, and *B.Č. v. Slovakia* (dec.), no. 11079/02, 14 March 2006 and also *Perez v. France* [GC], no. 47287/99, § 70, ECHR 2004-I). It follows that this complaint is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be dismissed in accordance with Article 35 § 4.

77. In so far as the applicant complained of a violation of Articles 12, 13 and 17 of the Convention without giving further details, the Court considers the matter to be wholly unsubstantiated. This complaint must therefore be dismissed in accordance with Article 35 §§ 3 and 4 of the Convention as being manifestly ill-founded.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

78. 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

79. The applicant claimed 10,000 euros (EUR) in respect of pecuniary damage, covering his loss of wages and opportunities, and EUR 15,000 in respect of non-pecuniary damage for the distress caused as a result of the failure to enforce the decision reuniting him with his daughter.

80. The Government contested the applicant's claim since in their view the application was inadmissible. They did not submit any arguments relating to the amounts claimed for pecuniary and non-pecuniary damage.

81. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore dismisses this claim.

82. As to non-pecuniary damage, the Court sees no reason to doubt that the applicant suffered some distress as a result of the non-enforcement of the final judgment at issue and that sufficient just satisfaction would not be provided solely by the finding of a violation.

83. Having regard to the sums awarded in comparable cases (see, for instance, *Ignaccolo-Zenide*, cited above, § 117; *Hokkanen*, cited above, p. 27, § 77; see also, *mutatis mutandis*, *Elsholz v. Germany* [GC], no. 25735/94, § 71, ECHR 2000-VIII, and *Kutzner v. Germany*, no. 46544/99, § 87, ECHR 2002-I), and making an assessment on an equitable basis as required by Article 41, the Court awards the sum of EUR 15,000 under this head.

B. Costs and expenses

84. The applicant also claimed EUR 17,000 for the costs and expenses incurred before the domestic courts and the Court.

85. The Government did not express any view.

86. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that they have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the information 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.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints concerning Article 6 § 1 (non-enforcement) and Article 8 of the Convention admissible and the remainder of the application inadmissible;

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

3. *Holds* that there is no need to examine separately 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 national currency of the respondent State at the rate applicable on the date of settlement, plus any tax that may be chargeable:
   (i) EUR 15,000 (fifteen thousand euros) in respect of non-pecuniary damage;
   (ii) EUR 10,000 (ten thousand euros) 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 12 December 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Registrar

Nicolas BRATZA
President