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

FIRST SECTION

CASE OF BARTIK v. RUSSIA

(Application no. 55565/00)

JUDGMENT

STRASBOURG

21 December 2006

FINAL

21/03/2007

In the case of Bartik v. Russia,

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

Christos Rozakis, *President*,
Loukis Loucaides,
Françoise Tulkens,
Nina Vajić,
Anatoly Kovler,
Elisabeth Steiner,
Khanlar Hajiyev, *judges*,
and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 30 November 2006,

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

PROCEDURE

1. The case originated in an application (no. 55565/00) 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 a Russian national, Mr Arkadiy Mikhaylovich Bartik ("the applicant"), on 23 February 2000.

2. The applicant was represented before the Court by Mrs M. Voskobitova, a lawyer with the International Protection Centre in Moscow. The Russian Government ("the Government") were represented by Mr P. Laptev, Representative of the Russian Federation at the European Court of Human Rights.

3. The applicant alleged, in particular, a violation of his right to leave his own country.

4. By a decision of 16 September 2004, the Chamber declared the application partly admissible.

5. The applicant and the Government each filed observations on the merits (Rule 59 § 1 of the Rules of Court). The Chamber decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1954 and at the material time lived in the Moscow Region. He now lives in the United States of America.

7. In 1977 the applicant started working for a construction and design agency, "Raduga" (*GMKB "Raduga"*), a State corporation that developed rocket and space devices. He signed an undertaking not to disclose classified information.

8. On 16 May 1989 the applicant signed a new undertaking, the relevant part of which reads as follows:

> "I, [the applicant], undertake:
>
> (a) not to disclose information containing State and professional secrets that are entrusted to me or that I learn by virtue of my service (work) duties ...
>
> ...
>
> (c) not to visit embassies, missions, consulates or other representative offices of foreign States, and not to contact – directly or through others – foreigners without the consent of the management of the agency I work for or the relevant Soviet authorities ...
>
> I have been informed of the prohibition on travel abroad, except as permitted by relevant laws and regulations ..."

9. On 31 January 1994 the applicant signed a new undertaking which read as follows:

> "I, [the applicant], on assuming my work duties at the Raduga design agency, undertake:
>
> (a) not to disclose information containing State and professional secrets entrusted to me or coming to my attention by virtue of my service (work) duties;
>
> (b) to abide by the applicable requirements laid down in the orders, instructions and regulations concerning the secrecy of the studies conducted, of which I have taken cognisance;
>
> (c) to notify the department of the enterprise responsible for secrecy arrangements or the competent authorities of any attempts by outsiders to obtain secret information from me;
>
> (d) to inform the human resources department in a comprehensive and timely fashion of any change in my personal circumstances; and to inform the department responsible for secrecy arrangements of any contacts with my relatives permanently living abroad or planning to take up permanent residence abroad, or of any non-professional contacts with foreigners.
>
> In the event of my dismissal I undertake to abide strictly by requirements (a) and (c) above ..."

10. On 20 August 1996 the applicant resigned.

11. In early 1997 the applicant's father, who lived in Germany, fell ill. Wishing to visit his father, the applicant applied to the Passports and Visas Service of the Department of the Interior of Dubna for a travel passport, the identity document which entitles Russian citizens to leave the country and travel abroad[1].

12. On 17 March 1997 the Head of the Passports and Visas Service refused the applicant's request. The entire text of the decision reads as follows:

> "As there exist grounds for a temporary restriction on your right to leave the Russian Federation as set out in section 15 of the Law on the procedure for entering and leaving the Russian Federation, your application for a travel passport has been declined until 2001 further to a recommendation by the Raduga design agency of 20 February 1997 (registration number 6/209/23324)."

13. The applicant contested the refusal before the Inter-agency Commission for the examination of Russian citizens' complaints in connection with restrictions on their right to leave the Russian Federation ("the Commission"). On 24 February 1998 the Commission informed the applicant that it had unanimously upheld the imposition of a five-year restriction. The letter did not indicate the reasons for the decision.

14. The applicant appealed against the decision of the Commission to the Moscow City Court.

15. On 24 September 1999 the Moscow City Court gave judgment. It found that on 22 April 1977, 16 May 1989 and 31 January 1994 the applicant had signed undertakings not to disclose State secrets; the 1989 undertaking also contained a clause restricting the applicant's right to leave the country. Having examined a report on the applicant's knowledge of State secrets of 20 February 1997, drawn up by the applicant's former employer and confirmed by the Aviation and Space Industry Department and the State Secrets Protection Department of the Ministry of Economy at the request of the Passports and Visas Service, the court found as follows:

> "According to the report ... [the applicant] in his work used workbooks bearing inventory nos. 5301 and 4447 that contained extracts from top secret documents (nos. ...). In respect of some inventory numbers, requests were sent to the design enterprises [in order] to verify whether the information contained therein was still sensitive. However, no response was received. Moreover, the Court questioned a witness, Mr K., the Deputy General Director responsible for the regime and for security at the Raduga agency, who confirmed that the information contained in the documents that had been drawn up in the Raduga agency had retained its top secret classification and was still sensitive ... As the witness Mr K. clarified to the Court, there are no grounds for changing the secrecy classification of this information ..."

1. The name of the document – *zagranichnyi pasport* – is literally translated as "foreign passport". It is sometimes referred to as the "international passport", by contrast with the "internal passport", a Russian citizen's identity document for use inside Russia.

On these grounds the court determined that the restriction on the applicant's right to leave the Russian Federation until 14 August 2001 was lawful and justified.

16. On 9 November 1999 the Supreme Court of the Russian Federation upheld the City Court's judgment, finding that it had been properly justified and reasoned.

17. The restriction on the applicant's right to leave the country expired on 14 August 2001.

18. On 25 October 2001 the applicant was issued with a travel passport and subsequently took up residence in the United States of America.

II. RELEVANT DOMESTIC LAW

A. The USSR Law on the procedure for entering and leaving the USSR (USSR Law no. 2177-I of 20 May 1991 – "the USSR Act")

19. The USSR Act provided that USSR citizens could only leave the country with a travel passport issued by a competent body (section 1). A travel passport could be refused, in particular, if the person had knowledge of State secrets or was subject to other contractual obligations prohibiting his departure from the USSR (section 7(1)). An appeal lay against a refusal to a special commission of the Cabinet of Ministers and from there to a court (section 8).

20. Pursuant to section 12, "restrictions [concerning international travel] [were to be] brought to citizens' attention by the management of enterprises, institutions, organisations ... on their enrolment for work or study ... that entailed access to State secrets. Before such access [could be] authorised, a written employment contract [had to] be signed on a voluntary basis ..."

21. The USSR Act remained in force until 19 August 1996 when it was replaced by the Russian Act described below.

B. The Law on the procedure for entering and leaving the Russian Federation (Law no. 114-FZ of 15 August 1996 – "the Russian Act")

22. Section 2 provides that the right of a Russian citizen to leave the Russian Federation may only be restricted on the grounds of, and in accordance with, the procedure set out in the Act. Section 15(1) provides that the right of a Russian national to leave the Russian Federation may be temporarily restricted if he or she has had access to especially important or top secret information classified as a State secret and has signed an employment contract providing for a temporary restriction on his or her right to leave the Russian Federation. In such cases the restriction is valid

until the date set out in the contract, but for no longer than five years from the date the person last had access to especially important or top secret information. The Inter-agency Commission for the protection of State secrets can extend this period up to a maximum of ten years.

C. The State Secrets Act (Law no. 5485-1 of 21 July 1993)

23. The granting of access to State secrets presupposes the consent of the person concerned to partial and temporary restrictions on his or her rights in accordance with section 24 of the Act (section 21).

24. The rights of persons who have been granted access to State secrets may be restricted. The restrictions may affect their right to travel abroad during the period stipulated in the work contract, their right to disseminate information about the State secrets and their right to respect for their private life (section 24).

III. RELEVANT COUNCIL OF EUROPE DOCUMENTS

25. The relevant part of Opinion no. 193 (1996) on Russia's request for membership of the Council of Europe, adopted by the Parliamentary Assembly on 25 January 1996 (7th Sitting), reads as follows:

> "10. The Parliamentary Assembly notes that the Russian Federation shares fully its understanding and interpretation of commitments entered into ... and intends:
>
> ...
>
> xv. to cease to restrict – with immediate effect – international travel of persons aware of State secrets, with the exception of those restrictions which are generally accepted in Council of Europe member States ..."

26. The Explanatory Report on Protocol No. 4 to the Convention (ETS no. 46) indicates that the Committee of Experts on Human Rights set up by the Committee of Ministers of the Council of Europe endorsed the changes bringing the text of Article 2 of Protocol No. 4 in conformity with that of Article 12 of the International Covenant on Civil and Political Rights, cited below (see, in particular, points 7 and 12 of the Report).

IV. SITUATION IN THE COUNCIL OF EUROPE MEMBER STATES

27. The laws of the founding members of the Council of Europe have not restricted the right of their nationals to go abroad for private purposes since the inception of the organisation. The Schengen Agreement, which was originally signed on 14 June 1985 by five States and has to date been implemented by fifteen States, has removed border posts and checks in much of the western part of Europe and abolished any outstanding restrictions on international travel.

28. Many other Contracting States, including, in particular, the former Socialist countries, repealed restrictions on international travel by persons having knowledge of "State secrets", a common legacy of the Socialist regime, during the process of democratic transition (for example, Estonia, Georgia, Hungary, Latvia, Lithuania and Poland). At present certain restrictions on persons who were aware of "State secrets" but wished to go abroad have endured in only a few States that were once part of the Soviet Union. Of those, two member States (Armenia and Ukraine) provide for temporary restrictions on permanent emigration – but not on international travel for private purposes – by persons who had access to "State secrets", and one member State (Azerbaijan) also restricts private international travel by such individuals.

V. RELEVANT UNITED NATIONS DOCUMENTS

29. Article 12 of the International Covenant on Civil and Political Rights ("ICCPR"), to which the Russian Federation is a party, defines the right to freedom of movement in the following terms:

> "1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
>
> 2. Everyone shall be free to leave any country, including his own.
>
> 3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
>
> ..."

30. General Comment no. 27: Freedom of movement (Article 12), adopted by the Human Rights Committee under Article 40 § 4 of the ICCPR on 2 November 1999 (CCPR/C/21/Rev.1/Add.9), reads as follows:

> "1. Liberty of movement is an indispensable condition for the free development of a person ...
>
> 2. The permissible limitations which may be imposed on the rights protected under Article 12 must not nullify the principle of liberty of movement, and are governed by the requirement of necessity provided for in Article 12, paragraph 3, and by the need for consistency with the other rights recognized in the Covenant.
>
> ...
>
> 8. Freedom to leave the territory of a State may not be made dependent on any specific purpose or on the period of time the individual chooses to stay outside the country. Thus travelling abroad is covered, as well as departure for permanent emigration ...
>
> ...
>
> 9. ... Since international travel usually requires appropriate documents, in particular a passport, the right to leave a country must include the right to obtain the necessary

travel documents. The issuing of passports is normally incumbent on the State of nationality of the individual. The refusal by a State to issue a passport or prolong its validity for a national residing abroad may deprive this person of the right to leave the country of residence and to travel elsewhere ...

...

11. Article 12, paragraph 3, provides for exceptional circumstances in which rights under paragraphs 1 and 2 may be restricted ...

...

14. Article 12, paragraph 3, clearly indicates that it is not sufficient that the restrictions serve the permissible purposes; they must also be necessary to protect them. Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected.

...

16. States have often failed to show that the application of their laws restricting the rights enshrined in Article 12, paragraphs 1 and 2, are in conformity with all requirements referred to in Article 12, paragraph 3. The application of restrictions in any individual case must be based on clear legal grounds and meet the test of necessity and the requirements of proportionality. These conditions would not be met, for example, if an individual were prevented from leaving a country merely on the ground that he or she is the holder of 'State secrets' ..."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 2 OF PROTOCOL NO. 4

31. The applicant complained under Article 2 of Protocol No. 4 of the Russian authorities' refusal to issue him with a passport to travel abroad. The relevant parts of that provision read as follows:

"...

2. Everyone shall be free to leave any country, including his own.

3. No restrictions shall be placed on the exercise of [this right] other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

..."

A. The applicant's status as a "victim" of the alleged violation

32. The Government submitted that "at present there [were] no legal grounds to apply the Convention provisions" to the applicant's situation, since he had taken up permanent residence in the United States of America.

33. In so far as the Government's statement may be understood as a challenge to the applicant's status as a "victim" of the alleged violation, the Court reiterates that an applicant will only cease to have standing as a victim within the meaning of Article 34 if the national authorities have acknowledged the alleged violations either expressly or in substance and then afforded redress (see *Guisset v. France*, no. 33933/96, §§ 66-67, ECHR 2000-IX). A decision or measure favourable to the applicant is in principle not sufficient to deprive him of his status as a victim in the absence of such acknowledgement and redress (see *Constantinescu v. Romania*, no. 28871/95, § 40, ECHR 2000-VIII).

34. The Court observes that the applicant was issued with a travel passport and became able to travel abroad only after expiry of the full five-year period during which he had been denied the right to leave Russia on the ground of his past awareness of "State secrets". No domestic authority has acknowledged the alleged violation of his right to leave his own country during that period and the applicant has not received any compensation or other redress for that restriction. The Court further notes that, in so far as the alleged violation of the applicant's individual right was brought about through the application of general legal provisions restricting foreign travel by persons having knowledge of "State secrets" (see paragraph 22 above), those provisions have remained in force to this day.

In these circumstances the applicant may still claim to be a "victim" of a violation of Article 2 of Protocol No. 4.

B. Existence of an interference

35. The applicant claimed that the Russian authorities' refusal to issue him with an identity document for travelling abroad had interfered with his right to leave his own country.

36. The Court reiterates that in accordance with its established case-law, the right of freedom of movement as guaranteed by paragraphs 1 and 2 of Article 2 of Protocol No. 4 is intended to secure to any person a right to liberty of movement within a territory and to leave that territory, which implies a right to leave for such country of the person's choice to which he may be admitted (see *Napijalo v. Croatia*, no. 66485/01, § 68, 13 November 2003, with further references). It follows that liberty of movement prohibits any measure liable to infringe that right or to restrict the exercise thereof which does not satisfy the requirement of a measure which can be considered as "necessary in a democratic society" in the pursuit of the

legitimate aims referred to in the third paragraph of this Article (ibid.). In particular, a measure by means of which an individual is denied the use of an identity document which, had he so wished, would have permitted him to leave the country, amounts to an interference within the meaning of Article 2 of Protocol No. 4 (see *Napijalo*, cited above, §§ 69 and 73; *Baumann v. France*, no. 33592/96, § 62, ECHR 2001-V; and *Timishev v. Russia* (dec.), nos. 55762/00 and 55974/00, 30 March 2004). The United Nations Human Rights Committee, examining the scope of Contracting Parties' obligations under the identically worded Article 12 of the ICCPR, also expressed the opinion that "the right to leave a country must include the right to obtain the necessary travel documents" (see point 9 of General Comment No. 27, paragraph 30 above).

37. Accordingly, the Court finds that the applicant's right to leave his own country was restricted in a manner amounting to an interference within the meaning of Article 2 of Protocol No. 4.

C. Justification for the interference

1. The applicable test

38. The Court has next to determine whether the interference complained of was justified. It reiterates that Article 2 § 2 of Protocol No. 4, which guarantees the right to leave any country, including one's own, must be read subject to the third paragraph of that Article, which provides for certain restrictions that may be placed on the exercise of that right in the interests of, *inter alia*, national security or public safety. The Convention organs have previously accepted that restrictions imposed following a failure to comply with military service obligations (see *Marangos v. Cyprus*, no. 31106/96, Commission decision of 20 May 1997, unreported), or restrictions on the travel of a mentally ill person who had no arrangements for appropriate care in the destination country (see *Nordblad v. Sweden*, no. 19076/91, Commission decision of 13 October 1993, unreported), were permissible. The Court has dealt with the withdrawal of travel documents and passports in applications concerning criminal (or bankruptcy) proceedings against applicants or third parties (see, for example, *Luordo v. Italy*, no. 32190/96, ECHR 2003-IX). So far there has been no application to the Convention institutions where a person was denied the right to travel abroad on the sole ground of his or her knowledge of certain "State secrets". The applicable test is nonetheless similar: in order to comply with Article 2 of Protocol No. 4 such a restriction must be "in accordance with the law", pursue one or more of the legitimate aims contemplated in paragraph 3 of the same Article and be "necessary in a democratic society" (see *Raimondo v. Italy*, 22 February 1994, § 39, Series A no. 281-A, and *Napijalo*, cited above, § 74).

2. Whether the restriction was "in accordance with law"

39. The applicant contended that the restriction that had been imposed was not in accordance with the law because he had never signed a contract of employment containing a restriction on his right to leave the Russian Federation. The undertaking he had signed in 1994 did not contain any such restriction.

40. The Government indicated that in 1977, 1989 and 1994 the applicant had signed undertakings not to disclose State secrets. The undertaking of 16 May 1989 also contained a clause restricting his ability to travel abroad. The Russian Act of 15 August 1996 required agencies to sign new employment contracts with employees having access to sensitive information. That had not been done in the applicant's case because the Act had come into force on 19 August 1996, that is to say, a day before the applicant's employment ended.

41. The Court notes that both the USSR and Russian Acts provided for temporary restrictions on international travel of the persons who had been granted access to "State secrets" (see paragraphs 19 and 22 above). A similar provision was included in the State Secrets Act (see paragraph 23 above). The Court finds therefore that the impugned restriction was imposed in accordance with law.

3. Whether the restriction pursued a legitimate aim

42. The Government claimed that the restriction on the applicant's right to travel abroad had been introduced in the interests of national security and for the protection of the State's interests.

43. The Court accepts that the interests of national security may be a legitimate aim for an interference with the rights enunciated in Article 2 of Protocol No. 4.

4. Whether the restriction was "necessary in a democratic society"

44. The applicant claimed that the domestic courts' approach had been excessively formalistic and that they had relied excessively on statements by his former employer, without analysing the necessity for such a restriction in the light of his explanation that his access to classified information had been virtually nil since 1989.

45. The Government submitted that the applicant had worked as a team leader in the Raduga agency. Until his resignation he had been in possession of a "special briefcase", a seal, a "special notebook" and workbooks that contained top secret information. On 14 August 1996 he had surrendered all these items to the agency. That was the last date on which he had had access to classified information. The restriction was of a temporary nature, spanning over five years after that date.

46. The Court reiterates that the test as to whether the impugned measure was "necessary in a democratic society" involves showing that the action taken was in pursuit of that legitimate aim, and that the interference with the rights protected was no greater than was necessary to achieve it. In other words, this requirement, commonly referred to as the test of proportionality, demands that restrictive measures should be appropriate to achieve their protective function (compare with point 14 of the Human Rights Committee's General Comment on Article 12 of the ICCPR, cited in paragraph 30 above).

47. The Court notes at the outset that the applicant surrendered all classified material to his employer on termination of his contract in 1996, that is, before he applied for the travel passport. The applicant submitted that the purpose of his planned trip abroad had been purely private and not related to his previous work, as he had intended to visit his ailing father. This was not contested by the respondent Government.

48. The Court further observes that the Russian law on international travel by persons with knowledge of State secrets imposed an unqualified restriction on their right to leave Russia, whatever the purpose or duration of their visit. Accordingly, the scope of review by the Inter-agency Commission and the domestic courts was confined to examination of the formal issue as to whether the information to which the applicant had once had access in the Raduga design agency was still sensitive. They did not consider whether the restriction on the applicant's right to travel abroad for private purposes was still necessary for achieving the legitimate aim it had been intended to serve and whether a less restrictive measure could be applied.

49. The Government did not indicate how the unqualified restriction on the applicant's ability to travel abroad served the interests of national security. The Court, for its part, considers that it is precisely the link between the restrictive measure in issue and its purported protective function that is missing. Historically, the purported "protective function" of the impugned measure was to prevent disclosure of classified information concerning "State secrets". At the time the restriction was conceived, the State was able to control transmission of information to the outside world, using a combination of restrictions on outgoing and incoming correspondence, prohibition on international travel and emigration, and a ban on unsupervised contacts with foreigners within the country. However, once the ban on personal contacts with foreigners was removed and correspondence was no longer subject to censorship, the necessity of restriction on international travel for private purposes by persons aware of "State secrets" became less obvious. In these circumstances, in so far as the ban on international travel for private reasons purported to prevent the applicant from communicating information to foreign nationals, in a contemporary democratic society such a restriction fails to achieve the

protective function previously assigned to it. That view is shared by the UN Human Rights Committee, which expressed the opinion, in general terms, that "the test of necessity and the requirements of proportionality ... would not be met ... if an individual were prevented from leaving a country merely on the ground that he or she is the holder of 'State secrets'" (see point 16 of General Comment no. 27, paragraph 30 above).

50. The Parliamentary Assembly's Opinion on Russia's request for membership of the Council of Europe indicates that the repeal of restrictions on international travel for private purposes was regarded as a necessary condition for membership of the Council of Europe, as the organisation of States adhering to the principles of individual freedom, political liberty and the rule of law (Preamble to the Statute of the Council of Europe) (see paragraph 25 above). The express mention in the Parliamentary Assembly's Opinion on Russia's accession request of Russia's undertaking to cease restrictions on international travel by persons with knowledge of State secrets suggests that the Assembly did not consider the existence of such a restriction compatible with membership of the Council of Europe. Indeed, many member States of the Council of Europe have never had a comparable restriction in their legislation, whereas many others have abolished it during the process of democratic reforms (see paragraphs 27 and 28 above). However, Russia's undertaking to abolish that restriction has not been implemented and the relevant provisions of domestic law have remained in force to date (see paragraphs 22 and 34 above).

51. Finally, the Court observes that the restriction on the applicant's right to leave his country was imposed for a considerable period of time, for five years following the termination of his employment, notwithstanding the fact that that restriction was not explicitly mentioned in the 1994 undertaking (see paragraph 9 above). The impact of that measure must have been particularly heavy on the applicant because he had not been able to travel abroad since the beginning of his employment in 1977, that is, for a total of twenty-four years.

52. Having regard to the above considerations, the Court finds that the restriction on the applicant's right to leave his own country was not "necessary in a democratic society".

Accordingly, there has been a violation of Article 2 of Protocol No. 4 to the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

53. 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

54. The applicant claimed 3,000 euros (EUR) in respect of compensation for non-pecuniary damage. The Government contested his claim.

55. The Court accepts that the applicant suffered distress as the result of an unjustified restriction on his ability to leave Russia. Making its assessment on an equitable basis, the Court awards the applicant the amount claimed, plus any tax that may be chargeable on it.

B. Costs and expenses

56. The applicant claimed 210 United States dollars in respect of costs in the domestic proceedings and EUR 2,000 in respect of the proceedings before the Court. The Government did not comment.

57. 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 these have been actually and necessarily incurred and were reasonable as to quantum. Having regard to these criteria and making a reduction on the basis of its decision finding one of the applicant's complaints inadmissible, the Court awards him EUR 1,600 in respect of costs in the domestic and Strasbourg proceedings, plus any tax that may be chargeable on this amount.

C. Default interest

58. 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 2 of Protocol No. 4 to the Convention;

2. *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, the following amounts:

(i) EUR 3,000 (three thousand euros) in respect of non-pecuniary damage;

(ii) EUR 1,600 (one thousand six hundred euros) in respect of costs and expenses;

(iii) any tax that may be chargeable on the above amounts;

(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;

3. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 21 December 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President