CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

CASE OF JASIŪNIENĖ v. LITHUANIA

(Application no. 41510/98)

JUDGMENT

STRASBOURG

6 March 2003

FINAL

06/06/2003

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 Jasiūnienė v. Lithuania,

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

Mr I. CABRAL BARRETO, *President*,
Mr L. CAFLISCH,
Mr P. KŪRIS,
Mr R. TÜRMEN,
Mr J. HEDIGAN,
Mrs M. TSATSA-NIKOLOVSKA,
Mrs H.S. GREVE, *judges*,
and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 13 February 2003,

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

PROCEDURE

1. The case originated in an application (no. 41510/98) against the Republic of Lithuania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Lithuanian national, Mrs Stasė Jasiūnienė ("the applicant"), on 20 April 1998.

2. The applicant was represented by Mr A.-P. Zamalaitis, a lawyer practising in Vilnius. The Lithuanian Government ("the Government") were represented by their Agent, Mr G. Švedas, of the Ministry of Justice.

3. The applicant alleged that that the nationalisation and destruction of her late mother's property by the Soviet authorities, and the Lithuanian authorities failure to return the property or to afford her a compensation breached Article 1 of Protocol No. 1, taken alone and in conjunction with Article 14 of the Convention, and that the failure of the Lithuanian authorities to execute the judgment of 3 April 1996 breached Articles 6 and 13 of the Convention.

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. By a decision of 24 October 2000 the Court declared the application admissible.

6. The Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*), the parties replied in writing to each other's observations.

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

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. The applicant was born in 1923 and lives in Palanga.

9. Before the Second World War the applicant's mother occupied a dwelling house ("the house") on a plot of land measuring 1,422 square metres ("the plot") in the centre of the tourist resort of Palanga on the Baltic Sea coast. Following the Soviet occupation of Lithuania in 1940, the land was nationalised and the house was demolished in the 1960s.

10. By a decision of 25 September 1992 the Palanga City Council, by reference to the Restitution of Property Act, decided to "restore the property rights" of the applicant and her sister in regard to their late mother's land. No form of restitution was specified in the decision.

11. The decision of 25 September 1992 was not implemented as no land was returned and no compensation was offered. In January 1995 the applicant brought a court action against the local authority, claiming that the plot should have been returned to her and her sister.

12. On 15 December 1995 the Palanga City District Court dismissed the applicant's action. By reference to Article 5 of the Restitution of Property Act (see § 22 below), the court held that the applicant was not entitled to recover the plot, but that she should have been offered an alternative parcel in compensation as required by the law.

13. The applicant appealed, stating that the plot had to be returned to her.

14. On 3 April 1996 the Klaipėda Regional Court quashed the judgment of the District Court. The Regional Court found that the decision of the Palanga City Council of 25 September 1992 did not comply with Article 19 of the Restitution of Property Act as the local authority had not decided whether land or money and, in either case, which land or what amount of money should have been offered to the applicant as a compensation. The Regional Court held that the local authority had to resolve these questions. The court required the administration of Klaipėda County to "adopt, by 30 June 1996, a decision on the request by Stasė Jasiūnienė to restore her property rights in regard to the plot of land (*iki 1996 m. birželio 30 d. priimti sprendimą pagal Stasės Jasiūnienės prašymą dėl nuosavybės teisės į žemės sklypą atstatymo*)".

15. However, no such decision was taken as the applicant refused an alternative parcel of land in another area of Palanga. The applicant's sister accepted an alternative parcel.

16. On 13 August 1996 the applicant obtained an execution warrant for the judgment of 3 April 1996. She put the matter in the hands of bailiffs who were unable to execute the warrant against the county administration.

The executive authorities took no further decision as the applicant had again refused an alternative parcel of land.

17. By a letter of 15 December 1997, the Klaipėda County Governor stated that the applicant had misinterpreted the judgment of 3 April 1996. In the Governor's opinion, the Regional Court had only required the county administration to adopt a decision in accordance with the Restitution of Property Act. As the applicant had no buildings or other property on the plot, she was not entitled to its return. The Governor requested the applicant to approach planners at the Palanga City Council to choose an alternative parcel. He warned her that a different parcel would be allotted without her consent in order to comply with the judgment of 3 April 1996.

18. On 31 December 1997 the applicant wrote to the Prime Minister, stating that she had been entitled to the plot, that the alternative parcels offered by the local authority were located in the outskirts of Palanga, and that their value was thus not equivalent to the plot in the centre of town.

19. In a letter of 11 February 1998, the Director of the Land Authority of the Ministry for Agriculture and Forestry stated that on 25 September 1992 the Palanga City Council had decided to restore the applicant's property rights notwithstanding the fact that there had been a lack of relevant documentation proving her late mother's ownership of the plot. Moreover, the Director stated that from the decision of 25 September 1992 it was "unclear in respect of which owner or land the property rights were restored[;] the form of the restitution of property was also unclear ...". The Director requested the Klaipėda County Governor to re-examine the lawfulness of the decision of 25 September 1992.

20. Until 1999 the applicant was proposed and refused three offers by the Klaipėda County Governor for alternative parcels of land in various areas of Palanga.

21. By a letter of 30 August 1999, the executive authorities informed the applicant that she had not proved her mother's ownership of the original plot in accordance with the governmental instructions of 13 July 1998, i.e. she had not submitted the original papers confirming the purchase of the plot by her mother, or a court decision proving ownership. The executive authorities held that they could not proceed with a decision on compensation until the applicant presented these papers.

II. RELEVANT DOMESTIC LAW AND PRACTICE

22. The Restitution of Property Act (*Nuosavybės teisių ... atkūrimo įstatymas*) (of 1991, amended on numerous occasions) provides for two forms of restitution: 1) the return of the property in certain circumstances, 2) compensation in other cases (compensation can be made in land or money).

On 27 May 1994 the Constitutional Court examined the issue of compatibility of the Constitution with the domestic laws on restitution of property rights. In its decision the Constitutional Court held *inter alia* that possessions which had been nationalised by the Soviet authorities since 1940 should be considered as "property under the *de facto* control of the State". The Constitutional Court also stated: "The rights of a former owner to particular property have not been restored until the property is returned or appropriate compensation is afforded. The law does not itself provide any rights while it is not applied to a concrete person in respect of a specific property item. In this situation the decision of a competent authority to return the property or to compensate therefor has such a legal effect that only from that moment does the former owner obtain property rights to a specific property item." The Constitutional Court also held that fair compensation for property which could not be returned was compatible with the principle of the protection of property.

In decisions of 15 June and 19 October 1994 the Constitutional Court emphasised that the notion of restitution of property rights in Lithuania essentially denoted partial reparation. In this respect the Constitutional Court noted that the authorities of Lithuania as a re-established State in 1990 were not responsible for the Soviet occupation half a century ago, nor were they responsible for the consequences of that occupation. The Constitutional Court held that since the 1940s many private persons had bought, in accordance with the legislation applicable at the material time, various property items which had been previously nationalised. The denial of these factual and legal aspects was impossible, and the domestic legislation on restitution of property rights duly took into account not only the interests of the former owners, but also the interests of private persons who had occupied or purchased the property under lawful contracts.

On 20 June 1995 the Constitutional Court also said that the choice by the Parliament of the partial reparation principle was influenced by the difficult political and social conditions in that "new generations had grown, new proprietary and other socio-economic relations had been formed during the 50 years of occupation, which could not be ignored in deciding the question of restitution of property".

On 8 March 1995 the Constitutional Court ruled that a person who qualifies for compensation for property which cannot be returned is entitled

to choose the form of compensation (land or money) by giving written permission for the authorities to proceed with the decision. The Constitutional Court also held that the executive authorities have discretion to decide on appropriate compensation in each case, but that a person is entitled to contest that compensation by way of a court action.

Under Article 18 of the Restitution of Property Act (all versions until 1999), the authorities were required to obtain the written permission of the person concerned before they determined the actual compensation for the property which could not be returned.

Pursuant to the version of the Restitution of Property Act as amended from 2 June 1999, the executive authorities are now entitled to decide the question of compensation without the person's approval. That decision can be appealed to a court in accordance with the procedure established in Article 19 of the Act. No stamp duty is required to file such an action.

23. Under Article 372 of the Code of Civil Procedure, a court judgment which has come into force is binding and must be executed.

The Code of Civil Procedure nonetheless requires the individual concerned to obtain an execution warrant (*vykdomasis raštas*) from the court which has delivered the final judgment; the execution warrant must be presented to bailiffs for immediate enforcement (Articles 372-379). The requirements of the bailiffs are binding on all authorities and subjects (Article 381).

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 6 § 1 AND 13 OF THE CONVENTION

24. Under Articles 6 § 1 and 13 of the Convention, the applicant complained about the refusal of the authorities to execute the judgment of the Klaipėda Regional Court of 3 April 1996. She stated that as a result she had no effective domestic remedy to restore her property rights.

Article 6 provides, insofar as relevant, as follows:

> "1. In the determination of his civil rights and obligations ... everyone is entitled to a fair hearing ... by a[n] tribunal ... ."

Article 13 states:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

25. The Government stated that, by virtue of the decision of 25 September 1992, the Palanga City Council had decided to restore the applicant's property rights to half of her late mother's property. According to

the Government, "restitution of property rights" within the meaning of that decision in fact denoted compensation in land to be offered to the applicant, in accordance with Articles 5 and 12 of the Restitution of Property Act. The Government contended that the decision of 25 September 1992 was defective in domestic law as it had neither resolved the question of the location of a plot to be offered to the applicant in compensation, nor referred to the procedure whereby that offer should have been effected. According to the Government, the Regional Court identified these flaws in its judgment of 3 April 1996, requiring the authorities to resolve those questions.

Nevertheless, the Government also submitted that to date the applicant had not proved that she qualified for any compensation, within the meaning of the governmental regulations of 13 July 1998, because she had not submitted documentation proving that the original plot had been owned by her mother. Therefore, according to the Government, the judgment of 3 April 1996 should have been interpreted not only as placing certain obligations on the authorities, but also as requiring the applicant to prove her legal claims under domestic law. In the Government's view, in order to have her property rights restored within the meaning of the domestic legislation, the applicant should have applied to a court, requesting the establishment of the fact that her mother had indeed owned the plot.

The Government concluded therefore that the judgment of 3 April 1996 did not confirm the applicant's entitlement to benefit from the domestic legislation on restitution of property rights as the applicant had not proved that her mother had owned the plot.

The Government further stated that the authorities were in any event precluded by Article 18 of the Restitution of Property Act from implementing the judgment of 3 April 1996 as the applicant had refused three offers to have her property rights restored, i.e. parcels of alternative land offered to her in compensation.

26. The applicant claimed that the Government's statements were unsubstantiated.

27. The Court reiterates that Article 6 § 1 secures to everyone the right to have any claim relating to his civil rights and obligations brought before a court or tribunal; in this way it embodies the "right to a court", of which the right of access, that is the right to institute proceedings before courts in civil matters, constitutes one aspect. However, that right would be illusory if a Contracting State's domestic legal system allowed a final, binding judicial decision to remain inoperative to the detriment of one party. It would be inconceivable that Article 6 § 1 should describe in detail procedural guarantees afforded to litigants - proceedings that are fair, public and expeditious - without protecting the implementation of judicial decisions; to construe Article 6 as being concerned exclusively with access to a court and the conduct of proceedings would be likely to lead to situations incompatible with the principle of the rule of law which the Contracting States undertook to respect when they ratified the Convention. Execution of

a judgment given by any court must therefore be regarded as an integral part of the "trial" for the purposes of Article 6. A delay in the execution of a judgment may be justified in particular circumstances. But the delay may not be such as to impair the essence of the right protected under Article 6 § 1 (see *Hornsby v. Greece*, no. 18357/91, 19 March 1997, § 40, ECHR 1997-II; also see, as a recent authority, the *Burdov v. Russia* judgment, no. 59498/00, 7 May 2002, §§ 34-35).

28. In the instant case, the Court observes first that the Government contested the contents of the judgment of 3 April 1996, stating in particular that it placed no obligation on the State to afford the applicant compensation as she had not proved her entitlement to benefit from the provisions of the domestic legislation on restitution of property. The Court disagrees with this view. It is clear from the judgment of 3 April 1996 that the Klaipėda Regional Court did not deny the applicant the merit of her claims in regard to the plot under the domestic legislation on restitution of property rights; in the impugned judgment the Klaipėda Regional Court only required the authorities to take appropriate measures to choose the form of compensation to be afforded to the applicant.

29. It is true that the non-execution of the judgment of 3 April 1996 until the time-limit specified therein (30 June 1996) or thereafter until 2 June 1999 could have been attributed to the applicant in view of her refusals of various offers of compensation by the State, the authorities being unable to finalise the question of compensation without the applicant's prior approval (as required by former Article 18 of the Restitution of Property Act). However, there can be no justification for the non-execution of the judgment of 3 April 1996 following the amendments of the statute effective since 2 June 1999 (see § 22 above).

30. The non-execution of the judgment of 3 April 1996 is only aggravated by the executive's present challenge to the very merit of the applicant's property claims and their wish to place on the applicant certain obligations by reference to the governmental regulations which post-date the court judgment of 3 April 1996 (see the letter of 30 August 1999, § 21 above). The Court finds this situation unacceptable from the point of view of Article 6 § 1 of the Convention because the court judgment of 3 April 1996 remains valid to this date, placing the obligations on the executive, not on the applicant (also see § 28 above).

31. Against this background, by failing to take the necessary measures to comply with the judgment of 3 April 1996, the Lithuanian authorities deprived the provisions of Article 6 § 1 of the Convention of all useful effect. There has accordingly been a violation of that Article.

32. The Court does not consider it necessary to rule on the complaint under Article 13 of the Convention because Article 6 is *lex specialis* in regard to this part of the application.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1, TAKEN ALONE AND IN CONJUNCTION WITH ARTICLE 14 OF THE CONVENTION

33. The applicant also complained under Article 1 of Protocol No. 1, taken alone and in conjunction with Article 14 of the Convention.

Article 1 of Protocol No.1 provides as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

Article 14 of the Convention states:

> "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."

34. Under these provisions the applicant complained about the nationalisation of the plot and the destruction of her late mother's house. She also complained that the plot was not returned to her in kind following the re-establishment of Lithuanian State, and that the court judgment of 3 April 1996 was not executed.

35. The Government stated that the nationalisation of the plot and the destruction of the house had been carried out by the Soviet authorities before 24 May 1996, i.e. the date of entry into force of Protocol No. 1 with respect to Lithuania, and that the Court had no competence *ratione temporis* to examine this part of the application.

The Government further stated that the applicant had not proved her entitlement to benefit from the domestic legislation on restitution of property rights in regard to the plot as the applicant had not shown that her mother had owned the plot (also see § 25 above). According to the Government, the applicant thus had no "possessions" with regard to her claims to return the plot in kind or to be compensated therefore under the domestic legislation on restitution of property rights.

36. The applicant argued that the nationalisation and destruction of her late mother's property were flagrant and continuous breaches of her property rights. She also claimed that the decision of 25 September 1992 and the judgment of 3 April 1996 restored her property rights and entitled her to the return of the plot or proper compensation. However, the plot was not returned to her, and no compensation was afforded in breach of Article 1 of

Protocol No. 1. According to the applicant, the violation of her property rights occurred only because her late mother's land was on a valuable location in the centre of the resort. Accordingly, the State allegedly discriminated against her in breach of Article 14 of the Convention.

37. The Court considers that in this part of the application the applicant complained about three different episodes. Firstly, she complained about the nationalisation of the plot and the destruction of her late mother's house by the Soviet authorities in the 1960s. Secondly, she complained about her current inability to recover the plot in kind. Lastly, she complained about the authorities failure to execute the court judgment of 3 April 1996. The Court will examine each of these complaints separately.

1. Nationalisation of the plot and the destruction of the house

38. To the extent that the applicant complained about the nationalisation of the plot and the destruction of her late mother's house by the Soviet authorities in the 1960s, the Court points out that is has no competence *ratione temporis* to examine this part of the application as it relates to events prior to 20 June 1995, that is the date of the entry into force of the Convention with regard to Lithuania, and 24 May 1996, i.e. the date of the entry into force of Protocol No. 1 with regard to Lithuania. It follows that this part of the application is incompatible with the provisions of the Convention and its Protocols.

39. There has therefore been no breach of Article 1 of Protocol No. 1, taken alone or in conjunction with Article 14 of the Convention, in this respect.

2. The applicant's inability to recover the plot in kind

40. To the extent that the applicant complained about her inability to recover the plot in kind following the re-establishment of the Lithuanian State, the Court recalls that the Convention does not guarantee, as such, the right to restitution of property. "Possessions" within the meaning of Article 1 of Protocol No. 1 can be either "existing possessions" or assets, including claims, in respect of which an applicant can argue that he has at least a "legitimate expectation" that they will be realised. The hope that a long-extinguished property right may be revived cannot be regarded as a "possession" within the meaning of Article 1 of Protocol No. 1; nor can a conditional claim which has lapsed as a result of the failure to fulfil the condition (see, as a recent authority, the *Polacek and Polackova v. the Czech Republic* decision [GC], no. 38645/97, 10 July 2002, § 62).

41. On the basis of the judgment of 3 April 1996 it is clear that the applicant had no "legitimate expectation" to recover the plot in accordance with the applicable domestic legislation, and the authorities were only required to take appropriate measures to afford her compensation in land or money provided for by the law on restitution of property rights

(see §§ 24-32 above, also see § 44 below). It follows that the applicant has no "possessions" in regard to her claim to recover the plot in kind, and this complaint is incompatible *ratione materiae* with the provisions of Article 1 of Protocol No. 1 within the meaning of Article 35 § 3 of the Convention.

42. Having regard to the fact that Article 14 of the Convention is not autonomous and to the conclusion that Article 1 of Protocol No. 1 is not applicable, the Court considers that Article 14 cannot apply with respect to this complaint (see, *mutatis mutandis*, the *Polacek and Polackova* decision cited above, §§ 61-70).

43. Consequently, there has been no violation of Article 1 of Protocol No. 1, taken alone or in conjunction with Article 14 of the Convention, with respect to this part of the application.

3. The authorities' failure to execute the judgment of 3 April 1996

44. To the extent that the applicant complained about the authorities' failure to execute the judgment of 3 April 1996, the Court reiterates that a "claim" can constitute a "possession" within the meaning of Article 1 of Protocol No. 1 to the Convention if it is sufficiently established to be enforceable (see § 40 above, also see the *Burdov* judgment cited above, § 40). The Court has already found in connection with the applicant's complaint under Article 6 of the Convention that the judgment of 3 April 1996 had placed on the authorities an obligation to afford the applicant compensation in land or money in connection with the plot in accordance with the domestic legislation on restitution of property rights (see §§ 28-30 above). The Court considers therefore that the judgment, which was never revoked, provided the applicant with an enforceable claim to constitute a "possession" within the meaning of Article 1 of Protocol No. 1.

45. However, the judgment was not executed, and at least from 2 June 1999 the non-execution could be attributed solely to the authorities (also see § 29 above). It follows that the impossibility for the applicant to obtain the execution of the judgment constituted an interference with her right to peaceful enjoyment of possessions, as set out in the first sentence of the first paragraph of Article 1 of Protocol No. 1 (see the aforementioned *Burdov* judgment, § 40).

46. By failing to comply with the judgment the national authorities prevented the applicant from obtaining the compensation she could reasonably have expected to receive, given in particular that the applicant's sister had been afforded such compensation in regard to the plot. The Government have advanced no plausible justification for this interference acceptable from the point of view of Article 1 of Protocol No. 1 (also see §§ 28-30 above).

47. In sum, there has also been a violation of Article 1 of Protocol No. 1 in this regard.

48. The Court finds no indication that in view of the above violation of Article 1 of Protocol No. 1 the applicant has been discriminated against on any ground specified in Article 14 of the Convention. Accordingly, in this respect there has been no violation of Article 14 of the Convention in conjunction with Article 1 of Protocol No. 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

49. 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

50. The applicant claimed 100,000 Lithuanian litai (LTL) for the refusal of the authorities to return the plot, and LTL 126,408 for loss of earnings and opportunities in connection with the inability to recover the plot. In this respect the applicant claimed further LTL 100,000 for non-pecuniary damage.

51. The Government considered the claims to be unsubstantiated.

52. The Court notes that it found no violation of the Convention or its Protocols in connection with the applicant's claim to return the plot in kind (see §§ 40-43 above). Nonetheless, the Court considers that the applicant has suffered some pecuniary and non-pecuniary damage in view of violations of Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention found in respect of the non-execution of the judgment of 3 April 1996, as a result of which the applicant was deprived of the possibility to obtain compensation she could reasonably expect to get (see §§ 24-32, 44-47 above). Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant the total sum of 9,000 euros (EUR) for pecuniary and non-pecuniary damage.

B. Costs and expenses

53. The applicant also claimed LTL 5,000 for costs and expenses incurred during the domestic proceedings, and LTL 16,570 for costs and expenses in relation to the Convention proceedings.

54. The Government considered the claims to be unjustified.

55. According to the Court's established case-law, costs and expenses will not be awarded under Article 41 unless it is established that they were actually incurred, were necessarily incurred and were also reasonable as to

quantum. In addition, legal costs are only recoverable in so far as they relate to the violation found (see *Former King of Greece and Others v. Greece* (just satisfaction) [GC], no. 25701/94, 28 November 2002, § 105).

56. It is noted that in the present case violations of Article 6 of the Convention and Article 1 of Protocol No. 1 were found in connection with the non-execution of the judgment of 3 April 1996. The Court also notes that the applicant has been granted legal aid under the Court's legal aid scheme, under which the sum of EUR 635 has been paid to the applicant's lawyer for the submission of the applicant's observations and additional comments, the conduct of the friendly settlement negotiations, and the secretarial expenses.

57. Making its assessment on an equitable basis, the Court awards the applicant EUR 4,000 for legal costs and expenses, minus the sum paid under the Court's legal aid scheme (EUR 635). Consequently, the Court awards the final amount of EUR 3,365 under this head.

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 6 § 1 of the Convention;

2. *Holds* that the Court is not required to rule under Article 13 of the Convention;

3. *Holds* that there has been a violation of Article 1 of Protocol No. 1 as regards the non-execution of the judgment of 3 April 1996;

4. *Holds* that there has been no violation of Article 1 of Protocol No. 1 as regards the remainder of the applicant's complaints under this Article;

5. *Holds* that there has been no violation of Article 14 of the Convention in conjunction with Article 1 of Protocol No. 1;

6. *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 9,000 (nine thousand euros) for damages and EUR 3,365 (three thousand three hundred sixty five euros)

for legal costs and expenses, plus any tax that may be chargeable on these amounts;

(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;

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

Done in English, and notified in writing on 6 March 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Ireneu CABRAL BARRETO
President