



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

FIRST SECTION

**CASE OF KOSMOPOULOU v. GREECE**

*(Application no. 60457/00)*

JUDGMENT

STRASBOURG

5 February 2004

**FINAL**

*05/05/2004*

*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 Kosmopoulou v. Greece,**

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

Mr P. LORENZEN, President,

Mr C.L. ROZAKIS,

Mr G. BONELLO,

Mrs F. TULKENS,

Mrs N. VAJIĆ,

Mrs E. STEINER,

Mr K. HAJIYEV, *judges,*

and Mr S. NIELSEN, *Deputy Section Registrar,*

Having deliberated in private on 10 October 2002 and on 15 January 2004,

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

**PROCEDURE**

1. The case originated in an application (no. 60457/00) against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Greek national, Mrs Eleni Kosmopoulou (“the applicant”), on 16 August 2000.

2. The applicant was represented by Mr S. Tsakyrakis, a lawyer practicing in Athens. The Greek Government (“the Government”) were represented by the delegates of their Agent, Mr M. Apessos, Senior Adviser at the State Legal Council, and Ms S. Trekli, Legal Assistant at the State Legal Council.

3. The applicant complained, in particular, of a violation of her right to family life guaranteed under Article 8 of the Convention.

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

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

6. By a decision of 10 October 2002, the Court declared the application partly admissible.

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

## THE FACTS

8. The applicant was born in 1965 and lives in Athens.

9. On 25 April 1987 she got married and on 23 January 1988 gave birth to a daughter.

10. On 19 November 1996 the applicant left the matrimonial home and went to England, leaving her daughter with her husband.

### **A. Proceedings for custody of the applicant's daughter**

11. On 6 February 1997 the applicant's husband lodged an interlocutory application with the Athens Court of First Instance for an interim-custody order. On 1 March 1997 the applicant filed a cross-application for interim custody.

12. On 2 May 1997 the Court of First Instance made an interim order granting custody of the child to the father (judgment no. 11208/1997).

13. On 12 January 1998 it made a final order granting the father custody (judgment no. 1/1998). An appeal by the applicant against that judgment was dismissed by the Athens Court of Appeal on 29 February 2000 (judgment no. 1559/2000). The applicant did not appeal on points of law against that judgment.

### **B. Proceedings concerning access**

14. In the meantime, on 9 and 23 May 1997 the applicant and her ex-husband each applied to the Athens Court of First Instance for interim orders concerning access. The hearing of the applicant's application, which was initially scheduled for 28 May 1997, was adjourned to 9 July 1997 so that it could be examined with the father's application.

15. On 6 June 1997 the applicant made a further application, seeking an order requiring her ex-husband to bring the child to her house. On the same day the judge issued an order granting the applicant interim access every Saturday from 10 a.m. to 2 p.m. On Saturday 7 June 1997 the applicant's former husband failed to comply with that order. On 9 June 1997 he asked the court to set aside the judge's interim order, which it did on 10 June 1997 (judgment no. 15142/1997).

16. In a medical report dated 26 June 1997, three psychologists who had examined the child and her father but not the applicant stated that the child was suffering from "physical negligence and abandonment by her mother, a denial of love and affection, and indifference to her achievements and the activities she was involved in". They concluded that keeping "a distance from her mother temporarily would contribute to suppressing the child's negative feelings".

17. After the hearing on 9 July 1997, the Court of First Instance delivered its judgment on 30 July 1997. In particular, it held:

“On 19 November 1996, after the breakdown of the marital relationship between the parties, [the applicant] left the matrimonial home...and settled temporarily in Bristol, England, without giving any sign of life until 17 December 1996. She did not contact her daughter, who was constantly in tears and desperate to find her mother, being unable to understand her long absence. When the child visited her mother on 17 December 1996 at the hotel where she was staying in Bristol, [the applicant] left her alone in the room and went away, leaving the child with feelings of intense fear and insecurity ...It should also be noted that in early May 1997 the applicant, who had already returned to Greece and was accompanied by her mother, visited her daughter's school in order to meet her teachers; when her daughter saw her in the playground she ran away terrified, calling out for her teachers to help her and protect her from her mother. On the other hand, the applicant has a university education, moral principles and a high standard of living; for the whole period when they lived together as a family until the moment she left the matrimonial home, [the applicant] showed an interest in and took care of her daughter, whom she undoubtedly loves excessively.”

Taking into account the above circumstances and the interest of the child, the court decided that the child should stay with her mother once a week and for some days during the school holidays (judgment no. 21171/1997).

18. On 2 August 1997 the applicant spent the day with her daughter.

19. On 6 August 1997 the applicant's former husband asked the court to review its decision in judgment no. 21171/1997. The hearing took place on 8 August 1997. On 9 August 1997 the child was brought to her mother's house, but refused to stay with her. On 11 August 1997 the court confirmed the previous arrangement for visiting rights but reduced the number of days the child could spend with her mother during the summer holidays, so as to take into account holiday plans that had been made by the child's father and her paternal grandparents. The court found that the applicant was a highly educated person “with moral principles” and that “she loved her daughter” (judgment no. 22372/1997).

20. On 23 August the child was brought to the applicant's house but again refused to stay with her. The applicant and her daughter were then taken to the Syntagma Square Police Station, where, under unspecified circumstances, the applicant kicked her daughter and tore out clumps of her hair.

21. On 27 August and 23 September 1997 the applicant's former husband sought a review of judgments nos. 21171/1997 and 22372/1997. He also asked for the applicant's visiting rights to be provisionally suspended. The judge granted his applications and suspended the applicant's visiting rights without hearing prior representations from the applicant.

22. On 24 September 1997 the applicant appealed against the order suspending her visiting rights. On 29 September 1997 the judge dismissed her appeal (judgment no. 26451/1997).

23. On 11 December 1997 the Court of First Instance stated that it was essential for the child to have contact with her mother and that the father

was under a duty to facilitate such contact. It found that the child's reluctance to see her mother was due to the behaviour of her father, who had involved the child in his own disputes and problems with the applicant (judgment no. 34780/1997).

24. On 16 December 1997 the applicant issued a summons against her former husband requiring him to comply with judgment no. 34780/1997, but to no avail.

25. In the meantime, the applicant asked the juvenile-court public prosecutor to intervene in order to facilitate communications with her daughter. On 30 December 1997 the Public Prosecutor referred the matter to the Psychiatric Department of the Athens Children's Hospital, where a psychiatrist examined both parents and the child. In her report dated 25 June 1998, the psychiatrist noted: "It has been difficult to see the mother who has been cancelling the appointments" and stated: "If [the child's] psychological problems are to be alleviated, it is necessary for her to be reunited with her mother and to have regular contact with her". The psychiatrist also proposed specific measures in order to ensure the child's well-being (such as a psychological assessment of both parents and individual psychotherapy of the child at least once a week). The psychiatrist's report was sent to the public prosecutor, who took no further action. The authorities refused to give the applicant a copy of the report on the ground that it was confidential. The applicant obtained a copy only on 22 February 2002.

26. On 3 January 1998 the applicant's former husband brought his daughter to the applicant's house, but she refused to stay with her mother.

27. On 12 May 1998 the applicant asked the court to take formal note that her former husband had deliberately prevented her from having contact with the child from 9 August 1997 to 19 April 1998. On 26 February 1999 the court dismissed the applicant's request on the ground that the child did not want to see her mother and that the father was not responsible for the lack of contact (judgment no. 493/1999).

28. On 3 May 1999 the applicant appealed. On 12 February 2001 the court of appeal dismissed her appeal. It found that the applicant was not able to have access to her daughter owing to the latter's absolute refusal to see her mother, which in turn was the result of the child's feelings of distress after the applicant's departure from the family home. The child's father was doing all he could to reunite the family. Moreover, the applicant lived almost permanently abroad and it was therefore in any event impossible for her to visit her daughter once a week. The interest of the child should prevail and further strain on her mental health should be avoided at all costs (judgment no. 971/2001).

29. On 25 June 2001 the applicant appealed on points of law. The hearing took place on 15 January 2002. On 7 March 2002 the Court of Cassation dismissed the applicant's appeal as ill-founded (judgment no. 429/2002).

### C. Criminal proceedings

30. On 16 February 1998 the applicant lodged a criminal complaint against her former husband alleging that he had obstructed her contact with her daughter. On 10 May 1999 the Athens Criminal Court, sitting with a single judge, found the applicant's former husband not guilty (judgment no. 55770/1999), holding in particular:

“The child reacts to any contact with her mother, after the latter abandoned her in Bristol in December 1996 after the child had travelled there to see her. The situation is typified by an incident on 23 August 1997, when [the applicant] assaulted her daughter at the Syntagma Square Police Station, kicking her and tearing out her hair (see the certificate from the police incident book). The [applicant's former husband] has never prevented his daughter from seeing her mother, nor has he ever urged her to avoid her mother.”

31. Following that judgment the applicant lodged criminal complaints against her former husband every time he failed to comply with the court's rulings. The father also brought various criminal charges against the applicant. Currently, more than thirty-five sets of criminal proceedings are pending.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

32. The applicant complained that the Greek authorities had failed to protect her family life with her daughter. She relied on Article 8 of the Convention, which provides 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. Arguments before the Court

### 1. *The applicant*

33. The applicant argued that her case went far beyond a private-law dispute and was directly related to the core of the State's positive obligation to facilitate her reunion with her daughter. She submitted that apart from her decision to stop living with her former husband, there was nothing in her character or behaviour which could, even under the strictest judgment, justify her alienation from her child. That alienation was the result of a series of acts and omissions of the Greek State. In this respect, the applicant complained that the Greek courts had failed to promote her speedy reunion with her child at the initial stage of the proceedings. That had had a crucial impact on the whole case since her former husband and his relatives had used that period to accomplish their aim of alienating her from her daughter. Moreover, she complained that her visiting rights had been suspended twice by the judge without any reason. Lastly and above all, she complained that the courts' rulings concerning her visiting rights had remained a dead letter because her former husband had systematically obstructed all contact with her daughter, using the latter's refusal to see her mother as an excuse. The domestic authorities had failed to take into account the child's father's unwillingness to agree to any form of cooperation. That failure had operated to her detriment and was contrary to the best interests of the child.

34. The applicant agreed that in such cases the interest of the child should be paramount and emphasised that she entirely respected her daughter's wishes. She conceded that her rights should only be recognised and enforced to the extent that they coincided with her daughter's interests. However, she noted that, given the serious consequences that a lack of communication with one of the parents has for the child, the reluctance should be genuine and the child's will free from manipulation. The applicant believed that in her case those requirements had not been met.

35. In any event, the applicant stressed that the courts had always found that the interest of her daughter was to have contact with her. This was also confirmed by the psychiatric report of 25 June 1998. The applicant regretted the fact that although this was the only reliable report (since it had been prepared by an independent expert and was based on an examination of both parents and their child), it had never been taken into consideration by the Greek authorities. She affirmed that the report prepared in 1997 by the three experts instructed by her former husband was completely biased and unreliable. However, even they had suggested only a temporary separation of the child from her mother.

36. Thus, the applicant maintained that her child's wishes had been thoroughly examined and seriously taken into consideration many times. However, in her view, those wishes should not have been decisive when it

came to enforcing the judgments granting her visiting rights. In that respect, she complained that, when deciding whether to enforce her visiting rights, the Greek courts had reopened to an unnecessary degree the issue of the child's wishes and had used it to justify not taking measures to execute the relevant judgments. By so acting, the competent authorities had created a situation that was totally absurd: on the one hand, they had held that, despite her reluctance, the interest of the child lay in having contact with her mother; while on the other, they had held that because of the child's reluctance to meet her mother, no measures should be taken to execute their judgments. They had thus perpetuated a situation which was against the best interest of the child and consequently violated the applicant's rights.

37. In the applicant's view, the Greek authorities had neglected to make the efforts that could reasonably be expected of them to ensure that her rights were respected. Among other things, they should have taken coercive measures against her former husband, whose behaviour was the root cause of her inability to establish regular contact with her daughter. The applicant claimed that no organised mechanism for providing assistance in cases like hers existed in Greece.

## *2. The Government*

38. The Government noted that the respondent State's positive obligation, which was inherent in the effective respect for family life, was not absolute. Referring to the Court's case-law, they admitted that domestic measures hindering the mutual enjoyment by parent and child of each other's company amounted to an interference with the rights under Article 8 of the Convention. Such interference constituted a violation of that provision unless it was "in accordance with law", pursued an aim or aims that were legitimate under paragraph 2 of Article 8 and could be regarded as "necessary in a democratic society". The Government further stressed that in assessing whether or not a refusal of access to the non-custodial parent was in conformity with Article 8, the interests of the child predominated.

39. As regards the present case, the Government affirmed that the Greek authorities had not interfered in any way with the exercise of the applicant's right to have contact with her daughter. On the contrary, all the action taken by the competent authorities had been aimed at facilitating the applicant's reunion with her child. The applicant's right to have access to her child had at no stage been overlooked. In particular, although the applicant was the non-custodial parent, her contact with her daughter had been arranged by court judgments in an absolutely satisfactory manner, which is to say with the child due to spend every weekend and some days during the school holidays with her mother. The judgments had been delivered within a very reasonable time, entirely respected the principle of equality between the parties, were founded on a multitude of evidence and were fully reasoned. In that respect, the Government emphasised that the above issues had been

thoroughly examined in more than ten sets of proceedings. Moreover, on the whole, the applicant had been sufficiently involved in the decision-making process.

40. The Government further submitted that the two decisions to suspend the applicant's visiting rights (in August and September 1997) had been taken in order to protect the mental health of the child, who, just a few days before those orders were made, had refused, in conditions of extreme tension, to stay with her mother. In that connection, the Government stressed that it was indisputable that the child had suffered excessive stress and that her psychological and mental health were in peril. It had thus been necessary to respect her wishes and to avoid imposing on her any additional, harmful or unnecessary pressure.

41. The Government said in conclusion that the child's persistent refusal to see her mother was the only reason why the access arrangements had not been complied with. It would be going beyond the State's positive obligations under Article 8 of the Convention to take coercive measures to force the child to meet her mother. Therefore, even assuming that there had been an interference with the applicant's right to respect for her family life, it had been justified under paragraph 2 of Article 8.

### **B. The Court's assessment**

42. The Court reiterates that it follows from the concept of family on which Article 8 is based that a child born of a marital union is *ipso jure* part of that relationship; hence, from the moment of the child's birth and by the very fact of it, there exists between him or her and his or her parents a bond amounting to "family life" which subsequent events cannot break save in exceptional circumstances (*Gül v. Switzerland*, judgment of 19 February 1996, *Reports of Judgments and Decisions* 1996-I, pp. 173-174, § 32; *Ahmut v. the Netherlands*, judgment of 28 November 1996, *Reports* 1996-VI, p. 2030, § 60). It was not suggested that any such exceptional circumstances were present in this case. Thus, the Court finds it undisputed that the relationship between the applicant and her daughter amounted to "family life" within the meaning of Article 8 § 1 of the Convention.

43. That being so, it must be determined whether there has been a failure to respect the applicant's family life. The Court reiterates that the essential object of Article 8 is to protect the individual against arbitrary interference by public authorities. There may in addition be positive obligations inherent in effective "respect" for private or family life. These obligations may involve the adoption of measures designed to secure respect for family life even in the sphere of relations between individuals, including both the provision of a regulatory framework of adjudicatory and enforcement machinery protecting individuals' rights and the implementation, where appropriate, of specific steps (*Glaser v. the United Kingdom*, n° 32346/96,

§ 63, 19 September 2000). The boundaries between the State's positive and negative obligations under this provision do not always lend themselves to precise definition; nonetheless, the applicable principles are similar. In both contexts, regard must be had to the fair balance which has to be struck between the competing interests of the individual and the community as a whole, including other concerned third parties, and in both cases the State enjoys a certain margin of appreciation (*X, Y and Z v. the United Kingdom*, judgment of 22 April 1997, *Reports* 1997–II, pp. 631-632, § 41).

44. As to the State's obligation to take positive measures, the Court has repeatedly held that Article 8 includes a right for parents to have measures taken with a view to their being reunited with their children, and an obligation for the national authorities to take such measures. This applies not only to cases dealing with the compulsory taking of children into public care and the implementation of care measures, but also to cases where contact and residence disputes concerning children arise between parents and/or other members of the children's family (*Hokkanen v. Finland*, judgment of 23 September 1994, Series A no. 299, p. 20, § 55).

45. However, the national authorities' obligation to take measures to facilitate reunion is not absolute, since the reunion of a parent with children who have lived for some time with the other parent may not be able to take place immediately and may require preparatory measures to be taken. The nature and extent of such preparation will depend on the circumstances of each case, but the understanding and cooperation of all concerned is always an important ingredient. Whilst national authorities must do their utmost to facilitate such cooperation, any obligation to apply coercion in this area must be limited since the interests as well as the rights and freedoms of all concerned must be taken into account, and more particularly the best interests of the child and his or her rights under Article 8 of the Convention. Where contact with the parent might appear to threaten those interests or interfere with those rights, it is for the national authorities to strike a fair balance between them (*Ignacollo-Zenide v. Romania*, n° 31679/96, § 94, ECHR 2000–I).

46. The present case hinges therefore on the question whether the Greek authorities took all steps to enable the applicant to maintain and develop family life with her daughter after separating from her husband. In this respect, the Court notes that, although the applicant had obtained visiting rights, she was unable to see her daughter or establish regular contact with her. The applicant mainly blamed the domestic authorities for their failure to do anything about the behaviour of her former husband, whom she considered responsible for her daughter's reluctance to see her.

47. The Court reiterates in this respect that the mutual enjoyment by parent and child of each other's company constitutes a fundamental element of family life, even if the relationship between the parents has broken down, and domestic measures hindering such enjoyment amount to an interference with the right protected by Article 8 of the Convention (*Johansen*

*v. Norway*, judgment of 7 August 1996, *Reports* 1996-III, pp. 1001-02, § 52; *Bronda v. Italy*, judgment of 9 June 1998, *Reports* 1998-IV, p. 1489, § 51; *Elsholz v. Germany* [GC], no. 25735/94, § 43, ECHR 2000–VIII). In examining whether the non-enforcement of the access arrangements amounted to a lack of respect for the applicant's family life the Court must strike a balance between the various interests involved, namely the interests of the applicant's daughter, those of the applicant herself and the general interest in ensuring respect for the rule of law (*Nuutinen v. Finland*, n° 32842/96, § 129, ECHR 2000–VIII).

48. As regards the child's interest, the Court observes that it is not for it to say how the domestic courts should have evaluated that issue. However, it finds it striking that no further action was taken by the competent authorities, despite the fact that the psychiatrist who had examined both parents and the child expressly stated in her report that the child was suffering from psychological problems and recommended regular contact with the mother (see paragraph 25 above).

49. As regards the applicant's interests, the Court notes that the national courts made two orders (on 27 August and 23 September 1997) provisionally suspending her visiting rights, without hearing representations from her. The visiting rights were suspended shortly after they had been granted by the Court of First Instance, namely at a moment that was particularly crucial if the nine-and-a-half year old child was to be reunited with her mother and establish regular contact with her. The Court further notes that the report prepared by the Psychiatric Department of the Athens Children's Hospital on 25 June 1998 was released to the applicant only on 22 February 2002, that is approximately three and a half years later. The Court reiterates in this respect that it is of paramount importance for parents always to be placed in a position enabling them to put forward all arguments in favour of obtaining contact with the child and to have access to all relevant information which was at the disposal of the domestic courts (*Sahin v. Germany* [GC], no. 30943/96, § 71, 8 July 2003). The Court further notes that none of the three psychologists who drafted the medical report of 26 June 1997 examined the applicant in order to reach their conclusions. It follows that in the present case the applicant was not involved in the decision-making process to a degree sufficient to provide her with the requisite protection of her interests (*Hoppe v. Germany*, no. 28422/95, § 52, 5 December 2002). Thus, she did not enjoy the appropriate procedural guarantees which would have enabled her to challenge effectively the suspension of her visiting rights.

50. Having regard to the foregoing and to the respondent's State's margin of appreciation, the Court is not satisfied that the procedural approach adopted by the domestic courts was reasonable in all the circumstances or provided them with sufficient material to reach a reasoned decision on the question of access to the applicant's daughter.

There has, therefore, been a violation of Article 8 of the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

51. 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

52. The applicant claimed non-pecuniary damage for the pain suffered as a result of her being alienated from her daughter. She did not specify a sum.

53. The Government stated that the Greek courts had at no stage refused to implement the applicant's visiting rights. Thus, no causal link existed between the applicant's request for just satisfaction and the procedure followed by the Greek authorities. The Government considered that a finding of a violation would provide just satisfaction to the applicant in this case.

54. The Court considers, in the circumstances, that the applicant must have suffered feelings of frustration, uncertainty and anxiety which cannot be compensated solely by the finding of a violation. Making an assessment on an equitable basis, as required by Article 41, the Court awards the applicant 10,000 euros (EUR) in respect of non-pecuniary damage.

### B. Costs and expenses

55. The applicant claimed EUR 4,900 for costs and expenses incurred before the Greek courts. She further claimed EUR 19,008 for costs and expenses incurred in the proceedings before the Court. In particular, she stated that she had agreed to pay her lawyer a contingency fee in the above sum, corresponding to 108 hours of work at an hourly rate of EUR 176, if her application was successful. The applicant also claimed EUR 140 for expenses including postage, photocopies and telephone calls.

56. The Government submitted that there was no causal link between the amount claimed in respect of the domestic proceedings and the alleged violation of Article 8 of the Convention. In any event, the applicant had not produced any documentary evidence of the costs and expenses incurred before the Greek courts and the overall amount claimed was excessive. The Government further stated that the legal fees for the proceedings before the Court were excessive and that the agreement between the applicant and her lawyer was not binding on the Court. They contended that a total sum not exceeding EUR 6,000 would be appropriate in respect of legal costs.

57. The Court finds that the costs and expenses in the proceedings brought in Greece and at Strasbourg to prevent or redress the situation it has held to be contrary to Article 8 of the Convention were necessarily incurred; they must accordingly be reimbursed in so far as they do not exceed a reasonable level (see, among other authorities, *Ignaccolo-Zenide v. Romania*, cited above, § 121).

58. Under the circumstances, the Court considers it appropriate to award the applicant for costs and expenses the sum of 6,000 EUR.

### **C. Default interest**

59. 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 8 of 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 10,000 (ten thousand euros) in respect of non-pecuniary damage;
    - (ii) EUR 6,000 (six thousand 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 5 February 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN  
Deputy Registrar

Peer LORENZEN  
President