



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

SECOND SECTION

**CASE OF BREMNER v. TURKEY**

*(Application no. 37428/06)*

JUDGMENT  
(Extracts)

STRASBOURG

13 October 2015

**FINAL**

**13/01/2016**

*This judgment has 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 Bremner v. Turkey,**

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

Paul Lemmens, *President*,

Işıl Karakaş,

Helen Keller,

Ksenija Turković,

Egidijus Kūris,

Robert Spano,

Jon Fridrik Kjølbro, *judges*,

and Stanley Naismith, *Section Registrar*,

Having deliberated in private on 15 September 2015,

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

## PROCEDURE

1. The case originated in an application (no. 37428/06) against the Republic of Turkey lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Australian national, Mr Dion Ross Bremner (“the applicant”), on 28 August 2006.

2. The applicant was represented by Mr Y. Öztürk, a lawyer practising in Samsun. The Turkish Government (“the Government”) were represented by their Agent.

3. The applicant alleged, in particular, an infringement of his right to respect for his private life.

4. On 2 May 2011 the application was communicated to the Government.

5. On 15 August 2011 the Alliance Defence Fund, acting on behalf of the Open Doors association, requested leave to submit written observations.

6. The Section President rejected that request.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

7. The applicant was born in 1967 and lives in Strathfield in Australia.

8. At the material time he had been a correspondent with an Australian newspaper in Turkey. He had also been working voluntarily for a bookshop specialising in books on Christianity.

9. On 24 June 1997 he appeared in a television documentary broadcast in the framework of the programme *Son çare* (“Last Resort”), hosted by Ms Hülya Koçyiğit.

#### **A. The content of the report**

10. During the programme the hostess introduced the documentary by pointing out that it concerned covert activities conducted in Turkey by “foreign pedlars of religion” (*yabancı din tüccarları*).

The ensuing documentary was along the following lines:

Over footage of mosques and then Christian religious ceremonies, a voice stated that everyone, whether a member of the Muslim majority or a religious minority, had the right to belong to the religion of his or her own choosing and the freedom to practise that religion. According to the voiceover, it was strange that some proselytising activities were being carried out in a covert manner, despite the freedom of conscience and religion.

Against a background of images of a *dhikr* ceremony performed by a Muslim brotherhood, showing followers in a state of trance, the voiceover asked whether, “in order to combat such instances of bigotry (*yobazlık*), an attempt was being made to set up groups of Christian converts, plunging the country into chaos”.

The voiceover explained that the aim of the programme was not to judge any specific religion but to show that whatever their nationalities or religious beliefs, the pedlars of religion all used the same methods.

11. The voiceover explained that the programme producers had been contacted by a certain A.N., who lived in Samsun. This person had been intrigued by an advertisement asking “would you like to read books free of charge?”, and had replied. In return, he had received a number of books by mail, all of them concerning Christianity. He had written back and had once again received books on the same subject. The second dispatch had been accompanied by a letter thanking him for his interest in the subject.

12. There had subsequently been a telephone exchange between A.N. and the sender, who had proved to be the applicant.

13. After that exchange it had been agreed that the applicant would travel to Samsun to meet A.N.

14. It was at that point that A.N. had decided to inform the programme producers and to invite them to make a documentary on the subject.

15. On 17 June 1997 the applicant had travelled to Samsun to meet A.N. and some of his “friends [purportedly] interested in Christianity” for the first time, in a restaurant. The conversation had been filmed by a hidden camera.

16. According to the voiceover, the applicant had then presented the teachings of the Bible. He had continued by comparing Christianity with other religions, emphasising his own beliefs. However, that sequence was

not shown, on the grounds that the aim of the documentary was not to discuss the merits of specific beliefs but to expose the methods used.

17. A.N. and the applicant had arranged to meet up again the next day in an apartment, again accompanied by a group of A.N.'s friends purportedly desirous of learning about the Christian religion.

18. During that second meeting the applicant had explained that he was not alone but was part of a group working throughout Turkey. He had said that premises could be rented in Samsun for the converts, but that he would have to talk to his "boss" about that. The question of where the money would come from was difficult, but an open, intelligent attitude had to be adopted to such matters because converts could be accused of having changed religions thanks to pecuniary considerations rather than conviction.

19. The documentary then showed the following dialogue between the applicant and one of the participants:

*"Participant:*

- Have you read the Koran?

*Applicant:*

- Yes.

*Participant:*

- What did you think of it?

*Applicant:*

- I liked it. Some of the verses are good, but...

*Participant:*

- ... but there is also some nonsense?

*Applicant:*

- No, I wouldn't say that, but it cannot save me, because I know I am a sinner.

...

*Applicant:*

- The knowledge which God has sent us is set out in the Bible, the Torah and the Book of the Psalms of David. [That knowledge] is complete in itself. We need no other prophet, because Jesus is divine in essence ..."

20. Just as the applicant was apparently preparing, with the help of a bowl of water, to explain to the participants the ritual of baptism, the person hosting the programme, Hülya Koçyiğit, burst into the room with a camera and a microphone.

21. She told the applicant that she had heard about the meeting and had come to make his acquaintance. She asked him who he was and where he came from.

22. The applicant replied that he was Australian and held an identity card up to the camera. He added that he was a journalist, and was involved in explaining the Christian faith on a voluntary basis.

23. Asked why the latter activity was covert, he answered that it was not covert, and that he had come to Samsun with full trust in the person who had contacted him.

24. The documentary then presented an interview between Ms Koçyigit and an academic from the Istanbul Faculty of (Islamic) Theology. The latter explained that Muslims were duty-bound to respect and believe in the divine nature of the holy books of all the monotheistic religions, pointing out that Islam was a religion of tolerance. However, he voiced his surprise at the covert nature of the activities shown in the documentary.

25. At the end of the programme the applicant was shown walking along carrying a bag. The voiceover described him as “Dion, the pedlar of religion, on his way to the police station to give a statement”.

### **B. Criminal proceedings**

26. According to the applicant, the hostess of the TV programme had been accompanied by police officers when she had burst into the room, and the officers had remanded him in custody after the discussions.

27. He had been released the following day, after having given his statement.

28. On 25 June 1997 the Samsun prosecutor’s office brought criminal proceedings against the applicant for insulting Allah and Islam.

29. On 28 April 1998 Samsun Criminal Court found the applicant innocent given that no evidence had been provided of a criminal offence.

### **C. Civil proceedings**

30. On 24 June 1998 the applicant filed an action for damages against the programme presenter and producers.

31. Istanbul Regional Court (“IRC”) dismissed that action by judgment of 18 March 2003 on the grounds of the public interest of dissemination of information.

32. By judgment of 15 June 2004 the 4<sup>th</sup> Civil Chamber of the Court of Cassation set aside the latter judgment, by four votes to one.

In its reasoning the Chamber noted that the case concerned a conflict of rights between freedom of expression, on the one hand, and personality rights on the other. Having reiterated the fundamental importance of freedom of the press, it pointed out that that freedom nevertheless had its limits. It considered that the claimant had not committed any unlawful act but had merely exercised his rights to freedom of expression and freedom of conscience, which two rights were secured under both the Constitution and

the European Convention on Human Rights. That being the case, the claimant's right to respect for his private life had suffered a twofold violation, first of all when he had been filmed by a hidden camera, and secondly when the images had been broadcast, accompanied by such expressions as "pedlar of religion" and "bigotry".

33. On 18 March 2003, ruling on the case referred back to it, the TGI decided not to follow the reasoning of the 4<sup>th</sup> Civil Chamber and instead to maintain its previous judgment.

34. In the face of such resistance from the IRC, the case was referred *ex officio* to the Assembly of Civil Chambers of the Court of Cassation. By judgment of 7 December 2005, that Assembly upheld the finding of the first-instance court by thirty-five votes to eleven.

In their reasoning, the judges of the superior court held that the impugned images had not concerned details of the applicant's private life, but had been part of a documentary on a topical issue of interest to the general public. They considered that there had been a major public interest in broadcasting the documentary at issue and that the documentary-makers had struck a fair balance between the merits and the formal aspects of the subject.

35. According to the case file that judgment was served on the applicant on 28 February 2006.

#### **D. Other allegations submitted by the applicant**

36. The applicant submitted that the owner of the apartment which he had rented had ended his lease following the transmission of the documentary for security reasons.

37. He added that he had been expelled to Bulgaria.

...

## THE LAW

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

44. The applicant complained that the transmission of the documentary and the judicial authorities' dismissal of his claim for damages had infringed his right to respect for this private life as provided for in Article 8 of the Convention, which reads as follows:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society

in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

45. The Government contested that argument.

### A. Admissibility

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

### B. Merits

#### 1. *The parties' submissions*

47. The applicant complained about the content of the programme broadcast on 24 June 1997 and the courts' dismissal of his claim for damages. He considered that the making of a video recording without his consent during a meeting organised without his knowledge by the journalists and the transmission of that video recording had amounted to a violation of Article 8 of the Convention

48. The Government observed that there had been no interference by the authorities. They accepted that the State had a positive obligation, but considered that the latter had been honoured, given that the Turkish judicial system provided a remedy which had facilitated the examination of the applicant's complaints. The fact that the courts had ultimately dismissed the applicant's claims could not be deemed to have rendered the remedy ineffective.

49. The Government submitted that the courts had had to deal with a conflict between, on the one hand, freedom of the press and, on the other, the applicant's right to respect for his private life.

50. They considered that the programme had covered a general-interest topic, a sphere in which journalistic freedom benefited from broader protection (see *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, § 39, ECHR 1999-III). Furthermore, journalistic freedom also allowed for the possibility of some degree of exaggeration, or indeed provocation.

51. The Government took the view that the expressions “bigotry” and “pedlar of religion” were value judgments whose veracity was not susceptible of proof, rather than constituting a gratuitous personal attack. In that regard, they cited the case of *Unabhängige Initiative Informationsvielfalt v. Austria* (no. 28525/95, ECHR 2002-I), in which the Court, they maintained, had come to the same conclusion with regard to the expression “fascist [*sic*] agitation” as used by a journalist.



52. The Government pointed out that in addition to the substance of the ideas and information expressed, Article 10 also protected the form in which they were conveyed (see *Thoma v. Luxembourg*, no. 38432/97, § 45, ECHR 2001-III). Since the activities covered by the documentary had been conducted covertly, the journalists had considered that making a secret recording during the meeting was the optimum solution.

53. The Government added that the limits of acceptable criticism were wider in respect of public figures, targeted in the latter capacity, than for an ordinary individual: unlike the latter, the former inevitably and knowingly laid themselves open to close scrutiny of their every word and deed by both journalists and the public at large. They cited, in that connection, the cases of *Katamadze v. Georgia* ((dec.), no. 69857/01, 14 February 2006), and *Krutil v. Germany* ((dec.), no. 71750/01, 20 March 2003). They noted that in the present case the applicant had not been an ordinary individual but a journalist who had also been engaging in missionary work.

54. The Government observed that in its *Aydın Tatlav v. Turkey* judgment (no. 50692/99, § 27, 2 May 2006) the Court had stated that “those who choose to exercise the freedom to manifest their religion, irrespective of whether they do so as members of a religious majority or a minority, cannot reasonably expect to be exempt from all criticism; [they] must tolerate and accept the denial by others of their religious beliefs and even the propagation by others of doctrines hostile to their faith”.

55. Finally, the Government submitted that there was nothing to suggest that the journalists had acted in bad faith or had had an aim other than that of providing information on issues which they considered should be brought to the attention of the public. They considered that in the instant case the domestic courts had been quite right to prioritise the general public’s right to receive information on a subject of general interest over the applicant’s right to respect for his private life.

56. The applicant, for his part, repeated his complaint and submitted that the infringement by the journalists of his private life had been unlawful and had exposed him to a risk of assault. His landlord had invited him to leave his apartment for fear of reprisals. He cited a number of cases of attacks, sometimes fatal, against Christians in Turkey since 2006, which he claimed had occurred in the wake of television programmes similar to the one at issue.

57. He affirmed that the transmission of the documentary had affected his relations with his Turkish and foreign colleagues.

58. The Government’s explanations concerning freedom of the press might have been relevant if the impugned documentary had been made honestly and in good faith. The applicant submitted that that had not been the situation in the present case, given that the journalists had actually entrapped him.

## 2. *The Court's assessment*

### a) **General principles**

59. The Court notes that the applicant did not complain about an act committed by the State, but about the lack of adequate State protection of his private life from interference by third parties.

60. Although the object of Article 8 is essentially that of protecting the individual against arbitrary interference by the public authorities, it does not merely compel the State to abstain from such interference: in addition to this primarily negative undertaking, there may be positive obligations inherent in an effective respect for private life. These obligations may involve the adoption of measures designed to secure respect for private life even in the sphere of the relations of individuals between themselves (see *Fernández Martínez v. Spain* [GC], no. 56030/07, § 114, ECHR 2014 (extracts)).

61. The boundaries between the State's positive and negative obligations under Article 8 do not lend themselves to precise definition. The applicable principles are nonetheless similar. In particular, in both instances regard must be had to the fair balance which has to be struck between the general interest and the interests of the individual; and in both contexts the State enjoys a certain margin of appreciation (*ibid.*).

62. The concept of "private life" is a broad term which is not susceptible to exhaustive definition, which covers also the physical and psychological integrity of a person and can therefore embrace multiple aspects of the person's identity, such as his or her name and elements relating to his or her image. The notion covers personal information which individuals can legitimately expect not to be published without their consent. Publication of a photo may thus intrude upon a person's private life. The same applies to a video recording (see *De La Flor Cabrera v. Spain*, no. 10764/09, § 30, 27 May 2014).

63. In cases such as the present one, which require the right to freedom of expression to be balanced against the right to respect for private life as safeguarded by Article 10 of the Convention, the outcome of the application should not, in theory, vary according to whether it has been lodged with the Court under Article 8 of the Convention by the person who was the subject of the documentary, or under Article 10 by the publisher (see *Hachette Filipacchi Associés (ICI PARIS) v. France*, no. 12268/03, § 41, 23 July 2009; *Timciuc v. Romania* (dec.), no. 28999/03, § 144, 12 October 2010; *Mosley v. the United Kingdom*, no. 48009/08, § 111, 10 May 2011; and *Axel Springer AG v. Germany (no. 2)*, no. 48311/10, § 56, 10 July 2014), because those rights deserve equal respect, as a matter of principle. The margin of appreciation should therefore, in principle, be the same in both cases. If the balancing exercise has been carried out by the national authorities in conformity with the criteria laid down in the Court's case-law, the Court would require strong reasons to substitute its view for theirs (see *Axel*

*Springer AG v. Germany* [GC], no. 39954/08, § 87, 7 February 2012, and *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, § 107, ECHR 2012).

64. The Court consequently considers it useful also to reiterate its case-law on freedom of expression.

65. That freedom constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment. Subject to paragraph 2 of Article 10, it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broad-mindedness, without which there is no "democratic society". As enshrined in Article 10, freedom of expression is subject to exceptions which must, however, be construed strictly, and the need for any restrictions must be established convincingly (see, among other authorities, *Lindon, Otchakovsky-Laurens and July v. France* [GC], nos. 21279/02 and 36448/02, § 45, ECHR 2007-IV; *Editions Plon v. France*, no. 58148/00, § 42, ECHR 2004-IV; and *Handyside v. the United Kingdom*, 7 December 1976, § 49, Series A no. 24).

66. Furthermore, the Court has repeatedly emphasised the essential function the press fulfils in a democratic society. Although the press must not overstep certain bounds, particularly as regards the reputation and rights of others and the need to prevent the disclosure of confidential information, its duty is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest. And not only does the press have the task of imparting such information and ideas; the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role as a "public watchdog" (see *Bladet Tromsø and Stensaas*, cited above, §§ 59 and 62, and *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99, § 71, ECHR 2004-XI).

67. There is little scope under Article 10 § 2 of the Convention for restrictions on political speech or on debate on matters of public interest (see *Morice v. France* [GC], no. 29369/10, § 125, 23 April 2015).

68. Journalistic freedom covers possible recourse to a degree of exaggeration, or even provocation (see *Stoll v. Switzerland* [GC], no. 69698/01, § 148, ECHR 2007-V). It is not for this Court, or for the national courts for that matter, to substitute their own views for those of the press as to what technique of reporting should be adopted by journalists in any given case (see *Jersild v. Denmark*, 23 September 1994, § 31, Series A no. 298, and *Eerikäinen and Others v. Finland*, no. 3514/02, § 65, 10 February 2009).

69. In its Grand Chamber judgments in the cases of *Axel Springer* and *Von Hannover*, cited above, the Court summarised the relevant criteria for

balancing the right to freedom of expression against the right to respect for private life, including the contribution to a debate of general interest, the degree to which the person affected was well known, the subject of the report, the form and consequences of the publication and the severity of the sanction imposed.

70. Finally, the Court reiterates that the way in which a report or photograph is published and the manner in which the person concerned is portrayed in it may also be factors to be taken into consideration (see *Haldimann and Others v. Switzerland*, no. 21830/09, §§ 63 and 65, ECHR 2015, and the references therein).

**b) Application of those principles to the present case**

71. The Court notes that the issue of the respondent State's positive obligations arises in connection with the decisions taken by the domestic courts – which the applicant contended had not provided him with protection against the journalists' interference with his private life. It is therefore with regard to the manner in which the domestic courts balanced the right set out in Article 8 with the right of the journalists in question to freedom of expression under Article 10 that the Court must assess whether or not the protection provided to the applicant was satisfactory (see *Von Hannover*, cited above, § 58).

72. The Court observes that the documentary concerned religious proselytism, which is, clearly, a public-interest topic, a sphere in which freedom of the press benefits from enhanced protection.

73. It notes that the documentary was critical and that it used offensive expressions such as “pedlar of religion” to describe the applicant. As regards the word “bigotry”, although it is hardly flattering, the Court notes that it was not used in connection with the applicant but in relation to the practices of certain Muslim brotherhoods.

74. The Court considers that the use of the phrase “pedlar of religion” pointed to a value judgment. However, the veracity of such judgments cannot be demonstrated. Moreover, the Court reiterates that freedom of the press also covers possible recourse to a degree of exaggeration, or even provocation.

75. It considers that the impugned documentary did not comprise any gratuitous personal attack on the applicant (see *Oberschlick v. Austria* (no. 2), 1 July 1997, §§ 9 and 30, *Reports of judgments and decisions* 1997-IV, regarding the use of the word “idiot”, and, to converse effect, *Pakdemirli v. Turkey*, no. 35839/97, § 46, 22 February 2005). Furthermore, the Court holds that it was also not a case of hate speech, since it did not incite to hatred or violence against a religious group or denigrate such a group's convictions and beliefs (cf. *Pavel Ivanov v. Russia* (dec.), no. 35222/04, 20 February 2007).

76. As regards the method used for producing the documentary, the Court considered that the use of hidden cameras should be restricted as a matter of principle, since that technique is highly intrusive and flouts the right to respect for private life. Nevertheless, the Court is aware of the importance of covert investigative methods for the production of certain types of documentaries. In some cases journalists are obliged to use hidden cameras, for instance where information is difficult to obtain by any other means (cf. *De La Flor Cabrera*, cited above, § 40, which concerned a video recording which had been made without the filmed person's consent in order to gather evidence in judicial proceedings). However, this facility must be used as a last resort, sparingly, and in compliance with the relevant codes of ethics.

77. As regards the balancing of competing rights, the Court reiterates the criteria mentioned in paragraph 69 above, and in particular the contribution to a debate of general interest, the degree to which the person affected was well known, the subject of the report, and the form and consequences of the publication.

78. In that framework, it first of all observes that the applicant had not himself sought any public exposure beyond placing an advertisement in a newspaper. He could not have suspected that by talking to the person who had contacted him and to that person's friends he was running a risk of public criticism. He quite legitimately thought he was dealing with private individuals who were merely interested in Christianity.

79. On that point, the Government's argument that the applicant was himself a journalist and that the limits of freedom of expression with regard to the latter were wider than in the case of a private individual must be rejected. Although the applicant was indeed the Turkey correspondent for an Australian newspaper, he was completely unknown to the Turkish general public and was not acting in his capacity as a journalist.

80. As regards the potential contribution to a public-interest debate of broadcasting images of the applicant, the Court sees nothing in the impugned documentary or in the parties' observations to substantiate any general-interest reasons for the journalists' decision to transmit the images of the applicant without taking any particular precautions, such as masking his face (see, in that regard, *Peck v. the United Kingdom*, no. 44647/98, § 80, ECHR 2003-I). As regards, in particular, the fact that the applicant was not well known, there is nothing to suggest that the said transmission had any inherent informative value or had been properly and adequately used (see, *mutatis mutandis*, *Gurgenidze v. Georgia*, no. 71678/01, §§ 59 and 60, 17 October 2006)

81. Under those conditions, broadcasting the images of the applicant without taking any precautions cannot be regarded as contributing to any debate of general interest to society, however great the social interest in the issue of religious proselytism.

82. In that connection, the Court reiterates that in the case of *Haldimann*, cited above, which concerned sanctions imposed on journalists for broadcasting a hidden-camera recording of an alleged negotiation between an insurance broker and a journalist, the Court found a violation of the applicants' right to freedom of expression. In order to reach that finding it had considered decisive the fact that the applicants had pixellated the broker's face and distorted his voice (see paragraph 65 of the judgment in question).

83. Moreover, the Court notes that none of the domestic courts would appear to have assessed this latter point, that is to say the contribution to the public-interest debate of broadcasting images of the applicant without blurring them.

84. Having regard to all the foregoing considerations and despite the State's margin of appreciation in this sphere, the Court considers that, as regards the transmission of unpixellated and unblurred images of the applicant, the Turkish courts had failed to strike a fair balance between the competing interests. Their manner of dealing with the case had therefore failed to provide the applicant with adequate and effective protection for his image rights and therefore his private life.

85. There was accordingly a violation of Article 8 of the Convention.

...

#### IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

93. 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."

94. The applicant claimed 43,200 US dollars (USD) in respect of the pecuniary damage which he had sustained, which amount he itemised as follows:

- USD 250 in respect of hotel accommodation expenses for his wife and children immediately following the transmission of the documentary;
- USD 200 in respect of a month's rent for his apartment, which had been paid in advance to no avail;
- USD 1,500 for a deposit on the lease of a new apartment;
- USD 2,000 in legal fees;
- USD 400 for settlement in Bulgaria following his expulsion;
- USD 4,300 for resettlement in Australia;
- USD 12,000 in respect of loss of earnings during his stay in Bulgaria;
- USD 22,000 in respect of loss of earnings for the year 2000.

95. Furthermore, he claimed 100,000 euros (EUR) in respect of non-pecuniary damage and EUR 5,000 in respect of his legal representation before the Court.

96. The Government contested all those claims. They considered that there was no causal link between the violation and the alleged pecuniary damage. As regards non-pecuniary damage, they considered that the finding of a violation was sufficient just satisfaction. As regards costs and expenses, they invited the Court to dismiss the claim as unsubstantiated.

97. The Court sees no causal link between the violation and the alleged pecuniary damage and dismisses that claim. On the other hand, it holds that the applicant should be awarded EUR 7,500 in respect of non-pecuniary damage.

98. As regards costs and expenses, the Court observes that in order for the latter to be included in an award under Article 41 of the Convention, it must be established that they were actually and necessarily incurred and reasonable as to quantum (see, among other authorities, *Nikolova v. Bulgaria* [GC], no. 31195/96, § 79, ECHR 1999-II). Furthermore, Rule 60 § 2 of the Rules of Court provides that itemised particulars of any claim made under Article 41 of the Convention must be submitted, together with the relevant supporting documents or vouchers, failing which the Court may dismiss the claim in whole or in part (see *Zubani v. Italy* (just satisfaction), no. 14025/88, § 23, 16 June 1999).

99. In the present case, the Court notes that the applicant's claim is not accompanied by any voucher. It therefore cannot accept it.

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

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 8 admissible ...;
2. *Holds* that there has been a violation of Article 8 of the Convention;
3. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the sum of EUR 7,500 (seven thousand five hundred euros) in respect of pecuniary damage;
  - (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;

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

Done in French, and notified in writing on 13 October 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith  
Registrar

András Sajó  
President