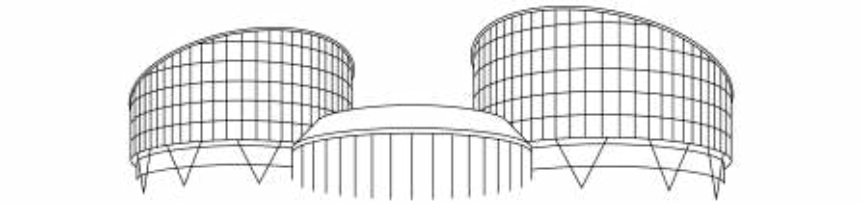

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF ANTONYAN v. ARMENIA

(Application no. 3946/05)

JUDGMENT

STRASBOURG

2 October 2012

FINAL

02/01/2013

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Antonyan v. Armenia,

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

Josep Casadevall, *President,*
Egbert Myjer,
Corneliu Bîrsan,
Alvina Gyulumyan,
Luis López Guerra,
Nona Tsotsoria,
Kristina Pardalos, *judges,*
and Santiago Quesada, *Section Registrar,*

Having deliberated in private on 11 September 2012,

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

PROCEDURE

1. The case originated in an application (no. 3946/05) against the Republic of Armenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Armenian national, Ms Venera Antonyan ("the applicant"), on 17 January 2005.

2. The applicant, who had been granted legal aid, was represented by Ms N. Karapetyan, a lawyer practising in Hoenheim, France. The Armenian Government ("the Government") were represented by their Agent, Mr G. Kostanyan, Representative of the Republic of Armenia at the European Court of Human Rights.

3. The applicant alleged that the Armenian authorities, by refusing to cancel the registration at her flat of her late niece's two children and requiring her to pay them compensation in order to terminate their right of use of accommodation in respect of that flat, interfered with the peaceful enjoyment of her possessions, as guaranteed by Article 1 of Protocol No. 1.

4. On 2 February 2007 the application was communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1937 and lives in Yerevan. She is a second-degree disabled person.

6. On an unspecified date during the Soviet period, the State allocated to the applicant a flat in Yerevan on the right of tenancy.

7. In 1981 the applicant's niece, who had moved to Yerevan to study, obtained registration at the applicant's flat with the latter's consent. In 1986 she moved back to the town of Hrazdan without cancelling her registration. In 1989 the applicant's niece was married, and she gave birth to two children in 1989 and 1991 respectively. Upon the applicant's consent, the children were also registered at the applicant's flat so that they could receive medical care from her address.

8. On 11 February 1993 the applicant acquired ownership of the flat, which was notarised on 19 February 1993.

9. In 1996 the applicant's niece passed away. Her registration at the applicant's flat was subsequently cancelled.

10. On 26 December 2003 the applicant applied to the Kanaker-Zeytun District Police Department of Yerevan (hereafter the District Police Department) seeking to cancel the children's registration.

11. By a letter of 20 January 2004 the District Police Department informed the applicant of its refusal to cancel the children's registration on the ground that, according to the relevant rules, the registration of minors could be cancelled only together with the cancellation of the registration of one of their parents; upon an application by the parents or the children's lawful representatives; in connection with studies; or upon a relevant court order.

12. On an unspecified date, the applicant contested this refusal before the courts, seeking to oblige the District Police Department to deregister the children and claiming that the latter had never lived in her flat.

13. On 15 March 2004 the Arabkir and Kanaker-Zeytun District Court of Yerevan dismissed the applicant's complaint, finding that the refusal was lawful as the District Police Department had acted in accordance with Government Decree no. 821 of 25 December 1998. According to the text of the judgment, the parties had been duly notified of the hearing but had failed to appear. According to the applicant, she was not notified of that hearing.

14. On 25 March 2004 the applicant lodged an appeal.

15. On 8 June 2004 the Civil Court of Appeal dismissed the applicant's appeal on the same ground. According to the text of this judgment, the applicant and her representative made oral submissions at the court hearing. According to the applicant, neither she nor her representative was given the

opportunity to make any oral submissions. It further appears that the children's father was present at the appeal hearing and petitioned to dismiss the applicant's claim.

16. On an unspecified date, the applicant lodged an appeal on points of law.

17. On 23 July 2004 the Court of Cassation dismissed her appeal finding that:

> "According to Article 225 of the Civil Code, if no agreement is reached regarding the termination of the right of use of accommodation, this right can be terminated upon the owner's request through court proceedings by paying compensation equivalent to the market value.
>
> In such circumstances, the arguments raised in the appeal on points of law are unsubstantiated, since the right of use of accommodation enjoyed by [the children] can be terminated only in accordance with Article 225 of the Civil Code..."

II. RELEVANT DOMESTIC LAW

A. The Housing Code of 1982 (no longer in force from 26 November 2005)

18. According to Article 4, apartment buildings and accommodation in other constructions situated on the territory of Armenia comprise the housing fund.

19. According to Article 9, citizens are entitled to receive accommodation in houses of the State and the public housing fund through a prescribed procedure.

20. According to Article 49, on the basis of the decision to allocate accommodation in a building of the State or public housing fund, the relevant executive committee shall provide the citizen with an order which shall serve as the sole basis for occupying the allocated accommodation.

21. According to Article 51, the accommodation tenancy agreement in respect of the buildings of the State and public housing fund shall be concluded in writing, on the basis of the accommodation order, between the lessor, namely, the organisation managing the maintenance of the building, and the tenant, namely, the citizen in whose name the voucher has been provided. Accommodation in the buildings of the State and public housing fund shall be used in accordance with the accommodation tenancy agreement.

22. According to Article 53, the tenant's family members who live with him shall equally enjoy all the rights and bear all the responsibilities stemming from the accommodation tenancy agreement.

23. According to Article 54, the tenant's family members include his spouse, their children and parents. Other individuals may be recognised as the tenant's family members, if they live with the tenant and run a common household.

24. According to Article 55, the tenant has the right, with the consent of members of the family residing with him, to accommodate his spouse, children, parents and other persons in the accommodation occupied by him. Persons who have been accommodated in the accommodation according to this Article shall acquire the right of use of that accommodation equally with other persons residing there, unless some other agreement has been reached, at the time when these persons were accommodated, between the tenant and members of his family residing with him.

25. According to Article 59, in case of the tenant's or his family member's temporary absence, the accommodation shall be kept for them for a period not exceeding six months. A person may lose his right of use of accommodation by a court decision as a result of being absent for a period exceeding the prescribed time-limit on the basis of an application filed by the tenant or other permanent users of the accommodation in question.

B. The Civil Code (in force from 1 January 1999)

26. According to Article 23 § 2, the place of residence of minors under the age of fourteen shall be considered the place of residence of their lawful representatives, such as, *inter alia*, their parents.

27. According to Article 163 § 1, the right of use implies the possibility afforded by law to reap the useful natural qualities of a property and to "benefit" from it.

28. According to Article 225 § 1, as in force at the material time, the family members of the owner of accommodation and other individuals have the right to use the accommodation, if that right has been registered in accordance with the procedure prescribed by the Law on the State Registration of Property Rights.

29. According to Article 225 § 2, as in force at the material time, the right of use of accommodation shall originate, be implemented and terminated through a notarised written agreement with the owner. If no agreement is reached regarding the termination of the right of use of accommodation, this right can be terminated upon the owner's request through court proceedings by paying compensation equivalent to the market value.

30. In accordance with Article 225 § 4, as in force at the material time, a person enjoying the right of use of accommodation can demand that any person, including the owner, eliminate the breaches of his right in respect of the accommodation.

C. Decree no. 272 of the Council of Ministers of the Armenian Soviet Socialist Republic and the Armenian Republican Council of Trade Unions adopted on the Sale of Flats in Buildings of the State and Public Housing Fund to Citizens as Private Property (13 June 1989)

31. According to Paragraph 20, flats in buildings of the State and public housing fund shall be sold as private property to the tenants of the flats in question and their family members indicated in Article 54 of the Housing Code, if there is written consent from all the adult family members. The flat may be sold to them as a common property, if they so wish.

D. Government Decree no. 821 of 25 December 1998 Approving the Regulations of the Passport System of Armenia and the Description of Passport of a Citizen of Armenia (in force from 25 December 1988)

32. According to Paragraph 20, as in force at the material time, registration and deregistration of citizens shall be implemented for the purpose of ensuring necessary conditions for the enjoyment by them of their rights and freedoms as well as for the performance of their obligations before the State and other citizens.

33. According to Paragraph 21, as in force at the material time, citizens shall be registered at only one address at their temporary or permanent place of residence.

34. According to Paragraph 22, as in force at the material time, accommodation in respect of which a citizen does not have the right of ownership, tenancy or sub-tenancy, and which is not his permanent place of residence shall be considered his temporary place of residence.

35. According to Paragraph 23, as in force at the material time, the place where a citizen lives permanently or predominantly shall be considered his permanent place of residence.

36. According to Paragraph 29, a citizen's application to be registered at a temporary place of residence can be refused if there is no written consent from, *inter alia*, the owner of the accommodation. Minor children shall be registered, irrespective of whether there is written consent from the owner, at the place of registration of one of the parents or their lawful representative.

37. According to Paragraph 39, the registration of minors below the age of sixteen who live with their parents shall be made through a relevant entry in the accommodation card or the parent's registration card on the basis of the parents' identity documents and the minor's birth certificate.

38. According to Paragraph 44, the registration of citizens registered at a temporary or permanent place of residence shall be cancelled in case of,

inter alia, change of place of residence, death, or if the documents and information which served as a basis for the registration were false. The authorities in charge of registration shall cancel the citizen's registration at the permanent place of residence on the basis of documents within three days and make a relevant entry in his passport.

THE LAW

I. SCOPE OF THE CASE

39. The Court notes that on 12 September and 13 October 2007 the applicant, in her observations on the complaint under Article 1 of Protocol No. 1, also alleged a violation of her rights under Article 6 and 8 of the Convention.

40. In the Court's view, these new complaints are not an elaboration of the applicant's original complaints raised in the application form lodged with the Court more than two years before. The Court considers, therefore, that it is not appropriate now to take these matters up in the present context (see *Skubenko v. Ukraine* (dec.), no. 41152/98, 6 April 2001).

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1

41. The applicant complained that the Armenian authorities, by refusing to cancel the children's registration at her flat and requiring her to pay them compensation in order to terminate their right of use of accommodation in respect of the flat, interfered with the peaceful enjoyment of her possessions. In this respect, she invoked Article 1 of Protocol No.1, which reads 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."

A. Admissibility

42. The Government submitted that the applicant failed to exhaust the domestic remedies. In particular, they claimed that, despite the fact that the applicant alleged a violation of her right to the peaceful enjoyment of her possessions because the children of her late niece enjoyed a right of use of accommodation in respect of her flat, the proceedings instituted by her before the domestic courts concerned exclusively the issue of cancelling their registration. However, a right of use of accommodation originated from the moment of state registration of that right, in accordance with the procedure prescribed by law, and not from the moment of obtaining registration at a flat. In addition, the only body competent to terminate that right was a court. This was in fact mentioned by the Court of Cassation in its decision of 23 July 2004, in which it informed the applicant about a possibility to restore her property right by instituting separate court proceedings. Hence, the applicant did not avail herself of the only effective remedy under the domestic law to terminate the children's alleged right of use of accommodation in respect of her flat. Moreover, it was still open for the applicant to apply to a court and to restore her rights through the court proceedings as suggested by the Court of Cassation.

43. The applicant claimed that she had exhausted all the domestic remedies by lodging a claim against the unlawful acts of the state officials.

44. The Court would like to note at the outset that the finding that the children of the applicant's late niece enjoyed a right of use of accommodation in respect of the applicant's flat was made by the Court of Cassation in the proceedings concerning the lawfulness of the refusal by the District Police Department to deregister the children from the applicant's flat (see paragraph 17 above). The applicant, when lodging the present application with the Court, expressed her grievances with the general situation in which she had found herself, namely the refusal by the authorities to cancel the children's registration at her flat and the requirement, made therewith, that she pay compensation to the children in order to terminate their right of use of accommodation in respect of her flat. Hence, contrary to what the Government suggested, the applicant complained of a violation of her right to the peaceful enjoyment of her possessions not just because the children of her late niece had been found to enjoy a right of use of accommodation in respect of her flat, but in the context of, and because of, the refusal by the authorities to cancel the children's registration at her flat.

45. Having said this, the Court further considers that the Government's claim of non-exhaustion is closely linked to the substance of this complaint and should therefore be joined to the merits.

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. Whether there was an interference with the applicant's right to the peaceful enjoyment of her possessions

(a) The parties' submissions

47. The applicant claimed that there had been an interference with the peaceful enjoyment of her possessions. In particular, she could not rent out her flat because of the fact that the children were registered there.

48. The Government submitted that there had been no interference with the applicant's possessions since the proceedings instituted by the applicant concerned exclusively the issue of cancelling the children's registration at her flat. In this respect, the Government reiterated that, under Armenian law, the registration of a person at a flat by a passport section of the police did not serve as a legal basis for establishing any property rights in respect of that flat. In particular, registration at the police was nothing but a system of data on permanent, temporary or factual place of residence kept to promote an effective realisation of citizens' rights and freedoms such as, for example, to vote in an election or to be served a court summons. As to the right of use of accommodation, such right originated only from the moment of its state registration in a manner prescribed by law. Besides, the applicant's allegation that she was unable to rent out her flat was groundless since there was no evidence in the case indicating that she was ever deprived *de jure* or *de facto* of the possibility to do so.

(b) The Court's assessment

49. The Court reiterates that the essential object of Article 1 of Protocol No. 1 is to protect a person against unjustified interference by the State with the peaceful enjoyment of his or her possessions. However, by virtue of Article 1 of the Convention, each Contracting Party "shall secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention". The discharge of this general duty may entail positive obligations inherent in ensuring the effective exercise of the rights guaranteed by the Convention. In the context of Article 1 of Protocol No. 1, those positive obligations may require the State to take the measures necessary to protect the right of property (see *Broniowski v. Poland* [GC], no. 31443/96, § 143, ECHR 2004-V).

50. In the present case, the applicant complained that the Armenian authorities, by refusing to deregister the children of her late niece from her

flat and requiring her to pay them compensation in order to terminate their right of use of accommodation in respect of the flat, interfered with the peaceful enjoyment of her possessions. Hence, the Court considers that the present case concerns a dispute which falls into the sphere of public law and administrative discretion as opposed to private law. In this sense, the question of possible interference is closely linked to the further examination of the merits of the complaint. Therefore, the Court must examine as a whole the applicant's complaint concerning a violation of her right to the peaceful enjoyment of possessions due to the impossibility to deregister the children from her flat.

51. As to the nature of the interference, the Court notes that there was no deprivation of property in the present case. Furthermore, the children's continued registration at the applicant's flat did not amount *de jure* to a control of use of property since Armenian legislation did not impose any restrictions in this respect on the applicant's ownership rights. It must be noted that the applicant had failed to submit any proof in support of her allegation that she had been unable to rent out her flat. On the other hand, the children's continued registration at the applicant's flat against her will can be considered as causing considerable annoyance to the applicant as the owner of the flat and therefore, by itself, requiring protection under Article 1 of Protocol No. 1. Moreover, the children's continued registration can be considered as *de facto* depriving the applicant of a realistic opportunity to sell her flat to another person. In such circumstances, the Court finds that the alleged interference with the applicant's right to the peaceful enjoyment of her possessions must be considered as falling under the first sentence of the first paragraph of this Article, namely the peaceful enjoyment of possessions.

2. Whether the interference was justified

(a) Lawfulness

52. The applicant submitted that the refusal to cancel the registration of the children at her flat was unlawful as Government Decree no. 821 did not envisage such ground for refusing removal from the register. Similarly, the Court of Cassation's findings that the children enjoyed the right of use of accommodation and that she had to pay them compensation in order to terminate that right were unsubstantiated as they were in contradiction of Articles 54 and 59 of the House Code and the above Government Decree.

53. The Government did not make any submissions in this respect.

54. The Court reiterates that the first and most important requirement of Article 1 of Protocol No. 1 is that any interference by a public authority with the peaceful enjoyment of possessions should be lawful (see *Iatridis v. Greece* [GC], no. 31107/96, § 58, ECHR 1999-II). However, the existence of a legal basis is not in itself sufficient to satisfy the principle of

lawfulness, which also presupposes that the applicable provisions of domestic law are sufficiently accessible, precise and foreseeable in their application. That principle also requires the Court to verify whether the way in which the domestic law is interpreted and applied by the domestic courts produces consequences that are consistent with the principles of the Convention (see, for example, *Apostolidi and Others v. Turkey*, no. 45628/99, § 70, 27 March 2007).

55. In the present case, the letter of the District Police Department sent to the applicant did not indicate any legal ground on which its refusal to deregister the children was based, but only stated that "according to the relevant rules, the registration of minors could be cancelled only together with the cancellation of the registration of one of their parents; upon an application by the parents or the children's lawful representatives; in connection with studies; or upon a relevant court order" (see paragraph 11 above). The Arabkir nor Kanaker-Zeytun District Court of Yerevan and the Civil Court of Appeal, when dismissing the applicant's claim against the District Police Department, found that the latter's refusal was lawful as based on the Government Decree no. 821 (see paragraphs 13 and 15 above). In turn, as was already mentioned above, the Court of Cassation found that the applicant's appeal on points of law was unsubstantiated since the children enjoyed a right of use of accommodation in respect of the applicant's flat and that the applicant could institute proceedings in accordance with Article 225 of the Civil Code in order to terminate their right of use of accommodation by paying them compensation.

56. The Court notes that no concrete provision of the above Decree was specified by the domestic courts when dismissing the applicant's claim against the police. Instead, for considering that the refusal was lawful, the domestic courts made a general reference to the above Decree. In this respect, the Court would like to point out that the Government Decree no. 821 contains no provision explicitly prohibiting deregistering children from one's flat on the grounds as mentioned in the letter of 20 January 2004.

57. Besides, the Court of Cassation, in turn, when dismissing the applicant's appeal on points of law, did not bring any reasons for considering that the children enjoyed a right of use of accommodation in respect of the applicant's flat. The Court observes that Armenian legislation did not – and does not – link one's registration at a domicile with the establishment of a right of use of accommodation in respect of that domicile by such person. This was in fact maintained by the Government in their observations. In particular, in accordance with Article 225 § 2 of the Civil Code, a right of use of accommodation could originate only through conclusion of a written agreement with the owner (see paragraphs 28 and 29 above). There was no such agreement between the applicant and the children in the present case. Moreover, before the entry into force of the

Civil Code in 1999, the right of use of accommodation was conferred by virtue of being accommodated at a given flat, as provided for by Article 55 of the Housing Code. However, as it was established in the present case, the children had never resided in the applicant's flat. Hence, it cannot be assumed that the children enjoyed the right of use of accommodation by virtue of the Housing Code either.

58. It can therefore be concluded that both the refusal by the police to deregister the children from the applicant's flat and the requirement to pay them compensation in order to terminate their right of use of accommodation in respect of the flat in question lacked a clear legal basis. Having reached such conclusion, the Court accordingly considers that the applicant was not required to institute separate proceedings in accordance with Article 225 § 2 in order to terminate the children's right of use of accommodation by paying them compensation. The Government's corresponding objection as to non-exhaustion must be therefore dismissed.

59. In general, the Court would like to point out separately that, despite indicating that the registration of minors could be cancelled only together with the cancellation of the registration of one of their parents, neither the District Police Department nor the domestic courts took into account that the children's registration had not in fact been cancelled together with the cancellation of the registration of their mother at the applicant's flat back in 1996, while the children had been living together with their father at his place of residence in another town.

60. Based on the foregoing, the Court considers that the manner in which the Armenian authorities refused to cancel the registration of the children at the applicant's flat, namely by making a general reference to Government Decree no. 821 and requiring her to pay them compensation in order to terminate their alleged right of use of accommodation in respect of the flat, resulted in an unforeseeable application of the domestic law and therefore failed to comply with the principle of lawfulness and the rule of law. It follows that the interference with the applicant's right to the peaceful enjoyment of her possessions was not provided for by law.

61. Accordingly, there was a violation of Article 1 of Protocol No. 1.

III. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

62. The applicant complained under Article 6 of the Convention that the trial was unfair since she had not been notified of the hearing before the Arabkir and Kanaker-Zeytun District Court of Yerevan and had not been given an opportunity to make oral submissions before the Court of Appeal.

63. Having regard to all the material in its possession, and in so far as this complaint falls within its competence, the Court finds that it does not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application

must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

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

64. The applicant claimed EUR 8,060 in respect of pecuniary damage which she calculated on the basis of lost income for flat rent. She further claimed EUR 100,000 in respect of non-pecuniary damage required for recovery of her poor health. In this respect, she claimed that she had developed illnesses as a result of the suffering and stress sustained in relation to the violation of her rights.

65. The Government submitted that the applicant's claim in respect of pecuniary damage had to be dismissed since there was no violation of her rights, because she had not been deprived either *de jure* or *de facto* of an opportunity to rent her flat and since there was no causal link between the violation alleged and the pecuniary damage claimed. The same criteria had to be applied in respect of non-pecuniary damage since the applicant, by claiming it, was in fact seeking compensation for medical treatment, which in essence constituted pecuniary damages. Furthermore, the applicant had not adduced any evidence in support of her allegation that her health problems had been linked to the alleged violation of her rights under the Convention. In any event, she had not produced any documentary evidence to substantiate the amount of non-pecuniary damage claimed.

66. The Court notes that there is nothing in the case file to indicate that the applicant could not rent out her flat due to the children's registration there. There is therefore no causal link between the violation found and the applicant's claim for lost earnings. Hence, the applicant's claim for pecuniary damage must be dismissed. At the same time, the Court takes the view that the applicant has suffered non-pecuniary damage as a result of the impossibility to deregister her nephews from her flat. Ruling on an equitable basis, it awards the applicant EUR 3,000 in that respect.

B. Costs and expenses

67. The applicant claimed a total of EUR 1,111 for the costs and expenses including EUR 522 for the legal, notary and court fees as well as transportation costs and different administrative costs, such as postal, typewriting and photocopying incurred during the domestic proceedings and EUR 589 for legal and notary fees as well as postal and translation fees incurred before the Court.

68. The Government claimed that the applicant had failed to submit any evidence that those expenses had been actually incurred. Besides, as regards the payments to the legal representative and expenses incurred in relation to the submission of the application to the Court, the applicant failed to prove that those were necessary and reasonable.

69. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In this respect, the Court notes that the applicant had failed to submit any documentary proof substantiating her claims for costs and expenses. In any event, the applicant had been granted legal aid by the Court. The Court therefore decides not to make any award to the applicant under this head.

C. Default interest

70. 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. *Decides* to join to the merits the Government's objection as to non-exhaustion of domestic remedies and rejects it;

2. *Declares* the complaint concerning an interference with the applicant's right to the peaceful enjoyment of her possessions admissible and the remainder of the application inadmissible;

3. *Holds* that there has been a violation of Article 1 of Protocol No. 1;

4. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 2 October 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President