

CASE OF TRETIK v. UKRAINE (European Court of Human Rights) Application no. 16215/15

by admin • December 29, 2020

INTRODUCTION. The applicant complained, invoking Articles 3, 9, 14 and 18 of the Convention, that the authorities had failed to conduct an effective investigation into an attack on him which he believed had been caused by animosity towards him as a Jehovah's Witness.

FIFTH SECTION
CASE OF TRETIK v. UKRAINE
(Application no. 16215/15)
JUDGMENT
STRASBOURG
17 December 2020

This judgment is final but it may be subject to editorial revision.

In the case of Tretiak v. Ukraine,

The European Court of Human Rights (Fifth Section), sitting as a Committee composed of:

Arnfinn Bårdsen, President,
Ganna Yudkivska,
Mattias Guyomar, judges,
and Martina Keller, Deputy Section Registrar,

Having regard to:

the application (no. 16215/15) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Ukrainian national, Mr Oleksandr Anatoliyovych Tretiak ("the applicant"), on 9 March 2015;

the decision to give notice of the application to the Ukrainian Government ("the Government");

the parties' observations;

Having deliberated in private on 26 November 2020,

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

INTRODUCTION

1. The applicant complained, invoking Articles 3, 9, 14 and 18 of the Convention, that the authorities had failed to conduct an effective investigation into an attack on him which he believed had been caused by animosity towards him as a Jehovah's Witness.

THE FACTS

2. The applicant was born in 1972 and lives in Kamenolomna in the Autonomous Republic of Crimea. The applicant was represented by Mr K. Chernychenko and Mr A. Carbonneau, lawyers practising in Lviv and Paris respectively.

3. The Government were represented by their Agent, Mr I. Lishchyna.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

5. At the relevant time the applicant, who is from Crimea, was living temporarily in Strizhavka, a village in the Vinnytsya District (that is to say the suburbs of the city of Vinnytsya, the centre of the eponymous region) and was working for the Jehovah's Witnesses organisation there.

6. On the evening of 26 November 2013 the applicant was attacked on his way home in the street where he lived. According to the applicant, he was returning home after making visits around the village on behalf of the Jehovah's Witnesses when he was attacked.

7. According to the applicant, three individuals took part in the attack. From the assailants' conversation with each other the applicant was able to gather that the ringleader was called Ruslan and the second individual was called Yevgen. Other Jehovah's Witnesses, who knew the residents of the street where the applicant was attacked, identified Ruslan as Ruslan I. and Yevgen as Yevgen I., who both lived in houses near the site of the attack (see paragraph 10 below). The third person who had been present at or nearby the site of the incident was subsequently identified as A.D., Yevgen I.'s father-in-law. At the time in question Yevgen I. was an inspector at the Vinnytsa city traffic police office; according to the applicant, he had previously served as a neighbourhood police officer in the village where the attack occurred. According to the applicant, A.D. had previously served in correctional institutions.

8. The applicant believes that the attack was motivated by religious hatred. In his submissions before the Court he described the sequence of events in the following terms. Ruslan I. and A.D. stopped the applicant. They smelled of alcohol. Ruslan I. hit the applicant on the head, while A.D. urged him on. The applicant thought that he had been mistaken for someone else. Accordingly, he said that he was a Jehovah's Witness, but the attack did not stop. Ruslan I. continued hitting him, knocked him to the ground and kicked him. The applicant tried to escape but Ruslan I. pushed him

against the fence. A.D. blocked his escape. Then Yevgen I. joined the attack urging: “Let’s finish him off!” He then held the applicant, shouting: “Get out of here – all of you!” (Убирайтесь отсюда, чтобы вас тут больше не было). The applicant interpreted the plural reference in that statement as referring to all the Jehovah’s Witnesses in the village. Ruslan I. left to get a bat, returned and started hitting the applicant with it on his head and legs. The applicant eventually managed to break off and ran away.

9. The applicant was admitted to hospital that same evening and was treated there until 10 December 2013. He was diagnosed with a broken nose, concussion, injuries to the brow, ear, lip and knees and bruising around an eye. The nose and head injuries were sutured. On 24 January 2014 a panel of forensic medical experts classified those injuries as “minor bodily injuries”, as defined in the domestic regulations – meaning that they had not been life-threatening at the time of infliction but rendered the applicant unfit to work for a period of between six and twenty-one days. The experts concluded that the injuries could have been inflicted either with a fist or with another blunt object.

10. At 10 p.m. on 26 November 2013 the police questioned the fellow Jehovah’s Witnesses who had accompanied the applicant to the hospital. On the basis of their knowledge of the people who lived on the street where the attack had taken place they identified “Ruslan” and “Yevgen” as being possibly Ruslan I. and Yevgen I. (see paragraph 7 above).

11. On 27 November 2013 the police interviewed the applicant in the hospital. He said that, from the conversation that he had overheard between the attackers he had learned that the first names of two of them were Ruslan and Yevgen. He said that he did not know why he had been attacked and that when he had asked the attackers why they were hitting him they had not responded.

12. On 28 November 2013 the police questioned Yevgen I. He stated that on the day of the incident he had seen his neighbour, Ruslan I., attack a stranger. Ruslan had said that the stranger was a “sex maniac” (маньяк) who was wandering around the village disturbing women and children and that he had intended to teach him a lesson. Yevgen had told Ruslan to leave the man alone; Ruslan I. had complied and had gone back to his house. Then Yevgen I. had gone home himself. However, on his way home he had noticed that Ruslan I. had returned and was pursuing the stranger.

13. On 3 December 2013 the police questioned Mr L., a fellow Jehovah’s Witness and, apparently, the applicant’s roommate and the first person who had spoken to him after the attack. L. recounted to the police the account of events the applicant had given him immediately after the incident. The applicant had told L. that he had been beaten up by “an unknown man” (незнайомий йому чоловік) named Ruslan. He had first punched him and had then gone into a house and got a bat with which he had continued to hit the applicant. Another unknown man had held the applicant, preventing him from escaping, and yet another man had stood nearby. After the first man had gone into the house to get the bat the second one had asked the applicant where he was from and what he was doing in the village. After hearing the response, the second man had told the applicant to get out.

14. On 6 December 2013 A.D. was questioned by the police and stated that on the night of the incident he had seen Ruslan I. beating up a stranger. A.D. had told his son-in-law, Yevgen I., and Yevgen had gone to see what was going on. He had then returned in two to three minutes and but had said nothing about the incident.

15. On 11 December 2013 the police questioned the applicant. He gave a brief statement to the effect that at about 7 p.m. on 26 November he had been attacked by residents of the village on his way home. The applicant had later learned that the assailants had been Ruslan I., Yevgen I. and A.D. It was his understanding that the attack had been religiously motivated because when he had told them “You are probably mistaken, I am a Jehovah’s Witness – a person who has done nothing wrong” (Ви напевне помилилися, я є Свідком Єгови – людиною, яка не спричинила нічого поганого) they had started saying “Get out of here, do not preach here.” Those people had injured the applicant in the head. The

applicant stated that he was only prepared to give evidence to an investigator of the regional prosecutor's office, since law-enforcement officers had been involved in the crime.

16. On 5 and 12 December 2013 and 30 January 2014 two other neighbours were questioned and stated that they had seen Ruslan I. fighting with a stranger and Yevgen I. trying to stop the attack and pull Ruslan I. off.

17. On 30 December 2013 the prosecutor in charge of supervising the investigation filed a report with his superior, the Vinnytsya district prosecutor. The report noted that the prosecutor considered the applicant's statement of 11 December to be too unspecific in respect of the respective role of each of the attackers and had invited him for additional questioning on 12 December, but that the applicant's lawyer had informed the prosecutor on 24 December that the applicant was refusing to give a statement as he did not trust the local authorities because Yevgen I. was a police officer, and insisted that the investigation be conducted by the regional prosecutor's office.

18. On 24 January 2014 the police formally charged Ruslan I. in absentia with aggravated hooliganism, an offence under Article 296 § 4 of the Criminal Code (see paragraph 36 below).

19. On 30 January 2014 the police questioned Ruslan I.'s mother, who said that her son had left on 27 November 2013 to go and work in Russia and that he had told her that he had beaten up a man. Ruslan I.'s brother stated that he knew nothing about the incident or where his brother was.

20. On 10 February 2014 the applicant lodged a complaint with the Vinnytsya District Court challenging police investigator, S., who had conducted the investigation in respect of his case. He stated that the investigator appeared to be using his position to try and exonerate Yevgen I., who had been one of the attackers and who was a police officer.

21. On 17 February 2014 the Vinnytsya City Court ordered that Ruslan I. be arrested.

22. On 24 February 2014 a wanted notice was issued in respect of Ruslan I., and the search for him was entrusted to the Vinnytsya District Police Department.

23. In February 2014 the police investigator filed two reports with his superiors informing them that he had been unable to reach the applicant at his declared address in Strizhavka, and that the applicant was receiving medical treatment in Crimea and was refusing to cooperate, insisting that the investigation only be conducted by the regional prosecutor's office.

24. On 28 February 2014 the police investigator examined the crime scene and drew up a report to that effect.

25. The investigation was suspended on the same day pending a search for Ruslan I.

26. According to two police reports filed in March 2014 the police questioned Ruslan I.'s family as to his whereabouts and tried to find additional witnesses; both efforts were to no avail.

27. On an unspecified date the Border Guard Service informed the police, in response to a police request dated 12 February 2014, that Ruslan I. had crossed Ukraine's border with Russia at 11 p.m. on 27 November 2013 and on 25 February 2014.

28. On 20 June 2014 the prosecutor's office informed the applicant that it did not consider that there was proof that Yevgen I. or A.D. had been involved in the attack on him.

29. On 17 March 2017 the police questioned Ruslan I.'s brother concerning his whereabouts. The brother stated that he did not know where Ruslan was and that he had not spoken to him in three years.

30. On 13 April 2017 the Ukrainian authorities issued an international arrest warrant in respect of Ruslan I.

31. On 7 June 2017 Ruslan I. was arrested in Moscow.

32. On 12 June 2017 the Ukrainian authorities requested Ruslan I.'s extradition from Russia.

33. On 14 December 2017 the investigation was resumed. On the same day Ruslan I., who in the meantime had either been extradited or returned to Ukraine voluntarily, was questioned by the investigator. The Court has not been informed of the results of that questioning.

34. On 19 December 2017 a bill of indictment charging Ruslan I. with the offence of aggravated hooliganism was filed with the Vinnytsya District Court.

35. The applicant submitted, as proof of Yevgen I.'s involvement in the attack, the transcript of a wiretapped conversation between Yevgen I. and a certain G., a Jehovah's Witness who apparently knew both the applicant and Yevgen I. The provenance and accuracy of the transcript cannot be verified. According to the transcript, the subject of the conversation was the possibility of settling amicably the situation created by the attack on the applicant. In the course of the conversation Yevgen I. denied having attacked or held the applicant. He affirmed that Ruslan I. had been drunk and standing by his house when the applicant had been passing by; Ruslan I., being drunk, had said that the applicant was a "sex maniac" (маньяк) because he had been wearing a long leather trench coat and importuning women and children. When Yevgen I. had seen Ruslan attack the applicant, he had tried to stop him and reason with him, but to no avail.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

36. Article 296 of the Code criminalises "hooliganism" (хуліганство – sometimes also translated as "disorderly acts"), which it defines as "a serious breach of public order motivated by flagrant disrespect for society, combined with particular effrontery or exceptional cynicism". Paragraph 4 of the Article provides that, if combined with the use of an instrument adjusted specifically or constructed beforehand to inflict bodily harm, hooliganism is punishable by imprisonment for between three and seven years.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

37. The applicant complained that the authorities had failed to conduct an effective investigation into the attack on him, in breach of their obligations under Article 3 of the Convention, which reads as follows:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

38. The Government submitted that it was relevant, in determining the threshold of severity that would bring Article 3 into play, whether the treatment in question had been inflicted by a State agent or a private party. The degree of injury inflicted on the victim and the effect on him or her had to be taken into account, but injuries inflicted by private parties had to be more serious in that regard (that is to say the threshold of severity was higher) in order to fall within the ambit of Article 3. Otherwise, the burden imposed on the State by the positive obligations under Article 3 of the Convention would be unreasonable. On the basis of this approach, the treatment in issue in the present case had not attained the requisite threshold of severity to fall within the ambit of Article 3. The injuries that the applicant had suffered had had no lasting health consequences.

39. The applicant submitted that he had suffered severe, life-threatening injuries requiring surgery and a lengthy period of hospitalisation. The attack had had lasting physical and psychological consequences for him. Therefore, Article 3 was applicable.

40. The Court notes that it has been uncontested that Ruslan I. punched and hit the applicant in the face and head with a bat, resulting in the need for major surgery and a long stay in hospital. The attack occurred at night and was totally unprovoked (as opposed, for example, to injuries inflicted in the course of a mutual fight started by the victim). Such treatment was bound to create in the applicant feelings of fear, anguish, helplessness and inferiority, thus diminishing his dignity, and constituted inhuman and degrading treatment falling within the ambit of Article 3 of the Convention (compare *Aleksandr Nikonenko v. Ukraine*, no. 54755/08, §§ 7 and 40, 14 November 2013, and *Ceacir v. the Republic of Moldova*, no. 50115/06, § 47, 10 December 2013).

41. The Court notes that this part of the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

42. The applicant submitted that the authorities had failed to investigate the roles of Yevgen I. and A.D. in the incident, allegedly because they had been associated with the law-enforcement authorities. Instead of charging all three men with attempted murder, the authorities had only charged Ruslan I. with hooliganism. However, Yevgen I.'s implication in the attack had been confirmed by the recording of his conversation with the applicant's fellow Jehovah's Witness (see paragraph 35 above) and by his admission that he had seen Ruslan I. attack the applicant (see paragraph 12 above); nevertheless, contrary to his duty as police officer, he had not protected the applicant and had not reported the crime. The applicant contested the Government's submissions to the effect that he had failed to cooperate with the investigation (see paragraph 43 below); he submitted that summonses for questioning had been sent to him only after a delay and when he had been receiving treatment in Crimea, but he had nevertheless remained ready to cooperate with the investigation. The investigation had not been prompt or effective.

43. The Government submitted that the law-enforcement authorities had done all in their power to fully investigate the attack. There was no indication that the investigation had not been independent or that the applicant had been denied an opportunity to participate. He, however, had for a long time failed to cooperate with the investigation (see paragraphs 17 and 23 above). All key evidence had been collected and all essential investigative steps (forensic examinations and interviews with witnesses and potential witnesses) had been completed by March 2014. The authorities had promptly identified the perpetrator. However, his whereabouts had remained unknown for a long time, despite the authorities' efforts to find him – including putting him on the national and international lists of wanted persons and requesting his extradition from Russia.

2. The Court's assessment

(a) Relevant general principles

44. Article 3 requires authorities to conduct an effective official investigation into alleged ill-treatment inflicted by private individuals; that investigation should, in principle, be capable of leading to the establishment of the facts of the case and to the identification and punishment of those responsible. Such an investigation should be conducted independently, promptly and with reasonable expedition. The victim should be able to participate effectively (see *O'Keeffe v. Ireland* [GC], no. 35810/09, § 172, 28 January 2014).

(b) Application of the above principles to the present case

45. Three months after an eyewitness specifically identified Ruslan I. as the attacker and a month after he had formally been charged in connection with the attack, he was allowed to freely leave Ukraine for Russia (see paragraphs 12, 18 and 27 above).

46. Moreover, even though the authorities had specific information that the perpetrator had been in Russia at least since January 2014 (see paragraphs 19 and 27 above), they did not place him on the international list of wanted persons until April 2017 (see paragraph 30 above). It appears that, once that step had been taken, Ruslan I. was promptly arrested in Russia, allowing for the resumption and completion of the pre-trial investigation by December 2017 (see paragraphs 31 and 33 above).

47. Even though after Ruslan I.'s placement on the international list of wanted persons the investigation advanced rapidly, the Government have not provided any explanation for this three-year-long delay (compare *Agache and Others v. Romania*, no. 2712/02, §§ 83 and 84, 20 October 2009; *Aliyeva and Aliyev v. Azerbaijan*, no. 35587/08, §§ 78 and 80, 31 July 2014; and *Nasr and Ghaliv. Italy*, no. 44883/09, §§ 270 and 274, 23 February 2016).

48. The Court acknowledges that the authorities faced certain difficulties in obtaining the applicant's practical cooperation with the investigation. The applicant cited reasons for his failure to appear for questioning. The Court does not consider it necessary to determine which party was at fault in respect of this lack of cooperation. In any event, the Court is unable to see what meaningful progress could have been achieved in the investigation in Ruslan I.'s absence, which was due to the above-mentioned inaction on the part of the authorities.

49. As to the applicant's complaint that the authorities failed to charge Yevgen I. in connection with the attack, the Court notes that evidence on that point was contradictory, with witnesses denying his involvement in actually attacking the applicant and the applicant's own evidence apparently supporting those denials (see paragraphs 16 and 35 above). It appears that the degree of Yevgen I.'s active involvement in the attack, if any, could only be effectively investigated once Ruslan I. was available for questioning. The Court has found it established above that the authorities failed to prevent his flight to Russia and then improperly delayed taking steps to secure his arrest and extradition from that State.

50. The foregoing considerations are sufficient to enable the Court to conclude that the authorities failed to carry out an effective investigation into the ill-treatment suffered by the applicant.

51. There has therefore been a violation of Article 3 of the Convention under its procedural limb.

II. ALLEGED VIOLATION OF ARTICLE 14, TAKEN IN CONJUNCTION WITH ARTICLE 3 OF THE CONVENTION

52. The applicant, citing Article 14, taken in conjunction with Article 3 of the Convention, complained that the authorities had failed to take all reasonable steps to unmask the motive of religious hatred that he believed lay behind the attack on him. Article 14 reads:

"The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

53. The Government contested that argument.

54. The Court notes that the applicant delayed informing the authorities of the possible religious motive for the attack against him and initially claimed that he did not know the reason for it (see paragraph 10 above). His subsequent submissions on that point are also somewhat contradictory: he believed that the attack had been motivated by religious

prejudice, but at the same time he stated that it was he himself who had first identified himself as a Jehovah's Witness only after the attack had already started (see paragraph 8 above). Moreover, according to the initial account that he gave to his fellow Jehovah's Witness, L., immediately after the attack, he had never told Ruslan I., the only person who had actually hit him, that he was a Jehovah's Witness and had only communicated that information to Yevgen I. after the attack had already started and in the absence of the main attacker (see paragraph 13 above).

55. In any event, the key steps needed to investigate the applicant's suspicions concerning the alleged religious motivation for the attack (the questioning of Ruslan I. and possibly the staging of confrontations between Ruslan I. and the applicant, Yevgen I. and A.D.) required Ruslan I.'s presence. It is precisely because of the domestic authorities' delay in taking steps to apprehend Ruslan I. and make him available for questioning that the Court has found a violation of Article 3 of the Convention.

56. Accordingly, the applicant's complaint under Article 14, taken in conjunction with Article 3 of the Convention, is closely linked to his complaint under Article 3 and must, therefore, be declared admissible. However, it raises no issue requiring a separate examination.

III. ALLEGED VIOLATION OF ARTICLE 9, TAKEN ALONE AND IN CONJUNCTION WITH ARTICLE 14 OF THE CONVENTION

57. The applicant complained that the authorities had failed to react appropriately to the attack that he had suffered within the context of his religious activities. He cited Article 9, taken alone and in conjunction with Article 14 of the Convention. The former provision reads as follows:

"1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

58. The Government contested that argument.

59. The Court reiterates that the responsibility of the State may be engaged where religious beliefs are opposed or denied in a manner which inhibits those who hold such beliefs from exercising their freedom to hold or express them. In such cases the State may be called upon to ensure the peaceful enjoyment of the rights guaranteed under Article 9 to the holders of those beliefs. The Court must consider such issues in terms of the positive obligation on the State authorities (see *Begheluri v. Georgia*, no. 28490/02, § 160, 7 October 2014, and *Karaahmed v. Bulgaria*, no. 30587/13, § 93, 24 February 2015).

60. The question arising in the present case, however, is whether Article 9 can be considered applicable to the applicant's grievances to the extent that would raise a matter distinct from that examined by the Court under Article 3.

61. The applicant alleged that he was attacked when returning home after making visits around the village on behalf of the Jehovah's Witnesses (see paragraph 6 above). Even accepting his submissions in that respect, however, there is no indication that the applicant was actually engaging in any manifestation of his religion when he was attacked.

62. As the Court stated in paragraph 54 above, the circumstances of the case do not lend support to the applicant's suspicions that the attack was related to his religion.

63. The Court concludes that there is no indication that Article 9 of the Convention was applicable so as to trigger the respondent State's positive obligations under that provision.

64. Accordingly, this part of the application is incompatible with the Convention *rationemateriae* and must be rejected, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 18, TAKEN IN CONJUNCTION WITH ARTICLE 3 OF THE CONVENTION

65. The applicant alleged that the investigating authority had acted in bad faith by failing effectively to investigate the incident and by not including certain documents that he wished to be included in the domestic case file. Article 18 reads:

"The restrictions permitted under [the] Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed."

66. Even assuming that it would be appropriate to take this issue up within the context of the present proceedings and leaving aside the fact that the applicant's complaints in this respect are still pending before the domestic trial court, the Court notes that Article 18 (in conjunction with Article 3 of the Convention) has no application in respect of the instant case since a breach of Article 18 can only arise if the right or freedom at issue is subject to restrictions permitted under the Convention (see *Merabishvili v. Georgia* [GC], no. 72508/13, § 290, 28 November 2017).

67. Article 3 does not provide for such restrictions. Unlike most of the substantive clauses of the Convention, Article 3 makes no provision for exceptions and no derogation from it is permissible under Article 15 § 2, even in the event of a public emergency threatening the life of the nation (see, for example, *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 195, 13 December 2012).

68. Accordingly, this complaint must be rejected as being incompatible *rationemateriae* with the provisions of the Convention, pursuant to Article 35 §§ 3 (a) and 4.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

69. 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."

70. The applicant claimed 30,000 euros (EUR) in respect of non-pecuniary damage and EUR 6,400 in respect of costs and expenses, representing legal fees incurred in the proceedings before the domestic authorities (EUR 1,000) and the Court (EUR 5,400).

71. The Government considered that the applicant's claims were unjustified and excessive. In addition, they submitted that the claims for costs and expenses were not supported by relevant documentation.

72. The Court awards the applicant EUR 7,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

73. 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 were actually and necessarily incurred and are reasonable as to quantum. The Court observes that the applicant has provided only Mr Chernychenko's and Mr Carbonneau's invoices by way of substantiating the costs claimed. No document has been provided that would indicate that he has actually paid the

amount billed under those invoices or that he undertook and was bound to pay them. Regard being had to the documents in its possession and the above criteria, the Court makes no award under this head.

74. 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 complaints under Article 3 taken alone and in conjunction with Article 14 of the Convention admissible and the remainder of the application inadmissible;
2. Holds that there has been a violation of Article 3 of the Convention under its procedural limb;
3. Holds that the applicant's complaints under Article 14, taken in conjunction with Article 3 of the Convention, raise no issue requiring a separate examination;
4. Holds
 - (a) that the respondent State is to pay the applicant, within three months, EUR 7,500 (seven thousand five hundred 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 amount 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 17 December 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller
DeputyRegistrar

Arnfinn Bårdsen
President

← CASE OF MOCULSKIS v. LATVIA (European Court of Human Rights) Application no. 71064/12

CASE OF TRENDABILOVSKI v. NORTH MACEDONIA
(European Court of Human Rights) Application no.
59119/15 →