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

SECOND SECTION

CASE OF "IZA" LTD AND MAKRAKHIDZE v. GEORGIA

(Application no. 28537/02)

JUDGMENT

STRASBOURG

27 September 2005

FINAL

27/12/2005

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Iza Ltd and Makrakhidze v. Georgia,

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

Mr J.-P. COSTA, *President*,
Mr I. CABRAL BARRETO,
Mr K. JUNGWIERT,
Mr V. BUTKEVYCH,
Mr M. UGREKHELIDZE,
Mrs A. MULARONI,
Mrs E. FURA-SANDSTRÖM, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 6 September 2005,

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

PROCEDURE

1. The case originated in an application (no. 28537/02) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a limited liability company "Iza" ("the applicant company") and Mr Nodar Makrakhidze, a Georgian national ("the second applicant"), on 30 May 2002.

2. The applicants were represented before the Court by Mr Vladimer Kakabadze, a lawyer practising in Tbilisi. The Georgian Government ("the Government") were represented by Ms Tina Burjaliani, succeeded by Ms Ekaterine Gureshidze, the General Representative of the Georgian Government before the Court.

3. On 6 February 2004 the Court decided to communicate the applicants' complaints under Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1 to the respondent Government. On the same date, the Court decided to apply Article 29 § 3 of the Convention and to examine the merits of the complaint at the same time as its admissibility.

4. The applicants and the Government each filed observations on the merits (Rule 54A of the Rules of Court).

THE FACTS

5. The applicant company was incorporated as a limited liability company on 27 December 1995 by decision of the Kaspi District Court, Georgia. The second applicant was born in 1956 and lives in Tbilisi.

I. THE CIRCUMSTANCES OF THE CASE

6. On 23 July 1998, the second applicant, in his capacity as founder and director of the construction company "Iza" Ltd, the applicant company, signed a building repair contract with a State school. The contract provided for the transfer of 117,514 Georgian Laris ("GEL", EUR 53,892.50)[1] from the budget of the Ministry of Education onto the account of the applicant company. In exchange, the applicant company would perform repairs to the school.

7. Despite the fact that, by August 1998, the applicant company had already done some of the repairs, equivalent to 13,000 GEL (EUR 5,965)[1] the Ministry of Education only transferred 5,800 GEL (EUR 2,661)[1] to the company's account.

8. The tax authorities initiated proceedings against the applicant company and the second applicant personally, demanding taxes in the amount of 30,735 GEL (EUR 14,104)[1]. According to the applicants' submissions, the tax claim was based on the total payment due for the work performed under the contract of 23 July 1998, whilst, in reality, the applicant company only received partial payment.

9. On 23 January 2001, the Kaspi District Court partially upheld the claim of the tax authorities. While dismissing the tax claim of 26,388 GEL (EUR 12,106)[1] towards the applicant company as being unsubstantiated, the District Court, in view of the second applicant's recognition of his company's indebtedness before the State budget as of 22 April 1998 (well before the signing of the contract with the Ministry of Education), ordered the second applicant personally to pay the VAT debt of 4,347 GEL (EUR 1,994)[1].

10. As the remaining sum for the work performed under the contract of 23 July 1998 was not paid by the Ministry of Education and the tax debt of the second applicant was outstanding, according to the applicants' submissions, the applicant company could hardly continue its economic activity.

11. The applicant company, represented by the second applicant, brought proceedings against the Ministry of Education claiming the remaining 7,200 GEL (EUR 3,304)[1] for the performed work, as well as the second applicant's tax debt of 4,347 GEL (EUR 1,994)[1], given the Ministry's failure to meet its contractual obligations. By a judgment of 14 May 2001, the Didube-Chughureti District Court granted the applicant company's claims in full.

12. There was no appeal against the judgment of 14 May 2001, which therefore acquired binding force on 14 June 2001. Based on that judgment, on 2 July 2001, the District Court issued an order obliging the Ministry of

[1] Conversion rate as of 23 June 2005.

Education to pay the applicant company 11,628 GEL (EUR 5,332)[2]. However, the order remained unexecuted.

13. On 19 April 2002, the second applicant, acting again on behalf of the applicant company, requested the Execution Department of the Ministry of Justice to comply with the judgment of 14 May 2001. In response, on 13 May 2002, the Head of the Department explained that the enforcement of judgments against the State budget institutions still remained one of the most difficult tasks to accomplish for the Enforcement Authorities. No information was provided as to when exactly enforcement could be expected.

14. On 29 October 2002, the second applicant again addressed the Ministry of Justice. This time he appealed directly to the Minister of Justice, demanding the immediate implementation of the decision. This demand went unanswered.

15. On the same day, 29 October 2002, the second applicant applied to the Office of the Prosecutor General, requesting the initiation of criminal proceedings for the non-implementation of a binding judicial decision, as laid down in Article 381 of the Criminal Code. However, his request was dismissed on 27 December 2002; the Office of the Prosecutor did not find any intentional wrongdoing on the part of the authorities – the Ministry of Education, the Ministry of Finance and the Ministry of Justice – commenting that the delay had an objective reason, namely the lack of finances in the State budget. Therefore nobody could be held criminally liable.

16. On 10 November 2002, by the Notification No. 35 the Kaspi District Tax authorities imposed upon the applicant company the fine of 74,500 GEL (EUR 34,174)[2] as an accrued penalty for the second applicant's outstanding tax debt of 4,347 GEL (EUR 1,994)[2]. However, following the applicant company's judicial dispute, the Kaspi Regional Court declared the notification null and void. This decision was upheld by the Tbilisi Regional Court on 5 May 2003; along with annulment of the notification, the court instructed the tax authorities to adopt a new administrative act after comprehensive re-examination and reassessment of the facts.

17. On 24 August 2004, the Gori regional tax authorities issued a new notification imposing on the applicant company a fine of 17,061 GEL (EUR 7,825.81)[2] for the same VAT debt of the second applicant. This notification was never challenged by the applicants and is still in force.

18. The tax debt of the second applicant constitutes, at the same time, part of the judgment debt of 14 May 2001, which still has not been paid by the State, more than four years later.

[2] Conversion rate as of 23 June 2005.

19. On 2 July 2004, the Government adopted an Ordinance introducing a mechanism for the gradual payment of outstanding debts (see paragraph 26 below).

II. RELEVANT DOMESTIC LAW

20. Civil Code

Article 411 – "Damages for loss of income"

"Damage shall be compensated not only in respect of actual financial loss, but also in respect of loss of income. Loss of income is that which could have been obtained had contractual obligations been fulfilled properly."

Article 412 – "The type of harm for which damages are to be paid"

"Damages shall be paid only when the harm could have been foreseen by the party in default and there exists a causal link between the harmful action and the result."

21. Code of Civil Procedure

Article 255 § 1

"... following satisfaction of a private suit against administrative authorities, the court shall declare unlawful the administrative action or decision which infringed the litigant's rights, and order relevant measures [to restore the litigant in his rights]."

22. Law on Enforcement Proceedings of 16 April 1999, in force at the material time

Article 5 § 1

"Enforcement Agents working at Executive Bureaus [of the Ministry of Justice] are responsible for the execution of the decisions foreseen in this law".

Article 17 §§ 1 and 9

"An Enforcement Agent's requests relating to his professional activities are equally binding on any natural or legal person irrespective of their hierarchical or juridical-organisational status.

In case of a delay in execution, partial execution or any other circumstances that impede proper execution, the Enforcement Agent shall apply to the Enforcement Department of the Ministry of Justice for a solution. Any disagreement with the

resolution reached by the Enforcement Department in this respect should be clarified by a court."

Article 92 § 1 (as amended on 12 May 2000)

"... three months after the proposal to comply voluntarily with a judicial decision obliging budget-funded organisations to disburse money, forcible measures may be undertaken against them ..."

The Law does not specify either the kind of forcible enforcement measures which may be taken or the remedies that a litigant may pursue if no such measures are undertaken by the Enforcement Agent.

23. Criminal Code

According to Article 381 of the Criminal Code, the non-execution of a judicial decision constitutes an offence:

"The non-execution of a binding judicial decision or other judicial decision, or the obstruction to its execution by the State, government or local-government officials, or by the executives of a corporation or other organisations [shall be punished] ..."

24. The Companies Law of 28 October 1994

Article 9 § 4

"... [In a limited liability company] ... directors represent the company in relationship to third parties ..."

25. *General Administrative Code*

Article 60 § 7

"Administrative-legal act that has been declared null and void quashes legal effects deriving from its entry into force."

26. Governmental Ordinance (Gankarguleba) No. 62 of 2 July 2004 on the Payment of Sums Imposed on Budget-funded Organisations by Court Decisions

By adopting this Ordinance, the Government introduced a mechanism for the gradual payment of outstanding debts. Following its paragraph 2, the Ministry of Justice was ordered to give priority to the enforcement of court decisions concerning (i) the payment of compensation for damages caused by injury or death; (ii) the payment of not more than three months' salary to workers; (iii) the payment of compensation to rehabilitated people. At the same time, the Ministry of Justice was instructed to ensure the proportionate

payment of other creditors, but only after the enforcement of the above-mentioned decisions.

Following paragraph 3 of the Ordinance, the debtor State budget organisations and institutions, in agreement with the Ministry of Justice, have either to secure friendly settlements with their creditors, or to allocate, in accordance with Georgian legislation, the enforcement of judgments in time, since, due to the scarcity of funds, the simultaneous payment of judgment debts is not feasible.

THE LAW

27. The applicants complained of the failure of the State authorities to execute the judicial decision of 14 May 2001 delivered in their favour. They alleged an infringement of Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1, which read, in so far as relevant, as follows:

Article 6 § 1

"In the determination of his civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law ..."

Article 13

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

Article 1 of Protocol No. 1

"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 ..."

I. ADMISSIBILITY

1. As to the second applicant

28. The Court recalls that the term "victim" used in Article 34 of the Convention denotes the person directly affected by the act or omission which is at issue (see, among other authorities, *Vatan v. Russia*, no. 47978/99, § 48, 7 October 2004).

29. In the present case, the Court notes that it was the applicant company, a limited liability company, which entered into the contractual relationship with the Ministry of Education of Georgia. It acted through the second applicant, its Director, who represented the company in its relations with third parties and before the domestic courts. The judgment of 14 May 2001 was delivered in favour of the applicant company, not the second applicant (see paragraphs 11 and 12 above). Consequently, the non-enforcement of that judgment has directly affected the interests of the applicant company. Moreover, the second applicant did not complain of a violation of the rights vested in him as the Director of the applicant company (see, *a contrario*, *Agrotexim and others c. Greece*, judgment of 24 October 1995, Series A n° 330-A, §§ 62-72). His complaint was based exclusively on the non-enforcement of the judgement given in favour of "his" company. Moreover, there is nothing in the file that suggests that the second applicant may claim to be an indirect victim of the alleged violation of the Convention affecting the rights of the limited liability company (cf., *a contrario*, *G.J. v. Luxembourg*, no. 21156/93, § 24, 26 October 2000; *Vatan*, cited above, §§ 49-50).

30. In these circumstances, the Court considers that the application, in so far as it concerns the second applicant, is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3, and must be rejected in accordance with Article 35 § 4 of the Convention.

2. As to the applicant company

(a) Complaint under Article 6 § 1 as to the non-enforcement

31. The Government contended that the applicant company did not exhaust domestic remedies as it did not try to initiate a new set of judicial proceedings challenging the inactivity of the enforcement authorities.

32. The applicant company replied that the initiation of judicial proceedings against the enforcement authorities was not an effective remedy, since the practice of non-enforcement of court decisions engaging the State budget is "deep-rooted". In support of this submission, the applicant company referred to the letter of the Head of the Executive Board of the Ministry of Justice dated 13 May 2002, according to which: "the

enforcement of judgements against the State budget institutions still remains one of the most difficult tasks to accomplish for the Enforcement Authorities".

33. The applicant company also contended that the initiation of judicial proceedings against the Enforcement Authorities would have been an inadequate measure.

34. The Court recalls that the purpose of Article 35 § 1 of the Convention is to afford the Contracting States the opportunity to prevent or put right the violations alleged against them before those allegations are submitted to the Court. However, the only remedies to be exhausted are those which are effective. It is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one, available in theory and in practice at the relevant time (cf. *Romashov v. Ukraine*, no. 67534/01, § 30, 27 July 2004).

35. The facts of the present case, as well as those of similar cases brought against the respondent State (see, for instance, *Amat-G Ltd and Mebaghishvili v. Georgia*, n° 2507/03, §§ 6-22, 27 September 2005), suggest that there is a persistent problem of non-enforcement of final judgements delivered against the State budget institutions. Domestic authorities have often explicitly recognized this problem (paragraphs 13 and 15 above; *Amat-G Ltd and Mebaghishvili*, cited above, §§ 46 and 56). The issue of the Governmental Ordinance No. 62 (see paragraph 26 above) is yet another indication that the non-payment of judgment debts constitutes one of the respondent State's concerns.

36. The Court recalls that the second applicant applied to the Office of the Prosecutor General, requesting the initiation of criminal proceedings for the non-execution of the binding judicial decision. This request was dismissed on 27 December 2002, the Office of the Prosecutor commenting that the delay in payment had an objective reason, namely the lack of funds in the State budget (see paragraph 15 above). In fact, in the instant case, the debtor is a State body and, as it appears from the case file, the enforcement of the judicial decision against it depends on the allocation of provisions for the relevant expenditures in the State Budget (see paragraph 26 above). Consequently, the enforcement of the judgment of 14 May 2001 was contingent upon the appropriate budgetary measures rather than on the conduct of the Enforcement Authorities (*Romashov*, cited above, § 31). The applicant company cannot therefore be reproached for not having taken any further judicial proceedings against those authorities (*Shestakov v. Russia* (dec.), no. 48757/99, 18 June 2002; *Voytenko v. Ukraine*, no. 18966/02, § 30, 29 June 2004).

37. In these circumstances, the Court concludes that the applicant company was absolved from pursuing the remedy invoked by the Government and has therefore complied with the requirements of Article 35 § 1. Accordingly, the Court dismisses the Government's objection. The applicant company's complaint under Article 6 § 1 must therefore be declared admissible.

(b) Complaints under Article 13 of the Convention and Article 1 of Protocol No. 1

38. The Court recalls first that Protocol No. 1 entered into force with respect to Georgia on 7 June 2002. The applicant company's complaint under Article 1 of this Protocol, as far as it concerns the period before 7 June 2002, is therefore outside of the Court's juridiction *ratione temporis* (see, among other authorities, *Sovtransavto Holding v. Ukraine*, no 48553/99, § 56, CEDH 2002-VII).

39. The Court further refers to its reasoning under Article 6 § 1 of the Convention in relation to Article 35 § 1 (see paragraphs 34-37 above), which is equally pertinent to the applicant company's complaint under Article 13 of the Convention and the remainder of its complaint under Article 1 of Protocol No. 1. The Court notes that the application in this part is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It is not inadmissible on any other grounds. It must therefore be declared admissible.

II. AS TO THE MERITS

1. Alleged violation of Article 6 § 1 of the Convention as to the non-enforcement of the judgment

40. The applicant company complained, under Article 6 § 1 of the Convention, of the State authorities' failure to enforce the judgement of 14 May 2001.

41. The Government did not respond on that point.

42. The Court reiterates that the right to a fair hearing includes the right to have a binding judicial decision enforced. That right would be illusory if a Contracting State's domestic legal system allowed a final, binding judicial decision to remain inoperative to the detriment of one party. The execution of a judgment given by any court must be regarded as an integral part of the "trial" for the purposes of Article 6 (see, among other authorities, *Burdov v. Russia*, no. 59498/00, § 34, ECHR 2002-III; *Hornsby v. Greece*, judgment of 19 March 1997, *Reports of Judgments and Decisions* 1997-II, p. 510, § 40). However, a stay in the execution of a judicial decision, until such time as is strictly necessary to enable a satisfactory solution to be found to public-order problems, may be justified in exceptional

circumstances (*Prodan v. Moldova*, no. 49806/99, § 53, ECHR 2004-... (extracts)).

43. In the present case, the Government did not advance any particular circumstance that could justify the delay of well over four years which has already occurred (cf. *Immobiliare Saffi v. Italy* [GC], no. 22774/93, §§ 69-74, ECHR 1999-V). Consequently, the Court considers that the applicant company should not have been prevented from benefiting from the decision given in its favour, which was of vital importance for its functioning.

44. By failing for over four years to ensure the execution of the binding judgment of 14 May 2001, the Georgian authorities have deprived the provisions of Article 6 § 1 of the Convention of all useful effect.

45. There has accordingly been a violation of Article 6 § 1.

2. Alleged violation of Article 13 of the Convention

46. The applicant company complained of a violation of Article 13 of the Convention, claiming that it had no effective remedy for its Convention claims.

47. The Government did not respond on that point.

48. The Court refers to its findings at paragraphs 34-37 above concerning the exhaustion of domestic remedies. For the same reasons, it concludes that the applicant company did not have an effective domestic remedy, as required by Article 13 of the Convention, to redress the damage created by the delay in the present proceedings (*Voytenko*, cited above, §§ 46-48).

49. Accordingly, there has been a breach of this provision.

3. Alleged violation of Article 1 of Protocol No. 1

50. The applicant company complained that it has not received the money to which it is entitled by the binding judicial decision and invoked in substance Article 1 of Protocol No. 1.

51. The Government did not respond on that point.

52. The Court recalls its case-law that the impossibility for an applicant to obtain the execution of a judgment in his or her favour constitutes an interference with the right to the peaceful enjoyment of possessions, as set out in the first sentence of the first paragraph of Article 1 of Protocol No. 1 (see, among other authorities, *Burdov*, cited above, § 40; *Bakalov v. Ukraine*, no. 14201/02, § 39, 30 November 2004).

53. The Court is of the opinion that, in the instant case, the impossibility for the applicant company to obtain, as from 7 June 2002 (see paragraph 38 above), execution of the final judgment in its favour constituted an interference with the right to the peaceful enjoyment of its possessions, within the meaning of the first paragraph of Article 1 of Protocol No. 1. The Government have not advanced any justification for this interference.

54. Accordingly, the Court finds that there has also been a violation of Article 1 of Protocol No. 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

55. 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

56. The Court points out that under Rule 60 of the Rules of Court, any claim for just satisfaction must be itemised and submitted in writing together with the relevant supporting documents or vouchers, failing which the Court may reject the claim in whole or in part (*Romashov*, cited above, § 49).

57. In the instant case, the applicant company submitted on 7 June 2004 its claims for just satisfaction and requested 223,500 GEL (102,034 EUR)[3] in respect of pecuniary damage. 11,628 GEL (EUR 5,332)[3] of this sum corresponded to the principal amount awarded by the decision of 14 May 2001 and the remainder represented the penalties accrued on the VAT debt of 4,347 GEL (EUR 1,994)[3] which, at the same time, is part of the judgment debt. The applicant company contended that it would allegedly be facing 223,500 GEL in tax penalties by the time the Court delivers its judgment. It based this part of the claim on different documents received on 10 November 2002 and 24 August 2004 from the tax authorities (paragraphs 16 and 17 above).

58. As to further pecuniary damage, the applicant company also claimed EUR 20,000 for the loss of profits resulting from the non-enforcement of the judgment. It did not submit any supporting documents for this claim.

59. The applicant company claimed EUR 10,000 in respect of non-pecuniary damage which it had sustained as a result of the authorities' failure to enforce the judgment.

60. The Government considered that the applicant company's claims were excessive and unsubstantiated. Considering the fact that it had already succeeded in challenging the tax authorities' notification of 10 November 2002 (see paragraph 16 above), the Government contended that the applicant company could not face 223,500 GEL of penalties. As to the tax authorities' notification of 24 August 2004, the Government noted that the applicant company did not challenge it before the domestic courts.

[3] Conversion rate as of 23 June 2004

61. The Court notes that the judgment debt of 14 May 2001 has not yet been discharged. Since the Government have failed to pay the debt for a lengthy period of time and have not indicated that it will be discharged in the foreseeable future, the Court considers that the applicant company has sustained certain pecuniary damages over and above the judgement debt. Deciding on an equitable basis, the Court awards the applicant company EUR 10,000 under this head.

62. As to pecuniary damage with regard to the accrued penalties on the tax debt, the Court notes that a substantial part of these penalties was annulled (paragraph 16 above). Moreover, as a matter of fact, the applicant company has never paid the State budget any part of the tax penalty that is being claimed in the just satisfaction award. Consequently, it did not sustain any actual loss in this regard. Furthermore, the Court does not discern any causal link between the violation found and the applicant company's claim for loss of profits (see paragraph 57 above), which was not supported by any documentation.

Therefore the Court rejects this part of the claim for pecuniary damage.

63. As to non-pecuniary damage, the Court notes that, because of the State authorities' failure to enforce the judgment in favour of the applicant company for more than four years, the latter encountered problems with the tax authorities (see paragraphs 8 and 16-18 above), and its economic activities were severely disrupted (see paragraph 10 above). Consequently, the Court considers that the applicant company should be compensated for these financial repercussions by way of an award of non-pecuniary damage (cf. *Sovtransavto Holding v. Ukraine* (just satisfaction), no. 48553/99, §§ 78-80, 2 October 2003; *Comingersoll v. Portugal* [GC], no. 35382/97, §§ 32-36, ECHR 2000-IV). However, the applicants' claim in this respect appears excessive. Making its assessment on an equitable basis, it awards the applicant EUR 1,000 in respect of non-pecuniary damage.

B. Costs and expenses

64. The applicant company claimed EUR 5,000 for the costs and expenses incurred in regard to the legal representation before the Court. In support of this claim, the applicant company submitted the legal service Agreement No. 1 dated 20 June 2002 and the legal service Agreement No. 2 dated 20 June 2003. According to those documents, Mr Vladimer Kakabadze is entitled to EUR 5,000 for representation of the applicant company before the Court.

65. The Government, considering the fees for legal service to be exaggerated, maintained that the claim was unsubstantiated.

66. According to the Court's case-law, an applicant is entitled to the reimbursement of his 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 (see, among many other authorities, *Nilsen and Johnsen v. Norway* [GC], no. 23118/93, § 62, ECHR 1999-VIII).

67. The Court notes that the existence of the contract does not prove the fact that payment under that contract has actually occurred. Furthermore, the applicant company failed to submit any documents that would indicate the attorney's time spent on the preparation of the case and the representation before the Court. Neither has the applicant company submitted invoices or any other records from the attorney which would document and justify such fees.

68. Regard being had to the information in its possession and the above criteria, the Court considers that the applicant company's claim is excessive. Making its assessment on an equitable basis, the Court awards the applicant company EUR 2,000 for costs and expenses connected with its representation before the Court.

69. The applicant company also claimed 100 GEL (approximately EUR 50) for translation and postal expenses. In support of this claim relevant vouchers and invoices were submitted. The Government did not comment on this part of the claim.

70. Having regard to the documents at its disposal, the Court finds it appropriate for the State to reimburse the applicant company the translation and postal expenses in the amount of EUR 50, plus any tax that may be chargeable.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints of "Iza" Ltd under Articles 6 and 13 of the Convention, as well as its complaint under Article 1 of Protocol No. 1, in so far as the latter concerns the period after 7 June 2002, admissible, and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that there has been a violation of Article 13 of the Convention;

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

5. *Holds*

(a) that the respondent State is to pay the applicant company, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following sums, to be converted into the currency of the respondent State at the rate applicable on the date of settlement,

(i) EUR 10,000 (ten thousand euros) in respect of pecuniary damage,

(ii) EUR 1,000 (one thousand euros) in respect of non-pecuniary damage, and

(iii) EUR 2,050 (two thousand fifty euros) for costs and expenses,

(iv) plus any tax that may be chargeable;

(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;

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

Done in English, and notified in writing on 27 September 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President