THIRD SECTION

**CASE OF AGARKOVA v. RUSSIA**

*(Application no. 29951/09)*

JUDGMENT

STRASBOURG

15 May 2018

FINAL

15/08/2018

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

In the case of Agarkova v. Russia,

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

Helena Jäderblom, *President,* Branko Lubarda, Helen Keller, Dmitry Dedov, Pere Pastor Vilanova, Alena Poláčková, María Elósegui, *judges,*  
and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 17 April 2018,

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

PROCEDURE

1.  The case originated in an application (no. 29951/09) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Ms Zoya Ivanovna Agarkova (“the applicant”), on 26 February 2009.

2.  The applicant was represented by Mr A. Koss, a lawyer practising in Kaliningrad. The Russian Government (“the Government”) were initially represented by Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

3.  The applicant alleged, in particular, that the investigation into the circumstances of her son’s death had not been effective for the purposes of Article 2 of the Convention.

4.  On 16 May 2012 the above complaint was communicated to the Government.

THE FACTS

I.  THE CIRCUMSTANCES OF THE CASE

5.  The applicant was born in 1945 and lives in Kaliningrad.

A.  Death of the applicant’s son and investigation thereof

6.  On 17 January 2007 the applicant’s son, Mr Pavel Agarkov, was taken to the Kaliningrad Emergency Hospital *(больница скорой медицинской помощи г. Калининграда)* with a severe head trauma. He lapsed into a coma a week later, and died on 1 February 2007.

7.  On 5 February 2007 the Moskovskiy District Prosecutor’s Office of Kaliningrad (“the District Prosecutor’s Office”) received a pre-investigation inquiry file containing evidence of the elements of a crime under Article 111 § 4 of the Criminal Code (intentional infliction of serious bodily harm causing the victim’s death).

8.  The pre-investigation inquiry established that at about 5 a.m. on 17 January 2007 the applicant’s son had started a fight with a certain V. In the course of the fight the applicant’s son had inflicted several blows on V. with a wooden baseball bat. On the third blow the bat had struck a wall and had broken into two pieces. The applicant’s son had continued to beat V. with his bare hands and kick him with his feet. V. had then managed to pick up a fragment of a broken bat and had hit the applicant’s son several times on the head, causing the latter the physical injuries that resulted in his death on 1 February 2007.

9.  On 15 February 2007 an investigator of the District Prosecutor’s Office issued a decision refusing the institution of criminal proceedings against V., being of the opinion that V. had acted in necessary self-defence.

10.  On 26 February 2007 the District Prosecutor set aside the above decision. Criminal proceedings into the death of the applicant’s son were instituted on the same day (criminal case no. 030292/07).

11.  On 7 March 2007 V. confessed to having inflicted on the applicant’s son bodily injuries which caused his death. On the same day a preventive measure in the form of an undertaking not to leave the town and to behave properly was imposed on him.

12.  On 14 March 2007 V. was charged with homicide committed as a result of exceeding the limits of necessary self-defence (Article 108 § 1 of the Criminal Code). He was questioned as an accused and fully acknowledged his guilt in relation to the actions with which he was charged.

13.  On 19 March 2007 two fragments of the baseball bat were seized and examined by the investigator.

14.  On 22 March 2007 the applicant was admitted to the proceedings as an aggrieved party. She was questioned by the investigator the same day, but could not submit any information regarding the circumstances of her son’s death. During her additional questioning as a victim on 7 April 2007 she stated that her son had told her that he had been beaten by police officers from the Moskovskiy District Department of the Interior of Kaliningrad *(ОВД Московского района г. Калининграда)*.

15.  The investigation established that on 17 January 2007 officers from the Moskovskiy District Department of the Interior of Kaliningrad had arrived at the scene of the incident in order to stop a disturbance of public peace caused by the applicant’s son’s unlawful actions. Upon his arrival at the police station the police officers, having assessed the victim’s medical condition as critical, called an ambulance for him.

16.  On 6 April 2007 during an on-site verification of his testimony, V. demonstrated with the help of an assistant and an improvised object how the applicant’s son had struck him with a wooden baseball bat, how this bat had broken when it struck the wall, and how he had afterwards inflicted several blows on the applicant’s son’s head with a fragment of this bat.

17.  On 23 April 2007 the forensic medical examination was carried out, establishing that the applicant’s son’s death had been caused by an open blunt traumatic brain injury accompanied by contused head wounds and bruises, haemorrhages in the soft tissues of the head, fractures of the skull bones, haemorrhages above and under the layers of mater, complicated by brain oedema and compression (forensic medical report no. 39/696).

18.  On 10 May 2007 the District Prosecutor approved the bill of indictment and referred the case to the Moskovskiy District Court of Kaliningrad (“the District Court”) for examination on the merits.

19.  On 22 October 2007 the District Court returned the criminal case to the Prosecutor for re-drafting of the bill of indictment and remedying of deficiencies that prevented examination of the case, in particular, the formulation of exactly how V.’s actions had exceeded the limits of necessary self-defence.

20.  On 29 December 2007 the chief investigator from the Kaliningrad investigative division of the Investigation Department of the Investigative Committee at the Russian Federation’s Prosecutor’s Office for the Kaliningrad Region (“the Kaliningrad investigative division”) discontinued the criminal proceedings, having arrived at the conclusion that the injuries resulting in the death of the applicant’s son on 1 February 2007 had been inflicted by V. as actions of necessary self-defence. The decision was not supported by reference to any evidence.

21.  On 18 January 2008 the Deputy Head of the Kaliningrad investigative division set aside the above decision and ordered a fresh investigation.

22.  Subsequently, between 23 February 2008 and 29 October 2009 the criminal proceedings were discontinued and resumed on nine occasions. Three of the decisions, namely those of 23 February, 23 May and 30 June 2008, repeated word for word the previous decision of 29 December 2007. The following six decisions, namely the decisions of 22 November 2008 and 8 January, 20 February, 15 July, 29 August and 29 October 2009, reached the same conclusion, relying on:

-  forensic medical report no. 39/696 of 23 April 2007 (see paragraph 17 above);

-  statements by V. submitting that on 17 January 2007 he had had a fight with the applicant’s son and had administered to the latter at least two blows to the head with a piece of broken baseball bat, following which he had called the police, who had taken the applicant’s son to the police station;

-  statements by witnesses T. and P. who were present at the scene of the fight and confirmed V.’s statements;

-  statements by police officer Erk, who arrived at the scene and saw the applicant’s son squatting down, with blood streaming from his head and a bruise below his eye; he submitted that the applicant’s son, V., T. and P. had been taken to the police station, following which an ambulance had been called for the applicant’s son as his head was bleeding; no violence had been used against the latter;

-  statements by duty officer Tr., who had received information about the fight and had seen the applicant’s son brought to the police station in a state of alcoholic intoxication, with a lacerated wound in the region of one eye and several abrasions, following which an ambulance had been called to take him to hospital; he submitted that nobody in his presence had subjected the applicant’s son to any beatings;

-  similar statements by duty officer Ser.;

-  statements by operative agent Mir., who saw the applicant’s son at the police station with injuries to his body; he submitted that he had not seen anybody beating the applicant’s son at the police station;

-  statements by witness F., who arrived at the police station having been told that the applicant’s son had been taken there; however, she had then been informed that the latter had been taken to hospital to be treated for his injuries; she further submitted that in the hospital the applicant’s son told her that he had been beaten up by the police in the entrance to V.’s house;

-  statements by witness G., who had accompanied the applicant’s son in his car to the scene of the fight; he submitted that the applicant had told him that he had a score to settle with a man called “Erik” who had cooperated with the police; he had seen the applicant’s son knock on a window and enter the building with a baseball bat in his hands; about fifteen minutes later he had seen the police arrive at the exit from the building; the applicant’s son had been walking unassisted, he had not been handcuffed, but had been holding his head; one of the police officers had been holding a plastic bag containing two fragments of the baseball bat; the applicant’s son had got into the police car and been taken to the police station; he had not seen anybody hitting the applicant’s son or threatening him;

-  statements by the applicant, who submitted that her son had told her that he had been beaten up by the police;

-  statements by witness Min., who had heard about the fight from V.;

-  statements by witness Mot., who had heard about the fight from T.;

-  statements by neighbours Sukh. and Tishch., who knew nothing about the events in question;

-  statements by witness Gor., the applicant’s son’s partner, who had been told by the applicant’s son that he had been beaten by the police;

-  statements by witness Ven., who was receiving treatment in the hospital at the time when the applicant’s son was admitted and who submitted that the latter had told him that he had sustained the injuries through being beaten with a baseball bat;

-  the police station’s registration log, which contained no mention of the applicant’s son being arrested on the 17 January 2007;

-  expert report no. 366, according to which V. had an abrasion on his right forearm which could have been caused on 17 January 2007 by a blow from a hard blunt object;

-  expert report no. 250 on the examination of a sample of the applicant’s son’s skin from the left half of the parietal region of the head containing well-defined diffuse microinclusions of iron;

-  expert report no. 52 of 2 July 2008 stating that the applicant’s son’s open blunt brain injury had been caused by a combination of traumatic impacts in the region of the head which could have resulted from the circumstances described by V., that is to say by the infliction of multiple blows by a baseball bat fragment in the region of the head.

23.  In the meantime, the applicant repeatedly challenged the adequacy of the investigation alleging the involvement of police officers in the death of her son. In particular, she complained about the failure of the investigator to inform her of the decisions taken in the case and to explain the possible avenues for appeal. She further complained about the refusal of her requests for information about the exact time when V.’s call was registered at the police station, the exact time when her son was brought to the police station and when the ambulance was called for him. The applicant also sought to have clarified the reasons why her son had not been questioned about the circumstances of the incident during the week before he lapsed into a coma, to obtain an expert examination of the bloodstains on his clothes which could have clarified whether he had been standing up or lying down when he sustained his injuries, and an expert examination which could have clarified the origin of metal particles found in the wounds of her son.

24.  In response to her complaints, the District Court on 18 August, 5 September, 26 September and 12 December 2008 found the investigator’s refusals and lengthy inactivity unlawful and unjustified and ordered him to remedy the above deficiencies by conducting a thorough and comprehensive investigation.

25.  On 16 December 2008 the applicant’s son’s clothes were seized from the applicant for expert examination.

26.  On 14 September 2009 the District Court found the investigator’s inactivity unlawful, having noted that when taking the decision of 15 July 2009 the investigator had failed to comply with his own ruling of 10 July 2009 granting the applicant’s requests.

27.  On 13 January 2010 the Deputy Head of the Investigative Committee at the Russian Federation’s Prosecutor’s Office for the Kaliningrad Region set aside the decision of 18 January 2008 (see paragraph 21 above) as having been taken in violation of the criminal procedure. As a result, all the evidence obtained after 18 January 2008 was found inadmissible.

28.  On 15 January and 22 January 2010 forensic biological and forensic trace examinations of the applicant’s son’s clothes were ordered, which duly established that the latter had been in an upright position, or close to such a position, when the bloodstains appeared on his clothes (report no. 32 of 12 February 2010).

29.  On 22 January 2010 a forensic medical examination by an expert commission was ordered. The examination established that the open blunt traumatic brain injury inflicted on the applicant’s son had been caused by at least five traumatic impacts, and that it could have arisen in the circumstances indicated by the accused V. during his questioning on 7 March 2007 and the on-site verification of his testimony on 6 April 2007 (see paragraphs 11 and 16 above) (report no. 13 of 9 February 2010).

30.  On unspecified dates the applicant and the witnesses were questioned for a second time and confirmed their previous statements.

31.  Between 14 February 2010 and 21 February 2012 the criminal proceedings were discontinued on five occasions on the grounds of absence of the constituent elements of a crime under Article 108 § 1 of the Criminal Code in the actions of V., and were subsequently resumed.

32.  On 4 May 2012 the District Court found the decision of 21 February 2012 unlawful and unsubstantiated. The District Court also found unlawful the investigator’s failure to notify the applicant of the procedural decisions taken in reply to her requests.

33.  On 6 July 2012 the acting head of the Moskovskiy District of the Kaliningrad investigative division set aside the decision of 21 February 2012.

34.  On 6 August 2012 the investigator for the Moskovskiy District from the Kaliningrad investigative division discontinued the criminal proceedings. The decision noted that the investigation had identified the constituent elements of a crime under Article 108 § 1 of the Criminal Code in the actions of V. However, since the crime belonged to the category of minor crimes and had been committed over two years earlier, in 2007, V. was to be exempted from criminal liability pursuant to Article 78 § 1 (a) of the Criminal Code (exemption from criminal liability due to expiration of statutory time-limits for criminal prosecution).

35.  On 5 December 2012 the acting head for the Moskovskiy District of the Kaliningrad investigative division took the decision to resume the proceedings in view of the necessity of conducting psycho-physiological expert examinations − using a polygraph − of the police officers who had brought the applicant’s son to the police station so as to verify the veracity of their statements.

36.  According to information contained in the case file, the proceedings were still pending in December 2012.

37.  The case file contains no information regarding further developments in the investigation of the circumstances surrounding the applicant’s son’s death.

B.  Applicant’s attempts to have criminal proceedings instituted against police officers

38.  On 28 December 2007 the applicant sought the institution of criminal proceedings against the police officers allegedly involved in the death of her son.

39.  On 6 June 2008 the chief investigator of the Kaliningrad investigative division issued a decision refusing the institution of criminal proceedings against officers Erk., K., Tr. and Ser. of Kaliningrad’s Moskovskiy District Department of the Interior under Articles 285 and 286 of the Criminal Code (abuse of power by an official, actions of a public official which clearly exceed his or her authority).

40.  On 14 July 2008 the Deputy Head of the Kaliningrad investigative division set aside the above decision and ordered a fresh pre-investigation inquiry. In particular, the investigator was instructed to assess the actions of the police officers under Articles 125 (leaving without help a person in danger) and 306 (knowingly false accusation) of the Criminal Code.

41.  On 24 July 2008 the investigator of the Kaliningrad investigative division again issued a decision refusing the institution of criminal proceedings against officers.

42.  On 26 September 2008 the District Court found the above decision unlawful. The District Court established that no fresh inquiry had been conducted and that the instructions given in the decision of 14 July 2008 had not been complied with.

43.  On 18 November 2008 the Kaliningrad Regional Court (“the Regional Court”) upheld the decision of 26 September 2008 on appeal.

44.  On 8 February 2010 the Kaliningrad investigative division’s investigator refused to open criminal proceedings against the police officers under Articles 125, 285 and 286 of the Criminal Code on the grounds that the constituent elements of a crime were absent in their actions.

45.  On 19 August 2010 the District Court found the above decision lawful. The applicant did not appeal.

C.  Civil claim for damages

46.  On 25 December 2008 the applicant brought civil proceedings against the Ministry of Finance seeking compensation in respect of non‑pecuniary damage caused to her by the failure of the domestic authorities to investigate her son’s death.

47.  On 31 March 2009 the Tsentralniy District Court of Kaliningrad dismissed the applicant’s claims.

48.  On 20 May 2009 the Kaliningrad Regional Court upheld the judgment on appeal.

II.  RELEVANT DOMESTIC LAW

49.  For a summary of relevant domestic law see *Keller v. Russia* (no. 26824/04, §§ 54-56 and 67-71, 17 October 2013).

THE LAW

I.  ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

50.  The applicant complained about the failure of the domestic authorities to carry out an effective investigation into the death of her son. She relied on Articles 2, 6 and 13 of the Convention.

51.  The Court considers that the complaint should be examined solely under Article 2 of the Convention, which reads, in so far as relevant, as follows:

“1.  Everyone’s right to life shall be protected by law. ...”

52.  The applicant maintained that the investigation had been ineffective.

53.  The Government argued that the domestic authorities had taken and continued to take all the procedural actions necessary in order to investigate the case effectively. The investigation had been started without delay and had been conducted in compliance with the domestic law. During the proceedings, preliminary investigation authorities’ theories had been examined, criminal proceedings instituted and an investigation carried out within the scope of which the applicant’s submissions had been examined with the involvement of experts, including forensic medical and other examinations carried out by such experts. The applicant had had sufficient access to the case file and had been able effectively to participate in the proceedings. Judicial review of the adopted procedural decisions had been carried out in response to the applicant’s complaints within the statutory time‑limits.

A.  Admissibility

54.  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.  General principles

55.  The Court reiterates that Article 2 § 1 of the Convention enjoins the State not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction (see *L.C.B. v. the United Kingdom*, 9 June 1998, § 36, *Reports of Judgments and Decisions* 1998‑III). This implies the putting in place of effective criminal-law provisions to deter the commission of offences against the person, backed up by law-enforcement machinery for the prevention, suppression and punishment of breaches of such provisions (see *Osman v. the United Kingdom*, 28 October 1998, § 115, *Reports* 1998‑VIII).

56.  More specifically, where death occurs under suspicious circumstances, leaving room for allegations to be made of the intentional taking of life, the State must ensure some form of effective official investigation (see *Šilih v. Slovenia* [GC], no. 71463/01, §§ 156-57, 9 April 2009).

57.  This is not an obligation of results to be achieved, but of means to be employed. The authorities must have taken all reasonable steps to secure the evidence concerning the incident. Any deficiency in the investigation which undermines its ability to establish the cause of death or the persons responsible will risk falling foul of this standard (see *Paul and Audrey Edwards v. the United Kingdom*, no. 46477/99, § 71, ECHR 2002‑II).

2.  Application of those principles to the present case

58.  The Court observes, first of all, that criminal proceedings into the circumstances of the applicant’s son’s death were instituted on 26 February 2007, almost a month after he died from the severe head trauma received on 17 January 2007. Following the institution of criminal proceedings the investigation authorities took a number of procedural measures aimed at discharging their positive obligation under Article 2 of the Convention (see paragraphs 11-17 above). They established, in particular, that the injuries which resulted in the death of the applicant’s son - open blunt traumatic brain injury accompanied by contused head wounds and bruises, haemorrhages in the soft tissues of the head, fractures of the skull bones, haemorrhages above and under the layers of mater, complicated by brain oedema and compression - had been inflicted by a certain V. during a fight. In May 2007 they referred the case against V. − on the charge of homicide committed as a result of exceeding the limits of necessary self-defence − to the District Court for trial.

59.  The Court notes, however, that in October 2007 the District Court returned the case to the investigation authorities for re-drafting of the bill of indictment and remedying of the deficiencies that prevented the examination of the case, in particular, for formulating how exactly V.’s actions had exceeded the limits of necessary self-defence.

60.  The Court observes that the case was never returned to the District Court for examination on the merits. Instead, between 29 December 2007 and 29 October 2009, ten decisions were taken to discontinue the criminal proceedings and were subsequently quashed by supervising authorities as unfounded (see paragraphs 20-22 above). Following the applicant’s requests, during this period of almost two years the District Court on several occasions found the investigator’s inactivity unlawful and obliged the investigation authority to remedy the above deficiencies by conducting a thorough and comprehensive investigation (see paragraphs 23, 24 and 26 above).

61.  The Court reiterates that the repeated remittals of the case for further investigation, along with the investigation authority’s reluctance to follow the recommendations of the courts, point to serious defects in the investigation taken as a whole, as these failings adversely affected the capacity of the investigation to collect and assess evidence of relevance for the resolution of the case (see *Ryabtsev v. Russia*, no. 13642/06, § 80, 14 November 2013, with further references).

62.  Moreover, the Court notes that all the evidence collected as a result of the investigative measures conducted during the above-mentioned two‑year period was in any event found inadmissible following the decision of 13 January 2010 (see paragraph 27 above), and had therefore to be collected anew.

63.  The Court observes that later, between 14 February 2010 and 5 December 2012, the criminal proceedings were discontinued on six occasions on account of a lack of the constituent elements of a crime in the actions of V., and subsequently resumed (see paragraphs 31-35 above). In December 2012 – that is to say, more than five years after the incident – the investigation had still not been completed and it cannot be concluded that its overall length was justified by the circumstances of the case.

64.  In this regard, the Court reiterates that the effectiveness of an investigation implies a requirement of promptness and reasonable expedition. Even where there may be obstacles or difficulties which prevent progress in an investigation in a particular situation, a prompt response by the authorities is vital in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in, or tolerance of, unlawful acts (see *Šilih*, cited above, § 195). Moreover, with the lapse of time the prospects that any effective investigation can be undertaken will increasingly diminish.

65.  The foregoing considerations are sufficient to enable the Court to conclude that there has accordingly been a violation of the procedural limb of Article 2 of the Convention.

II.  OTHER ALLEGED VIOLATIONS OF THE CONVENTION

66.  Lastly, the applicant complained under Article 2 of the Convention about the death of her son at the hands of the police, and under Articles 6 § 1 and 13 of the Convention about various decisions of the domestic authorities preventing her from obtaining an effective investigation into her son’s death.

67.  Having regard to all the material in its possession and in so far as it falls within its competence, the Court finds that there is no 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 (a) and 4 of the Convention.

III.  APPLICATION OF ARTICLE 41 OF THE CONVENTION

68.  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

69.  The applicant claimed 50,000 euros (EUR) in respect of non‑pecuniary damage.

70.  The Government was of the view that if the Court were to find a violation of the Convention, the Court’s judgment in this respect should in itself constitute sufficient just satisfaction for any non-pecuniary damage suffered by the applicant.

71.  The Court considers that the applicant must have suffered distress and anxiety on account of the violation it has found. Ruling on an equitable basis, as required by Article 41 of the Convention, it awards the applicant EUR 20,000 in respect of non-pecuniary damage.

B.  Costs and expenses

72.  The applicant claimed EUR 3,000 for legal fees incurred during the post-communication stage of the proceedings before the Court. She submitted a copy of a legal services agreement with her representative Mr A. Koss and requested that the above amount, which is due for payment in respect of the above legal services, be transferred directly to the representative’s bank account. Later the applicant also claimed 60,000 Russian roubles (RUB) for legal fees incurred in the domestic proceedings (RUB 10,000) and in connection with the preparation of her initial application to the Court (RUB 50,000) by lawyer N. Selyavina. These expenses were confirmed by a copy of the legal services agreement with Ms N. Selyavina dated 10 May 2007 and receipts of payment dated 11 May 2007 and 1 October 2012.

73.  The Government argued that the applicant’s claim should be rejected.

74.  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 are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the applicant the requested sums for costs and expenses incurred in the domestic proceedings and the proceedings before the Court.

C.  Default interest

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

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1.  *Declares* the complaint concerning Article 2 of the Convention under its procedural limb admissible and the remainder of the application inadmissible;

2.  *Holds* that there has been a violation of Article 2 of the Convention under its procedural limb;

3.  *Holds*

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

(i)  EUR 20,000 (twenty thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii)  EUR 3,780 (three thousand seven hundred and eighty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, out of which EUR 3,000 (three thousand euros) is to be paid into the bank account of the applicant’s representative Mr A. Koss;

(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;

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

Done in English, and notified in writing on 15 May 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips Helena Jäderblom  
 Registrar President