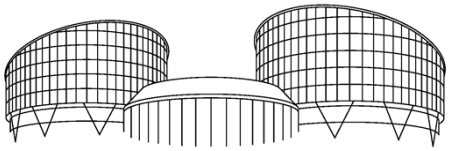

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF SŁOMKA v. POLAND

(Application no. 68924/12)

JUDGMENT

STRASBOURG

6 December 2018

FINAL

06/03/2019

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

In the case of Słomka v. Poland,

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

Linos-Alexandre Sicilianos, *President,*
Ksenija Turković,
Aleš Pejchal,
Krzysztof Wojtyczek,
Pauliine Koskelo,
Tim Eicke,
Jovan Ilievski, *judges,*

and Abel Campos, *Section Registrar,*

Having deliberated in private on 13 November 2018,

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

PROCEDURE

1. The case originated in an application (no. 68924/12) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Polish national, Mr Adam Słomka ("the applicant"), on 20 September 2012.

2. The applicant was represented by Mr Z. Cichoń, a lawyer practising in Cracow. The Polish Government ("the Government") were represented by their Agent, Ms J. Chrzanowska, and subsequently by Mr J. Sobczak, of the Ministry of Foreign Affairs.

3. The applicant alleged, in particular, that the proceedings leading to the imposition of a custodial penalty on him had been unfair; that the penalty had been entirely executed before his interlocutory appeal against it had been examined by the appellate court; and that the punishment he had received for expressing his views in a political debate had been too severe.

4. On 24 August 2015 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1964 and lives in Katowice.

A. Background

6. The applicant is a former activist of an anti-communist opposition group, who was interned in 1982.

7. He observed the trial against three high-ranking members of the communist-era Military Council of National Salvation who had ordered the imposition of martial law in Poland in December 1981.

8. The trial in question, which lasted from 2007 until 2015, attracted a lot of public attention in Poland.

9. On 12 January 2012 the main defendant, General C.K. was convicted and sentenced to four years' imprisonment. This penalty was reduced by half under the Amnesty Act and its execution was suspended for five years in view of the defendant's old age and poor health. Another defendant was acquitted and another had her case discontinued. On 15 June 2015 the appellate court upheld the first-instance judgment.

B. Events leading to the applicant's punishment for contempt of court and the related proceedings

10. The applicant was in the courtroom when on 12 January 2012 the Warsaw Regional Court (*Sąd Okręgowy*) was to deliver its judgment in the case described above.

11. At 1.30 p.m., after the judges had arrived in the courtroom, the applicant jumped behind the judge's table and shouted: "This is a mockery of justice!" (*Tutaj trwa kpina z wymiaru sprawiedliwości*).

12. The judges left the courtroom.

13. Some other members of the audience shouted "Disgrace!" and "Court before the court!" (*Hańba* and *Sąd pod sąd*). They were all holding up photos of victims of the communist regime.

14. The applicant was forcibly removed from the courtroom.

15. Shortly afterwards, he returned and continued shouting out similar statements joint by other members of the audience. In view of the audience's refusal to leave the courtroom, the judge who was presiding over the trial decided to announce the judgment from a different room.

16. At 3 p.m. the trial was resumed in a new room, with the public comprising only journalists. Here, in the applicant's absence, the Warsaw Regional Court imposed on him a disciplinary custodial penalty of fourteen days for contempt of court ("for the breach of the solemn nature, serenity and the course of court proceedings, to the degree making the announcement of the judgment impossible").

17. On 12 January 2012 a written decision, in the form of an extract from the court minutes as described in the preceding paragraph, was issued to that effect.

18. The applicant submitted that he had not been served with that decision or informed of it.

19. On the day of the trial in question, that is 12 January 2012, a warrant was issued ordering the applicant's placement in a penal facility with a view to his serving the penalty. On 13 January 2012 a warrant to this effect was sent to Katowice police station together with a copy of the court's decision imposing the disciplinary punishment.

20. On 19 January 2012 the applicant was served with a warrant and then arrested so that he could be committed to Warsaw Remand Centre to serve the penalty in a closed regime.

21. On 22 January 2012 the applicant lodged an interlocutory appeal against the decision imposing the custodial penalty. He argued that his one-minute statement had not disturbed the court to such an extent as to make it impossible to announce the judgment. He also submitted that if the presiding judge had told him to return to his seat, he would have complied. Since only a copy of the first page of the applicant's appeal has been submitted to the Court, it is unclear whether the applicant had also raised the argument of the lack of impartiality of the judges who had punished him for contempt of court.

22. On 30 January 2012 this appeal was registered with the Registry of the Warsaw Court of Appeal (*Sąd Apelacyjny*).

23. On 31 January 2012 the applicant's appeal was transferred to the Warsaw Regional Court for comment.

24. On 1 February 2012 the appeal together with the Regional Court's comments was received by the Warsaw Court of Appeal. The appellate hearing was scheduled for 23 February 2012.

25. On 2 February 2012 – the fourteenth day of the applicant's detention – the Prison Board of the Warsaw Remand Centre decided that the applicant should be detained under a semi-open regime (with the possibility to leave his cell during the day).

26. Following that decision, the applicant was transferred for several hours to a remand centre with a semi-open regime.

27. He was released later that day.

28. On an unspecified date, the appellate hearing was rescheduled because of the judge's illness for 22 March 2012.

29. On 22 March 2012 the Warsaw Court of Appeal dismissed the applicant's interlocutory appeal, finding that the applicant's disrespectful behaviour had interfered with the solemn nature of court proceedings and with the court's dignity, and had disrupted the proceedings. His action had provoked the audience to shout similar slogans. It had been premeditated as the applicant had known that the announcement of the judgment had been scheduled for live media broadcast. The court also considered that the applicant's behaviour could not be explained by an emotional disagreement with the court's ruling because at the time of the incident the applicant had

been unaware of the outcome of the trial. The applicant had wished to disturb the order of the proceedings irrespective of their result. In the domestic court's view, imposing a more lenient penalty would have sanctioned unaccountability and would have lacked a deterrent effect.

II. RELEVANT DOMESTIC LAW AND PRACTICE

30. Contempt of court is regulated by the Organisation of Courts Act (*Prawo o ustroju sądów powszechnych*) (as amended) of 27 July 2001.

31. Under section 48(1) of this Act, as applicable at the material time and today, the president of the trial Chamber has the authority to reprimand any person who is interfering with the solemn nature, serenity or the course of court proceedings. Only if such an admonishment turns out to be unsuccessful, is the president free to decide to have such a person removed from the courtroom. Paragraph 3 of the same section provides that the court has the authority to remove members of the public from the courtroom for poor comportment.

32. Section 49(1) of the Act sets out sanctions for breaches of the solemn nature, serenity or the course of court proceedings. At the material time, the court thus had the power to impose a fine of up to 10,000 Polish zlotys (PLN – approximately 2,500 euros (EUR)) or a custodial penalty of up to fourteen days.

33. On 1 October 2008 the Cracow Court of Appeal (decision in case no. II AKz 485/08) held that punishment for conduct which interfered with the solemn nature of the court within the meaning of the above-mentioned section 49 was correct in the event of conduct which had insulted the court. If the conduct in question did not reach that threshold, the correct response was to first reprimand the person and to impose the penalty only after the alternative responses had been exhausted to no avail. Making reference to Article 31 of the Polish Constitution, the court observed that the punishment, as the reaction of a judge to the behaviour of a person subjected to judicial assessment, should be moderately used and considered necessary in the democratic society for its security and public order, freedom and right of others or for the protection of other public interests. In the circumstances of that particular case, in which a fine was imposed on the applicant, who had been subject to a court decision to enforce his previously conditionally stayed sentence, the court considered that his ironic statement made in a loud voice: "That's the kind of law we have" (*takie mamy prawo*), constituted an unacceptable comment about the Polish legal order. The appellate court concluded that the correct response of the court in that case would have been to admonish the applicant and to call him to order.

34. Pursuant to section 50(1) of the Act a decision on a penalty for contempt of court is immediately enforceable. An interlocutory appeal against such a decision can be lodged with a superior court. Appellate

proceedings are governed by the procedural provisions applicable to the proceedings in the course of which the penalty for contempt of court has been imposed (that is to say in criminal proceedings, Article 459 et al. of the Code of Criminal Procedure (*Kodeks Postępowania Karnego*)). If an interlocutory appeal has been lodged, the court which issued the decision that is the subject of the appeal is free to stay the enforcement of the penalty for contempt of court.

35. The enforcement of decisions issued in the course of criminal proceedings is regulated by Article 9 of the Code of Execution of Criminal Sentences (*Kodeks Karny Wykonawczy*). Under paragraph 4 of this provision, lodging of an interlocutory appeal in the course of enforcement proceedings does not have an automatic effect of stopping the execution of the decision which is subject of the appeal. In particularly justified circumstances, the court can order, including of its own motion, a stay of execution of the penalty until the moment when the decision imposing it becomes final.

36. The imposition of a penalty for contempt of court does not absolve the person of criminal responsibility for the same action (section 50(2) of the Act) if the action in question also falls within the scope of a criminal offence. In practice, the court (itself, or the court's president or the president of the court section) is, at the material time, free and, in fact, should, notify a prosecutor or the police of such an instance of contempt of court (see *Komentarz do ustawy – Prawo o ustroju sądów powszechnych* ("Legal commentaries on the Legal Structure of Courts Act") by J. Gudowski, 2009 and by J. Kremer, 2013 with further references).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

37. The applicant complained under Article 6 of the Convention of the unfairness of the proceedings leading to the imposition of the custodial penalty on him. In particular, the applicant complained of a lack of impartiality on the part of judges in that the judges who had witnessed the impugned incident had later imposed the penalty for contempt of court. He also alleged inequality of arms and a lack of objectivity on the part of the court in that he had had no time and facilities to prepare his defence, he had not been allowed to present arguments by the court or even, to be present when the penalty had been ordered. The applicant also complained that the decision on the imposition of the penalty for contempt of court had not been reasoned.

Article 6, in so far as relevant, reads as follows:

"1. In the determination of any criminal charge against him, everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal ...

...

3. Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing ..."

A. Admissibility

38. 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

39. The applicant reiterated that the tribunal which had punished him for contempt of court had not been impartial in that it had combined three functions, namely that of the victim of the applicant's conduct, his accuser and his judge.

40. The Government firstly, argued that the principle of equality of arms should not extend to the present case because the punishment for contempt of court was, essentially by its nature, imposed by the court *proprio motu*, without there being any parties to the proceedings. The applicant's own disruptive behaviour forced the court to deliver the impugned decision in another courtroom and in his absence. The Government further submitted that on 19 January 2012 the applicant had been served with the impugned first-instance decision which indicated the penalty imposed on the applicant and the court's reasons, and that he had subsequently obtained from the appellate court a fresh examination of the merits of the charge. The Government referred to the Rule 80 (B) of the Rules of Procedure and Evidence common for the International Criminal Tribunals for the Former Yugoslavia and for Rwanda and to Rule 170 of the Rules of Procedure and Evidence of the International Criminal Court, which authorise the court to order the removal of a person for his or her disruptive conduct and to continue the proceedings in the person's absence.

41. Secondly, the Government submitted that the court which had punished the applicant for contempt of court had been impartial under both the objective and subjective tests established in the Grand Chamber judgment in the case of *Kyprianou v. Cyprus* (no. 73797/01, ECHR 2005-XIII). To that end, they maintained that the court had been composed of three professional

judges who had not been put under any outside pressure; had not shown prejudice against the applicant; or had they had any particular interest in punishing him. The Government also stressed that, unlike in the case of *Mariusz Lewandowski v. Poland* (no. 66484/09, 3 July 2012), the judges had not been called to assess the applicant's statements in so far as they might have insulted them personally but only in so far as they concerned the court as an institution. In any event, the main element examined by the court was that the applicant's conduct had actually disrupted the proceedings.

1. General principles

42. The general principles for assessing compliance with the obligation to ensure a hearing by an impartial tribunal are laid out in the Grand Chamber judgment in the case of *Kyprianou* (cited above, §§ 118-21) and in the judgment in the case of *Mariusz Lewandowski* (cited above, §§ 41-44).

43. Moreover, the Court has observed that proceedings held in an accused's absence are not in principle incompatible with the Convention if the person concerned can subsequently obtain from a court which has heard him a fresh determination of the merits of the charge, in respect of both law and fact (see, *Poitrimol v. France*, 23 November 1993, § 31, Series A no. 277-A).

2. Application of these principles to the circumstances of the present case

44. Turning to the circumstances of the present case, the Court observes that the decision imposing a custodial penalty on the applicant had been provoked by his protest, which can be viewed – in the light of its form and content – as a general challenge to the authority of the judiciary, and – in the light of its context – as criticism of various elements of the organisation and the course of a criminal trial. Specifically, the applicant received punishment for briskly moving to the area of the courtroom behind the judges' bench, shouting "This is a mockery of justice!" (see paragraph 11 above). He did not use any insulting or derogatory language.

45. In view of the above elements, the Court finds that the judges conducting the impugned trial could be considered the object of the applicant's action, albeit not directly or personally, but rather as an institution and in so far as it had been implied that their procedural decisions undermined the popular sense of justice (compare *Mariusz Lewandowski*, cited above, §§ 8 and 45, and *Kyprianou*, cited above, §§ 17 and 127).

46. The bench in question consisted of three judges (in contrast to the single-judge formation in the case of *Mariusz Lewandowski*, cited above, § 10, but comparable to the multiple-judge formation in the case of *Kyprianou*, cited above, § 18). Irrespective of that, the fact remains that no separate proceedings before a differently constituted formation were held to

determine the applicant's responsibility for his protest (see, *mutatis mutandis*, *Mariusz Lewandowski*, cited above, § 46, and *Kyprianou*, cited above, § 127).

47. This is aggravated by the two following factors. Firstly, it is a fact that, ruling in his absence, the judges did not give the applicant any opportunity whatsoever to react to the possibility of such a finding or to put forward his own explanations and representations in this connection (see, *mutatis mutandis*, *Mariusz Lewandowski*, cited above, §§ 10 and 46, contrast *Kyprianou*, cited above, § 17). Secondly, it is the summary nature of the impugned first-instance decision which only read that the disciplinary custodial penalty of fourteen days was being imposed "for the breach of solemn nature, serenity and the course of court proceedings to the degree making the announcement of the judgment impossible" (see paragraph 17 above).

48. It is also relevant in the assessment of the case to note that the penalty imposed on the applicant was the most severe sanction possible under the applicable law (see, *mutatis mutandis*, *Mariusz Lewandowski*, cited above, § 48).

49. Lastly, the Court observes that the fact that on appeal, the applicant submitted arguments in his defence, including his justification for the conduct he had employed, and that the appellate court reasoned its decision, did not, in the circumstances of the case, cure the above-mentioned procedural shortcomings (see, *mutatis mutandis*, *Mariusz Lewandowski*, cited above, § 49, and *Kyprianou*, cited above, § 134). As it happened, the appeal did not have any practical impact on the applicant's situation because, by the time it was examined, the applicant had already fully served his fourteen-day custodial penalty.

50. It follows that, in view of all the above-mentioned features of the impugned proceedings, the Court considers that the cumulation of roles in the instant case (in which a custodial punishment was applied), between complainant and judge could prompt objectively justified fears as to the impartiality of the bench (see, *mutatis mutandis*, *Mariusz Lewandowski*, cited above, § 48, and *Kyprianou*, cited above, § 127).

51. In conclusion, the Court finds that there has been a breach of the principle of impartiality on the basis of the objective test. Accordingly, there has been a violation of Article 6 § 1 of the Convention.

52. In view of the above finding, the Court considers that it is not necessary to examine the issue of the equality of arms as raised by the applicant as a part of his complaint under Article 6 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

53. The applicant also complained of the disproportionate severity of the punishment he had received for expressing his views in an atmosphere of

heightened tension as a person who had suffered communist repressions and had had a right to freely participate in political debate in democratic society.

He relied on Article 10 of the Convention, which, in so far as relevant, provides the following:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to ... impart information and ideas without interference by public authority ...
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

54. In the reference case of *Kyprianou*, the Grand Chamber observed that whereas the main issue under Article 6 was, just like in the present case, the impartiality of the court which determined the criminal charge against the applicant, the complaint under Article 10 concerned the impact of the applicant's conviction and sentence on his right to freedom of expression. It was therefore a complaint of a different nature from that under Article 6 and a separate examination of the applicant's complaint under Article 10 was called for (see, *Kyprianou*, cited above 150).

A. Admissibility

55. The Government argued that Article 10 of the Convention was inapplicable in the present case because the applicant had not been punished by the domestic court for his ideas or the information which he had been imparting but for his behaviour. The content of the applicant's statements had been, in the Government's view, irrelevant for the assessment of whether he had deserved disciplinary punishment. He had in fact received disciplinary punishment for breaching the dignity of the court and for hampering its work.

56. The applicant submitted that Article 10 was applicable.

57. The Court observes that the applicant disrupted the announcement of the judgment in a politically sensitive trial by entering the area of the courtroom behind the judges' bench and by shouting a slogan in protest against how the court had been handling the case.

58. In its extensive case-law on freedom of expression, the Court has on many occasions held that protests, such as these taking the form of physically impeding certain activities, can constitute expressions of opinion within the meaning of Article 10 and that the arrest and detention of protesters can constitute interference with the right to freedom of expression (see *Steel and Others v. the United Kingdom*, 23 September 1998, § 92, Reports of Judgments and Decisions 1998 VII; *Açık and Others v. Turkey*,

no. 31451/03, § 40, 13 January 2009; and *Karácsony and Others v. Hungary* [GC], nos. 42461/13 and 44357/13, § 120, 17 May 2016). Accordingly, the facts of the present case fall within the scope of Article 10.

59. The Court also notes that this part of the application 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.

B. Merits

1. The parties' submissions

60. The applicant submitted that the punishment which he had received for expressing his views had been too harsh. His statements had been made in an atmosphere of heightened tension, during a highly sensitive political trial of the leaders of the former regime. The applicant, who had been the youngest person who had been arrested under martial law and who had suffered extensively under communist repression, had been greatly moved by the trial and had felt a strong feeling of injustice in that the trial had lasted many years, that it had been carried out in the absence of the main accused and that the prosecutor had sought, what in the applicant's opinion had been, a lenient sentence for one of the accused.

61. The Government argued that there had been no violation of Article 10 of the Convention on the grounds that the restriction of the applicant's freedom of expression had been necessary in a democratic society for the purpose of maintaining the authority and impartiality of the judiciary and had been proportionate.

2. The Court's assessment

(a) The general principles

62. The general principles for assessing whether an interference with the exercise of the right to freedom of expression is "necessary in a democratic society" within the meaning of Article 10 § 2 of the Convention are well settled in the Court's case-law. They were recently restated in *Pentikäinen v. Finland* ([GC], no. 11882/10, §§ 87-88, ECHR 2015) and *Bédat v. Switzerland* ([GC], no. 56925/08, § 48, 29 March 2016).

63. Moreover, the Court has observed that the phrase "authority of the judiciary" includes, in particular, the notion that the courts are, and are accepted by the public at large as being, the proper forum for the settlement of legal disputes and for the determination of a person's guilt or innocence on a criminal charge. What is at stake as regards protection of the authority of the judiciary is the confidence which the courts in a democratic society must inspire in the accused, as far as criminal proceedings are concerned, and also in the public at large (see *Kyprianou*, cited above, § 172).

64. The Court has also acknowledged that the work of the courts, which are the guarantors of justice and which have a fundamental role in a State governed by the rule of law, needs to enjoy public confidence. It should therefore be protected against unfounded attacks. The courts, as with all other public institutions, are not immune from criticism and scrutiny. A clear distinction must, however, be made between criticism and insult. If the sole intent of any form of expression is to insult a court, or members of that court, an appropriate punishment would not, in principle, constitute a violation of Article 10 § 2 of the Convention (see *Skałka v. Poland*, no. 43425/98, § 34, 27 May 2003 with further references).

65. The Court must determine whether the measure taken was "proportionate to the legitimate aims pursued". In doing so, the Court has to satisfy itself that the national authorities, basing themselves on an acceptable assessment of the relevant facts, applied standards which were in conformity with the principles embodied in Article 10. In addition, the fairness of the proceedings, the procedural guarantees afforded and the nature and severity of the penalties imposed are factors to be taken into account when assessing the proportionality of an interference with the freedom of expression guaranteed by Article 10 (see *Kyprianu*, cited above, § 171 and *Karácsony and Others*, cited above, § 133, with further references).

66. The rule of law, one of the fundamental principles of a democratic society, is inherent in all the Articles of the Convention. It implies, *inter alia*, that there must be a measure of legal protection in domestic law against arbitrary interferences by public authorities with the rights safeguarded by the Convention (ibid, § 156, with further references).

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

67. The Court considers that the applicant was adversely affected by the imposition of a custodial penalty of fourteen days for his disruption of the court proceedings by shouting his slogan from behind the judges' bench, which constituted an interference with his freedom of expression. It is a common ground between the parties that this interference was in accordance with the law (section 49 of the Organisation of Courts Act; see paragraph 33 above) and in pursuit of a legitimate aim, namely the protection of the authority of and the public confidence in the judiciary (see, *mutatis mutandis*, *Skałka*, cited above, § 30 and 31, and *Kyprianou*, cited above, § 168).

68. On the other hand, the Court has found above that the procedure which led to the interference did not comply with the requirements of Article 6 of the Convention (see paragraph 51 above).

69. In the light of the shortcomings in the impugned procedure, the Court cannot consider that the restriction on the applicants' right to freedom of expression was accompanied by effective and adequate safeguards

against abuse (see, *mutatis mutandis*, *Karácsony and Others*, cited above, § 151).

70. Having regard to the foregoing, the Court considers that in the circumstances of the case the impugned interference with the applicants' right to freedom of expression was not necessary in the democratic society because it was not accompanied by adequate procedural safeguards. It is therefore unnecessary to examine other aspects of the proportionality such as the form and the content of the applicant's statement, the context in which it was made, and the nature and severity of the penalties imposed (compare with *Skałka*, cited above, §§ 35 and 38, with further references).

71. The Court concludes that there has been a violation of Article 10 of the Convention on this account.

III. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

72. The applicant also submitted that his custodial penalty had been executed before his interlocutory appeal against it had been examined by the appellate court. In essence, he complained that his challenge to the lawfulness of his detention had not been examined speedily.

73. Having regard to its above findings that the applicant's punishment for contempt of court in the circumstances of the case has breached Articles 6 and 10 of the Convention, in particular taking into account its observations in paragraphs 50, 51 and 70 above, the Court considers that the present case does not raise a separate issue under Article 5 § 4.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

74. 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

75. The applicant claimed 30,000 euros (EUR) in respect of the damage he had suffered. He explained, *inter alia*, that he had been the victim of the communist regime and, since its collapse, a known and active human-rights defender and politician. He greatly cherished the values of a democratic society and thus felt particularly hurt when the domestic court had punished him for the exercise of his right to freedom of expression.

76. The Government considered this amount to be excessive.

77. The Court considers that the applicant suffered non-pecuniary damage which would not be sufficiently compensated by the finding of a violation of the Convention. Considering the circumstances of the case and making its assessment on an equitable basis, the Court awards the applicant EUR 15,000 under this head.

B. Costs and expenses

78. The applicant's lawyer also claimed EUR 9,000 for the costs and expenses incurred in the proceedings before the Court. Without furnishing any separate invoice to this effect, the lawyer submitted that the above sum corresponded to thirty hours of work and was due to be paid under the contract between the applicant and the lawyer.

79. The Government challenged the above claim for the costs and expenses on the grounds that the applicant had failed to submit, in accordance with Rule 60 § 2 of the Rules of Court, the itemised particulars of the claim, together with any relevant supporting documents. The Government therefore invited the Court to reject this claim under Rule 60 § 3 of the Rules of Court.

80. 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 rejects the claim for costs and expenses in the domestic proceedings and considers it reasonable to award the sum of EUR 850 for the proceedings before the Court.

C. Default interest

81. 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 application admissible;

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

3. *Holds* that there has been a violation of Article 10 of the Convention;

4. *Holds* that it is not required to deal with the merits of the applicant's complaint under Article 5 § 4 of the Convention;

5. *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:

(i) EUR 15,000 (fifteen thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(ii) EUR 850 (eight hundred and fifty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

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

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

Done in English, and notified in writing on 6 December 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Abel Campos Registrar	Linos-Alexandre Sicilianos President