



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

FIRST SECTION

**CASE OF TIZIANA PENNINO v. ITALY**

*(Application no. 21759/15)*

JUDGMENT

STRASBOURG

12 October 2017

*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 Tiziana Pennino v. Italy,**

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

Linos-Alexandre Sicilianos, *President*,

Kristina Pardalos,

Guido Raimondi,

Krzysztof Wojtyczek,

Ksenija Turković,

Armen Harutyunyan,

Jovan Ilievski, *judges*,

and Abel Campos, *Section Registrar*,

Having deliberated in private on 19 September 2017,

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

## PROCEDURE

1. The case originated in an application (no. 21759/15) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Italian national, Ms Tiziana Pennino (“the applicant”), on 27 April 2015.

2. The applicant was represented by Mrs A. Mascia, a lawyer practising in Verona and Strasbourg. The Italian Government (“the Government”) were represented by their Agent, Mrs E. Spatafora, and their co-Agent, Mrs P. Accardo.

3. The applicant alleged that she had been ill-treated by the police and that the authorities had not carried out an effective investigation into her allegations.

4. On 25 April 2016 the application was communicated to the Government.

## THE FACTS

### THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1969 and lives in Benevento.

### A. The events of 2 April 2013

6. On 2 April 2013, between 1 and 1.15 p.m., the applicant was stopped by two officers of the Benevento municipal police while she was driving her car.

7. According to the applicant, the police officers checked her driver's licence and her vehicle documents. An argument broke out between the applicant and the officers. In the applicant's view, her nervous and hostile attitude led the police officers to suspect that she was intoxicated, which she denied. As the officers did not have the necessary equipment to perform a breathalyser test, they requested the assistance of the road police (*Polizia Stradale*). The applicant returned to her car. Once she had got back into the vehicle, one of the police officers pulled the car door open and dragged her out by the arm.

8. As recorded in the municipal police officers' report of 3 April 2013, the applicant had been stopped because she had been driving in an erratic manner, braking suddenly and changing lanes abruptly. The applicant did not seem to be able to exit the vehicle by herself and had had to be assisted by one of the officers. The officers reported that they had smelt alcohol on her breath and that she had been unsteady on her feet. The applicant had insulted and threatened them.

9. At 1.30 p.m. traffic police officers arrived on the scene with the breathalyser equipment.

10. According to the applicant, she was not able to take the test because she was in a state of anxiety that had been exacerbated by one of the officers shouting at her that she was drunk. That had caused her to tremble and had meant she could not keep the breathalyser tube in her mouth. The applicant requested that *carabinieri* be called to the scene, but the request was denied.

11. According to the traffic police report (*annotazione di servizio della Polizia Stradale*), the applicant agreed to be breathalysed, but did not blow into the device in the manner she had been told to do by the officers and refused to cooperate. At one point she had thrown the device's mouthpiece into the face of one of the officers. The applicant was described as being in a "clearly altered" state, smelling strongly of alcohol and staggering.

12. The applicant was taken to the municipal police station (*Comando di Polizia Municipale*), where she arrived at approximately 1.50 p.m.

13. According to the applicant, once at the station the lieutenant on duty started drafting an offence report (*verbale di contestazione*) for driving under the influence of alcohol. The two officers who had stopped her in the street and escorted her to the station and another officer were also present. She repeatedly requested that she be allowed to use a telephone to let her family and her lawyer know of her whereabouts but her requests were denied. When she tried to pick up a telephone, one of the officers hit her in order to make her sit down. The same officer twisted her arms behind her

back and handcuffed her, hurting her wrists. He then squeezed her buttocks and asked her if the handcuffs were tight enough. The applicant started screaming loudly and the officer removed the handcuffs in a violent manner. In doing so, he fractured the applicant's right thumb and caused other injuries to her wrists. He then warned her not to cause further trouble and threatened her. The applicant left the station between 2.15 and 2.30 p.m. and proceeded further on foot as her car had been seized.

14. As recorded in the joint report issued on 3 April 2013 by the two municipal police officers who had stopped her in the street and the lieutenant on duty at the municipal police station, upon her arrival at the station the applicant had started threatening and insulting them. When the lieutenant started drafting the offence report, she grabbed a telephone from a desk and ran into the corridor. When the lieutenant tried to stop her, the applicant pushed him violently, causing him to fall. She then threw the telephone out of the window. The applicant, who was in an extremely agitated state, pushed and kicked the other two officers, and they eventually handcuffed her. When the applicant calmed down, the handcuffs were removed. The applicant ran out of the station, leaving her bag and personal belongings behind. Her vehicle and driver's licence had been seized under road traffic legislation. The same account of the events is recorded in the offence notification (*informativa di reato*) filed by the directing commander of the Benevento municipal police with the Benevento public prosecutor on 3 April 2013.

15. According to the applicant, once she had left the station she got a lift to the emergency department of a local hospital, where she was examined.

16. At approximately 8 p.m. the applicant went to the State Police and attempted, unsuccessfully, to lodge a criminal complaint against the municipal police officers. According to the report of the officer on duty, the applicant complained that she had been assaulted by Benevento municipal police officers and that her finger had been fractured. When the officer informed her that she could not file a criminal complaint because the station was closed, the applicant started speaking incoherently in a loud voice. Given her nervous and agitated state, the officer called the local *questura* (police headquarters) for backup. The applicant requested that an ambulance be called. The ambulance arrived at 8.30 p.m. and the applicant was examined by the ambulance medics. She was taken home by ambulance at approximately 9 p.m.

### **B. Criminal complaint against the police officers and the ensuing investigation**

17. On 4 April 2013 the applicant lodged a criminal complaint against the two police officers who had stopped her in the street on 2 April 2013 and the other two officers who had been present at the municipal police

station, but whose names she did not know, alleging assault and battery, infliction of bodily harm, abuse of office, and threats.

18. An investigation into the applicant's allegations was initiated. Seven people identified by the applicant as witnesses (*persone informate sui fatti*) were interviewed. Two were people who stated they had seen one of the officers dragging the applicant out of her vehicle. One was the owner of a bar where the applicant had gone in order to call her former spouse once she had left the hospital on 2 April 2013. Another was the applicant's former spouse, who stated that her alcohol intake was limited to consumption during meals. He further stated that because of a traumatic event in her life the applicant became agitated, trembled and had trouble expressing herself when subjected to stress. The other three were colleagues, who stated that the applicant had not appeared to be intoxicated when she had left her office on 2 April 2013. The police officers who had allegedly been involved in the ill-treatment were not interviewed, and neither was the applicant.

19. On 17 January 2014 the public prosecutor requested that the proceedings be discontinued. The basis of the request was that "the allegations in the criminal complaint are not confirmed by the statements made by the witnesses identified by the victim".

20. On 27 February 2014 the applicant lodged an objection against the prosecutor's request to discontinue the proceedings. She complained about the lack of reasoning in the prosecutor's request and alleged that the investigation had not been thorough. In that connection, she complained about the "total absence" of investigative measures with respect to the events that had occurred at the municipal police station and requested that the investigating judge order such measures without delay. Moreover, the applicant complained that she had not been questioned and requested that she be interviewed immediately. She also requested that officials interview the person who had taken her to the hospital when she had left the police station and other individuals. She also challenged the credibility of the official police reports, as they were in stark contrast with her account of the impugned events.

21. At a hearing on 22 September 2014 the applicant's lawyer repeated the complaints and requests contained in the objection against the prosecutor's request to discontinue the proceedings and reiterated, in particular, the request to conduct an investigation into the events that had occurred at the municipal police station.

22. By an order of 3 October 2014, served on the applicant on 27 October 2014, the Benevento District Court preliminary investigations judge (*giudice per le indagini preliminari*) decided to discontinue the proceedings. The order stated that the evidence gathered during the preliminary investigation had not been sufficient to warrant indicting the officers. It stated that the victim's allegations had not been corroborated by

evidence and that further investigative measures, as requested by the victim, would have “no influence whatsoever”.

### **C. Criminal proceedings against the applicant**

23. On 25 October 2013 the applicant was charged with a number of offences in connection with the events of 2 April 2013, including resisting a police officer, insulting a public official, and driving under the influence of alcohol. The applicant was also charged with causing bodily harm to a police officer.

24. On an unspecified date, the public prosecutor and the applicant reached a plea agreement with respect to the offence of bodily harm and requested that the judge proceed with the imposition of a sentence (*applicazione della pena su richiesta delle parti*).

25. On 21 November 2014 the Benevento preliminary hearings judge took note of the plea agreement and gave the applicant a suspended sentence of twenty-eight days’ imprisonment. On the same day, the preliminary hearings judge suspended the proceedings against the applicant in connection with the charges of resisting a police officer, insulting a public official and driving under the influence of alcohol. The applicant was placed on probation with a requirement that she perform community service.

### **D. Medical documentation**

#### *1. Medical reports in connection with the events of 2 April 2013*

26. On 2 April 2013, the applicant went to the emergency department of a local hospital. At 6.42 p.m. she was examined by a radiologist, who established that her right thumb was fractured.

27. On 3 April 2013 the applicant returned to the emergency department. According to the medical report, the applicant arrived at the hospital in an agitated state, complaining about pain in several parts of her body. She was examined by a doctor who noted the presence of a splint on her right hand to treat a fracture. The doctor further noted the presence of bruising resulting from traumatic injury (*trauma contusivo con ecchimosi*) to the right thigh, right shoulder and left wrist.

28. On 4 April 2013 the applicant went to a different hospital. She was examined by an orthopaedist, who confirmed the fracture of the thumb and the presence of bruises on her left thigh and on her back. The doctor recommended surgery to treat the fracture.

2. *Expert psychological report submitted by the applicant in the course of the criminal proceedings against her (extracts)*

29. Owing to a traumatic event in her life, the applicant suffers from chronic post-traumatic stress disorder, which has evolved into a major depressive disorder. She also suffers from a disorder which is characterised by mood swings which are exacerbated in times of particular stress, by the consumption of alcohol or sleep deprivation. The disorder in question includes peaks of manic behaviour when the applicant loses contact with reality and experiences a sense of impending threat to her own safety and that of those around her. The applicant was prescribed drugs for insomnia in February 2013. Combining the drugs with even moderate amounts of alcohol can have the same consequences as excessive alcohol consumption.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

30. The applicant complained that she had been ill-treated by the police and that the investigation into her allegations had been neither thorough nor effective. She relied on Article 3 of the Convention, which reads as follows:

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

#### A. Admissibility

31. The Court notes that the application 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*

32. In cases involving the substantive aspect of Article 3 concerning, in particular, allegations of ill-treatment by State agents, the relevant general principles were articulated by the Grand Chamber in *Bouyid v. Belgium* ([GC], no. 23380/09, § 81-90, ECHR 2015).

33. The Court reiterates, in particular, that in respect of a person who is deprived of his liberty, or, more generally, is confronted with law - enforcement officers, any recourse to physical force which has not



been made strictly necessary by his own conduct diminishes human dignity and is an infringement of the right set forth in Article 3 (*ibid.*, § 88).

34. Allegations of ill-treatment contrary to Article 3 must be supported by appropriate evidence. To assess this evidence, the Court adopts the standard of proof “beyond reasonable doubt” but adds that such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (*ibid.*, § 82).

35. On this latter point the Court has explained that where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the case of persons within their control in custody, strong presumptions of fact will arise in respect of injuries occurring during such detention. The burden of proof is then on the Government to provide a satisfactory and convincing explanation by producing evidence establishing facts which cast doubt on the account of events given by the applicant. In the absence of such explanation, the Court can draw inferences which may be unfavourable for the Government. That is justified by the fact that persons in custody are in a vulnerable position and the authorities are under a duty to protect them. In *Bouyid* the Court found that the same principle held true in the context of an identity check in a police station or a mere interview on such premises (*ibid.*, § 84).

36. The Court also pointed out in *El-Masri v. the former Yugoslav Republic of Macedonia* [GC] (no. 39630/09, § 155, ECHR 2012) that although it recognised that it must be cautious in taking on the role of a first-instance tribunal of fact where this was not made unavoidable by the circumstances of a particular case (see *McKerr v. the United Kingdom* (dec.), no. 28883/95, 4 April 2000), it had to apply a “particularly thorough scrutiny” where allegations were made under Article 3 of the Convention (see, *mutatis mutandis*, *Ribitsch v. Austria*, 4 December 1995, § 32, Series A no. 336, and *Georgiy Bykov v. Russia*, no. 24271/03, § 51, 14 October 2010), even if certain domestic proceedings and investigations had already taken place (see *Cobzaru v. Romania*, no. 48254/99, § 65, 26 July 2007).

37. In cases involving the investigation of allegations of ill-treatment, the general principles which apply in determining whether such an investigation was effective for the purposes of Article 3 were restated by the Grand Chamber, *inter alia*, in *Mocanu and Others v. Romania* ([GC], nos. 10865/09, 45886/07 and 32431/08, § 316-326 ECHR 2014 (extracts)).

38. In particular, any investigation of serious allegations of ill-treatment must be thorough. That means that the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation or to use as the basis of their decisions (see *Assenov and Others v. Bulgaria*, 28 October 1998, § 103, *Reports of Judgments and Decisions* 1998-VIII, and *Bati and Others v. Turkey*, nos. 33097/96 and 57834/00, § 136, ECHR 2004-IV). They must

take all reasonable steps available to them to secure the evidence concerning the incident, including, *inter alia*, eyewitness testimony and forensic evidence (see *Tanrikulu v. Turkey* [GC], no. 23763/94, § 104, ECHR 1999-IV, and *Gül v. Turkey*, no. 22676/93, § 89, 14 December 2000). Any deficiency in the investigation which undermines its ability to establish the cause of injuries or the identity of the persons responsible will risk falling foul of this standard (see *Boicenco v. Moldova*, no. 41088/05, § 123, 11 July 2006).

## 2. Application to the present case

39. The Court notes at the outset that the parties agree that the police used force against the applicant and that she sustained certain injuries as a result, namely contusions and a fractured finger. The Court also notes that the presence of certain injuries is supported by medical evidence (see paragraphs 26 - 28 above). The applicant contended that the finger had been fractured while she was at the municipal police station.

40. The Court notes that the essence of the disagreement between the parties concerns the exact circumstances in which the applicant sustained her injuries and whether recourse to physical force had been strictly necessary.

41. The Court considers that during the period the applicant spent at the police station the applicant can be viewed as having been under the control of the authorities. Thus, in contrast to cases in which it could not be established that the applicant had been under the control of the authorities, in the present case the Court concludes that the burden rests on the Government to provide a satisfactory and convincing explanation as to the circumstances in which the injuries were sustained and whether the force was made strictly necessary by the applicant's own conduct (see *Bouyid*, cited above, §§ 83-84).

42. In their observations the Government argued that all the injuries, including the fractured finger, could plausibly and convincingly be explained by the applicant's resistance to actions the police had taken to contain her incrementally agitated – and at times aggressive – behaviour. In their view therefore the force used against the applicant by the police officers had been made strictly necessary by her own conduct.

43. In support of their position they cited several elements attesting to the applicant's agitated and altered state. First, they observed that witness statements about the applicant's being sober prior to being stopped in the street did not exclude the possibility that she was intoxicated at the time she got behind the wheel of her vehicle. Second, they relied on the psychological report by the expert appointed by the applicant in the context of the criminal proceedings against her and highlighted the part stating that she had been taking medication which could have the same effect as excessive alcohol consumption when combined with even a very small

amount of alcohol (see paragraph 29 above). They added that the report had been added to the investigation file and had been examined closely by the prosecutor and investigating judge. They also cited the report drawn up by the officer on duty at the Benevento police station where the applicant had attempted to file her criminal complaint, which described her as being extremely agitated (see paragraph 16 above). The Government further pointed out that the applicant's aggressiveness was corroborated by the fact that one of the agents at the municipal police station had been pushed by the applicant and injured as a result. Moreover, the Government reiterated that criminal proceedings had been initiated against the applicant for offences against the police officers, including insulting a public official, and that the proceedings had ended with a plea agreement.

44. The Government stressed that the domestic investigation, which had been carried out in an effective and thorough manner, had not established that the events had occurred in the way described by the applicant, thus casting doubt on her account of what had happened. According to the Government, the information gathered from interviews with the individuals identified by the applicant during the course of the investigation had been insufficient to confirm her accusations against the municipal police officers, as confirmed by the investigating judge's decision to discontinue the proceedings. Even if the witnesses had confirmed certain facts described by the applicant, her account had not been corroborated overall, as the witness statements had referred to ancillary matters. The Government also highlighted the coherence of the police officers' account as opposed to the inconsistencies characterising the applicant's account. In that regard, they pointed out that the police reports had provided a plausible explanation for the injuries sustained by the applicant, whereas the applicant's account had not explained the police officer's injuries and was, in their view, riddled with lacunae and contradictions.

45. In the circumstances of the present case, before examining the Government's submissions, the Court wishes to reiterate that persons who are held in police custody or are even simply taken or summoned to a police station for an identity check or questioning, and more broadly all persons under the control of the police or a similar authority, are in a situation of vulnerability and the authorities are consequently under a duty to protect them (see *Bouyid*, cited above, § 107). In that regard, the Court recalls that Article 3 of the Convention establishes, as does Article 2, a positive obligation on the State to train its law-enforcement officials in such a manner as to ensure a high level of competence in their professional conduct so that no one is subjected to treatment that runs contrary to that provision (see *Bouyid*, cited above, § 108).

46. Turning to the arguments put forward by the Government, the Court notes that they hinge on a general reliance on the applicant's agitated state and general statements about the need to use force as a reaction to such

conduct. The Government have not provided specific details about how the events at the municipal police station unfolded, but referred in general terms to the account provided by the police officers, which they accepted as being plausible and coherent. No concrete attempt was made to explain, let alone substantiate, what may have led to the fracture of the applicant's finger, despite the Government's acknowledgement that the injury had occurred as a consequence of the use of force by the officers on the applicant.

47. Against this backdrop, the Court will next examine whether some substantiation of the Government's submissions emerges from the domestic investigation. In that connection, on the facts of the present case the Court considers that the provision of a satisfactory and convincing explanation as to the necessity of the use of force is closely related to the question of whether the national authorities have conducted an effective investigation capable of establishing the circumstances and the nature of the force used (see, *mutatis mutandis*, *Mihhailov v. Estonia*, no. 64418/10, § 112, 30 August 2016; *Hilal Mammadov v. Azerbaijan*, no. 81553/12, § 83, 4 February 2016; *Balajevs v. Latvia*, no. 8347/07, § 95, 28 April 2016; and *Cemal Yilmaz v. Turkey*, no. 31298/05, § 32, 7 February 2012).

48. The applicant contended that the investigation authorities had not made a serious attempt to find out what had happened in order to identify the origin of her injuries and the persons responsible for them. The Government submitted that the investigation had been conducted diligently, independently, and in a thorough manner.

49. For the reasons set out below, the Court is not persuaded that the investigation complied with the requirement of thoroughness as dictated by Article 3, in the sense that the authorities used their best endeavours to find out what happened or did not rely on hasty or ill-founded conclusions to close their investigation or as the basis of their decisions (see, amongst other authorities, *Alberti v. Italy*, no. 15397/11, § 62, 24 June 2014).

50. The Court notes at the outset that the investigation file shows no evidence of any investigative efforts directed towards the events that occurred in the municipal police station, although that is where the applicant alleged that the most important injuries had been inflicted. The Court further notes that the applicant explicitly complained about the lack of investigative measures concerning the events that had taken place at the station to the domestic authorities (see paragraph 20 above). The only documents which relate to the events at the municipal police station are reports by the municipal police officers (see paragraph 14 above). All the other documents contained in the investigation concern the events that took place in the street after the applicant had been stopped on suspicion of driving under the influence of alcohol.

51. The focus of the investigation on the latter events, as opposed to the events at the station, is also reflected in the fact that the interviews with witnesses were limited to the individuals identified by the applicant in her

criminal complaint, as is also conceded by the Government in their observations. With the exception of the person who lent his telephone to the applicant after she had left the hospital, the individuals identified by the applicant were connected either to the events in the street or attested to the applicant's being sober and her personal circumstances (see para 18 above). In addition, the Court notes that neither the police officers involved in the impugned events, nor the applicant, were interviewed.

52. Another aspect which the Court finds to be problematic in so far as the thoroughness of the investigation is concerned is the extremely succinct reasoning in the prosecutor's request to discontinue the proceedings and the investigating judge's decision to that effect (see paragraphs 19 and 22 above). The Court underlines in this respect that the prosecutor's request appears to be drafted in a standardised manner. The investigating judge's decision is similarly laconic. It contains generic formulations to the effect that the evidence gathered during the preliminary investigation was not sufficient to warrant indicting the officers and that the victim's allegations have not been corroborated. No information can be gleaned from the request and the decision regarding the reconstruction of the facts, the possible causes of the applicant's injuries, the nature of the force used, or the elements relied on by the prosecutor and investigating judge to request and order the discontinuance of the proceedings.

53. The Court notes further that the investigating judge gave no reasons for denying the applicant's request for additional acts of investigation. The decision contains a generic dismissal to the effect that the further measures would have "no influence whatsoever".

54. Those considerations are sufficient for the Court to conclude that the investigating authorities failed to devote the requisite attention to the applicants' allegations concerning the events that occurred at the municipal police station despite the nature of the alleged acts, involving law-enforcement officers using force and causing injuries to a person under their control. The effect of the shortcomings identified above entailed, in practice, a failure to shed light on important aspects of the impugned events, the circumstances surrounding the use of force by the police against the applicant and, consequently, on the necessity of the use of such force.

55. Concerning the substantive limb of Article 3, the Court is not persuaded that the Government have provided a satisfactory and convincing explanation as to how the applicant's injuries, namely the fractured finger, could have been caused. In conclusion, it cannot consider that the Government have discharged their burden of proof by demonstrating that the use of force was strictly necessary.

56. It follows that there has been a violation of Article 3 under both its substantive and procedural head.

57. Having regard to the latter findings, the Court does not consider it necessary to carry out a separate assessment of the events preceding the

period the applicant spent at the police station, or to address the applicant's other complaints relating to the effectiveness of the investigation.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. 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

59. The applicant claimed 50,000 euros (EUR) in respect of pecuniary damage for loss of earnings and EUR 30,000 in respect of non-pecuniary damage.

60. The Government argued that the pecuniary damage claim was based on a highly speculative contention that there was a causal link between the violation and the loss of earnings.

61. As to the applicant's claim for loss of earnings, the Court agrees with the Government that no direct causal link has been sufficiently established between the alleged loss and the violation it has found of Article 3 of the Convention; it therefore rejects this claim.

62. On the other hand, ruling on an equitable basis, it awards the applicant EUR 12,000 in respect of non-pecuniary damage.

### B. Costs and expenses

63. The applicant also claimed EUR 2,660 for the costs and expenses incurred before the domestic courts and EUR 11,400 for those incurred before the Court.

64. The Government described the applicant's claim as excessive.

65. 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 sum of EUR 8,000 covering costs under all heads.

### C. Default interest

66. 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 3 of the Convention in both its procedural and substantive aspects;
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:
    - (i) EUR 12,000 (twelve thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
    - (ii) EUR 8,000 (eight thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
  - (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 12 October 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Abel Campos  
Registrar

Linos-Alexandre Sicilianos  
President