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

FIFTH SECTION

CASE OF KARMAN v. RUSSIA

(Application no. 29372/02)

JUDGMENT

STRASBOURG

14 December 2006

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 Karman v. Russia,

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

Mr P. LORENZEN, *President*,
Mrs S. BOTOUCHAROVA,
Mr K. JUNGWIERT,
Mr R. MARUSTE,
Mr A. KOVLER,
Mr J. BORREGO BORREGO,
Mrs R. JAEGER, *judges*,
and Mrs C. WESTERDIEK, *Section Registrar*,

Having deliberated in private on 20 November 2006,

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

PROCEDURE

1. The case originated in an application (no. 29372/02) 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, Mr Anatoliy Vladimirovich Karman ("the applicant"), on 28 May 2002.

2. The Russian Government ("the Government") were represented by their Agent, Mr P. Laptev, Representative of the Russian Federation at the European Court of Human Rights.

3. On 4 January 2005 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

4. The Chamber decided, after consulting the parties, that no hearing on the admissibility and/or merits was required (Rule 59 § 3 *in fine*).

THE FACTS

THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1957 and lives in Volgograd. He is the director-general and editor-in-chief of the *Gorodskiye Vesti* newspaper.

6. On 2 September 1994 the applicant published an article under the headline "In Blind Frenzy" ("*V slepom ugare*"). It opened with a verse mocking Jewish last names, which the applicant had overheard "at a

meeting of the Russian National Unity [movement] ... organised... by a local neofascist Mr Terentyev". The applicant wrote that at the meeting the verse had been recited by a woman in the traditional Cossack clothing. He had not approached her then, but later his curiosity was piqued when he saw that verse printed in Mr Terentyev's newspaper *Kolokol* and he decided to meet that woman.

The applicant then related his discussion with the woman who was aggrieved by her precarious living conditions resulting from profound social and economic changes in Russia, and blamed the worsening of her situation on Jews. She confessed to being an avid reader of the *Kolokol* newspaper which the article described as "a horrible brainchild of the 'Black Hundreds', deceitful beyond belief". The woman was a local distributor of that newspaper in her village.

The article concluded with the applicant's analysis of the current political situation, critical of social parasitism and witch-hunting.

7. On 24 September 1994 Mr Terentyev lodged a civil defamation action against the applicant and the *Gorodskiye Vesti* newspaper in connection with the applicant's description of him as a "neofascist".

8. On 20 December 1994 the Sovetskiy District Court of Volgograd granted the action and ordered that the applicant pay non-pecuniary damages to Mr Terentyev.

9. The applicant lodged an appeal. His appeal was supported by the Sovetskiy district prosecutor who submitted, in particular, that the Volgograd regional prosecutor had opened a criminal investigation into the incitement of ethnic hatred by the *Kolokol* newspaper.

10. On 27 February 1995 the Volgograd Regional Court quashed the judgment of 20 December 1994 on the ground that the District Court had not commissioned an expert study of the publication and had not examined the materials of the criminal investigation. The matter was remitted for a new examination.

11. On 22 August 1996 the applicant asked the District Court to commission a composite linguistic and social-psychological expert study, to examine ten issues of the *Kolokol* newspaper printed between August 1993 and August 1994, and to adjourn the proceedings pending investigation of the criminal case against Mr Terentyev.

12. On 2 December 1996 the Sovetskiy District Court dismissed, by an interim decision, the applicant's requests. It determined that there was no need to commission a composite study or to examine the past issues of the *Kolokol* newspaper as long as the expert reports made in the context of criminal proceedings against Mr Terentyev were available.

13. On the same day the Sovetskiy District Court gave judgment. It found in favour of Mr Terentyev and awarded him damages against the applicant.

14. On 24 April 1997 the Presidium of the Volgograd Regional Court, by way of supervisory-review proceedings, quashed the judgment of 2 December 1996 on the ground that the District Court had not remedied the defects identified by the Regional Court on 27 February 1995 (it had not commissioned an expert study or examined the materials of the criminal case against Mr Terentyev). The case was remitted for a new examination.

15. On 8 November 1999 the Volgograd regional prosecutor's office discontinued the criminal proceedings against Mr Terentyev for the lack of indication that he had committed a criminal offence. It found as follows:

> "An analysis of publications in the *Kolokol* newspaper and public statements by S.V. Terentyev yields the conclusion that their purpose is the 'elucidation' of the Judaic religion and a negative appraisal of the Russian government, 'the world Jewish masonry', Judaic cult and symbols. However, they do not contain incitement to extermination of the Jewish people, humiliation of national dignity, or violent overthrow of the existing government. Striving to awaken the Russian national self-consciousness, the *Kolokol* newspaper personified by Mr Terentyev does not call for violent actions. The publications do not proclaim nationalism, that is the aspiration to declare the superiority of one nation. The leaflets and statements which prompted the opening of the criminal investigation do not call for ethnic cleansing, pogroms or any persecution of persons of Jewish ethnic origin. Thus, Mr Terentyev's actions do not aim at inciting ethnic or racial hatred or discord or humiliating national honour or dignity, that is they lack the constituent elements of a criminal offence...".

16. On 10 August 2001 the Sovetskiy District Court of Volgograd gave a new judgment in the defamation case. It found that the applicant had failed to show the accuracy of his designation of Mr Terentyev as a "neofascist" for the following reasons:

> "According to the [1981] Soviet encyclopaedic dictionary, its authors interpret 'neofascism' as 'a notion encompassing contemporary right-wing and most reactionary movements which are, in their political and ideological aspects, successors to fascist organisations disbanded after the Second World War'.
>
> Taking into account that S.V. Terentyev is a son of the Great Patriotic War[1] veteran and that he actively participates in the political life of our town, the court considers that, by calling Terentyev a 'neofascist', [the applicant] insulted the honour and dignity of the plaintiff, harmed his authority and caused him moral anxiety... The court considers it established that S.V. Terentyev is not a member of a political party that is a successor to fascist organisations. It does not follow from the copies of the *Kolokol* newspapers... that S.V. Terentyev belongs to a political party advocating fascist principles."

17. The District Court further had regard to the expert studies carried out in the context of criminal proceedings against Mr Terentyev and noted that on 8 November 1999 the criminal case had been discontinued for the lack of indication of a criminal offence.

1. The Great Patriotic War is the Russian name for the Second World War.

18. The District Court awarded Mr Terentyev RUR 30,000 against the applicant and RUR 15,000 against the newspaper; the latter was also to bear the court fees.

19. The District Court did not refer to the opinions of other experts, including that of the Judicial Chamber for Information Disputes under the authority of the President of the Russian Federation, which the applicant sought to adduce in support of his statement that Mr Terentyev was notoriously anti-Semitic. On 20 January 1995 the Chamber found, in particular, as follows:

> "...Pages of the newspaper are dedicated to a search for those responsible for Russia's misfortunes and for its enemies who are identified on the basis of their ethnic origin. The editors seek to establish a pseudo-scientific causal link and to create a stable ethnic stereotype of the enemy. To that end the newspaper has published such notoriously false creations, as the Protocols of the Wise Men of Zion, the Jew's Catechism, the Note on Ritual Killings, etc...
>
> The editor-in-chief S. Terentyev bolsters the newspaper's core idea in his article 'Review before the exam' (issue no. 46): 'The enemies have occupied all the key positions in Russia'. And the conclusion follows: 'Russian people shall have Russian governance'...
>
> Thus, the authors of the *Kolokol* newspaper actively use ethnic affiliation for advocating anti-Semitism, fostering a negative attitude to Jewish persons, whom the editors hold responsible for various unpleasant phenomena in today's Russia."

20. On 26 November 1995 a three-expert panel from the Anthropology and Ethnography Research Institute of the Russian Academy of Sciences found as follows:

> "In general, the conception of the [*Kolokol*] newspaper reflects the National Socialist perception of the cause of human misfortunes – the global Jewish conspiracy – and of the way to deal with it by cleansing the naturally creative Russian ethnic community of biological and cultural influence by other peoples, mainly by Jews. The process of cleansing implies ousting of everything relating to the history of the Jewish people from public discourse, exclusion of Jews from social fabric or restrictions on their civil rights on the ground of inherent malignancy of Jews for the humankind and the Russian people."

21. The applicant appealed. He submitted, in particular, that the District Court could not rely on the expert studies because they had only concerned the charge of incitement to ethnic and racial hatred and related issues, without addressing the notions of "fascism" or "neofascism". For the same reason it could not legitimately refer to the decision to abandon criminal charges against Mr Terentyev because the constituent elements of a criminal offence imputed to him had been substantially different from the scope of the defamation claim.

22. On 28 November 2001 the Volgograd Regional Court upheld the judgment of 10 August 2001. It endorsed the reasoning of the District Court

but, having regard to the applicant's financial situation, reduced the award to RUR 5,000 against him and to RUR 10,000 against his newspaper.

23. On 25 January 2002 a court bailiff recovered the award from the applicant.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Constitution of the Russian Federation

24. Article 29 guarantees freedom of thought and expression, together with freedom of the mass media.

B. Civil Code of the Russian Federation

25. Article 152 provides that an individual may apply to a court with a request for the rectification of "statements" ("*сведения*") that are damaging to his or her honour, dignity or professional reputation if the person who disseminated such statements does not prove their truthfulness. The aggrieved person may also claim compensation for losses and non-pecuniary damage sustained as a result of the dissemination of such statements.

C. Resolution of the Plenary Supreme Court of the Russian Federation, no. 11 of 18 August 1992 (amended on 25 April 1995)

26. The Resolution (in force at the material time) provided that, in order to be considered damaging, statements ("*сведения*") had to be untrue and contain allegations of a breach of laws or moral principles (commission of a dishonest act, improper behaviour at the workplace or in everyday life, etc.). Dissemination of statements was understood as the publication of statements or their broadcasting, inclusion in professional references, public speeches, applications to State officials and communication in other forms, including oral, to at least one another person (section 2). The burden of proof was on the defendant to show that the disseminated statements had been true and accurate (section 7).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

27. The applicant complained about a violation of his right to freedom of expression provided in Article 10 of the Convention, which reads as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and 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."

28. In the applicant's view, his description of Mr Terentyev as a "neofascist" was a value-judgment, an indication of Terentyev's political affiliation, used in the same way as another politician could be described as a "democrat", "communist", "conservative", etc. His judgment rested on the publications in the *Kolokol* newspaper that propagated hatred towards Jews and contained quotations from Hitler.

29. The Government submitted that the impugned publication had been a provocation because it might have created an ambiguous impression about Mr Terentyev's personality. The domestic judgments only concerned Mr Terentyev's designation as a "local neofascist" rather than the publication as a whole. Referring to the *Constantinescu v. Romania* case (no. 28871/95, ECHR 2000-VIII), the Government claimed that the applicant had had a real opportunity to criticise Mr Terentyev's conduct without resorting to the insulting word "neofascist". In their view, the interference was "undoubtedly necessary in a democratic society".

A. Admissibility

30. The Court considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

31. The Court notes that it is common ground between the parties that the judgments pronounced in the defamation action constituted an interference with the applicant's right to freedom of expression as protected by Article 10 § 1. It is not contested that the interference was prescribed by law, notably Article 152 of the Civil Code, and pursued a legitimate aim, that of protecting the reputation or rights of others, within the meaning of Article 10 § 2. The dispute in the case relates to whether the interference was "necessary in a democratic society".

32. The test of necessity requires the Court to determine whether the interference corresponded to a "pressing social need", whether it was proportionate to the legitimate aim pursued and whether the reasons given by the national authorities to justify it were relevant and sufficient. In assessing whether such a need exists and what measures should be adopted to deal with it, the national authorities are left a certain margin of appreciation. This power of appreciation is not however unlimited, but goes hand in hand with a European supervision by the Court, whose task it is to give a final ruling on whether a restriction is reconcilable with freedom of expression as protected by Article 10. The Court's task in exercising its supervisory function is not to take the place of the national authorities, but rather to review under Article 10, in the light of the case as a whole, the decisions they have taken pursuant to their margin of appreciation. In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 10 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (see, most recently, *Grinberg v. Russia*, no. 23472/03, §§ 26-27, 21 July 2005, with further references).

33. In examining the particular circumstances of the case, the Court will take the following elements into account: the position of the applicant, the position of the plaintiff in the defamation claim, the subject matter of the publication and qualification of the contested statement by the domestic courts (see *Jerusalem v. Austria*, no. 26958/95, § 35, ECHR 2001-II).

34. As regards the applicant's position, the Court observes that he was a journalist and founder of a newspaper. It reiterates in this connection that the press fulfils an essential function in a democratic society. Although it must not overstep certain bounds, particularly as regards the reputation and rights of others, its duty is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest (see *De Haes and Gijsels v. Belgium*, judgment of 24 February 1997, *Reports of Judgments and Decisions* 1997-I, § 37; and Bladet Tromsø *and Stensaas v. Norway* [GC], no. 21980/93, § 59, ECHR 1999-III). Journalistic freedom covers possible recourse to a degree of

exaggeration, or even provocation (see *Prager and Oberschlick v. Austria (no. 1)*, judgment of 26 April 1995, Series A no. 313, § 38).

35. The plaintiff in the defamation action, Mr Terentyev, was also the editor-in-chief of a newspaper. It follows from the applicant's publication that Mr Terentyev also organised a public gathering and spoke about his views to the audience. His behaviour suggested that he had courted popular support for his ideas. The District Court noted that Mr Terentyev actively participated in the political life of the town (see paragraph 16 above). Since he was active in this manner in the public domain, he should have had a higher degree of tolerance to criticism (see *Jerusalem*, § 39, cited above).

36. The subject matter of the publication was the author's personal experience of talking to a partisan of the Russian nationalist movement who had been present at the meeting organised by Mr Terentyev. The applicant offered his assessment of the current political situation through the prism of his discussion with that woman. That publication was part of a political debate on a matter of general and public concern. The Court recalls in this connection that it has been its constant approach to require very strong reasons for justifying restrictions on political speech, for broad restrictions imposed in individual cases would undoubtedly affect respect for the freedom of expression in general in the State concerned (see *Feldek v. Slovakia*, no. 29032/95, § 83, ECHR 2001-VIII; and *Sürek v. Turkey (no. 1)* [GC], no. 26682/95, § 61, ECHR 1999-IV).

37. The Court notes that the scope of the defamation proceedings extended not to the publication in its entirety but solely to the use of the term “local neofascist” in respect of Mr Terentyev. As regards the qualification of that term by the domestic courts, the Court observes that they did not accept the applicant's argument that it was a value-judgment but considered it to be a statement of fact, indicating that Mr Terentyev was a member of a neofascist political party. In the Russian courts' view, being designated a “neofascist” was defamatory for Mr Terentyev as a public figure and the son of the Second World War veteran. As Mr Terentyev was not a member of any neofascist party and the criminal charge of incitement to ethnic hatred was not maintained against him, they held the applicant responsible for having failed to prove the truthfulness of that expression (see paragraph 16 above).

38. The Court observes, firstly, that the domestic courts, considering the term “neofascist” to be a statement of fact, had never examined the question whether it could be considered as a value-judgment. Their failure to embark on that analysis is accounted for by the state of the Russian law on defamation at the material time. As the Court has already found, it made no distinction between value-judgments and statements of fact, referring uniformly to “statements” (“*svedeniya*”), and proceeded from the assumption that any such “statement” was amenable to proof in civil

proceedings (see *Grinberg*, cited above, § 29, and the domestic law cited in paragraphs 25 and 26 above).

39. The Court further recalls that use of the term "Nazi" – or, as in the present case, a derivative term "neo-fascist" – does not automatically justify a conviction for defamation on the ground of the special stigma attached to it (see *Scharsach and News Verlagsgesellschaft v. Austria*, no. 39394/98, § 43, ECHR 2003-XI).

40. The Court cannot subscribe to the restrictive definition of the term "neofascist" adopted by the Russian courts, as solely designating membership in a neo-fascist party. It has already noted in respect of a similar term "fascist past" that it is a wide one, capable of evoking in those who read it different notions as to its content and significance (see *Feldek*, cited above, § 86). In the applicant's publication Mr Terentyev's name was mentioned in the context of a meeting of the Russian nationalist movement. The regional prosecutor determined that the publications in Mr Terentyev's newspaper targeted the Jewish religion and symbols, describing them in an inimical way, and propagated fallacious stories about the "world Jewish masonry" (see paragraph 15 above). Against this background, the Court considers that the term "local neofascist", taken in its context, should be understood in the sense given to it by the applicant, namely describing a general political affiliation with the ideology of racial distinctions and anti-Semitism (see, *mutatis mutandis*, *Scharsach and News Verlagsgesellschaft*, cited above, § 39, and also paragraph 28 above).

41. The Court finds that, contrary to the view of the Russian courts, the term "local neofascist" is to be regarded as a value-judgment rather than a statement of fact. It has been the Court's constant view that, while the existence of facts can be demonstrated, the truth of value judgments is not susceptible of proof. The requirement to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself, which is a fundamental part of the right secured by Article 10 (see *Grinberg*, cited above, §§ 30-31, with further references). Nevertheless, even a value-judgment without any factual basis to support it may be excessive. The question therefore remains whether a sufficient factual basis for such a value-judgment existed (see *Jerusalem*, §§ 44-45; *Scharsach and News Verlagsgesellschaft*, § 40; and *Feldek*, § 86, all cited above). In this regard, the Court notes that the applicant offered documentary evidence, including the past issues of the *Kolokol* newspaper published by Mr Terentyev and several reports by independent experts. Having examined these publications, the experts unanimously concluded to their marked anti-Semitic nature and their propinquity with the ideals of the National Socialism (see paragraphs 19 and 20 above).

42. In the Court's view, that material may have been relevant to show a prima facie case that the value-judgment expressed by the applicant had been an acceptable comment. Apart from that documentary evidence, the

applicant also proposed that a further expert opinion be sought. The domestic courts, nevertheless, refused to consider this evidence and relied instead on a study carried out in the criminal proceedings against Mr Terentyev on the charge of incitement to ethnic hatred. The Court is struck by the inconsistent approach of the Russian courts on the one hand requiring proof of a statement and on the other hand refusing to consider the readily available evidence (see *Jerusalem*, cited above, § 45). It further recalls that the degree of precision for establishing the well-foundedness of a criminal charge by a competent court can hardly be compared to that which ought to be observed by a journalist when expressing his opinion on a matter of public concern, for the standards applied when assessing someone's political opinions in terms of morality are quite different from those required for establishing an offence under criminal law (see *Scharsach, loc. cit.*; *Unabhängige Initiative Informationsvielfalt v. Austria*, no. 28525/95, § 46, ECHR 2002-I; and *Wirtschafts-Trend Zeitschriften-Verlags GmbH v. Austria*, no. 58547/00, § 39, 27 October 2005).

43. In the light of the above considerations and taking into account the role of a journalist and press of imparting information and ideas on matters of public concern, even those that may offend, shock or disturb, the Court finds that the use of the term "local neofascist" for describing Mr Terentyev's political leaning did not exceed the acceptable limits of criticism. That the proceedings were civil rather than criminal in nature and the final award was relatively small does not detract from the fact that the standards applied by the Russian courts were not compatible with the principles embodied in Article 10 since they did not adduce "sufficient" reasons justifying the interference at issue. Therefore, the Court considers that the domestic courts overstepped the narrow margin of appreciation afforded to them for restrictions on debates of public interest and that the interference was disproportionate to the aim pursued and not "necessary in a democratic society".

There has been, accordingly, a violation of Article 10 of the Convention.

II. ALLEGED VIOLATIONS OF ARTICLE 6 OF THE CONVENTION

44. The applicant complained under Article 6 § 1 of the Convention that the domestic judgments had been founded on the expert study carried out in separate criminal proceedings. He had not been a party to those proceedings and had not been able to have a say in the nomination of experts and formulation of questions. He also complained that on 2 December 1996 the District Court had rejected his request for a composite social-psychological study. Article 6 provides as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal..."

45. The Government submitted that the expert study performed in the framework of a criminal case against Mr Terentyev had not found any indication of incitement to ethnic or racial hatred or violence. It had not been necessary to commission further expert studies because there had been no need to clarify the word “neofascism”. In any event, the applicant had failed to adduce any evidence showing that Mr Terentyev had been a “local neofascist”.

46. The applicant, relying on copies of past issues of the *Kolokol* newspaper, submitted that the anti-Semitic and extremist nature of these publications had been revealed by a number of expert studies, including that by the Judicial Chamber for Information Disputes. The Government's contention that the District Court had not needed a further expert study was unconvincing, for it had founded the judgment on expert studies, but on those that had been carried out in criminal proceedings. The studies produced by the applicant had been ignored by the District Court.

47. The Court considers that the applicant's complaints under Article 6 are closely linked to the issues raised under Article 10 and that they must therefore be declared admissible. However, having regard to its finding under Article 10 of the Convention (see paragraph 42 above), it is not necessary to consider these matters again from the standpoint of Article 6 of the Convention (see *Jerusalem*, cited above, § 51).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

48. 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

49. The applicant claimed 3,000 euros (EUR) in respect of non-pecuniary damage. He did not make a claim for pecuniary damage.

50. The Government submitted that the applicant's claim was unsubstantiated and excessive.

51. The Court considers that the applicant has suffered the non-pecuniary damage as a result of the domestic judgments incompatible with the Convention principles. The damage cannot be sufficiently compensated by a finding of a violation. The Court considers, however, that the particular amount claimed by the applicant is excessive. Making its assessment on an equitable basis, the Court awards him EUR 1,000, plus any tax that may be chargeable on that amount.

B. Costs and expenses

52. The applicant did not claim costs and expenses. Accordingly, there is no call to make an award under this head.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;

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

3. *Holds* that there is no need for a separate examination of the complaint under Article 6 § 1 of the Convention;

4. *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, EUR 1,000 (one thousand euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement, plus any tax that may be chargeable;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* unanimously the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 14 December 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK
Registrar

Peer LORENZEN
President