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

SECOND SECTION

CASE OF KYPRIANOU v. CYPRUS

(Application no. 73797/01)

JUDGMENT

STRASBOURG

27 January 2004

THIS CASE WAS REFERRED TO THE GRAND CHAMBER,
WHICH DELIVERED JUDGMENT IN THE CASE ON
15 December 2005

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

In the case of Kyprianou v. Cyprus,

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

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr L. LOUCAIDES,
Mr C. BÎRSAN,
Mr K. JUNGWIERT,
Mr V. BUTKEVYCH,
Mrs A. MULARONI, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,
Having deliberated in private on 8 April 2003 and 6 January 2004,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 73797/01) against the Republic of Cyprus lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Cypriot national, Mr Michalakis Kyprianou ("the applicant"), on 9 August 2001.

2. The applicant was represented by Mr C. Clerides, Mr L. Clerides, Mr M. Triantafyllides, Mr E. Efstathiou. Mr A. Angelides, Mrs E. Vrahimi, lawyers practising in Nicosia, and Mr B. Emerson and Mr M. Muller, barristers practising in the United Kingdom. The Cypriot Government ("the Government") were represented by their Agent, Mr P. Clerides, Deputy Attorney-General of the Republic of Cyprus.

3. The applicant alleged that Article 6 §§ 1, 2 and 3 subparagraph a. and Article 10 of the Convention had been violated as a result of his conviction and imprisonment for contempt of court.

4. The application was assigned to the Third Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1) The case was assigned to the newly composed Second Section (Rule 52 § 1.

6. On 7 May 2002 the Court decided to adjourn the examination of the applicant's complaints and declare part of the application inadmissible.

7. On 8 April 2003 the Court declared the remainder of the application admissible regarding the above-mentionned complaints (see paragraph 3).

8. The applicant and the Government each filed observations on the merits (Rule 59 § 1). The Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*), the parties replied in writing to each other's observations.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

9. The applicant was born in 1937 and lives in Nicosia.

10. The applicant is an advocate who has been practising for forty years. He was formerly a lawyer at the Office of the Attorney-General and a member of the Cypriot House of Representatives.

11. The applicant's complaints originated in his conviction for contempt of court. On 14 February 2001 the applicant was defending someone accused of murder before the Limassol Assize Court. He was conducting the cross-examination of a prosecution witness, a police constable, and alleges that the court interrupted him after he had put a question to the witness. He claims that he had felt offended and had sought permission to withdraw from the case. The Government observed in reply that the court had made a routine intervention with a simple and polite remark regarding the manner in which the applicant was cross-examining of the witness. The applicant had immediately interrupted, without allowing the court to finish its remark and refusing to proceed with his cross-examination.

12. The verbatim record of the proceedings reports the following exchange (translation):

> "Court: We consider that your cross-examination goes into detail beyond the extent to which it could go at this stage of the main trial regarding questions...
>
> Applicant: I will stop my cross-examination....
>
> Court: Mr Kyprianou...
>
> Applicant: Since the Court considers that I am not doing my job properly in defending this man, I ask for your leave to withdraw from this case.
>
> Court: Whether an advocate is to be granted leave to withdraw or not, is a matter within the discretionary power of the Court and, in the light of what we have heard, no such leave is granted. We rely on the case of *Kafkaros and Others v. the Republic* and we do not grant leave.
>
> Applicant: Since you are preventing me from continuing my cross-examination on significant points of the case, then my role here does not serve any purpose.

Court: We consider your persistence...

Applicant: And I am sorry that when I was cross-examining, the members of the Court were talking to each other, sending "ravasakia" to each other, which is not compatible with allowing me to continue the cross-examination with the required vigour, if it is under the secret scrutiny of the Court.

Court: We consider that what has just been said by Mr Kyprianou, and in particular the manner with which he addresses the Court, constitutes a contempt of court and Mr Kyprianou has two choices: either to maintain what he said and to give reasons why no sentence should be imposed on him, or to decide whether he should retract. We give him this opportunity exceptionally. Section 44.1 (a) of the Courts of Justice Law applies to its full extent.

Applicant: You can try me.

Court: Would you like to say anything?

Applicant: I saw with my own eyes the small pieces of paper going from one judge to an other when I was cross-examining, in a way not very flattering to the defence. How can I find the stamina to defend a man who is accused of murder?

Court (Mr Photiou): It so happens that the piece of paper to which Mr Kyprianou refers is still in the hands of brother Judge Mr Economou and Mr Kyprianou may inspect it.

Court (Mrs Michaelidou): The exchange of written views between the members of the bench as to the manner in which Mr Kyprianou is conducting the case does not give him any rights, and I consider Mr Kyprianou's behaviour utterly unacceptable.

Court (Mr Fotiou): We shall have a break in order to consider the matter. The defendant (in the main trial) should in the meantime remain in custody.

Court: We considered the matter during the adjournment and continue to believe that what Mr Kyprianou said, the content, the manner and the tone of his voice, constitute a contempt of court as provided for in section 44. 1 (a) of the Courts of Justice Law 14/60, that is showing to the court by way of words and conduct. We have asked Mr Kyprianou if he has anything to add before we pass sentence on him. If he has something to add, let us hear him, otherwise the Court should proceed.

Applicant: Mr President, during the break, I wondered what the offence was which I had committed. The events took place in a very tense atmosphere. I am defending a very serious case; I felt that I was interrupted in my cross-examination and said what I said. I have been a lawyer for forty years, my record is unblemished and it is the first time that I face such an accusation. That is all I have to say.

Court: We shall adjourn for ten minutes and shall then proceed with sentencing."

13. After a short break the Assize Court, by a majority, sentenced the applicant to five days' imprisonment. The court referred to the above exchange between the applicant and its members and held as follows:

"...It is not easy, through words, to convey the atmosphere which Mr Kyprianou had created since, quite apart from the unacceptable content of his statements, the tone of his voice as well as his demeanour and gestures to the Court, not only gave an unacceptable impression of any civilised place, and a courtroom in particular, but were apparently aimed at creating climate of intimidation and fear within the Court. We are not exaggerating at all in saying that Mr Kyprianou was shouting at and gesturing to the Court.

It was pointed out to him that his statements and his behaviour amounted to contempt of court and he was given the opportunity to speak. And while there was a reasonable expectation that Mr Kyprianou would calm down and that he would apologise his apologies, Mr Kyprianou, in the same tone and with the same intensity already referred to, shouted, "You can try me".

Later, after a long break, Mr Kyprianou was given a second chance to address the Court, in the hope that he would apologise and mitigate the damage caused by his behaviour. Unfortunately, at this stage Mr Kyprianou still showed no signs of regret or, at least, of apprehension for the unacceptable situation he had created. On the contrary, he stated that during the break he wondered what his crime had been, merely attributing his behaviour to the "very tense atmosphere". However, he was solely responsible for the creation of that atmosphere and, therefore, he cannot use it as an excuse.

Mr Kyprianou did not hesitate to suggest that the exchange of views between the members of the bench amounted to exchange of "ravasakia", that is, "love letters" (See: "Dictionary of Modern Greek - Spoudi ravasaki (Slavic ravas), love letter, written love note"). And he accused the Court, which was trying to regulate the course of the proceedings, as it had the right and the duty to do, of restricting him and of doing justice in secret.

We cannot conceive of another occasion of such a manifest and unacceptable contempt of court by any person, let alone an advocate.

The judges as persons, whom Mr Kyprianou has deeply insulted, are the least of our concern. What really concerns us is the authority and integrity of justice. If the Court's reaction is not immediate and drastic, we feel that justice will have suffered a disastrous blow. An inadequate reaction on the part of the lawful and civilised order, as expressed by the courts, would mean accepting that the authority of the courts be demeaned.

It is with great sadness that we conclude that the only adequate response, in the circumstances, is the imposition of a sentence of a preventive nature, which can only be imprisonment.

We are well aware of the repercussions of this decision since the person concerned is an advocate of long standing, but it is Mr Kyprianou himself who, through his conduct, brought matters to this end.

In the light of the above we impose a sentence of imprisonment of 5 days".

14. The president of the Court also decided to impose a fine of CYP 75 (128.45 euros).

15. The applicant served his prison sentence.

16. On 15 February 2001 the applicant filed an appeal with the Supreme Court, which was dismissed on 2 April 2001. As ground No. 8 of his appeal, he submitted that a sanction for contempt of court should not be used to suppress aggressive advocacy, so that the advocate had sufficient freedom to conduct his client's case as he saw fit.

17. The Supreme Court stated that the relevant constitutional provisions of Cypriot law on contempt of court reflected the principles of English law. It relied on Article 162 of the Constitution which enables the enactment of legislation giving jurisdiction to any court to order the imprisonment for up to 12 months of any person who does not comply with a judgment or order of that court, and to punish contempt of court. It held that Section 44.2 of the Courts of Justice Law was lawfully authorised by Article 162. Finally, it concluded that it was the applicant who had created a tense atmosphere by his disdainful attitude and by undermining his role.

18. The Supreme Court held *inter alia*:

> "It is not by accident that the successive objectives of the constitutional legislator, which are embodied in Article 30 and Article 162 of the Constitution, exist side by side. The power to sanction contempt of court is aimed at the protection of judicial institutions, which is essential in order to safeguard a fair trial. ...The role of the judge is nothing more than that of the defender of judicial proceedings and of the court's authority, the very existence of which are necessary to secure a fair trial. A lawyer, a servant of justice, is not a party to the case. By abusing the right to be heard and being in contempt of court, a lawyer intervenes in the proceedings, as any third party, and interferes with the course and thereby harms justice. The judicial sanctioning of contempt, where necessary, is a judicial duty exercised for the purpose of the securing the right to a fair trial".

19. The Supreme Court concluded as follows:

> "We find that Mr Kyprianou, by words and conduct, showed disrespect to the court and committed the offence of contempt in the face of the court contrary to Section 44.2 of the Law".

20. In relation to the sentence imposed on the applicant, the Supreme Court stated *inter alia* the following:

> "It was up to the Assize Court to deal with the contempt and to decide the means for the treatment and punishment of the person responsible for the contempt. No reason has been shown which justifies our intervention as regards the sentence imposed".

II. RELEVANT DOMESTIC LAW AND OTHER RELEVANT MATERIAL

1. The Courts of Justice Law 1960

Section 44.1 (a) reads as follows:

> "Any person who ... on the premises where any judicial proceedings are being held or taken, or within the precincts of the same, shows disrespect, in speech or manner, of or with reference to such proceedings or any person before whom such proceedings are being held or taken ... is guilty of a misdemeanour and is liable to imprisonment for six months or to a fine not exceeding one hundred pounds, or to both imprisonment and a fine."

Section 44.2 provides as follows:

> "When any offence against paragraphs (a), (b), (c) or (I) of sub-section 1 is committed in full view of the court, the court may cause the offender to be detained in custody and, at any time before the rising of the court on the same day, may take cognisance of the offence and sentence the offender to a fine of seventy-five pounds or to imprisonment of up to one month, or to both imprisonment and a fine."

2. The Constitution

Article 162 of the Constitution reads as follows:

> "The High Court shall have jurisdiction to punish any contempt of itself, and any other court of the Republic, including a court established by a communal law under Article 160, and shall have power to commit any person disobeying a judgment or order of such court to prison until such person complies with such judgment or order, and in any event for a period not exceeding twelve months.
>
> A law or a communal law, notwithstanding anything contained in Article 90, as the case may be, may provide for the punishment of contempt of court."

3. Case-law and practice in common-law jurisdictions

21. In the United Kingdom, on whose legal system Cyprus based its own laws and practice regarding contempt of court, a *Practice Note* was issued by the Lord Chief Justice in May 2001 ([2001] 3 All ER 94), according to which a) if an offence of contempt is admitted and the offender's conduct was directed to the magistrates "it will not be appropriate for the same bench to deal with the matter", and b) in the case of a contested contempt, "the trial should take place at the earliest opportunity and should be before a bench of magistrates other than those justices before whom the alleged contempt took place. If a trial of the issue can take place on the very day of the alleged offence, such arrangements should be made taking into account the offender's rights under Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms".

22. In the United States the Supreme Court has established through its case-law that, for contempt based on intemperate remarks made during trial, a public hearing before another judge is required - *Mayberry v. Pennsylvania* (400 U.S. 455, 91 S. Ct. 499, 27 L. Ed. 2nd 532 [1971]). In *Bloom v. State of Illinois* (391 U.S. 194, 88 S. Ct. 1477) the same court found that persons accused of contempt are entitled to a jury trial for instances of serious contempt. The court stated *inter alia*:

> "Even when the contempt is not a direct insult to the court or the judge, it frequently represents a rejection of judicial authority, or an interference with the judicial process or with the duties of officers of the court ... If the right to jury trial is a fundamental matter in other criminal cases, which we think it is, it must also be extended to criminal contempt cases ... We cannot say that the need to further respect for judges and courts is entitled to more consideration than the interest of the individual not to be subjected to serious criminal punishment without the benefit of all the procedural protections worked out carefully over the years and deemed fundamental to our system of justice. Genuine respect, which alone can lend true dignity to our judicial establishment, will be engendered, not by the fear of unlimited authority, but by the firm administration of the law through those institutionalised procedures which have been worked out over the centuries."

4. Glossary

23. The Greek word "ραβασάκια" ("ravasakia") is the plural of the word "ραβασάκι" ("ravasaki") which has the following meanings:

(1) G. Babinioti, Dictionary of Modern Greek Language, p. 1542 [Γ. Μπαμπινιώτη, Λεξικό Νέας Ελληνικής Γλώσσας]:
(i) short and secret letter or note with love content (σύντομη και κρυφή επιστολή ή σημείωμα με ερωτικό περιεχόμενο);
(ii) anything written (document, letter, etc.) mainly of un unpleasant nature, which is sent to someone. Synonyms: e.g. letter, note [οτιδήποτε γραπτό (έγγραφο, επιστολή κτλ), κυρ. με δυσάρεστο περιεχόμενο, το οποίο αποστέλλεται σε κάποιον. Συνώνυμα π.χ. γράμμα, σημείωμα].

(2) Bousnaki Brothers, The Great Popular Dictionary, 2002, p. 2983 [Α/φοι Μπουσνάκη, Το Μεγάλο Λεξικό της Δημοτικής]:
(i) note (σημείωμα) ;
(ii) love letter (ερωτικό γράμμα).

(3) Dictionary of the Common Modern Greek, p. 1741 (Aristotle University Thessaloniki, Institute of Modern Greek Studies);
(Λεξικό της Κοινής Νεοελληνικής, Αριστοτέλειο Πανεπιστήμιο Θεσσαλονίκης, Ινστιτούτο Νεοελληνικών Σπουδών):
(i) love letter, note (that is sent secretly); [ερωτική επιστολή, σημείωμα (που στέλνεται κρυφά)];
(ii) short written message normally of an unpleasant nature (warning, threats, etc.) for the recipient [σύντομο γραπτό μήνυμα, συνήθ. με δυσάρεστο (προειδοποιητικό, απειλητικό) κτλ περιεχόμενο για τον παραλήπτη].

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

24. The applicant contended that he had not been heard by an independent and impartial tribunal. The same court before which the alleged contempt had been committed had found him guilty and had sentenced him. He alleged that the Assize Court had both prosecuted and tried the offence, having been the sole witness in those proceedings, and had pronounced the sentence. Accordingly, the applicant complained of a violation of Article 6 § 1 which, insofar as relevant, reads as follows:

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

A. Submissions of the parties

1. The Government

25. The Government submitted that the applicant's allegations were based on the assumption that the judges had been involved in the matter as complainants and had therefore had a personal interest in the subsequent proceedings. They stated that such an assumption betrayed a fundamental misunderstanding of the nature and function of proceedings for contempt in the face of the court in common-law jurisdictions. They were not proceedings brought by one of the parties or by a complainant. They constituted a *sui generis* procedure aimed at securing the unimpeded functioning of the courts and safeguarding the authority of the judiciary. The proceedings were not adversarial in the sense that one person was opposed to another; they concerned the integrity of the judicial system. No single judge had any interest in them. The long-established power granted to common-law courts to sanction improper conduct committed in their face was a necessary and indispensable element of a fair trial itself. The Assize Court's own duty to ensure a fair trial of the persons accused of murder in the present case required it to possess the summary power to deal with any contempt before it. The applicant had not insulted the judges in their individual capacity but had sought to undermine the authority of the judicial system itself.

26. The Government further maintained that, in order to be effective, the judicial power to sanction attempts by any person in the courtroom to dominate the court and determine the course of the trial had to be exercised immediately. Otherwise the person in contempt would in effect have achieved his purpose. Moreover, if contempt proceedings had been brought

before a different bench, there would have been certain undesirable consequences that could not have been overlooked: the members of the bench would have had to testify about the events which had taken place before their eyes. Their credibility in connection with the facts of which they had become aware while performing their functions would have had to have been tested by other judges and the very integrity of the judiciary would accordingly have been unnecessarily questioned.

27. According to the Government, the applicant would have been entitled to allege a breach of the impartiality rule only on the (incorrect) assumption that the Assize Court had been acting in a personal capacity in trying him. There was no basis for a finding of objective bias, if both the context and the fact that there was no complainant were borne in mind. Furthermore, the fact that the applicant had been able to appeal to the Supreme Court, a judicial body with full jurisdiction to review facts and law, cured any possible breach of the impartiality requirement. The requirements of Article 6 had been satisfied, if not by the Assize Court, then by the Supreme Court. The Supreme Court had independently found that the applicant had been guilty of the offence of contempt, and had upheld the sentence imposed by the Assize Court. The Government stressed that the judges of the Assize Court itself had not been parties to a dispute with the applicant, and the proceedings taken against him had not been taken for the purpose of vindicating any personal rights of the three insulted judges, but in order to protect the courts as a whole within a democratic society governed by the rule of law. The Assize Court's decision to act without delay had been both necessary and justified in the circumstances.

28. The Government submitted that the tribunal had to be presumed impartial until the contrary was proved. There was no evidence that the Assize Court had been biased against the applicant. The sentence of 5 days' imprisonment had been upheld on appeal by the Supreme Court, and it was thus impossible to argue that the sentence revealed bias on the part of the Assize Court. The power of the court to ensure the proper course of its proceedings and to protect the integrity of the judicial system was necessary to allow the court to secure a fair hearing to those appearing before it. A power to take such measures as were necessary to protect the authority of the court constituted implied limitations on the requirements of Article 6 of the Convention.

2. The applicant

29. The applicant maintained that the sentence of five days' imprisonment, imposed on an experienced lawyer of exemplary reputation for what (on the court's findings) had been a minor transgression, in itself suggested the existence of bias. He submitted that, in proceedings for contempt, a judge should refer the matter to another judge or to the Attorney General, especially if a judge had prematurely expressed a view as to guilt.

The conduct of the bench in his case suggested bias, both on a subjective test (as evidenced by their words and the harsh sentence imposed on the applicant) and on an objective test (by virtue of their position as judges in their own cause). The members of the bench in question were both "complainants" and witnesses to the conduct which was alleged to have constituted contempt. The applicant maintained that it was particularly important that the issue should have been determined by an independent tribunal given that (a) there had been a dispute as to the applicant's intended meaning in using the word "ravasakia" which was a matter of inference; (b) there had been a dispute as to whether he had been justified in complaining about the conduct of the court in the first place; (c) there had been a dispute as to whether his demeanour was intended to be, or was perceived to be, threatening; and (d) the court had been contemplating the imposition of a prison sentence on a lawyer for his conduct in court.

30. The applicant contended that the review by the Supreme Court in his case had not cured the alleged partiality. That court had not conducted a rehearing of the case. It had confined itself to points of law. Moreover, it had upheld the manifestly disproportionate sentence imposed on him. The case could have been dealt with by a simple adjournment of proceedings and/or referral of the matter to the Attorney General to decide whether to initiate proceedings or to refer the matter to another bench for trial. The court could also have referred the matter to the Attorney General, who is by law the Chairman of the Disciplinary Committee, responsible for disciplinary action. Such was the normal practice in Cyprus. As was a referral by a court to the Attorney General when, in the course of a hearing, the judge believed that a criminal offence might have been committed.

B. The Court's assessment

1. Applicability of Article 6

31. The Court notes that the Government did not dispute the applicant's submission that Article 6 of the Convention applied or more particularly, that the applicant's conviction for contempt of court was a conviction for a criminal offence. In any event, the Court finds that the criminal nature of the offence of contempt of court in this case cannot be disputed. Applying the criteria established by the case-law of the Court (see *Engel and others v. the Netherlands*, judgment of 8 June 1976, Series A no. 22, §§ 82-83; *Öztürk v. Germany*, judgment of 21 February 1984, Series A no. 73, §§ 48-50), namely a) the domestic classification of the offence, b) the nature of the offence, and c) the degree of severity of the penalty that the person concerned risks incurring, it is clear that the offence in question was criminal. The offence was classified in domestic law as criminal, it was not confined to the applicant's status as a lawyer, the maximum possible

sentence was one month's imprisonment and the sentence actually imposed on the applicant was 5 days' imprisonment (see *Ezeh and Connors v. the United Kingdom* [GC], nos. 39665/98 and 40086/98, §§ 82-86, ECHR 2003-X). Therefore, the requirements of Article 6 of the Convention in respect of the determination of any criminal charge, and the defence rights of everyone charged with a criminal offence, apply fully in the present case.

2. Compliance with Article 6

32. The Court reiterates that it is of fundamental importance in a democratic society that the courts inspire confidence in the public and, above all, as far as criminal proceedings are concerned, in the accused. To that end it has constantly stressed that a tribunal must be impartial. Whilst impartiality normally denotes the absence of prejudice or bias, its existence or otherwise can, notably under Article 6 § 1 of the Convention, be tested in various ways. It is well established in the Court's case-law that there are two aspects to the requirement of impartiality. First, the tribunal must be subjectively free of personal prejudice or bias. Personal impartiality is to be presumed unless there is evidence to the contrary. Secondly, the tribunal must also be impartial from an objective viewpoint, that is, it must offer sufficient guarantees to exclude any legitimate doubts (see *Sander v. the United Kingdom*, no. 34129/96, § 22, ECHR 2000-V, and *Piersack v. Belgium*, judgment of 1 October 1982, Series A no. 53, § 30).

33. In the present case the applicant alleged that there was evidence of both objective and actual or subjective bias on the part of the Assize Court.

(a) Objective test

34. The Court considers that the decisive feature of the case is that the judges of the court which convicted the applicant were the same judges before whom the contempt was allegedly committed. This in itself is enough to raise legitimate doubts, which are objectively justified, as to the impartiality of the court - *nemo judex in causa sua*.

35. The Government's assertion that the judges who convicted the applicant cannot be considered complainants in the proceedings and had no personal interest in the relevant offence but were simply defending the authority and standing of the court is, in the opinion of the Court, theoretical. The reality is that courts are not impersonal institutions but function through the judges who compose them. It is the judges who interpret a certain act or type of conduct as contempt of court. Whether a contempt has been committed must be assessed on the basis of the particular judges' own personal understanding, feelings, sense of dignity and standards of behaviour. Justice is offended if the judges feel that it has been. Their personal feelings are brought to bear in the process of judging whether there has been a contempt of court. Their own perception and evaluation of the facts and their own judgment are engaged in this process. For that

reason, they cannot be considered to be sufficiently detached, in order to satisfy the conditions of impartiality, to determine the issues pertaining to the question of contempt in the face of their own court. The Court endorses in this respect the statement of the Supreme Court of the United States in the case of *Offutt v. USA* (348 U.S. 11. 75 S.Ct.11):

> "But judges also are human, and may, in a human way, quite unwittingly identify offence to self with obstruction to law. Accordingly, this Court has deemed it important that district judges guard against this easy confusion by not sitting themselves in judgment upon misconduct of counsel where the contempt charged is entangled with the judge's personal feeling against the lawyer".

36. In this connection, the Court notes that, in their decision, the judges of the Assize Court acknowledged that as "*persons"* they were "*deeply insulted"* by the applicant, even though they went on to say that this was the least of their concerns, and emphasised the importance for them of upholding the authority and integrity of justice.

37. The Court considers that in situations where a court is faced with misbehaviour on the part of any person in the courtroom which may constitute the criminal offence of contempt, the correct course dictated by the requirement of impartiality under Article 6 § 1 of the Convention is to refer the question to the competent prosecuting authorities for investigation and, if warranted, prosecution, and to have the matter determined by a different bench from the one before which the problem arose. In fact, with the exception of Cyprus, this is the practice in the High Contracting Parties to the Convention as regards behaviour which constitutes the criminal offence of contempt of court. The situation regarding sanctions of a disciplinary nature, in the form of fines, imposed for behaviour which does not attract criminal liability, is different (*Ravnsborg v. Sweden*, judgment of 23 March 1994, Series A no. 283-B).

(b) Subjective test

38. As regards the applicant's contention concerning the subjective bias of the judges of the Assize Court, the Court notes that the principle that a tribunal shall be presumed to be free of personal prejudice or partiality is long established in the Court's case-law (see, for example, *Le Compte, Van Leuven and De Meyere v. Belgium*, judgment of 23 June 1981, Series A no. 43, p. 25, § 58). The personal impartiality of each judge must be presumed until there is proof to the contrary (*ibid.*).

39. The Court accepts that the facts, as disclosed by the minutes of the relevant proceedings and the final decision of the Assize Court, reveal that a degree of personal partiality did indeed emerge on the part of the judges during their discussion with the applicant. This was triggered, to some extent, by the court's interpretation of the word "ravasakia" as "love letters" instead of "notes" although that word has two possible different meanings

(see § 23 above), the particular context in which it was used and the applicant's statement that he saw:

> "with [his] own eyes the small pieces of paper going from one judge to an other when [he] was cross-examining ...".

40. In this respect, the Court notes that, in their decision, the judges of the Assize Court stated that the applicant *"did not hesitate to suggest that the exchange of views between the members of the bench amounted to an exchange of "ravasakia", that is, "love letters""* and acknowledged that as "*persons"* they had been *"deeply insulted"* by the applicant, even though they went on to say that this was the least of their concerns.

41. The lack of impartiality is evidenced by the intemperate reaction of the judges to the conduct of the applicant, as evidenced by their haste to try him summarily for the criminal offence of contempt of court without availing themselves of other alternative, less drastic, measures such as a warning, reporting the applicant to his professional body, refusing to hear the applicant unless he withdrew his statements, or asking him to leave the courtroom. In this respect an additional important factor is the harsh punishment - immediate imprisonment - which they imposed on the applicant while stating, for example:

> i) "We cannot conceive of another occasion of such a manifest and unacceptable contempt of court by any person..."

> ii) "If the Court's reaction is not immediate and drastic, we feel that justice will have suffered a disastrous blow (καταστροφικό)".

42. The Court also finds relevant in this connection its observations and conclusions below regarding the complaints of breach of the presumption of innocence and insufficient information as to the nature and cause of the change against the applicant (paragraphs 52-58 and 65-68).

(c) The review by the Supreme Court

43. The Court notes that the decision of the Assize Court was subsequently reviewed by the Supreme Court. According to the Court's case-law, it is possible for a higher tribunal, in certain circumstances, to make reparation for an initial violation of the Convention (see the *De Cubber v. Belgium* judgment of 26 October 1984, Series A no. 86, p. 19, § 33).

44. However, in the present case, the Court observes that the Supreme Court agreed with the approach of the first instance court, i.e. that the latter could itself try a case of criminal contempt committed in its face, and rejected the applicant's complaints which are now before this Court. There was no retrial of the case by the Supreme Court. As a court of appeal, the Supreme Court did not have full competence to deal *de novo* with the case, but could only review the first instance judgment for possible legal or

manifest factual errors. It did not carry out an *ab initio*, independent determination of the criminal charge against the applicant for contempt of the Assize Court. Furthermore, the Supreme Court found that it could not interfere with the judgment of the Assize Court, accepting that that court had a margin of appreciation in imposing a sentence on the applicant. Indeed, although the Supreme Court had the power to quash the impugned decision on the ground that the composition of the Assize Court had not been such as to guarantee its impartiality, it declined to do so.

45. The Court also notes that the appeal did not have a suspensive effect on the judgment of the Assize Court. In this connection, it observes that the applicant's conviction and sentence became effective under domestic criminal procedure on the same day as the delivery of the judgment by the Assize Court, i.e. on 14 February 2001. The applicant filed his appeal the next day, on 15 February 2001, whilst he was serving the five-day sentence of imprisonment. The decision on appeal was delivered on 2 April 2001, long after the sentence had been served.

46. In these circumstances, the Court is not convinced by the Government's argument that any defect in the proceedings of the Assize Court was cured on appeal by the Supreme Court.

47. In conclusion, the Court considers that there has been a breach of the principle of impartiality, on the basis of both the objective and subjective tests. Accordingly, there has been a violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 § 2 OF THE CONVENTION

48. The applicant complained that he had been presumed guilty as soon as he had objected to the Assize Court's conduct. He argued that, in essence, he had only been expected to enter a plea in mitigation on his own behalf before the delivery of the court's final ruling. He alleged a violation of Article 6 § 2 of the Convention, which provides:

> "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law."

A. The parties' submissions

1. The Government

49. The Government referred to their arguments on the question of impartiality. Further, they emphasised that there was no dispute over the underlying facts as to what had happened. Therefore it would have been absurd to adopt the ordinary procedure, where the facts constituting the offence were to be proved through witnesses. Finally, there was no

indication that the presumption of innocence had not been upheld. The judges had applied the presumption automatically in their decision-making process, but the facts before them had been such as to rebut that presumption. All judges were imbued with the necessity of upholding the presumption of innocence, and automatically applied it without having to state expressly in every case that they had done so. The fact that the court had stated that what had been said *prima facie* constituted contempt, and invited representations on the matter, could not be considered a violation of Article 6 § 2 of the Convention. If the applicant had produced a good explanation for what he had said, he would not have been found in contempt. It was totally unrealistic to suggest that the court had closed its mind to this possibility.

2. The applicant

50. The applicant submitted that his appearance and that of the members of the bench, before a different, independent tribunal, in a hearing to assess whether the applicant's words and actions amounted to contempt, would have been entirely practicable and fair to both sides. The presumption of innocence required the court to refrain from taking any decision as to the applicant's guilt until all parties had had an opportunity to make representations. It was clear that the court had made up its mind as to his guilt immediately, and all he had been offered was an opportunity to enter a plea in mitigation as to sentence. That was clear from the Assize Court's judgment, where it was stated *"Later, after a long break, Mr Kyprianou was given a second chance to say something to the Court, in the hope that he would apologise and mitigate the damage caused by his behaviour"*.

B. The Court's assessment

51. Although there is authority for the proposition that, if a violation of the principle of impartiality is found, it is not necessary to examine other complaints under Article 6 of the Convention (see *Findlay v. the United Kingdom*, judgment of 25 February 1997, *Reports of Judgments and Decisions* 1997-I, § 80), the Court considers that, in the circumstances of the present case, there are grounds for examining the applicant's other complaints under that Article (see *mutatis mutandis*, *Göç v. Turkey* [GC], no. 36590/97, § 46, ECHR 2002-V).

52. The Court recalls that the presumption of innocence enshrined in Article 6 § 2 of the Convention is one of the constituent elements of a fair criminal trial guaranteed by Article 6 § 1.

53. In the present case the Court notes, on the basis of the minutes of the relevant proceedings, that the Assize Court formed and expressed an opinion during its discussion with the applicant amounting to a conclusion that it considered him guilty of the criminal offence of contempt of court. In

particular, following the court's refusal to grant him leave to withdraw from the case and his statement regarding the exchange of "ravasakia" between the judges, the court stated the following:

> "We consider that what has just been said by Mr Kyprianou and in particular the manner with which he addresses to the Court constitutes a contempt of court and Mr Kyprianou has two choices: either to maintain what he said and to give reasons why no sentence should be imposed on him or for him to decide whether he should retract. We give him this opportunity exceptionally. Section 44.1 (a) of the Courts of Justice Law applies to its full extent".

54. In this connection, the Court observes that the applicant was given little opportunity to react to the possibility of such a finding or put forward his own explanations and representations in this respect.

55. Furthermore, following the applicant's persistence and a second short break, the court reaffirmed its view by stating that:

> "We continue to believe that what Mr Kyprianou said, the content, the manner and the tone of his voice, constitute a contempt of Court as provided in Section 44.1 (a) of the Courts of Justice Law 14/60".

56. The final decision of the Assize Court imposing the prison sentence was based on the above conclusions formed by the court during its discussions with the applicant. The Court agrees with the applicant that, essentially, he was asked for mitigation rather than given a full opportunity to defend himself against a charge which would have grave consequences for his liberty. In these circumstances, the Court finds that the Assize Court violated the principle of the presumption of innocence.

57. The Court reiterates its findings as regards the role of the Supreme Court (see §§ 43-46 above) and the failure to remedy the defects in the proceedings of the Assize Court on appeal.

58. It therefore finds that there has been a violation of Article 6 § 2 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 § 3 a. OF THE CONVENTION

59. The applicant contended that the Assize Court failed to inform him in detail of the accusations against him. In its decision on sentence, the Assize Court held that the applicant's gestures were intended to create a climate of *"intimidation and fear within the court".* The applicant claimed that he could not have known of the court's fears and that such an accusation should have been specifically put to him. He alleged a violation of Article 6 § 3 a) of the Convention, which provides:

> "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; ..."

A. Submissions of the parties

1. The Government

60. The Government stated that Article 6 § 3 a. did not require that the accused be informed of all the evidence on which a charge was founded. It was sufficient that he was informed of the offences with which he was charged, together with the date and place of their alleged commission.

61. The Government further submitted that it was clear from the transcript of the proceedings before the Assize Court that the court had expressly referred both to the facts that constituted the offence and to the relevant statutory provisions. The Supreme Court concluded that the applicant had been sufficiently informed of the matters constituting the contempt.

62. The Government stressed that the events that constituted the offence had been brief and simple and had just taken place in the courtroom; there had been no dispute as to what had occurred. The court had expressly told the applicant that what had amounted to contempt had been the content of his specific statement and the tone in which it was made. The transcript of the proceedings could neither capture nor convey the tone in which the applicant had spoken, but he himself had been well aware of it.

63. It was highly formalistic to suggest that the allegation that "the tone of his voice as well as his demeanour and gestures to the Assize Court" had been "apparently aimed at creating a climate of intimidation and fear within the Court" constituted a separate allegation against the applicant. The Assize Court specifically mentioned the "tone of his voice when addressing the Court". The Government submitted that the Court was simply not in a position to assess how a Cypriot court (consisting of native speakers of the Greek language) should have interpreted the Greek word "ravasakia", which could mean "love letters", derived from the Slavic word "ravas". In any case, the applicant would have been well aware of the possible connotations of that word. He must have known that such a comment was inappropriate and capable of misinterpretation.

2. The applicant

64. The applicant submitted that the information about the charge levelled against him by the members of the bench had been lacking in detail and had not enabled him to prepare his defence. Contrary to the finding of the Supreme Court, neither the allegation of creating a climate of "intimidation and fear", nor the suggestion that the court had interpreted the word "ravasakia" to mean "love letters", had been put to him.

B. The Court's assessment

65. The Court recalls that the fairness of proceedings must be assessed with regard to the case as a whole (see, for example, *Miailhe v. France (No. 2)*, judgment of 26 September 1996, *Reports* 1996-IV, p. 1338, § 43, and *Imbrioscia v. Switzerland*, judgment of 24 November 1993, Series A no. 275, pp. 13-14, § 38). Article 6 § 3 a. of the Convention underlines the need for special attention to be paid to informing the defendant of the "accusation". It affords the defendant the right to be informed not only of the "cause" of the accusation, that is to say the acts he is alleged to have committed and on which the accusation is based, but also the legal characterisation given to those acts. That information should be detailed (see *Pélissier and Sassi v. France* [GC], no. 25444/94, § 51, ECHR 1999-II). The scope of this provision must be assessed in the light of the more general right to a fair hearing guaranteed by Article 6 § 1 of the Convention.

66. In the present case, the Court observes that the applicant was informed of the nature and cause of the accusation against him by the Assize Court after the court had already formed the view that the applicant was guilty of the criminal offence of contempt of court (see §§ 53-56 above). Furthermore, the material facts which influenced the court's decision, as expressed in the decision of the majority to impose a prison sentence on him, were not disclosed before that decision. These facts were, first, that the Assize Court interpreted the word "ravasakia" to mean "love letters" rather than "notes"; secondly, the court's objections regarding the applicant's tone of voice and his gestures to the court which had created *"a climate of intimidation and fear within the Court"*; and thirdly, the Assize Court's view that the applicant had accused the court of restricting him and of *"doing justice in secret"*.

67. The Court reiterates it findings concerning the review by the Supreme Court (§§ 43-46 above) and the failure to remedy the defects in the proceedings of the Assize Court on appeal.

68. In the light of the above, the Court finds that there has been a violation of Article 6 § 3 a. of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

69. Finally, the applicant complained of an interference with his right to freedom of expression which was not prescribed by law, and that the imposition of a fine and a prison term were disproportionate to the legitimate aim pursued. He alleged a violation of Article 10 which provides, insofar as is relevant:

> "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 and regardless of frontiers. ...
>
> 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 ... for maintaining the authority and impartiality of the judiciary."

70. The Government submitted that the applicant's allegations in relation to Article 10 of the Convention were based on the misconception that participants in judicial proceedings had a right to say whatever they wished in a personal capacity. However, they submitted that an advocate appearing before a court was a servant of justice and the alleged limitations on an advocate's freedom of expression were not imposed by the impugned domestic law but derived from the very nature of his or her mission and function in the courtroom. The Government maintained that, even if an advocate had personal free speech rights in a courtroom, such rights could be limited for the purpose of maintaining the authority of the judiciary, as had been the case. In view of the degree of insult and the seriousness of the applicant's contemptuous behaviour, the sanction which had been imposed on him had been justified and fell within the margin of appreciation afforded to the Assize Court, the determination of the "weight" of the contempt in a given case being a function entrusted to the domestic courts.

71. The applicant submitted that Article 10 of the Convention applied to all forms of expression, including the expression of an advocate in court. The expression in question had been used by the applicant as a professional advocate while attempting to protect the interests of his client. At worst, he had been guilty of an error of judgment. To sentence a respected advocate, with an exemplary professional record, to five days' imprisonment for what had been no more than a momentary intemperate outburst, was plainly disproportionate. There was a range of potential responses such as adjournment of the hearing to allow tempers to cool, a warning, reporting the applicant to his professional body, or warning him about his future conduct. He submitted that the imposition of such a plainly disproportionate penalty would have a general "chilling effect" on the conduct of advocates in court, to the potential detriment of their clients' cases. The applicant contended that it was essential to remember that the power of a court to deal with contempt was designed to prevent a real threat to the administration of justice, and was not a tool to protect the personal dignity of judges or a means of exacting personal retribution where an advocate has caused offence.

72. The Court considers that the essential issues raised by the applicant were considered above under Article 6 of the Convention. Accordingly, it does not consider it necessary to examine separately whether Article 10 was also violated.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

73. 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

1. Submissions of the parties

(a) The applicant

74. The applicant claimed compensation for non-pecuniary damage amounting to 120,000 euros (EUR). No claim was made in respect of pecuniary damage.

75. The applicant submitted that his case had received extensive publicity in Cyprus and abroad, something which had caused him severe stress, mental suffering and aggravation. He maintained that the wide and adverse media coverage over a number of months had affected his own and his family's life and reputation, as well as his professional and political career. In the latter connection, he referred to the fact that he had withdrawn his candidacy for membership of parliament in the 2001 elections, due to the embarrassment which he felt.

76. The applicant argued that he had been humiliated and treated like a common criminal despite the fact that he had been a law-abiding citizen, a member of parliament and an advocate for about 40 years, with an unblemished record. He was not a convicted prisoner or guilty of such undeserving conduct as to justify a refusal of compensation under Article 41 of the Convention; he had simply been defending his client in a murder trial.

77. The applicant, who was a diabetic and at the time had already suffered some loss of eyesight, complained of a deterioration in his condition, particularly his eyesight, as a result of the events that took place. He emphasised that his complaint was not that the events caused his condition but that they had contributed to its deterioration. He pointed out that diabetics required special medical attention on a daily basis which he had not received during the five days spent in prison. He claimed that, following his imprisonment, he had had to undergo treatment. The applicant relied on medical reports which revealed that his condition had been stable for a long period (since 1998) but, immediately after his imprisonment, he had suffered serious complications.

78. Accordingly, the applicant argued that a direct causal link existed between the compensation he sought and the breach of his Convention rights. He claimed that if he had been given a fair opportunity to defend himself before an independent and impartial tribunal and to exercise his right to freedom of expression, no finding of guilt or unprofessional conduct would have been made and therefore no violation of the Convention would have occurred. In view of the loss he had suffered, he submitted that the only appropriate remedy was financial restitution, in line with the principles of just satisfaction governing Article 41 of the Convention, and in particular that of restitution *in integrum*.

(b) The Government

79. The Government disputed the applicant's submissions and claimed that, in the event that the Court found a violation of the applicant's Convention rights, the damage alleged by the applicant could not be regarded as having been caused by such violation, particularly in so far as his complaints under Article 6 of the Convention were concerned. The Government submitted that it was evident from the Supreme Court's judgment that the applicant would have been convicted and received the same sentence even in the absence of any violation of Article 6. Any mental suffering, stress, humiliation, loss of reputation or physical harm that the applicant could be thought to have suffered had been the consequence of the very existence of the proceedings and their outcome, and not of any violation of his Convention rights. Such damage would have only been relevant if the conviction and/or sentence themselves amounted to a violation of the Convention.

80. In relation to the applicant's complaints about mental suffering, the Government maintained that the issues complained of, in particular the allegation that he had been "treated like a common criminal", were, to a large extent, ordinarily linked to a sentence of imprisonment. The applicant had been found guilty of a violation of the criminal law which both the Assize Court and the Supreme Court had considered to be sufficiently serious to justify a prison sentence. The applicant's background and distinguished position should not entitle him to receive any more compensation than any other prisoner who had endured prison life, with its consequent deprivation of liberty, body searches, proximity to other criminals and communal sanitary facilities.

81. The Government argued that any loss of reputation and adverse publicity allegedly suffered by the applicant had been a consequence of his own unprofessional and offensive conduct rather than his conviction and imprisonment. It was inevitable that the public's perception of his ability as a lawyer and as a politician would be affected by the publicity surrounding his case. On an objective assessment of the facts, the applicant's conduct had been inappropriate and of questionable benefit to his client. Even if he

had not been convicted, his conduct before the court would have damaged his reputation in the eyes of any right-thinking people.

82. The Government contended that the applicant had not provided any medical evidence to support his claim that his conviction and imprisonment had contributed to or caused the deterioration in his eyesight. They claimed that the medical reports he had provided did not establish any causal link. Indeed, they pointed out that the applicant had already been suffering from retinopathy for two years before his imprisonment (since December 1998), and that it was not uncommon for diabetic retinopathy to develop over time to include macular oedema.

83. The Government concluded that, in the event that the Court found a violation of the applicant's rights under the Convention, such a finding would in itself constitute sufficient just satisfaction.

2. The Court's assessment

84. The Court considers that the applicant must have suffered distress on account of the facts of the case. In particular, it considers that the seriousness of the conviction and the prison sentence imposed on the applicant must have had a negative impact on his professional reputation and on his political image, particularly in a small country like Cyprus. However, the Court does not find that the applicant has established a causal link between the deterioration of his health and the breaches of the Convention which it has found. Overall, therefore, it finds the applicant's claims excessive, although partly justified.

85. Taking into account the various relevant factors and making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant EUR 15,000 under this head.

B. Costs and expenses

86. Finally, the applicant sought reimbursement of the costs and expenses incurred in the proceedings before the Supreme Court and the Court, amounting to 20,180 Cypriot pounds (CYP) [34, 561.80 euros (1 Cyprus Pound = 1.71268 euros)]. He detailed his claims as follows (with reference to a debit note and certain invoices and receipts):

(a) CYP 2,520 for fees and expenses, covering work carried out by six lawyers in Cyprus in the proceedings before the Supreme Court.

(b) CYP 17,660 for fees and expenses, incurred before the Court. These include a total of CYP 5,160 in fees for the work of Mr C. Clerides, CYP 7,500 in fees for the work of his five other Cypriot lawyers (CYP 1,500 per lawyer), to be paid upon the completion of the proceedings before the Court, and CYP 5,000 in consultation fees for his two British lawyers (the receipts submitted amounted to 7,419 pounds sterling).

87. The applicant emphasised the unique nature and complexity of the issues involved in the case. In view of the fact that there was no precedent in the Cyprus courts for such a procedure and conviction, and in the light of the significant issues it revealed concerning the administration of justice, the position of Cypriot advocates before courts and their rights as accused in contempt proceedings, the number of lawyers representing him was reasonable and necessary. Each lawyer dealt with a different aspect of the case. Significantly, the Supreme Court had not objected to the appearance of five lawyers on his behalf. Furthermore, in view of the similarity between the Cypriot and British legal systems, the experience of the British lawyers was also necessary before the Court.

88. Lastly, the applicant pointed out that, although the Government alleged that the figures which he had put forward were unreasonable, they had not specified what could be considered a reasonable sum. The applicant submitted that the claim under this head had been assessed in the light of, *inter alia*, the Court's relevant case-law.

89. The Government contended that the applicant had engaged an excessive number of lawyers. Before the Supreme Court the applicant had been represented by no fewer than six lawyers, and before the Court he was represented by a firm which had hired five Cypriot lawyers as well as two English barristers. They stated that no explanation had been provided by the applicant as to why so many lawyers had been required. Thus, the Government considered that any costs and expenses awarded to the applicant had to be reduced to the level of expenses which could have been reasonably and necessarily incurred.

90. According to the Court's established case-law, costs and expenses will not be awarded under Article 41 unless it is established that they were actually and necessarily incurred, and were reasonable as to quantum. Furthermore, legal costs are only recoverable in so far as they relate to the violation found (see *Beyeler v. Italy* (just satisfaction) [GC], no. 33202/96, § 27, 28 May 2002).

91. First, the Court points out that it has already held that the use of more than one lawyer may sometimes be justified by the importance of the issues raised in a case (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 56, ECHR 2000-XI). Moreover, as the applicant's case before the Supreme Court essentially attempted to remedy the violations of the Convention alleged before the Court, these domestic fees may be taken into account in the assessment of the costs claim. However, it considers that, even if the instant case was to some degree complex and raised significant issues, it was not necessary to have the services of so many lawyers.

92. Secondly, although the Court does not doubt that the fees claimed were actually incurred, they appear to be excessive. It also notes that it dismissed a considerable part of the applicant's claims at the admissibility stage.

93. Taking the above into account, and deciding on an equitable basis, the Court awards the applicant a total of EUR 10,000 under this head.

C. Default interest

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

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

3. *Holds* that there has been a violation of Article 6 § 3 a. of the Convention;

4. *Holds* that it is not necessary to examine separately the applicant's complaint under Article 10 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 according to Article 44 § 2 of the Convention, the following amounts, to be converted into Cypriot pounds at the rate applicable on the date of settlement:
      (i) EUR 15,000 (fifteen thousand euros) in respect of non-pecuniary damage;
      (ii) EUR 10,000 (ten thousand euros) in respect of costs and expenses;
      (iii) any tax that may be chargeable on the above amounts;
   (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 27 January 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President