EUROPEAN COURT OF HUMAN RIGHTS

SECOND SECTION

CASE OF WESSELS-BERGERVOET v. THE NETHERLANDS

(Application no. 34462/97)

JUDGMENT

STRASBOURG

4 June 2002

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 Wessels-Bergervoet v. the Netherlands,

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

Mr J.-P. Costa, *President*,

Mr Gaukur Jörundsson,

Mr L. Loucaides,

Mr K. Jungwiert,

Mr V. Butkevych,

Mrs W. Thomassen,

Mr M. Ugrekhelidze, *judges*,

and Mr T.L. Early, *Deputy Section Registrar*,

Having deliberated in private on 14 May 2002,

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

PROCEDURE

1. The case originated in an application (no. 34462/97) against the Kingdom of the Netherlands lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Dutch national, R.E.W. Wessels-Bergervoet ("the applicant"), on 11 October 1996.

2. The applicant, who had been granted legal aid, was represented before the Court by Mrs H. Mollema-de Jong, a lawyer practising in Amersfoort. The Dutch Government ("the Government") were represented by their Agent, Mrs J. Schukking, of the Netherlands Ministry of Foreign Affairs.

3. The applicant alleged, in particular, that a reduction applied to her general old age pension is the result of discriminatory treatment between married men and married women contrary to Article 14 of the Convention, in conjunction with Article 1 of Protocol No. 1 to the Convention.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. The application was allocated to the First 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 of the Rules of Court.

6. On 1 December 1998, the Chamber decided to adjourn its examination of the applicant's complaint under Article 14 of the Convention in conjunction with Article 1 of Protocol No. 1, and declared the remainder of the application inadmissible.

7. On 3 October 2000, the Chamber declared the applicant's complaint under Article 14 in conjunction with Article 1 of Protocol No. 1 admissible.

8. The applicant, but not the Government, filed observations on the merits (Rule 59 § 1).

9. Following the general restructuring of the Court's Sections as from 1 November 2001 (Rule 25 § 1 of the Rules of Court), the application was assigned to the newly composed Second Section of the Court (Rule 52 § 1).

10. After consulting the parties, the Chamber decided that no hearing on the merits was required (Rule 59 § 2 *in fine*).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

11. The applicant and her husband have always lived in the Netherlands. By decision of 7 August 1984, the applicant's husband was granted an old age pension for a married person under the General Old Age Pension Act (*Algemene Ouderdomswet*; "AOW") as from 1 August 1984. However, pursuant to the then Article 10 of the AOW, his pension was reduced by 38% as neither the applicant nor he himself had been insured under this Act during nine periods between 1 February 1957 and 1 August 1977, during which periods he had worked in Germany and where he had had an old age insurance under the German social security legislation. These nine periods amounted in total to nineteen years. No appeal was filed against this decision.

12. After the applicant had reached the age of sixty-five in 1989, the Board of the Social Insurance Bank (*Sociale Verzekeringsbank*), by decision of 14 February 1989, granted the applicant an old age pension under the AOW as from 1 March 1989. On the same basis as her husband's pension, her pension was also reduced by 38%. The applicant filed an appeal with the then Appeals Tribunal (*Raad van Beroep*) of Arnhem complaining that this reduction in her old age pension constituted discriminatory treatment.

13. In its decision of 10 January 1990 the Appeals Tribunal noted that, pursuant to Articles 7 and 9 of the AOW, a married person – like the applicant – who had been insured under this Act and who had reached the age of 65 was entitled to an old age pension amounting to 50% of the net minimum wage per month.

14. However, pursuant to Article 13 of the AOW, this amount could be reduced by 2% for each full year in which the person concerned had not been insured between the ages of fifteen and sixty-five. It further noted that, pursuant to Article 6 § 1 of the AOW, those insured were persons between the ages of fifteen and sixty-five, who were either Netherlands residents or, if not Netherlands residents, subject to payment of wage tax (*loonbelasting*) in respect of work carried out in the Netherlands under a contract of employment. Under the present paragraph 2 of Article 6 of the AOW, it was possible, by way of an Order in Council (*Algemene Maatregel van Bestuur*), to extend or limit the group of insured persons in derogation from the general rule contained in Article 6 § 1 of the AOW.

15. The Appeals Tribunal recalled the case-law of the Central Appeals Tribunal (*Centrale Raad van Beroep*) to the effect that the question whether or not a person was

insured under the AOW fell to be determined on the basis of the rules in force at the relevant time.

16. It further recalled that, according to five consecutive Royal Decrees on Extension and limitation of the group of insured persons (*Koninklijke Besluiten Uitbreiding en Beperking van de kring der verzekerden*), issued under Article 6 § 1 of the AOW and in force until 1 April 1985, those persons residing in the Netherlands but working outside the Netherlands under a contract of employment and who, in respect of this employment, were socially insured under foreign legislation, were not insured under the AOW. This limitation also applied to a woman married to a person who, on the basis of these Royal Decrees, was not insured under the AOW.

17. The Appeals Tribunal noted that it was not in dispute that the applicant's husband had been working in Germany during the periods at issue and that, during these periods and in accordance with Ordinance no. 3 of the Council of Ministers of the European Communities (until 1 October 1972) and subsequently Ordinance 1408/71, he had been subject to German social security legislation.

18. It found that, in these circumstances, the Social Insurance Bank had correctly concluded that the applicant was not insured under the AOW for the period of time her husband had worked in Germany.

19. However, as regards the question whether this situation was compatible with the principle of equality, in particular the prohibition of discrimination between men and women, the Appeals Tribunal noted that there was a provision in the Royal Decrees at issue which rendered the insurance under the AOW of married women dependent on the question whether or not their husbands were insured under the AOW, whereas the Decrees did not contain a comparable provision in respect of married men.

20. The Appeals Tribunal examined the applicant's situation in the light of Article 26 of the International Covenant on Civil and Political Rights (ICCPR). It recalled the case-law of the Central Appeals Tribunal according to which, as from 23 December 1984, this provision was directly applicable in the Netherlands legal order, also in the field of social security. The Appeals Tribunal found that this implied that rights could be derived directly from this provision in so far as an application, after 23 December 1984, of statutory rules created a difference in treatment between men and women without any objective and reasonable justification, and which difference led to a more unfavourable result than that which would have existed had there not been such a difference. It found that the applicant found herself in this situation as she had been awarded an old age pension on 1 March 1989 from which 38% was deducted on the basis of rules which made an unjustified distinction between married men and women.

21. The Appeals Tribunal noted that, as from 1 April 1985, the principle of equal treatment between men and women had been incorporated in the AOW, and that this had resulted in the introduction of a system in which the entitlement to full benefits was made solely dependent on the question whether or not the person concerned had personally completed the insurance years under this Act. It concluded, therefore, that it could not be held against married women, like the applicant, who had fully complied with the

conditions for insurance under the AOW, that they had not been insured during a certain period solely on grounds of marital status.

22. Consequently, the Appeals Tribunal quashed the decision of 14 February 1989, in so far as the applicant's pension was reduced by 38%, upheld the decision for the remainder and ordered that the applicant was entitled to a full pension under the AOW. The Board of the Social Insurance Bank filed an appeal with the Central Appeals Tribunal.

23. In its judgment of 26 November 1993, following a hearing held on 15 October 1993, the Central Appeals Tribunal quashed the decision of 10 January 1990 and rejected the applicant's appeal as ill-founded.

24. The Central Appeals Tribunal noted at the outset that it was not in dispute between the parties that the applicant did not belong to the group of persons as defined in Article 2 of the EC Directive 79/7/EEC on the gradual implementation of the principle of equal treatment of men and women in the field of social security. It considered this view to be correct and, consequently, held that the question whether the reduction on the applicant's pension could not be examined in the light of the prohibition on discrimination set out in Article 4 § 1 of this Directive.

25. As regards the question whether the reduction of the applicant's pension was compatible with Article 26 of the ICCPR, the Central Appeals Tribunal considered that this provision could be directly invoked, also in the field of social security, as from 23 December 1984. It further recalled the case-law according to which this implied that Contracting States to the ICCPR were obliged to ensure that their statutory rules were free of any form of discrimination prohibited by this provision. However, according to the Central Appeals Tribunal, a difference in treatment was not contrary to this provision where there were objective and reasonable grounds for the difference.

26. In this perspective, the Central Appeals Tribunal held that Article 26 of the ICCPR could not deprive a national statutory rule of its effect, according to which the level of benefits under a statutory insurance scheme – like the AOW – was made dependent on the question of whether the periods of insurance had been completed. It held that this was no different in a situation where it could be established that the non-completion of periods of insurance, as regards the period before 23 December 1984, was based on a domestic rule which made a difference in treatment on the basis of **sex**, as this rule had been in operation during a period in which Article 26 of the ICCPR had not yet directly applied and could not, therefore, deprive the domestic rule of its earlier effect.

27. The applicant's subsequent appeal in cassation before the Supreme Court (*Hoge Raad*) was rejected on 29 May 1996. As to the applicant's argument that the Central Appeals Tribunal had failed to examine whether or not there was an objective and reasonable justification for the difference in treatment at issue, the Supreme Court held that the Central Appeals Tribunal had correctly found that, as regards the periods in which the applicant had not been insured under the AOW, she could not rely on Article 26 of the ICCPR, as these periods predated the entry into force of this international instrument.

28. In so far as the applicant complained that the Central Appeals Tribunal had unjustly failed to deprive the discriminatory rule at issue of its effect on grounds of incompatibility with the prohibition on discrimination contained in Article 1 of the Constitution (*Grondwet*), the Supreme Court held that the periods during which the applicant had not been insured under the AOW predated the entry into force of Article 1 of the Constitution.

29. In so far as the applicant relied on unwritten general principles of law (*algemene rechtsbeginselen*), in particular the principle of equality, the Supreme Court considered that, according to the Explanatory Memorandum (*Nota van Toelichting*) to the first Royal Decree on Extension and limitation of the group of insured persons of 20 December 1956, the exclusion was aimed at the prevention of an undesirable accumulation of benefits. According to this Explanatory Memorandum, the pension built up by the man abroad was also considered to be destined for his spouse.

30. The Supreme Court held that in view of the social attitudes prevailing at the relevant time, i.e. the periods during which the applicant had not been insured under the AOW, the then Government could have based themselves on the idea that in practically all cases it was the man who was the "breadwinner" so that they could, accordingly, limit themselves to exclude married women, and did not have to make a separate provision for those cases where the woman was the "breadwinner". The Supreme Court concluded, therefore, that there was an objective and reasonable justification for the difference in treatment on grounds of **sex** on which the exclusion at issue was based.

31. The Supreme Court further rejected the applicant's argument based on the principle of equality contained in Article 4 § 1 of the EC Directive 79/7/EEC on the gradual implementation of the principle of equal treatment of men and women in the field of social security, as the applicant fell outside the scope of Article 2 of this Directive, which provision defined the group of persons to whom this Directive applied.

II. RELEVANT DOMESTIC LAW AND PRACTICE

32. The AOW provides for a general old age pension scheme for persons who have attained the age of 65. Under this scheme, all persons between the ages of 15 and 65 who are residing in the Netherlands are insured. Contributions to this scheme are paid by all persons who are gainfully employed in the Netherlands.

33. Entitlement to AOW benefits is not dependent on the level of contributions paid as, contrary to a social security scheme based on employment (*werknemersverzekering*), it is a general social security scheme (*volksverzekering*). The level of benefits is, however, linked to the period of time during which a person has been insured under the AOW. Pursuant to Article 13 (Article 10 before 1 April 1985) of the AOW, an AOW pension is reduced by 2% for each year, between the ages of 15 and 65, that the person concerned has not been insured under the AOW on grounds of, *inter alia*, residence abroad. A person who has been insured under the AOW for 50 years is entitled to a full AOW pension.

34. On 19 December 1978, the Council of the European Communities issued Directive 79/7/EEC concerning the gradual implementation of equal treatment between men and women in the field of social security, allowing member states a period of six years until 23 December 1984 within which to make any amendments to legislation which might be necessary in order to bring it into conformity with the directive.

35. Until 1 April 1985, a married man was entitled to an AOW pension for a married couple equal to 100% of the minimum wage in force in the Netherlands. Unmarried persons of either **sex** were entitled to 70% of the minimum wage. A married woman had no entitlement in her own right. According to the Royal Decree on Extension and limitation of the group of insured persons, as amended on several occasions, a married woman residing in the Netherlands – whose husband was employed abroad and socially insured in the foreign country of employment – was not insured under the AOW.

36. As from 1 April 1985, married women became entitled in their own right to an AOW pension. Each spouse became entitled to an AOW pension equal to 50% of the minimum wage. The position for unmarried persons remained unchanged. As a result of this change, married women are no longer excluded from the AOW insurance for periods during which their husbands were employed abroad, provided that they themselves have continuously resided in the Netherlands or have themselves contributed on the basis of gainful employment in the Netherlands.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION IN CONJUNCTION WITH ARTICLE 1 OF PROTOCOL NO. 1

37. The applicant claimed that the reduction of her pension benefits under the AOW constitutes discrimination on the ground of gender prohibited by Article 14 of the Convention taken together with Article 1 of Protocol No. 1 to the Convention, given that at the relevant time a married woman was only insured under the AOW when her husband was insured under this scheme, whereas there was no such rule in respect of a married man.

38. Article 14 of the Convention reads as follows:

"The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as **sex**, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

Article 1 of Protocol No. 1 provides:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Applicability of Article 14 of the Convention

39. The Government submit that the proceedings at issue did not concern a right guaranteed by Article 1 of Protocol No. 1 and, consequently, fall outside the scope of Article 14 of the Convention. Relying *inter alia* on the Gaygusuz v. Austria judgment of 16 September 1996 (*Reports of Judgments and Decisions* 1996-IV, p. 1129), the Government argue that, benefits under social insurance schemes characterised by the principle of social solidarity cannot be regarded as "possessions" within the meaning of Article 1 of Protocol No. 1 in that, unlike systems under which the level of benefit is linked to contributions paid, a system based on social solidarity distributes the available resources equally among all claimants.

40. The Government explain that, under the AOW scheme, all those who are in paid employment in the Netherlands contribute funds from which the pensions of those who are entitled to an AOW pension are paid. Persons having reached the age of 65 and persons having little or no income do not contribute to the AOW scheme. Entitlement to AOW benefits does not depend on whether or not contributions have been paid. Therefore, the group of contributors is different from the group of beneficiaries. Given the absence of a connection between contribution and entitlement under the AOW scheme, the Government consider that an AOW pension cannot, therefore, be regarded as falling within the scope of the Article 1 of Protocol No. 1.

41. The applicant, also relying on the Court's findings in its judgment in the case of Gaygusuz v. Austria, contests the Government's arguments as to the applicability of Article 1 of Protocol No. 1. She argues that, in that case, there was also no link between contributions paid and benefits received under the domestic emergency assistance scheme. She submits that pecuniary claims on the basis of statutory rules or regulations are closely linked to a person's social security and subsistence and thus have an equal weight as other property rights and, therefore, must be considered as falling within the scope of Article 1 of Protocol No. 1.

42. The Court recalls that Article 14 of the Convention has no independent existence, since it has effect solely in relation to the rights and freedoms safeguarded by the other substantive provisions of the Convention and its Protocols. However, the application of Article 14 does not presuppose a breach of one or more of such provisions and to this extent it is autonomous. For Article 14 to become applicable it suffices that the facts of a case fall within the ambit of another substantive provision of the Convention or its Protocols (cf. *Thlimmenos v. Greece* [GC], no. 34369/97, ECHR 2000-IV, § 40).

43. The Court recalls that, in its final decision on admissibility taken on 3 October 2000, it considered that the applicant's rights to a pension under the AOW can be

regarded as a “possession” within the meaning of Article 1 of Protocol No. 1 and that, consequently, Article 14 of the Convention was applicable.

B. Compliance with Article 14 of the Convention

Arguments before the Court

44. The Government argue that there is an objective and reasonable justification for the difference in treatment of which complaint is made, and that the distinction fell within the Contracting States’ margin of appreciation. On this point, the Government submit that, given the prevailing social attitudes at the material time, a married woman’s entitlement to AOW insurance was linked to her husband as the latter was the breadwinner in the vast majority of cases. After social attitudes had changed, the AOW system was altered as from 1 April 1985, giving married women an independent right to AOW insurance and benefits. As changes in social attitudes occur gradually, it is virtually impossible to indicate with precision when a change has taken place in society that eliminates a justification derived from social attitudes. However, the question of whether periods were insured must be answered on the basis of provisions that applied at the material time. Finally, arguing that the receipt in full of two or more social security pensions should be avoided, the Government point out that the applicant is receiving a pension from a foreign country as well as a reduced AOW pension.

45. The applicant submits that the Government do not deny that the AOW rules in force at the relevant time did discriminate against married women and considers that there is no reasonable relationship of proportionality between the means employed and the aim sought to be realised, i.e. the undesirable accumulation of pension rights. In the applicant’s opinion other legislation could have been possible. As to the point in time when social attitudes had changed, the applicant argues that even in 1957 the principle of equality and the resulting prohibition on discrimination was a general principle of both national and international law. In this respect, she refers to Article 1 of the 1948 Universal Declaration of Human Rights, which states that “All human beings are born free and equal in dignity and rights”. She further refers *inter alia* to Article 14 of the Convention (1950), to the Netherlands Act of 14 June 1956 abolishing the legal incapacity of married women, as well as to Article 12 § 4 of the European Social Charter (1961) by which the Contracting States undertook to ensure equal treatment of their own nationals with nationals of other Contracting Parties in respect of social security rights. The applicant is of the opinion that there are no weighty reasons to confront a small group of women, who do not fall within the scope of the EC Directive 79/7, for the rest of their lives with the consequences of a discriminatory provision from the past that has been abolished in the meantime.

The Court’s assessment

46. The Court recalls that the right under Article 14 not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is violated when States treat

differently persons in analogous situations without providing an objective and reasonable justification (cf. the above-mentioned *Thlimmenos v. Greece judgment*, § 44).

47. The Court notes that, in principle, all persons between the ages of 15 and 65 who are residing in the Netherlands are insured under the AOW. The Court further notes that the applicant has always lived in the Netherlands. The only reason for the applicant's exclusion from insurance under the AOW for a global period of nineteen years was the fact that she was married to a man who was not insured under the AOW on grounds of his employment abroad. It is undisputed that a married man in the same situation as the applicant would not have been excluded from the AOW insurance scheme in this manner.

48. The Court concludes that the reduction applied to the applicant's AOW benefits was therefore based exclusively on the fact that she is a married woman. It has not been argued that the applicant failed to satisfy any of the other statutory conditions for AOW benefits.

49. The Court considers that very strong reasons would have to be put forward before it could regard a difference in treatment based exclusively on the ground of **sex** and marital status as compatible with the Convention.

50. The Government argue that the undesirable accumulation of pension rights is an objective and reasonable justification for the difference in treatment made by the legislator. However, the Court notes in this respect that this legislation did not prevent a married man in the same situation as the applicant from accumulating pension rights.

51. As to the Government's argument that at the material time social attitudes were different in that most of the then breadwinners were married men, thus justifying the difference in treatment at issue, the Court, even assuming that such an argument had merit, considers it of some relevance that the Convention and the First Protocol had already entered into force in the Netherlands by 31 August 1954.

52. Furthermore, when examining whether a difference in treatment can be regarded as justified, the Court does not only have regard to its aim at the time the relevant provisions were enacted, but also to its effects in the concrete case concerned. In the present case, the applicant received an old age pension as from 1 March 1989 which was 38% less than that which a married man in the same situation would have received. In other words, the inequality in treatment embodied in the former legal rules materialised in 1989 when, given the prevailing social attitudes at that time, the aim pursued by the legal provisions concerned could no longer be upheld.

53. In this respect the Court also takes into account that, when the relevant legal rules were changed in 1985 in order to bring them into conformity with more present-day standards of equality between men and women, no measures were taken to remove the discriminatory effect of the former legal rules.

54. The Court therefore considers that the difference in treatment between married women and married men as regards entitlement to AOW benefits, of which the applicant was a victim, was not based on any "objective and reasonable justification".

55. There has accordingly been a violation of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

56. 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."

57. For pecuniary damage the applicant claimed:

(i) 31,267.94 euros[1] (EUR) in respect of loss of AOW benefits between 1 March 1989 and 1 January 2001 as a result of the reduction applied;

(ii) EUR 14,347.70[2] for legal interest on the loss of AOW benefits between 1 March 1989 and 1 January 2001 as a result of the reduction applied;

and, since under Dutch law, the Court's finding of a violation of the applicant's rights under the Convention does not constitute a ground for withdrawal of the reduction of the applicant's AOW benefits,

(iii) EUR 48,560.16[3] for the applicant's future loss of income resulting from the 38% reduction of her AOW benefits.

58. The Government – pointing out that the applicant is also a beneficiary of a German pension which should be taken into account in the determination of pecuniary damages – submitted that, in case of a finding of a violation, they would undertake to repair the applicant's financial position according to the applicable legal rules and policy and that, therefore, it would not be necessary for the Court to make any award for pecuniary damages.

59. The applicant further claimed EUR 4,537.80[4] for non-pecuniary damage.

60. The Government argued that the applicant had not specifically indicated what kind of damages she would have incurred, and that no causal link was established between the violation of the Convention and the sum claimed.

61. The applicant also claimed EUR 8,326.66[5] for legal costs incurred in both the domestic and the Convention proceedings.

62. The Government submitted that only costs reasonably incurred in the Convention proceedings are eligible for compensation, in so far as such costs are not covered by any legal aid scheme.

63. The Court recalls that a judgment in which it finds a breach of the Convention imposes on the respondent State a legal obligation to put an end to such breach and make reparation for its consequences in such a way as to restore as far as possible the situation

existing before the breach (*restitutio in integrum*) (cf. Mentes and Others v. Turkey judgment of 24 July 1998 (former Article 50), *Reports* 1998-IV, p. 1695, § 24, and *Camp and Bourimi v. the Netherlands*, no. 28369/95, 3.10.2000, § 49); that interest can be claimed from the dates on which each recoverable element of past pecuniary damage accrued (cf. *Lustig-Prean and Beckett v. the United Kingdom* (just satisfaction, nos. 31417/96 and 32377/96, 25.7.2000, § 28); and that, if it finds a breach of the Convention, it may award the applicant not only costs and expenses incurred before the Convention institutions, but also those incurred before the national courts for the prevention or redress of the violation (cf. Hertel v. Switzerland judgment of 25 August 1998, *Reports* 1998-VI, p. 2334, § 63).

64. The Court considers, however, that the question of the application of Article 41 of the Convention is not ready for decision. In particular as regards the applicant's claim for pecuniary damage, the Government have not indicated in a sufficiently concrete manner how they intend to repair the applicant's financial position when a violation would be found.

65. Accordingly, it is necessary to reserve this question and to fix the further procedure, due regard being had to the possibility of an agreement between the respondent State and the applicant (Rule 75 §§ 1 and 4).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1;

2. *Holds* that the question of the application of Article 41 is not ready for decision;

accordingly,

(a) *reserves* the said question in whole;

(b) *invites* the Government and the applicant to submit, within the forthcoming three months, their written observations on the matter and, in particular, to notify the Court of any agreement that they may reach;

(c) *reserves* the further procedure and *delegates* to the President of the Chamber the power to fix the same if need be.

Done in English, and notified in writing on 4 June 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. Early J.-P. Costa

Deputy Registrar President

[1] 68,905.48 Netherlands Guilders (NLG).

[2] NLG 31,618.18

[3] NLG 107,012.50

[4] NLG 10,000

[5] NLG 18,349.55