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

FOURTH SECTION

CASE OF KEEGAN v. THE UNITED KINGDOM

(Application no. 28867/03)

JUDGMENT

STRASBOURG

18 July 2006

FINAL

18/10/2006

In the case of Keegan v. the United Kingdom,

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

Josep Casadevall, *President*,
Nicolas Bratza,
Giovanni Bonello,
Matti Pellonpää,
Kristaq Traja,
Ljiljana Mijović,
Ján Šikuta, *judges*,
and Lawrence Early, *Section Registrar*,

Having deliberated in private on 11 October 2005 and 27 June 2006,

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

PROCEDURE

1. The case originated in an application (no. 28867/03) against the United Kingdom of Great Britain and Northern Ireland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by Gerard Keegan and Moira Keegan, husband and wife, and their children, Carl, Michael, Katie and Sophie, on 4 September 2003.

2. The applicants, who had been granted legal aid, were represented by Mr Topping, a lawyer practising in Liverpool. The United Kingdom Government ("the Government") were represented by their Agent, Mr J. Grainger of the Foreign and Commonwealth Office.

3. The applicants alleged that their home had been unjustifiably broken into and searched by police officers, relying on Articles 8 and 13 of the Convention.

4. The application was allocated to the Fourth 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. By a decision of 11 October 2005, the Chamber declared the application admissible.

6. The applicants, but not the Government, filed further observations (Rule 59 § 1). The Chamber decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicants are Gerard Keegan, an Irish citizen born in 1955, and Moira Keegan, a United Kingdom national born in 1963, husband and wife, and their children, Carl, Michael, Katie and Sophie, United Kingdom citizens born in 1985, 1996, 1997 and 1997 respectively. They were all resident in Liverpool.

8. In April 1999 the applicants became tenants of a house owned by Liverpool City Council at 19 New Henderson Street. The property had been vacant for six months and the previous tenant had been Anita or Joseph De La Cruz.

9. Meanwhile a series of armed robberies was carried out by a number of armed males: on 29 January 1997, 30 April, and 13 August 1999. On 14 August 1999, the police arrested a certain Heffy, later convicted for the robbery. They also arrested a man who arrived during the arrest. He gave his name as Dean Metcalfe but subsequent investigation revealed that he was Dean De La Cruz, son of Anita De La Cruz. He was not charged and was released. The police were tasked with investigating, and arresting, any further members of the gang and recovering the money from the robberies. The information which came into their possession indicated that Dean De La Cruz had often given 19 New Henderson Street as his address, that saliva taken from a scarf in a car abandoned after a robbery matched that of Dean De La Cruz and that Anita De La Cruz was still on the voters' register as residing at that address.

10. On 18 October 1999 Detective Constable Wilson went before a Justice of the Peace and applied on oath for a warrant to search 19 New Henderson Street for cash stolen during the robberies. He swore on oath that he had reasonable cause to believe that such stolen cash was in the possession of the occupier of the property. A search warrant was issued permitting a search of the premises for the cash.

11. On 21 October 1999, at 6 a.m., the police officers gathered at police headquarters. It was intended to search eight properties. Sergeant Gamble and four other officers were detailed to go to 19 New Henderson Street. They were briefed that Dean De La Cruz was linked to the robberies and given a photograph of him. They knew that the robberies had involved the use of firearms. They were instructed to obtain forcible entry at 7 a.m. to coincide with the other searches.

12. The police team used a metal ram to make a hole in the door. They experienced some difficulty as a previous tenant had reinforced the door.

13. The noise of the battering ram awoke and frightened the applicants. The first applicant came down the stairs and was told by the police who they

were and to open the door. The first applicant complied and the sergeant entered and showed his warrant card and explained that he was looking for Dean Metcalfe. A cursory examination of the house took place to verify that no one save the applicants was present. The sergeant apologised to the first and second applicants and arranged for repairs to be made to the front door. The police left at about 7.15 a.m.

14. The applicants brought proceedings against the Chief Constable of Merseyside Police for the tort of maliciously procuring a search warrant, unlawful entry and false imprisonment. They alleged that they had been caused terror, distress and psychiatric harm. Medical reports indicated that the applicants were suffering from varying degrees of post traumatic stress disorder.

15. On 31 October 2002 the County Court Judge rejected the applicants' claims. He made a number of findings of fact or inferences:

– that the police made enquiries prior to the search with utility companies and Liverpool County Council Housing Department about 19 New Henderson Street and that the rough police notes of these enquiries had been destroyed or mislaid from which he drew the adverse inference that such checks revealed that Anita De La Cruz was no longer living there but that the applicants were;

– that the police considered covert surveillance of the property but decided that this was not advisable as there were sophisticated criminals living in the area who were skilled at spotting covert police operations;

– that Sergeant Gamble had reasonable grounds, following his briefing, for believing that a person wanted for robbery was to be found on the premises and that he had not been informed that the applicants were now living there.

16. The judge found on the facts that the police, who were investigating serious and violent offences, had not acted with reckless indifference to the lawfulness of their acts, which element was necessary for the tort of maliciously procuring a search warrant. He held that the entry was made subject to a lawful search warrant and also under the powers of section 17 of the Police and Criminal Evidence Act 1984, which allowed entry without warrant where intending to arrest a person for an arrestable offence. He found that the method of forcible entry was justified as the police had foremost in their minds the potential danger from the use of firearms by the suspect robber and in particular that the sergeant had no cause to suspect that innocent people were the only ones on the premises. He found that once on the premises there was no indication that the police had physically detained the applicants or ordered them to remain in one place. He noted that the sergeant had speedily realised the mistake, apologised and shown compassion for the applicants' plight, in particular by not lengthening the ordeal.

17. He concluded:

> "... It will be difficult for the claimants to accept that their innocent occupation of their property was devastated by the events, albeit of only fifteen minutes, which occurred on 21 October 1999. Any system of justice must balance competing interests and this is a classic case of competing interests being balanced. On the one hand, the need to bring to justice violent criminals, on the other the need to try and preserve the sanctity and integrity of a law-abiding family's home... but in every case of competing interests, the scales will have to come down on one side or the other. In my judgment the scales come down in favour of the defendants and all claims are dismissed."

18. The applicants appealed, alleging, *inter alia*, that the judge had failed to consider properly whether the police had reasonable and probable cause to apply for a warrant to search for stolen cash at 19 New Henderson Street.

19. On 3 July 2003 the Court of Appeal dismissed the applicants' appeal. While Lord Justice Kennedy found that if proper enquiries had been made and the results properly reported there would have been no reasonable or probable cause to apply for a search warrant, he held that the requirement of malice was not made out as there was no evidence of any improper motive (incompetence or negligence did not suffice). He further held that the entry, being made under a warrant which was on the face of it lawful, was itself lawful and that while those responsible for sending Sergeant Gamble and his team to the address had been mistaken that did not deprive them of legal protection. Lord Justice Ward commented that the shoddy detective work did not justify a finding in the police's favour and that the case caused him concern. However, notwithstanding his anxious consideration and sympathy for the family, he stated:

> "That an Englishman's home is said to be his castle reveals an important public interest, but there is another public interest in the detection of crime and the bringing to justice of those who commit it. These interests are in conflict in a case like this and on the law as it stood when these events occurred, which is before the coming into force of the Human Rights Act 1998, which may be said to have elevated the right to respect for one's home, a finding of malice on the part of the police is the proper balancing safeguard.
>
> Upon careful reflection, I agree with my Lords that it is inevitable that malice will not be proved in this case."

20. Counsel advised as follows on the prospects of obtaining leave to appeal to the House of Lords:

> "4. Essentially, on the issue of malicious procurement of a search warrant and in trespass, the court has thought that prior to the introduction of the Human Rights Act 1998, proof of malice is a necessary component of such a challenge and that the evidence was not there to prove it. It seems to me that this conclusion will not be displaced by the House of Lords. I also think, on the authorities relating to the Human Rights Act 1998, that there is no question of the House of Lords suggesting that the courts below should have done anything differently in their approach to the case.
>
> 5. In my view, therefore, the prospects of seeking leave to appeal from the House of Lords are poor and I do not advise that such leave be sought."

II. RELEVANT DOMESTIC LAW AND PRACTICE

21. Section 17 of the Police and Criminal Evidence Act 1984 provides for entry and search without a search warrant:

> "(1) Subject to the following provisions of this section ..., a constable may enter and search any premises for the purpose–
>
> ...
>
> (b) of arresting a person for an arrestable offence;
>
> ..."

22. Police can also apply to the magistrates' court for a warrant. The grant of a warrant is subject to the safeguards in the Police and Criminal Evidence Act 1984. Section 15 provides, *inter alia*, that the constable must state the ground on which he makes the application and the enactment under which the warrant would be issued; specify the premises to be entered and searched; and identify in so far as practicable the articles or persons sought. Applications are made *ex parte* and supported by an information in writing. The constable must answer on oath any question put to him by the Justice of the Peace or judge. There is no statutory requirement for the court issuing the warrant to make findings or give reasons for issuing the warrant.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

23. The applicants complained of the forcible entry by the police to search their home, relying on Article 8 of the Convention which provides in its relevant parts:

> "1. Everyone has the right to respect for ... his home ....
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society ... for the prevention of disorder or crime ..."

A. The parties' submissions

1. The applicants

24. The applicants asserted that the circumstances in which the police had entered their house and the fact that domestic law permitted that constituted a breach of Article 8. The applicants had contested in the domestic proceedings that the police had been relying on their power under section 17 of the 1984 Act, in respect of which there was no prior judicial control, and, in any event, whether that was the case or not, there was no possibility of bringing a claim for trespass against police officers who entered while in possession of a valid warrant or any possibility of obtaining damages without showing malice on the part of the police. They emphasised that the domestic courts had found that there had been no reasonable and probable cause for obtaining the warrant and it followed that the information supplied to the officers effecting the entry must also have been defective.

25. The applicants made reference to the lack of judicial supervision of the procedure, drawing attention to the significant gap of time between the alleged offences and the date on which the warrant was obtained and then executed, and submitted that it was clear that there was considerable information which showed that the suspected robber did not live at their address and that they did. Furthermore, they argued that the link between the cash proceeds of the robbery and premises possibly linked to Dean Metcalfe was slight, and that neither was there any urgency preventing recourse to other methods of investigation.

26. The applicants submitted that the condition of malice was too restrictive a condition in relation to rights as important as the security of the home. It was not the case that every unsuccessful search disclosed a breach of Article 8, but they urged that the proper balancing safeguard should be the consideration of whether there was reasonable and probable cause for the warrant. It was irrelevant that the police executing the warrant acted in good faith as the warrant was sought without adequate investigation.

2. The Government

27. The Government submitted that the principles to be found in domestic law struck the right balance between the public interest in the investigation of crime and the rights of those individuals who sought to pursue a private remedy against the police. They argued that the arrest and gathering of evidence against suspects was often difficult, even dangerous, and the courts had to be careful not to impede investigators in the course of their legitimate duties. The absence of a requirement of malice would impose liability for negligence and potentially expose chief constables to the possibility of civil action on almost every occasion when warrants were

obtained. The fact that a search proved to be unsuccessful did not in itself give rise to a cause of action. Primary protection was given to a person's rights in regard to invasion of property by the requirement that a search be on a warrant granted by a judicial officer who must be satisfied that there was reasonable cause. They relied on judicial *dicta* that this judicial supervision was not merely a rubber stamp, because it was not sufficient for the judge to be satisfied by the officer's oath that he believed the grounds for the warrant; the cause for the belief also had to appear reasonable to the judge. Further, the grant of warrants was subject to procedural conditions set out in domestic law, warrants could be quashed in proceedings for judicial review, and where the police acted maliciously, they would be liable in damages.

28. Accordingly, while the Government accepted that the entry and search fell within the scope of protection afforded by Article 8, the measure was justified in the circumstances of the case and by the fact that there were adequate and effective safeguards against abuse. They emphasised that the police were engaged in an investigation into serious criminal offences; there were reasonable grounds to arrest Dean Metcalfe; it was known that he had access to firearms and it was at the very least undesirable to give any warning of entry; the police officer who applied for the warrant genuinely and reasonably believed that stolen cash was on the premises; and the Justice of the Peace was so satisfied on information given on oath. They submitted that it was inherent in any investigation process that circumstances change and errors could arise; however, it was not the case that every change of circumstance should give rise to liability.

B. The Court's assessment

29. It is not disputed that the forcible entry by the police into the applicants' home interfered with their right to respect for their home under Article 8 § 1 of the Convention and that it was "in accordance with the law" on a domestic level and pursued a legitimate aim – the prevention of disorder and crime – as required by the second paragraph of Article 8. What remains to be determined is whether the interference was justified under the remaining requirement of paragraph 2, namely whether it was "necessary in a democratic society" to achieve that aim.

30. According to the Court's settled case-law, the notion of necessity implies that the interference corresponds to a "pressing social need" and in particular that it is proportionate to the legitimate aim pursued (see, for example, *Olsson v. Sweden (no. 1)*, 24 March 1988, § 67, Series A no. 130). The Court must accordingly ascertain whether, in the circumstances of the case, the entry into the applicants' home struck a fair balance between the relevant interests, namely their right to respect for their home, on the one hand, and the prevention of disorder and crime, on the other (see *McLeod v.*

the United Kingdom, 23 September 1998, § 53, *Reports of Judgments and Decisions* 1998-VII).

31. While a certain margin of appreciation is left to the Contracting States, the exceptions provided for in paragraph 2 of Article 8 are to be interpreted narrowly and the need for measures in a given case must be convincingly established (see *Funke v. France*, 25 February 1993, § 55, Series A no. 256-A). The Court will assess in particular whether the reasons adduced to justify such measures were relevant and sufficient and whether there were adequate and effective safeguards against abuse (see, for example, *Buck v. Germany*, no. 41604/98, §§ 44-45, ECHR 2005-IV).

32. Turning to the present case, the Court recalls that domestic law and practice regulates the conditions under which the police may obtain entry to private premises, either with or without a warrant. In the present case, the police obtained a warrant from a Justice of the Peace, giving information under oath that they had reason to believe the proceeds of a robbery were at the address which had been used by one of the suspected robbers. No doubt was cast, in the domestic proceedings or before the Court, on the genuineness of the belief of the officers who obtained the warrant or those who executed it. If this belief had been correct, the Court does not doubt that the entry would have been found to have been justified.

33. However, the applicants had been living at the address for about six months and they had no connection whatsoever with any suspect or offence. As the County Court Judge noted, it is difficult to conceive that enquiries were not made by the police to verify who lived at the address the suspected robber had been known to give and that if such enquiries had been properly made (via the local authority or utility companies), they would not have revealed the change in occupation. The loss of the police notes renders it impossible to deduce whether it was a failure to make the proper enquiries or a failure to transmit or properly record the information obtained that led to the mistake that was made. In any event, as found by the domestic courts, although the police did not act with malice and indeed with the best of intentions, there was no reasonable basis for their action in breaking down the applicants' door early one morning while they were in bed. Put in Convention terms, there might have been relevant reasons but, as in the circumstances they were based on a misconception which could, and should, have been avoided with proper precautions, they cannot be regarded as sufficient (see, *mutatis mutandis*, *McLeod*, cited above, where the police did not take steps to verify whether the applicant's ex-husband had the right to enter her house, notwithstanding his genuine belief, and did not wait until her return).

34. The fact that the police did not act maliciously is not decisive under the Convention, which aims to protect against abuse of power, however motivated or caused (see, *mutatis mutandis*, *McLeod*, cited above, where the police suspected a breach of the peace might occur). The Court cannot agree

that limiting actions for damages to cases of malice is necessary to protect the police in their vital function of investigating crime. The exercise of powers to interfere with home and private life must be confined within reasonable bounds to minimise the impact of such measures on the personal sphere of the individual guaranteed under Article 8 which is pertinent to security and well-being (see, for example, *Buckley v. the United Kingdom*, 25 September 1996, § 76, *Reports* 1996-IV). In a case where basic steps to verify the connection between the address and the offence under investigation were not effectively carried out, the resulting police action, which caused the applicants considerable fear and alarm, cannot be regarded as proportionate.

35. As argued by the applicants, this finding does not imply that any search which proves to be unsuccessful would fail the proportionality test, only that a failure to take reasonable and available precautions may do so.

36. The Court accordingly concludes that the balance has not been properly struck in the present case and that there has been a violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

37. Article 13 of the Convention provides:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. The parties' submissions

1. The applicants

38. The applicants submitted that they had not had an effective remedy as their civil claim could only succeed if they could prove malice which was too onerous a hurdle. They pointed out that the courts had identified the difficulties for the applicants on the law as it then stood and expressed concern that they did not have a remedy at that time.

2. The Government

39. The Government submitted that the applicants had had an effective remedy for their complaints regarding the search as they had been able to take proceedings in the County Court to seek a remedy in damages for the tort of malicious procurement of a warrant, their claims had been heard over several days, evidence had been taken at first instance, and the findings of the County Court Judge had been reviewed on appeal by the Court of Appeal.

B. The Court's assessment

40. Article 13 requires a remedy in domestic law in respect of grievances which can be regarded as "arguable" in terms of the Convention (see, for example, *Boyle and Rice v. the United Kingdom*, 27 April 1988, § 52, Series A no. 131). While it does not go so far as to guarantee a remedy allowing a Contracting State's laws to be challenged before a national authority on the ground of being contrary to the Convention (see *Costello-Roberts v. the United Kingdom*, 25 March 1993, § 40, Series A no. 247-C), where an applicant has an arguable claim to a violation of a Convention right, however, the domestic regime must afford an effective remedy (ibid., § 39).

41. In light of the finding of a violation of Article 8 above, the complaint is clearly arguable. The question the Court must therefore address is whether the applicants had a remedy at national level to "enforce the substance of the Convention rights ... in whatever form they may happen to be secured in the domestic legal order" (see *Vilvarajah and Others v. the United Kingdom*, 30 October 1991, §§ 117-27, Series A no. 215).

42. While it is true that the applicants took domestic proceedings seeking damages for the forcible entry and its effect on them, they were unsuccessful. The Court observes that the courts held that it was in effect irrelevant that there were no reasonable grounds for the police action as damages only lay where malice could be proved, and negligence of this kind did not qualify. The courts were unable to examine issues of proportionality or reasonableness and, as various judges in the domestic proceedings noted, the balance was set in favour of protection of the police in such cases. In these circumstances, the Court finds that the applicants did not have available to them a means of obtaining redress for the interference with their rights under Article 8 of the Convention.

43. There has therefore been a violation of Article 13 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

44. 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

45. The applicants claimed non-pecuniary damage for the suffering and distress caused by the violations of Articles 8 and 13 of the Convention. Mr and Mrs Keegan submitted that they had suffered post traumatic stress

disorder (PTSD), which symptoms had still persisted in March 2001 (intrusive recollections, sleep disturbance, anxiety and depression). Each of the children, assessed in November 2000, also exhibited symptoms consistent with PTSD (for example, Carl, who had previously had borderline learning difficulties, suffered intrusive recollections and showed dissociative behaviours and disrupted development; Michael showed dissociative behaviour, disturbed sleep patterns and extreme mood swings; and Katie and Sophie showed emotional withdrawal, intense bursts of anger, and unusual night-time experiences).

46. The applicants had been unable to pursue any recommended therapeutic intervention due to their impecuniosity. They claimed that there was a case for a substantial award as the incident had a number of aggravating features, including the lack of effort by the police to establish who was living at the address, the manner of entry into their home, the presence of young children, the absence of any apology and the conduct of the litigation. Accordingly they claimed a sum of 15,000 pounds sterling (GBP) as a total award to the family, with a separate award to each member to reflect the psychiatric and psychological injury suffered, namely, GBP 12,000 to Gerard Keegan, GBP 12,000 to Moira Keegan, GBP 12,000 to Carl Keegan (aged 14 at the time), GBP 8,000 to Michael Keegan (aged nearly 4 at the time), and GBP 7,000 each to Katie and Sophie Keegan (aged two at the time).

47. The Government referred to the Court's constant practice in declining to award exemplary or aggravated damages, but in any event pointed out that the entry and search had been carried out in good faith and the police had apologised and withdrawn speedily, the sergeant readily apologising. They submitted that the amounts claimed were significantly out of line with the awards made in previous cases. As contrasted with cases where the awards were for acts going beyond the simple fact of intrusion upon the home (see, for example, *Connors v. the United Kingdom*, no. 66746/01, 27 May 2004), this case involved an entry lasting only fifteen minutes and the police had arranged for repairs to the door. They considered that no separate award should be made for alleged psychiatric or psychological injury and that the amounts claimed were excessive. Other factors had undoubtedly contributed to the stress suffered by the family (for example, the father's heavy drinking and the marital breakdown). They submitted that no more than GBP 3,000 should be awarded to the applicants.

48. The Court notes the violent and shocking nature of the police entry into the applicants' home. Taking into account the undoubted distress caused to the applicants which has had long-term effects and the medical reports which indicate that they would benefit from therapeutic intervention of various kinds, it awards to the applicants Gerard, Moira and Carl 3,000 euros (EUR) each and to Michael, Katie and Sophie EUR 2,000 each.

B. Costs and expenses

49. The applicants submitted that they were made liable for the costs of the police in the domestic proceedings. As they had legal aid, they did not have to pay unless a court so ordered. These legal costs in theory remained outstanding and the police could apply to the courts for enforcement of their costs if the applicants recovered significant sums of money. They therefore asked that the United Kingdom provide an indemnity in respect of any such claim made by the police or the Legal Services Commission.

50. As regarded their costs in the Strasbourg proceedings, they claimed GBP 3,250.95 for solicitors' fees and expenses and GBP 6,315.63 for counsel's fees, inclusive of value-added tax and taking into account legal aid paid by the Council of Europe.

51. The Government submitted that no award should be made in respect of any claimed future liability to pay money to the police or the Legal Services Commission as these sums had not been actually incurred. They considered the hourly rates claimed by the applicants' solicitor (GBP 175) excessive and that this part of the claim should be reduced to GBP 2,000. They also did not accept that it was necessary to brief two counsel in the case and submitted that the 30 hours' work claimed for October to December 2005 was excessive, particularly since the observations on the merits did not add significantly to their original application and observations. They took the view that no more than GBP 1,500 should have been charged for counsel's fees.

52. The Court reiterates that only legal costs and expenses found to have been actually and necessarily incurred and which are reasonable as to quantum are recoverable under Article 41 of the Convention (see, among other authorities, *Nikolova v. Bulgaria* [GC], no. 31195/96, § 79, ECHR 1999-II, and *Smith and Grady v. the United Kingdom* (just satisfaction), nos. 33985/96 and 33986/96, § 28, ECHR 2000-IX). This may include domestic legal costs actually and necessarily incurred to prevent or redress the breach of the Convention (see, for example, *I.J.L. and Others v. the United Kingdom* (just satisfaction), nos. 29522/95, 30056/96 and 30574/96, § 18, 25 September 2001). Since the costs of the applicants' legal representation in the domestic proceedings were covered by legal aid and there is no existing liability to reimburse these amounts (if this situation were to change the applicants could reapply to this Court), no award is appropriate in that respect.

53. As regards the costs claimed for the proceedings in Strasbourg, the Court notes the Government's objections and finds that the claims may be regarded as on the high side, in particular as regards the work of two counsel. Taking into account the amount of legal aid paid by the Council of Europe and in light of the circumstances of the case, the Court awards EUR 9,500 inclusive of VAT for legal costs and expenses.

C. Default interest

54. 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 8 of the Convention;

2. *Holds* that there has been a violation of Article 13 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts to be converted into the national currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 3,000 (three thousand euros) each to Gerard, Moira and Carl Keegan and EUR 2,000 (two thousand euros) each to Michael, Katie and Sophie Keegan in respect of non-pecuniary damage;
      (ii) EUR 9,500 (nine thousand five hundred euros) in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 18 July 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Josep Casadevall
President