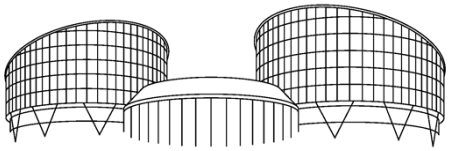

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF B.A. v. CYPRUS

(Application no. 24607/20)

JUDGMENT

Art 5 § 1 (f) • Lawful arrest or detention • Arbitrary detention of asylum-seeker, for over two years and nine months, based solely on national security grounds • Lack of sufficiently close connection between grounds relied on and aim of preventing unauthorised entry • Detention grounds not linked to the outcome of asylum application or examination of the applicant's right to stay in the country • National security grounds applied as a general preventive or protective mechanism • Unjustified length of detention
Art 5 § 4 • Appeal proceedings reviewing lawfulness of detention, lasting over two years, not in compliance with "speediness" of review requirement • Unjustified delays, including authorities' inaction for about ten months before Covid-19 pandemic

Prepared by the Registry. Does not bind the Court.

STRASBOURG

2 July 2024

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 B.A. v. Cyprus,

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

Pere Pastor Vilanova*, President*,
Georgios A. Serghides,
Darian Pavli,
Peeter Roosma,
Ioannis Ktistakis,
Oddný Mjöll Arnardóttir,
Diana Kovatcheva*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 24607/20) 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 Syrian national, Mr B.A. ("the applicant"), on 23 June 2020;

the decision to give notice to the Cypriot Government ("the Government") of the complaints concerning the lawfulness of his detention under Article 5 § 1 of the Convention and the absence of an effective procedure by which he could challenge the lawfulness of his detention under Article 5 § 4 of the Convention, and to declare inadmissible the remainder of the application;

the decision not to have the applicant's name disclosed;

the parties' observations;

Having deliberated in private on 11 June 2024,

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

INTRODUCTION

1. The case concerns the lawfulness of the applicant's detention, as an asylum-seeker, on national security grounds and the lack of "speedy" domestic proceedings.

THE FACTS

2. The applicant was born in 1996 and currently lives in Cyprus. He was represented by Ms N. Charalambidou, a lawyer practising in Nicosia.

3. The Government were represented by their Agent, Mr G. L. Savvides, Attorney General of the Republic of Cyprus.

4. The facts of the case may be summarised as follows.

I. BACKGROUND TO THE CASE

5. On 28 January 2019 the applicant, a Syrian national, and two of his relatives travelled from Türkiye by air and entered the occupied areas of Cyprus, where they stayed until 8 February 2019.

6. On 8 February 2019 they went to the Ledras Palace crossing point in Nicosia, where they said they wanted to apply for international protection. They were transferred to the Aliens and Immigration Service ("the AIS") of the Cyprus Police where, in accordance with standard practice, their photographs and fingerprints were taken, and they filled out the relevant forms for migrants having entered the country in an irregular manner. On the same day the Counter Terrorism Office ("the CTO") of the Cyprus Police and the Cyprus Intelligence Service ("CIS") were informed of their arrival. According to a letter from the CTO dated 2 November 2022 and appended to the Government's observations, on 8 February 2019 the CTO performed a background check on the applicant and his relatives across various databases to which the CTO had access, without finding any relevant information. According to a letter from the AIS dated 11 February 2019 and appended to the Government's observations, upon review of the forms completed by the applicant and his relatives, suspicions had been raised that they might have been implicated in irregular immigration activities. The applicant and his relatives were subsequently transferred to the Pournara Emergency Reception Centre ("Pournara"), which was used to accommodate asylum-seekers and to provide identification, registration and asylum application services.

7. On 11 February 2019 the applicant officially lodged his application for international protection. He was given a document entitled "Confirmation of submission of an application for international protection" which designated his place of residence as an address in Kaimakli, Nicosia, and stated, *inter alia,* the following:

> "This is to confirm that the above applicant has lodged an application for International Protection in accordance with [section] 11 of the Refugee Law [Law no. 6(I)/2020, as amended]. [Section] 8 of the same Law provides that the applicant is entitled to stay in the areas controlled by the Government of the Republic for the sole purpose of the examination of his/her application for international protection and until a final decision is reached regarding his/her claim under the Refugee Law. This document secures the access of its holder to the rights and benefits provided for in the above-mentioned Law."

8. On the same day members of the AIS's Immigration Office responsible for combatting irregular migration visited the applicant at the reception centre to interview him and his relatives. The interviews were conducted with the assistance of an interpreter and in collaboration with members of the Morphou Criminal Investigation Department, the CIS and the CTO. During the interviews, it transpired that various parts of the applicant's and his relatives' bodies displayed old injuries or wounds which they claimed had been caused by shrapnel and bullets from Syrian army munitions. From the

applicant's oral interview, the authorities determined that he matched the profile of a foreign fighter. The indicators that raised their suspicion included the applicant's age (he was twenty-three at the time), the fact that he had migrated from a war zone and the fact that he had previously left Damascus, where his family resided, and had moved to Al-Harra in Daraa Province, a city which had been mainly controlled by the "Islamic State of Iraq and al-Sham" ("ISIS"). Upon inspection of the applicant's phone, to which he had consented after some initial resistance, the authorities found a password-encrypted application containing pictures of the applicant and his relatives in possession of Kalashnikov rifles and wearing military uniforms.

9. Later that day, the police secured a warrant issued by a senior judge of the District Court of Nicosia to search the applicant's and his relatives' premises at Pournara. The warrant was issued based on an affidavit sworn by a police officer stating that the search warrant was necessary in order to trace and confiscate the applicant's and his relative's phones, which was in turn necessary for the conduct of a police investigation into the applicant and his relatives in connection with the offence of membership of terrorist or criminal organisations, and to prevent the phones' destruction.

10. Further searches determined that the applicant's relatives were half-brothers, that the biological father of one of the two possessed a Cypriot identity card, had been married to a Cypriot and that information to the effect that he had been hosting and trafficking Muslim preachers in Cyprus had been obtained by the police in 2012.

11. On the same day, based on the above information, the Director of the Civil Registry and Migration Department ("the CRMD") issued separate detention orders in respect of the applicant and his relatives, on national security grounds, pursuant to section 9ΣΤ(2)(e) of Law no. 6(I)/2020, as amended ("the Refugee Law").

12. In the early hours of 12 February 2019 the applicant was informed of the detention order by letter explaining that he was being held to protect national security, setting out the legal basis for his detention – namely section 9ΣΤ(2)(e) of the Refugee Law – and explaining that he had the right to contest the order by way of a recourse (judicial review proceedings) within seventy-five days. He was arrested and placed in detention at the Lakatamia Police Station.

13. On 22 February 2019 the applicant was transferred to the Menoyia Detention Centre for Prohibited Immigrants, where he remained until his release on 30 November 2021 (see paragraph 35 below).

II. CHALLENGE AS TO LAWFULNESS OF DETENTION

A. First-instance proceedings (recourse no. 442/19)

14. On 27 March 2019 the applicant asked that the Administrative Court set aside the detention order as unlawful (recourse no. 442/19). He claimed that his detention could not be justified on any of the permissible grounds for detention under Article 5 of the Convention, in particular under paragraph 1 (f) of that provision, as the State had authorised him to enter the country.

15. At a hearing held on 22 April 2019 the State submitted classified internal documentation from the security agencies that contained their misgivings about the applicant, and which had prompted his detention. The court added this documentation to the file but refused to disclose it to the applicant, given its classified nature. The State also submitted a handbook published by FRONTEX (the EU's Border and Coast Guard Agency) concerning terrorism-related matters. After inspecting the handbook, the applicant objected to its inclusion in the file, but the court dismissed his objection.

16. On 25 April 2019 the Administrative Court dismissed the applicant's recourse, finding the detention order lawful.

It observed that the order had been based on section 9ΣΤ of the Refugee Law and found that that Law complied with EU Law (in particular with Article 8 of Directive 2013/33/EU – "the Reception Directive").

The applicant's detention was in the interest of national security and was neither wrongful nor arbitrary. The order had been issued after an investigation into the applicant and had given specific reasons for detention.

Alternatives to detention could not effectively achieve the aim of protecting national security in the light of the specific circumstances of the case.

The court concluded that, based on the above considerations, there was nothing to suggest a violation of Article 5 of the Convention since the indications that the applicant matched the profile of a foreign fighter had been specific, personal, and clear.

B. Appeal proceedings (no. 81/2019)

17. On 7 May 2019 the applicant lodged an appeal with the Supreme Court.

18. On 20 July 2021 the Supreme Court unanimously dismissed the appeal. The court clarified that the lawfulness of the applicant's detention as an asylum-seeker had to be examined with due regard to the protection of national security, which had been the reason adduced for his detention. The court considered that it did not have the power to question the executive

authorities' conclusion that the applicant posed a threat to national security. Referring to the Court of Justice of the European Union's (CJEU) Grand Chamber judgment of 15 February 2016 in *N.* (C-601/15 PPU, EU:C:2016:84) the court stressed that the protection of national security and public order was one of the objectives pursued by Article 8 of the Reception Directive and that a person's detention to that effect was an appropriate measure in order to protect the public from the danger posed by that person's potential actions. In accordance with the CJEU's findings, the court pointed out that Article 8 § 3 (e) of the Reception Directive did not disregard the level of protection afforded by Article 5 § 1 (f) of the Convention.

III. ASYLUM PROCEEDINGS

A. Proceedings before the Asylum Service

19. On 22 April 2019 the applicant was interviewed by the Asylum Service concerning the reasons for which he had left Syria.

20. On 28 May 2019 the Head of the Asylum Service rejected the applicant's application for international protection since he had been involved in war crimes (citing section 5(1)(γ)(i) of the Refugee Law). On 3 July 2019 the applicant was informed of this decision, which explained as follows:

> "Specifically, you stated that you fled your country on account of your profession as a security guard at a hospital at the Syrian border with Israel and your fear of persecution as such by the Syrian authorities. It has been determined that you have incurred individual criminal responsibility under Article 25 of the Statute of the International Criminal Court. You have committed ... war crimes, as defined in Article 8 of the Statute of International Criminal Court.
>
> Therefore, the Asylum Service has decided that you are a person undeserving of international protection and are therefore excluded from the benefit of such protection."

It was explained to the applicant that he was entitled to lodge an appeal with the Reviewing Authority for Refugees (see paragraph 40 below), or a recourse with the Administrative Court of International Protection, or both, within seventy-five days from notification of the decision.

B. Recourse before the Administrative Court of International Protection concerning the decision of the Asylum Service (no. 74/2019)

21. On 31 July 2019 the applicant lodged a recourse with the Administrative Court of International Protection challenging the Asylum Service's decision to deny him refugee status and subsidiary protection.

22. The court's decision in those proceedings is still pending, with suspensive effect (see paragraphs 36, 38 and 42 below).

IV. PROCEEDINGS CONCERNING THE LENGTH OF DETENTION

A. First petition for a writ of habeas corpus (no. 129/2019)

23. In the meantime, on 18 July 2019 the applicant had petitioned the Supreme Court, exercising its first-instance jurisdiction, for a writ of habeas corpus, claiming that his detention had lasted too long. He argued that the Refugee Law authorised his detention only for such time as was necessary to achieve its purpose but the authorities had thus far not taken any steps to verify whether or not he did, in fact, pose a security threat.

24. On 8 August 2019 the Supreme Court dismissed the petition. It noted that the question was whether the applicant's detention since 11 February 2019 was contrary to section 9ΣΤ(4)(α) of the Refugee Law, pursuant to which detention should be as short as possible and last only as long as the ground for detention remained applicable (see paragraph 44 below). In its assessment, the court considered the steps taken by the authorities throughout the applicant's detention. In its view the reasonableness of the detention period depended on the particular circumstances of each case, and it found that, in the applicant's case, the State had acted with reasonable diligence and without unnecessary delays. As to the applicant's complaint that the authorities had failed to review the reasons for his detention, the court held that its lawfulness had already been decided by the court of competent jurisdiction and that it had no jurisdiction to interfere with those findings.

B. First internal review of the applicant's detention

25. On 20 November 2019 the CRMD requested an update from the AIS regarding the applicant's status and enquired whether the initial grounds for detention still obtained.

26. On 19 December 2019 the AIS replied that, after review of the applicant's file and the relevant information concerning his case, the degree of risk and the threat to national security still obtained.

27. On 17 January 2020 the CRMD decided that the applicant was to remain in detention.

C. Second petition for a writ of habeas corpus (no. 3/2020)

28. On 17 January 2020 the applicant lodged a new petition for a writ of habeas corpus with the Supreme Court, exercising its first-instance jurisdiction, alleging that his detention had lasted so long it had become unlawful.

29. On 13 February 2020 he requested that the court order the disclosure of all official information having prompted the authorities to detain him.

30. On 28 February 2020 the Supreme Court refused to order such disclosure. It considered that the applicant had been detained on the basis of

his statements during the police interview and that there was accordingly nothing to disclose, since that information was already known to him. The court also pointed out that, in any event, the confidential nature of the remaining documentation had already been reviewed by the Administrative Court.

31. On 11 March 2020 the court refused to order the applicant's release. It found that, considering that the lawfulness of the detention order had already been established by the Administrative Court and that the applicant's application for international protection was still pending, it was clear that the length of his detention had "not been such as to suggest that he was being held for other purposes". The authorities' submissions (see paragraphs 25-27 above) convinced the court that the grounds for the applicant's detention still obtained. The court considered that the twelve-month detention period had not been excessively long.

D. Appeal against the refusal of habeas corpus (no. 96/2020)

32. On 24 April 2020 the applicant lodged an appeal with the Supreme Court, exercising its appellate jurisdiction, against the decisions of 28 February 2020 and 11 March 2020. He argued, in particular, that in the exercise of its first-instance jurisdiction, the court had failed to verify which specific, substantial and targeted actions the authorities had taken to confirm the necessity and proportionality of his detention with a view to protecting national security.

33. On 8 June 2021 the Supreme Court, in a plenary session, unanimously dismissed the appeal. As to the disclosure of classified documents, it noted that in exercising its first-instance jurisdiction the court had examined those documents and confirmed that the applicant had indeed been dangerous. As to the detention itself, the Refugee Law did not require the executive to take any particular steps to demonstrate the dangerousness of a detainee provided the proceedings concerning him or her were pending. In the applicant's case, his continued detention was justified pending completion of the proceedings before the Administrative Court of International Protection (see paragraph 21 above). As a result of the pending asylum proceedings, the applicant continued to be considered an asylum-seeker and could therefore not be removed.

E. Other internal reviews of the applicant's detention

34. The CRMD reviewed the applicant's detention on other occasions, namely on 16 February 2021 and 11 May 2021, and decided that the applicant was to remain in detention on the same grounds as had initially been relied on. In particular, in the decision dated 11 May 2021, the CRMD noted as follows:

> "Following a review of the detainee's file and the information provided by the [AIS], I recommend continued detention. This recommendation is based on the alien's immigration history, which contains serious indications of membership of terrorist organisations. According to the [AIS], searches revealed evidence – such as pictures on his mobile phone where he was seen holding a rifle – that the alien in question had been a member of terrorist organisations, resulting in the issuance of an order for his detention on national security grounds.
>
> In view of the above, there is no latitude to apply alternative measures to detention and it is recommended that he be kept in administrative detention in accordance with section 9ΣΤ(2)(ε) of the Refugee Law, which provides for detention with a view to the protection of national security or public order."

V. THE APPLICANT'S RELEASE AND ALTERNATIVES TO DETENTION

35. On 30 November 2021 the CRMD revoked the detention order and released the applicant on condition that he report to the police every Monday, Wednesday, and Friday between 8 a.m. and 12 noon. He was also required to inform the authorities of his permanent address pursuant to section 9ΣΤ(3)(α) of the Refugee Law (see paragraph 44 below).

RELEVANT LEGAL FRAMEWORK AND PRACTICE

THE REFUGEE LAW

36. The Refugee Law was amended on a number of occasions for the purpose of harmonisation with the relevant provisions of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) ("the Asylum Procedures Directive") and the relevant provisions of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) ("the Reception Conditions Directive"). The relevant provisions of the Refugee Law as applicable at the relevant time and following the amendments introduced by the relevant Directives, are set out below.

37. At the relevant time, section 2 of the Refugee Law defined a "final decision" as follows:

> "'final decision' shall mean a decision as to whether a third-country national or stateless person is recognised as a refugee or as a person granted subsidiary protection under this Law; where –
>
> (a) the deadline for lodging a recourse under Article 146 of the Constitution challenging such decision has expired; or
>
> (b) the aforementioned recourse has been lodged and a first-instance decision of the [relevant administrative court] has been issued, irrespective of whether the lodging of

such a recourse afforded the applicant the possibility of remaining in the areas controlled by the [Republic of Cyprus] until the relevant court decision was issued;

..."

38. Section 4(α) of the Refugee Law provided that a refugee or asylum-seeker could not be removed to a country or sent to the border of a country where, owing to his or her sex, race, religion, nationality, membership of a particular social group or political opinion, his or her life or liberty might be endangered or where he or she might be subjected to torture, inhuman or degrading treatment, or persecution.

39. Section 5(1)(γ)(i) of the Refugee Law provided that an applicant for international protection would be denied refugee status in the event that there were serious reasons to believe that he or she had committed crimes against peace, war crimes or crimes against humanity, as defined in the relevant international treaties.

40. Asylum applications were examined by the Asylum Service of the Ministry of the Interior's Migration Department (see section 26(1) of the Refugee Law). At the relevant time, before applying to the Administrative Court of International Protection, asylum-seekers were entitled to lodge an appeal against decisions issued by the Asylum Service with the Reviewing Authority for Refugees (see section 28E and ΣΤ of the Refugee Law as in force at the relevant time). The Reviewing Authority for Refugees was subsequently abolished by a decision of the Council of Ministers published in the Official Gazette of the Republic of Cyprus under no. 5433 of 31 December 2020.

41. Section 7 of the Refugee Law provided that an applicant for international protection who entered the Republic of Cyprus unlawfully could not be punished on the sole ground of his or her unlawful entry or stay, provided that he or she reported to the authorities without undue delay and stated the reasons for his or her unlawful entry or stay.

42. The relevant parts of section 8 of the Refugee Law provided as follows:

"8.-(1)(α) Subject to sub-section 1A of this section ..., the applicant [for international protection] shall have, for the sole purpose of the proceedings, the right to remain in the areas controlled by the Government of the Republic [of Cyprus], which shall be valid from the date of submission of his or her application until –

(i) the date of expiry of the deadline set out in section 12A of the Law on the Establishment and Functioning of the Administrative Court of International Protection for lodging a recourse against a decision on the application [for international protection] by the Head [of the Asylum Service] or against a decision of the Reviewing Authority [for Refugees] upon any administrative appeal as the applicant may have lodged with [that Authority], or

(ii) in the event that the aforementioned recourse was lodged in due time, the date of the first-instance decision of the Administrative Court concerning [that recourse].

(β) Within three days from the time the application [for international protection] was lodged, the relevant authority shall give the applicant [for international protection] confirmation of submission of an his or her application [for international protection] which –

(i) shall be issued in the applicant's name and in the form decided by the Head [of the Asylum Service];

(ii) shall certify that the applicant is entitled to remain in the areas controlled by the Government of the Republic [of Cyprus] for as long as the application [for international protection] is being examined; and

(iii) shall certify, where applicable, that the applicant is not entitled to move freely in all or part of the areas controlled by the Government of the Republic [of Cyprus];

(iv) shall not be required to certify the applicant's identity; and

(v) shall be valid for as long as the applicant is entitled to reside in the areas under the control of the Republic of Cyprus.

(γ) The right to remain [in the areas controlled by the Government of the Republic of Cyprus] under sub-paragraph α shall not entail the right to a residence permit.

(δ) Notwithstanding the provisions of sub-paragraph (α), the right to remain [in the areas controlled by the Government of the Republic of Cyprus] under that sub-paragraph shall cease to apply in the event that the relevant authorities of the Republic of Cyprus intend to deport or extradite the applicant –

(i) to another Member State, whether under the Laws of 2004 and 2006 on the European Arrest Warrant and Procedures for the Surrender of Requested Persons Between the Member States of the European Union or otherwise, or

(ii) to a third country; or

(iii) to an international criminal court.

...

(2)(α) The applicant's place of residence shall be designated in the document confirming submission [of an application for international protection]. In the event of a change of his/her place of residence, the applicant shall be required to inform the AIS] and to complete the [relevant] form ... Upon receipt of the completed form, the person responsible for the [AIS], shall stamp it so as to indicate the date of submission and shall provide the applicant the with the corresponding confirmation. ..."

43. Under section 9Δ of the Refugee Law, asylum-seekers enjoyed freedom of movement and residence in the areas controlled by the Government and were entitled to choose their place of residence. This right could be restricted by a decision on the part of the relevant authorities to determine the applicant's place of residence in the public interest, or in the interest of public order, or where necessary for the timely processing and effective follow-up of the application (see section 9E of the Refugee Law).

44. Under section 9ΣΤ of the Refugee Law, applicants for international protection could be detained and had the right to challenge such detention. The relevant parts of that section read as follows:

"(1) It shall be prohibited to detain an applicant on the sole ground of his or her status as an applicant, or to detain any applicant who is a minor.

(2) Unless alternative, less coercive measures, such as those provided for in paragraph 3, can be applied effectively in a given case, the Minister may, where such a measure proves necessary following an individual assessment of each case, issue a written order for an applicant's detention for any of the following reasons only:

(α) to determine or verify his or her identity or nationality;

(β) to gather any information on which the application for international protection is based and which could not otherwise be obtained, in particular where there is a risk that the applicant might abscond;

(γ) to decide, in the context of official proceedings, on the applicant's right to enter the territory;

(δ) where he or she is detained in the context of return proceedings ...;

(ε) where the protection of national security or public order so requires;

(στ) in accordance with Article 28 of Regulation (EU) No. 604/2013.

(3) Instead of detaining the applicant, the Minister may alternatively impose on him or her, for as long as is deemed appropriate under the circumstances, certain obligations to avoid the risk of absconding, such as-

(α) regular reporting to the authorities of the Republic;

(β) the deposit of a financial guarantee;

(γ) the obligation to stay at a designated place, including a reception centre;

(δ) supervision by a supervisor.

(4)(α) The detention of an applicant shall be for as short a period as possible and shall last only as long as the grounds set out in paragraph 2 remain applicable.

(β) Administrative proceedings in connection with a ground of detention set out in paragraph 2 shall be carried out without unnecessary delay. Continued detention shall not be justified on the basis of delays in the administrative proceedings that are not attributable to the applicant.

(5) The [detention] order provided for in the present section shall set out the grounds in fact and in law on the basis of which it is issued, and a copy thereof shall be served on the applicant concerned.

(6)(α) The detention order shall be subject to a recourse under Article 146 of the Constitution, pursuant to the provisions of that Article and subject to the conditions under which such a recourse is authorised thereunder.

(β)(i) The first-instance adjudication of a recourse referred to in sub-paragraph α shall be completed as soon as possible and the decision shall be delivered within four weeks from the time the recourse was lodged, except in case of force majeure. ...

...

(γ) If the detention order is set aside by the Administrative Court under Article 146 of the Constitution or is revoked by the Minister, the latter shall immediately order the applicant's release.

(7)(α)(i) The period of detention under the present section shall be subject to a petition for and issuance of a writ of habeas corpus pursuant to Article 155.4 of the Constitution and in accordance with the provisions thereof.

(ii) The detained applicant may lodge more than one petition mentioned in clause i, especially in cases of protracted detention. ...

(β)(i) the first-instance adjudication of the petition mentioned in sub-paragraph α, shall be completed as soon as possible and the decision shall be delivered within three weeks from the time the petition was lodged, except in case of force majeure. Where applicable, the adjudicating court shall give the necessary instructions to speed up the proceedings as a whole. ...

...

(γ) Where the petition referred to in sub-paragraph α has been granted by the Supreme Court, the Minister shall immediately release the applicant concerned ..."

45. Under section 16 of the Refugee Law, applicants for international protection were required to submit all the information necessary to substantiate their application as soon as possible, including their travel documents and the reasons for which they were seeking international protection. They were also required to hand over their passport or travel documents to the Asylum Service and, in the event that no such documents were available, to explain their absence. Applicants for international protection were further required to undergo a physical examination and to allow the authorities to search their personal belongings, take their picture and record their personal statements. In general, applicants for international protection were required to assist the authorities in determining the facts of their case.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

46. The applicant complained that his detention had been in breach of Article 5 § 1 of the Convention, which reads as follows:

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

...

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition. ..."

A. Admissibility

47. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

48. The applicant essentially argued that his detention could not be justified under any of the exceptions listed in Article 5 § 1 of the Convention. He submitted in particular that his detention had not fallen under the first limb of Article 5 § 1 (f) because, unlike the case of *Saadi v. the United Kingdom* ([GC], no. 13229/03, ECHR 2008; compare also the domestic law referred to therein), border procedures were not regulated by statute in Cyprus and his transfer to the first reception centre had accordingly not been regulated by law, but had been carried out as a matter of common practice. The applicant further submitted that his detention for such a long period had been unlawful, especially given that none of the exceptions of Article 5 § 1 had applied. In any event, his entry into Cyprus had not been unauthorised as he had entered at an authorised crossing point, where he had been given authorisation to enter the Government-controlled areas and had been taken under the responsibility of the authorities, which had subsequently transferred him to Pournara to complete and lodge his asylum application, had confirmed his right to remain in Cyprus based on the confirmation letter and had only subsequently detained him on the basis of the detention order, on national security grounds.

49. Moreover, the applicant submitted that his detention had been arbitrary in that it had served a different purpose from that put forward by the Government. In particular, he considered that he had been detained in the context of a criminal investigation, without being afforded the guarantees attendant to criminal proceedings and without the Government's having had any intention of bringing criminal charges against him. He had also been detained at a centre for immigrants facing removal.

(b) The Government

50. The Government submitted that the applicant had been detained under the first limb of Article 5 § 1 (f) of the Convention ("the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country"), which allowed States to restrict the freedom of aliens in an immigration context. According to the Government, the applicant had entered Cyprus unlawfully, as the only lawful points of entry were the international airports of Larnaca and Paphos and the ports of Larnaca, Limassol and Paphos, all of which were located in the areas under the effective control of the Republic of Cyprus. According to the Government, the applicant had then attempted to effect unauthorised entry into the State *via* the Ledras crossing point by applying for asylum. He had not had any claim to residence and, from his arrival at the crossing point, he had been regarded by the domestic authorities as a migrant having entered the country in an irregular or unlawful

manner. He had not been in possession of any type of visa or residence permit, whether temporary or permanent, and the only right he had enjoyed had been protection from removal as an asylum-seeker until his status had been determined.

51. The Government submitted that there had been a clear legal basis for the applicant's detention, namely section 9ΣΤ(2)(ε) of the Refugee Law, which had been in accordance with the EU Reception Directive; that it had been ordered in accordance with the procedure laid down by that Law; and that it had been reviewed by the domestic courts. The Government added that the CRMD could not have been expected to disregard or underestimate the indications as to the danger the applicant had represented for national security by failing to detain him, thereby putting public safety at risk. According to the Government, the detention order had been issued "for reasons of national security and [had] not relat[ed] to the content of the applicant's request for international protection *per se*".

52. The Government further argued that the applicant's detention had not been arbitrary as its purpose – namely, the protection of national security – had been specified by the authorities and the applicant had been served with a letter dated 12 February 2019 in which the factual and legal basis for his detention had been explained to him (see paragraph 12 above). According to the Government, the applicant had been placed in detention precisely because he had been regarded as a threat to the security of the Republic of Cyprus.

53. Moreover, the length of his detention – namely two years, nine months and twelve days – had not been excessive given the ongoing need to protect national security and the fact that the applicant had represented a threat throughout that period. The applicant's asylum recourse had also been pending throughout that period owing to the dramatic increase in people seeking asylum in Cyprus in 2009, which had resulted in a backlog of asylum applications. The CRMD had reviewed the applicant's detention on seven occasions, namely on 17 January 2020, 1 September 2020, 23 October 2020, 16 February 2021, 11 May 2021, 30 September 2021 and 30 November 2021. In this connection, the Government provided the Court with the decisions resulting from the internal reviews conducted on 16 February 2021 and 11 May 2021. The Government further argued that the length of the applicant's detention had also been reviewed by the domestic courts on two occasions. The Court should not be swayed by the fact that the applicant had been detained for a longer period than the applicant in *Saadi* (cited above who had been detained for seven days pending the examination of his asylum application) – in view of the heightened number of asylum-seekers in Cyprus at the material time, as compared with the number of asylum-seekers in the United Kingdom in 2000-2001, the latter being in any event a significantly larger country in terms of both population and geography. Rather, the Government urged the Court to follow the approach adopted in *K.G. v. Belgium* (no. 52548/15, 6 November 2018), where the Court had not found

a violation of Article 5, despite the fact that the applicant in that case had been detained for thirteen and a half months, and that adopted in *Chahal v. the United Kingdom* (15 November 1996, *Reports of Judgments and Decisions* 1996-V), whereby the Grand Chamber had not found a violation for a total period of approximately five years' detention pending deportation.

54. Lastly, the Government argued that the second limb of Article 5 § 1 (f) of the Convention could not apply under the circumstances. The authorities had not taken any steps with a view to the applicant's deportation and doing so would have been unlawful under section 4(α) of the Refugee Law pending the decision of the Administrative Court of International Protection. The Government further ruled out the application of Article 5 § 1 (c) of the Convention, arguing that the applicant's detention had been purely administrative in nature, not criminal.

2. The Court's assessment

(a) General principles

55. In interpreting the meaning of the first limb of Article 5 § 1 (f) for the first time in the case of *Saadi* (cited above, § 65) the Court considered that until a State had "authorised" entry into the country, any entry was "unauthorised" and the detention of a person who wished to effect entry and who needed but did not yet have authorisation to do so, could be ordered, without any distortion of language, to "prevent his effecting an unauthorised entry". The Court has never accepted that as soon as an asylum-seeker surrenders himself or herself to the immigration authorities, he or she is seeking to effect an "authorised" entry, with the result that detention cannot be justified under the first limb of Article 5 § 1 (f). To interpret the first limb of Article 5 § 1 (f) as permitting detention only of a person who has been shown to be trying to evade entry restrictions would be to place too narrow a construction on the terms of the provision and on the power of the State to exercise its undeniable right of control of entry into and residence in the country. Such an interpretation would, moreover, be inconsistent with Conclusion no. 44 of the Executive Committee of the United Nations High Commissioner for Refugees' (UNCHR) Programme, the UNHCR's Guidelines and Recommendation Rec(2003)5 of 16 April 2003 of the Committee of Ministers of the Council of Europe on measures of detention of asylum-seekers (ibid., §§ 34-35, 37 and 65). In *Saadi*, national law provided that a person be granted temporary admission pending a decision to give or refuse that person leave to enter; a person granted such temporary admission was excluded from the rights available to those granted leave to enter, in particular the right to seek an extension of leave to remain, but was nonetheless "lawfully present" in the United Kingdom for the purposes of social security entitlement (ibid., § 21). Such temporary admission was not

regarded by the Court as precluding the prospect of an "unauthorised entry to the country" within the meaning of Article 5 § 1 (f).

56. In *Suso Musa v. Malta* (no. 42337/12, §§ 97-99, 23 July 2013) the Court reiterated the principles set out in *Saadi* and noted, in addition, that where a State had gone beyond its obligations and enacted legislation explicitly authorising the entry or stay of asylum-seekers, any ensuing detention for the purpose of preventing an unauthorised entry might raise an issue under Article 5 § 1 (f). Emphasising that it was not for the Court to interpret the intention of the legislature one way or another, it considered that a legal provision that allowed asylum-seekers to enter or remain in Malta pending a final decision on their application did not necessarily require that an individual be granted formal authorisation to stay or to enter the territory, as it might well be that the provision in question was simply intended to reflect international standards to the effect that an asylum-seeker could not be expelled pending the assessment of an asylum claim. The Court held that the question as to when the first limb of Article 5 § 1 (f) ceased to apply, because the individual had been granted formal authorisation to enter or stay, was largely dependent on national law (ibid., § 97 *in fine*). Despite being faced with some conflicting interpretations in that particular case, the Court was ready to accept that the applicant's detention had had a sufficiently clear legal basis and fell under the first limb of Article 5 § 1 (f).

57. Furthermore, it is well established in the Court's case-law under the sub-paragraphs of Article 5 § 1 that any deprivation of liberty must, in addition to falling within one of the exceptions set out in sub-paragraphs (a) to (f), be "lawful". Where the "lawfulness" of detention is in issue, including the question whether "a procedure prescribed by law" has been followed, the Convention refers essentially to national law and lays down the obligation to conform to the substantive and procedural rules of national law (see *Saadi*, cited above, § 67).

58. Compliance with national law is not, however, sufficient: Article 5 § 1 requires in addition that any deprivation of liberty should be in keeping with the purpose of protecting the individual from arbitrariness. It is a fundamental principle that no detention which is arbitrary can be compatible with Article 5 § 1 and the notion of "arbitrariness" under Article 5 § 1 extends beyond lack of conformity with national law, so that deprivation of liberty may be lawful in terms of domestic law but still arbitrary and thus contrary to the Convention (ibid., with further references).

59. To avoid being branded as arbitrary, detention under Article 5 § 1 (f) must be carried out in good faith; it must be closely connected to the ground of detention relied on by the Government; the place and conditions of detention should be appropriate, bearing in mind that "the measure is applicable not to those who have committed criminal offences but to aliens who, often fearing for their lives, have fled from their own country"; and the length of the detention should not exceed that reasonably required for the

purpose pursued (ibid., § 74; see also *A. and Others v. the United Kingdom* [GC], no. 3455/05, § 164, ECHR 2009).

(b) Application of these principles in the present case

60. The Court has already pointed out that the question as to when the first limb of Article 5 § 1 (f) ceases to apply, because the individual has been granted formal authorisation to enter or stay, is largely dependent on national law. In this respect, the Court notes that section 8(1)(α) of the Refugee Law provided that applicants for international protection had the right to remain in the areas controlled by the Government of the Republic of Cyprus pending delivery of a final decision on their application. What is more important for the purposes of the present case is that section 8(1)(β) of the Refugee Law provided that the domestic authorities were required to give confirmation of submission of the application for international protection within three days from the time such an application was lodged, certifying the applicant's entitlement to stay in the areas controlled by the Government of the Republic of Cyprus for the time required to process the application (see paragraph 42 above). This right, according to section 8(1)(γ) of the Refugee Law, did not give rise to entitlement to a residence permit.

61. Turning to the facts of the present case, the Court notes that the applicant did not enter Cyprus through either the airports of Larnaca or Paphos, or any of the ports situated in the areas under the effective control of the Republic of Cyprus. The Court therefore considers that the applicant entered the Republic of Cyprus in an irregular manner. However, when the applicant arrived at the Ledras Crossing point he expressed his wish to apply for asylum and the authorities transferred him – without detaining him – to the AIS and subsequently to Pournara, an open reception centre in the Government-controlled areas, where he was able to apply for asylum (see paragraphs 6 and 7 above) (compare *Saadi*, cited above, § 12, where the applicant was detained and transferred to the Oakington Reception Centre for processing; and *Suso Musa,* cited above, § 7, where the applicant was arrested as a prohibited immigrant upon entering Malta irregularly before applying for asylum). The next day, the applicant was issued with documentation confirming his right to remain in the Government-controlled areas pending a final decision on his asylum application, in accordance with the provisions of the Refugee Law.

62. The Government submitted that this documentation could not be construed as having granted authorisation to stay. The Court notes, that it does not have the benefit of the domestic courts' interpretation of the legal provisions regulating the entry and stay of asylum-seekers in Cyprus as their assessment of the applicant's detention in the present case focused solely on the protection of national security. In this connection, the Court notes that even if it were to accept the Government's submission that the relevant documentation merely protected the applicant – as an asylum-seeker – from

removal, thereby bringing his detention within the scope of the first limb of Article 5 § 1 (f), it would nevertheless consider that his detention, although lawful in terms of domestic law (see paragraph 63 below), was not closely connected to the prevention of unauthorised entry and was thus in breach of Article 5 § 1 of the Convention.

63. In particular, the detention order was issued only after the applicant's interview, which had identified him as a person matching the profile of a foreign fighter, on the basis of the authorities' suspicions that he had been a member of terrorist or criminal organisations, and explicitly stated that he was being detained on national security grounds (see paragraph 9 above). Therefore, even though there was a legal basis in domestic law for the applicant's detention, namely section 9ΣΤ(2)(ε) of the Refugee Law, his detention was based solely on national security grounds. It was not argued that these grounds involved the assessment of the applicant's background, which might well have been necessary to determine his asylum claim and his potential exclusion from international protection. Rather, those grounds appear to have been cited and applied more generally, as a general preventive or protective mechanism. In their observations, the Government submitted that the purpose pursued by the authorities had been specifically to protect national security and that the applicant had been placed in detention precisely because he had been regarded as dangerous for the security of the Republic of Cyprus (see paragraph 52 above). The decisions resulting from the internal reviews of the applicant's detention merely cited the existence of a risk and threat to national security as a reason for his continued detention (see paragraphs 25 and 34 above). The Supreme Court reviewing the lawfulness of the applicant's detention on appeal clarified that the lawfulness of the applicant's detention as an asylum-seeker had to be examined with due regard to the protection of national security, which had been the reason adduced for his detention (see paragraph 18 above). The threat to national security was therefore repeatedly cited as a stand-alone ground for the applicant's detention. The Court does not discern from the documents available to it, or from the Government's observations, that the applicant's detention on national security grounds was necessarily linked to the outcome of the asylum application or to the examination of his right to stay in the country. Accordingly, the applicant's detention on the sole basis of the need to protect national security cannot be considered to have been closely connected with the aim of preventing unauthorised entry.

64. In view of the above considerations, the Court finds that in the particular circumstances of the present case there was not a sufficiently close connection between the ground relied on to justify detention and the prevention of unauthorised entry.

65. Even had there been such a connection, the Court would still consider the applicant's detention to have been arbitrary on account of its length. Such an interpretation is in line with the effective protection of the right concerned.

Importantly, the Court notes that the applicant was kept in detention for over two years and nine months, from 12 February 2019 until 30 November 2021 (see paragraphs 12 and 35 above). In this connection, and in response to the Government's arguments, the Court would point out that the applicant's detention in the present case was significantly longer than that of the applicant in the *Saadi* case (cited above), whose detention lasted seven days. It was also significantly longer than in the *Suso Musa* case (cited above), where the applicant's detention lasted more than six months for the purposes of the first limb of Article 5 § 1 (f). The Court does not agree with the Government that the present case should be compared to *K.G.* (cited above) or *Chahal* (cited above), as those cases concerned the applicants' removal, which fell under the second limb of Article 5 § 1 (f).

66. The Court notes that while the applicant's asylum application in the present case was examined and rejected by the Asylum Service within three months from the time it was lodged, the proceedings in recourse no. 74/2019 before the Administrative Court of International Protection were pending from 31 July 2019 (and are still pending), meaning that the applicant spent two years and four months in detention until his release on 30 November 2021 (see paragraphs 21 and 35 above). The Government did not point to any difficulties in determining the applicant's age and identity or to the absence of necessary documents, which might have justified the length of the detention for over two years. While the Court is not oblivious to the difficulties experienced by many Contracting Parties in coping with the influx of asylum-seekers, these cannot absolve a State of its obligations under the Convention (see, *mutatis mutandis*, *Z.A. and Others v. Russia* [GC], nos. 61411/15 and 3 others, §§ 187-88, 21 November 2019). The fact that the Refugee Law does not establish a time-limit for the detention of an asylum-seeker is not in itself sufficient to justify an almost three-year detention. In view of the foregoing, the Court considers that a detention period of two years and nine months cannot be reasonably considered to be required for the purposes of the first limb of Article 5 § 1 (f).

67. Accordingly, the Court concludes that the applicant's detention was arbitrary and that there has therefore been a violation of Article 5 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

68. The applicant furthermore complained that he did not have an effective remedy at his disposal by which to challenge the lawfulness of his detention. He complained, in particular, that his right to a "speedy" decision had been infringed and that he had been deprived of a review of the lawfulness of his detention that respected, *inter alia,* the principle of equality of arms. He relied on Article 5 § 4 of the Convention, which provides as follows:

> "Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful."

A. Admissibility

69. The Court notes that this complaint is linked to the applicant's complaint under Article 5 § 1 and must therefore likewise be declared admissible.

B. Merits

1. The parties' submissions

70. The applicant argued that the appeal proceedings (no. 81/2019) against the Administrative Court's decision, which had lasted over two years, and the habeas corpus proceedings (no. 96/2020), which had lasted more than two and a half months, had not been decided speedily. The Covid-19 pandemic could not serve as an excuse for the delay, as appeal no. 81/2019 had been lodged on 7 May 2019 and the Covid-19 pandemic had begun around March 2020. In any event the appeal had been first listed for directions on 1 December 2020 and then for an initial hearing on 2 July 2021, while the applicant had remained in detention the entire time.

He further argued that the proceedings before the Administrative and Supreme Courts pertaining to the lawfulness of his detention had failed to respect the adversarial and equality-of-arms principles as the authorities had failed to disclose all the evidence they held against him, without explaining for what reasons he had been deemed a threat to national security. Among other disadvantages, this had left him unable to defend his rights in the best way possible. In addition, he claimed that the national courts had failed to exercise their jurisdiction and apply the standards set out in the Court's case-law under Article 5.

71. Concerning the requirement to decide the case speedily, the Government argued that the proceedings pertaining to the lawfulness of the applicant's detention had been conducted over two levels of jurisdiction (no. 442/2019 at first instance and 81/2019 on appeal). The first-instance proceedings had lasted four weeks, from 27 March 2019 to 25 April 2019 and had fully complied with the time-limit set out in section 9ΣΤ (6)(β)(i) of the Refugee Law (see paragraph 44 above). The appeal proceedings, which had lasted approximately two years and two months, had not been excessively long. Some of the delay had been attributable to the Covid-19 pandemic, which had been out of the authorities' control from March 2020. In addition, the issues under examination had been complex, as it had been necessary for the Supreme Court to decide for the first time on the lawfulness of a detention order issued against an asylum-seeker on national security grounds.

The Government dismissed the applicant's submissions concerning the courts' failure to respect the equality-of-arms and adversarial principles. Considering that the gist of the classified documents had been conveyed to the applicant, the Government argued that he had been given information concerning the grounds on which the authorities had based their decision; that he had been given the opportunity to refute those grounds; and that he had participated effectively in the proceedings. In any event, sufficient counterbalancing measures had been in place since the domestic courts had had the opportunity to inspect all the classified documents.

2. The Court's assessment

72. Beginning with the applicant's complaint concerning the length of appeal proceedings no. 81/2019, the Court refers to the general principles set out in *Ilnseher v. Germany* ([GC] nos. 10211/12 and 27505/14, §§ 251-56, 4 December 2018); *Khlaifia and Others v. Italy* ([GC] no. 16483/12, §§ 128-31, 15 December 2016); and *Kučera v. Slovakia* (no. 48666/99, § 107, 17 July 2007), which all concerned Article 5 § 4 and, in particular, the right to a speedy decision. In this connection, the Court notes at the outset that the scope of the applicant's complaint concerning the right to a speedy decision, as raised in the application form and as developed in the observations, is limited to the appeal proceedings. The Court will therefore limit its assessment under this head to those proceedings only (see *Khokhlov v. Cyprus*, no. 53114/20, § 76, 13 June 2023).

73. The Court notes that the appeal proceedings (no. 81/2019) alone lasted over two years. The Court observes first that the Supreme Court was only required to undertake a limited review of the Administrative Court's decision on points of law, without having to conduct a fresh assessment of the facts of the case. The Court further notes that while it is mindful of the difficulties faced by the States during the Covid-19 pandemic, by the Government's own admission the Covid-19 pandemic did not affect Cyprus until March 2020, while the appeal had been pending before the Supreme Court since 7 May 2019. The case had therefore already been pending before that court for ten months by the time the Covid-19 pandemic had struck the country. The Government did not provide any explanation as to what steps, if any, had been taken with regard to the appeal proceedings during that time. The applicant, on the other hand, argued that the appeal had been first listed for directions only on 1 December 2020 and for an initial hearing on 2 July 2021 and the Government did not provide the Court with any evidence to refute this claim.

74. While it is true that the Court is prepared to tolerate longer periods of review in proceedings at second instance, it nevertheless remains incumbent on the State to ensure that proceedings are conducted as quickly as possible, since the liberty of the individual is at stake (see *Khlaifia and Others*, cited above, § 131; see also, *mutatis mutandis*, *Ilnseher*, cited above, § 256).

Accordingly, given the delays noted above, especially the authorities' inaction for no less than ten months before the Covid-19 pandemic struck Cyprus, the Court concludes that appeal proceedings no. 81/2019 were not conducted "speedily" within the meaning of Article 5 § 4 of the Convention.

75. There has therefore been a violation of Article 5 § 4 of the Convention under this head, in respect of appeal proceedings no. 81/2019.

76. In view of the above finding, the Court does not consider it necessary to examine the applicant's remaining complaints concerning the alleged absence of equality of arms before the Administrative and Supreme Courts and the lack of a speedy decision in appeal proceedings no. 96/2020.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

77. 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

78. The applicant claimed 30,000 euros (EUR) in respect of non-pecuniary damage for the mental and physical suffering endured during his detention.

79. The Government contested the above claim as tenuous, speculative and in any event exaggerated.

80. The Court considers that the applicant must have sustained non-pecuniary damage as a result of the violation of Article 5 § 1 and 5 § 4 of the Convention. Making its assessment on an equitable basis, as required by Article 41, the Court awards the applicant EUR 10,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

81. The applicant also claimed EUR 8,905.26 for the costs and expenses incurred before the domestic courts for the two appeals lodged with the Supreme Court and for those incurred before the Court.

82. The Government rejected this claim, arguing that the applicant had not submitted any documents showing that he had either paid such costs or that he had been bound to pay them pursuant to any legal or contractual obligation.

83. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case the applicant did not submit documents showing

that he had paid or was under a legal obligation to pay the fees charged by his representative or the expenses incurred by him. The applicant has only provided the Court with documents entitled "Request for payment". These documents do not constitute valid invoices, nor were they accompanied by a letter of engagement or any other binding agreement. The Court therefore finds no basis on which to accept that the costs and expenses claimed by the applicant were actually incurred by him.

84. It follows that the claim must be rejected.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 5 § 1 of the Convention;

3. *Holds* that there has been a violation of Article 5 § 4 of the Convention in relation to appeal proceedings no. 81/2019;

4. *Holds* that there is no need to examine the merits of the complaints concerning the alleged absence of equality of arms before the Administrative and Supreme Courts and the length of appeal proceedings no. 96/2020 under Article 5 § 4 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 in accordance with Article 44 § 2 of the Convention, EUR 10,000 (ten thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 2 July 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Pere Pastor Vilanova President