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

FOURTH SECTION

CASE OF FINUCANE v. THE UNITED KINGDOM

(Application no. 29178/95)

JUDGMENT

STRASBOURG

1 July 2003

FINAL

01/10/2003

In the case of Finucane v. the United Kingdom,

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

Mr M. PELLONPÄÄ, *President*,
Sir Nicolas BRATZA,
Mrs E. PALM,
Mr M. FISCHBACH,
Mr J. CASADEVALL,
Mr S. PAVLOVSCHI,
Mr J. BORREGO BORREGO, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 10 June 2003,

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

PROCEDURE

1. The case originated in an application (no. 29178/95) against the United Kingdom of Great Britain and Northern Ireland lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Irish national, Mrs Geraldine Finucane ("the applicant"), on 5 July 1994.

2. The applicant was represented by Mr P. Madden, a lawyer practising in Belfast. The United Kingdom Government ("the Government") were represented by their Agent, Mr C. Whomersley, of the Foreign and Commonwealth Office.

3. The applicant alleged that there had been no proper, effective investigation into the death of her husband, Patrick Finucane.

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

5. The application was initially allocated to the Third Section of the Court (Rule 52 § 1 of the Rules of Court).

6. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Fourth Section (Rule 52 § 1). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

7. By a decision of 2 July 2002, the Chamber declared the application admissible.

8. The applicant and the Government each filed observations on the merits (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

9. The applicant was born in 1950 and lives in Belfast, Northern Ireland.

10. Around 7.25 p.m. on 12 February 1989 the applicant's husband, solicitor Patrick Finucane, was killed in front of her and their three children by two masked men who broke into their home. She herself was injured, probably by a ricochet bullet. Patrick Finucane was shot in the head, neck and chest. Six bullets had struck the head and there was evidence that one or more of these had been fired within a range of 15 inches when he was lying on the floor. The day after the murder, 13 February 1989, a man telephoned the press and stated that the illegal loyalist paramilitary group the Ulster Freedom Fighters (UFF) claimed responsibility for killing Patrick Finucane – the Provisional Irish Republican Army (Provisional IRA) officer – not the solicitor.

11. Patrick Finucane represented clients from both sides of the conflict in Northern Ireland and was involved in a number of high-profile cases arising from that conflict. The applicant believed that it was because of his work on these cases that prior to his murder he had received death threats, via his clients, from officers of the Royal Ulster Constabulary (RUC) and was targeted for murder. Patrick Finucane had been threatened occasionally since the late 1970s. After acting for Brian Gillen in a case concerning maltreatment in RUC custody, the threats apparently escalated, and clients reported that police officers often abused and threatened to kill him during interrogations at holding centres such as Castlereagh. On 5 January 1989, five weeks before his death, one of Patrick Finucane's clients reported that an RUC officer had said that the solicitor would meet his end. On 7 January 1989 another client claimed that he was told that Patrick Finucane was "getting took out" (murdered). His death came less than four weeks after Douglas Hogg MP, then Parliamentary Under-Secretary of State for the Home Department, had said in a committee stage debate on the Prevention of Terrorism (Temporary Provisions) Bill on 17 January 1989:

> "I have to state as a fact, but with great regret, that there are in Northern Ireland a number of solicitors who are unduly sympathetic to the cause of the IRA."

A. The investigation into the killing

12. After the shooting, the applicant's house was cordoned off by the RUC and a forensic examination of the scene conducted by experts. Photographs were taken and maps prepared. A scene of crimes officer examined the car believed to have been used by those responsible for the shooting and which had been found abandoned.

13. On 13 February 1989 a consultant in pathology conducted a post-mortem examination.

14. A "major incident room" was set up at the Antrim Road police station. Many suspected members of the UFF were detained and interviewed about the murder.

15. On 4 July 1989 the RUC found one of the weapons believed to have been used in the murder. On 5 April 1990 three members of the UFF were convicted of possessing this and another weapon and of membership of the UFF. The weapon had been stolen from the barracks of the Ulster Defence Regiment (UDR – a locally recruited regiment of the British army) in August 1987, and in 1988 a member of the UDR was convicted of this theft.

16. In or around September 1990 the police found firearms in the attic of William Stobie's flat. The latter was arrested. He was, according to the applicant, questioned about the Finucane murder from 13 to 20 September 1990. A journalist had allegedly interviewed William Stobie and had told the police about the interview but declined to make a statement. The applicant alleged that William Stobie denied to the police any direct involvement in the shooting but admitted that he was the quartermaster for the Ulster Defence Association (UDA), supplying weapons and recovering them after use. He is also reported as having told the police that he had been acting as an informer for Special Branch for the past three years. A decision was taken on 16 January 1991 not to prosecute William Stobie in connection with the Finucane case, apparently on the ground that there was insufficient evidence. On 23 January 1991 it was decided not to proceed with two arms charges against William Stobie. The prosecution adduced no evidence and he was acquitted.

B. The inquest proceedings

17. The inquest into Patrick Finucane's death opened on 6 September 1990 and ended the same day. Evidence was heard from RUC officers involved in investigating the death, as well as from the applicant, two neighbours and a taxi driver whose car had been hijacked and used by those responsible for the shooting. The applicant was represented by counsel, who was able to question witnesses on her behalf. After giving evidence, the applicant wanted to make a statement concerning the threats made against

her husband by the RUC but was refused permission to do so by the coroner on the ground that it was not relevant to the proceedings.

18. Forensic evidence showed that the victim had been hit at least eleven times by a 9 mm Browning automatic pistol and twice by a .38 Special revolver. Detective Superintendent (D/S) Simpson of the RUC, who was in charge of the murder investigation, gave evidence that the Browning pistol was one of thirteen weapons stolen from Palace army barracks in August 1987 by a member of the UDR who was subsequently jailed for theft. These weapons found their way into the hands of three members of the UFF who were convicted of possession of the weapons and of membership of the UFF. However, the police were satisfied that those individuals had not been in possession of the weapons at the time of Patrick Finucane's murder.

19. According to the evidence given by D/S Simpson at the inquest, the police had interviewed fourteen people in connection with the murder, but had found that, although their suspicions were not assuaged, and they remained reasonably certain that the main perpetrators of the murder were among the suspects, there was insufficient evidence to sustain a charge of murder. None of the fourteen persons had any connection with the security forces. D/S Simpson further stated that none of the suspects had any connection with the security services. He rejected the claim made by the UFF that Patrick Finucane was a member of the Provisional IRA.

20. The inquest heard evidence that the murderers had used a red Ford Sierra car with the registration no. VIA 2985, which had been hijacked by three men from a taxi driver, W.R., shortly before the murder. D/S Simpson stated that he did not think that the hijackers had carried out the murder and that the precision of the killing indicated that the murderers had killed before. He had heard that a death threat had been made in front of a prisoner who was a client of the deceased. He had also seen parts of a report by a group of international lawyers. This had been investigated by the Stevens inquiry team (see below), with whom he liaised closely. Although he did not know who had been interviewed, as the Stevens inquiry was separate from the murder investigation, he said that no evidence had been found substantiating the allegation. On further questioning, he said that he had only read the report by the international lawyers that lunchtime and was unaware of the existence of material linking the security forces to Patrick Finucane's death.

C. The Stevens inquiries

21. On 14 September 1989 the Chief Constable of the RUC appointed John Stevens, then Deputy Chief Constable of the Cambridgeshire Constabulary, to investigate allegations of collusion between members of the security forces and loyalist paramilitaries (the Stevens 1 inquiry).

22. While, according to the applicant, it was claimed by the RUC at the inquest that John Stevens had also investigated her husband's death, the Government state that the inquiry was prompted by events other than the shooting of Patrick Finucane.

23. On 5 April 1990 John Stevens submitted his report to the Chief Constable of the RUC. While the full report was not made public, the Secretary of State for Northern Ireland made a statement to the House of Commons on 17 May 1990 in which he declared, *inter alia*, that as a result of the inquiry ninety-four persons had been arrested, fifty-nine of whom had been reported or charged with criminal offences. He stated that while the passing of information to paramilitaries by the security forces had taken place, it was restricted to a small number of individuals and was neither widespread nor institutionalised. Any evidence or allegation of criminal conduct had been rigorously followed up. No charges had been laid against members of the RUC, but John Stevens had concluded that there had been misbehaviour by a few members of the UDR. He had made detailed recommendations aimed at improving the arrangements for the dissemination and control of sensitive information.

24. As a result of the Stevens inquiry, Brian Nelson, who had worked as an undercover agent providing information to British military intelligence and who had become the chief intelligence officer of the UDA, an illegal loyalist paramilitary group which directed the activities of the UFF, was arrested. At his trial, the British authorities claimed that he had got out of hand and had become personally involved in loyalist murder plots. Originally, he faced thirty-five charges, but thirteen were dropped and he was eventually convicted on five charges of conspiracy to murder, for which he was sentenced to ten years' imprisonment. During the Stevens inquiry, members of the team had interviewed him. According to the Government, he had denied any complicity in the murder.

25. In prison, Brian Nelson allegedly admitted that, in his capacity as a UDA intelligence officer, he had himself targeted Patrick Finucane and, in his capacity as a double agent, had told his British army handlers about the approach at the time. It was also alleged that he had passed a photograph of Patrick Finucane to the UDA before he was killed. Loyalist sources further alleged that Brian Nelson had himself pointed out Patrick Finucane's house to the killers. These allegations were transmitted in a BBC Panorama programme on 8 June 1992 and the transcript of the programme was sent to the Director of Public Prosecutions (DPP).

26. Following the Panorama programme, the DPP asked the Chief Constable of the RUC to conduct further inquiries into the issues raised in the programme. In April 1993 John Stevens, then Chief Constable of the Northumbria Police, was appointed to conduct a second inquiry (the Stevens 2 inquiry). According to the Government, he investigated the alleged involvement of Brian Nelson and members of the army in the death of

Patrick Finucane (see, however, John Steven's press statement, paragraph 33 below). The applicant stated that no member of the inquiry team contacted her or her legal representative, or any former clients of Patrick Finucane, about the death threats made prior to the murder.

27. On 21 January 1995 John Stevens submitted his final report to the DPP, having submitted earlier reports on 25 April 1994 and 18 October 1994. On 17 February 1995 the DPP issued a direction of "no prosecution" to the Chief Constable of the RUC.

28. In answer to a parliamentary question published on 15 May 1995, Sir John Wheeler MP said that the DPP had concluded that there was insufficient evidence to warrant the prosecution of any person, despite Brian Nelson's alleged confession. He refused to place copies of Mr Stevens' three reports in the House of Commons library, claiming that police reports were confidential.

D. The civil proceedings

29. On 11 February 1992 the applicant issued a writ of summons against the Ministry of Defence and Brian Nelson, claiming damages on behalf of the estate of the deceased, herself and other dependants of the deceased. It was alleged that the deceased's murder had been committed by or at the instigation of or with the connivance, knowledge, encouragement and assistance of the first defendant and by the second defendant, who was at all material times a servant or agent of the first defendant. It was also alleged that the first defendant had been negligent in the gathering, recording, retention, safe-keeping and dissemination of material concerning the deceased, and in the warning, protection and safeguarding of the deceased.

30. The applicant's statement of claim was served on 8 December 1993 and the defence of the Ministry of Defence on 29 December 1993. In its amended defence of 11 October 1995, it was admitted that Brian Nelson had acted as agent for and on behalf of the Ministry of Defence but it was claimed that if he had had any information about the proposed attack on Patrick Finucane he had not communicated it to the ministry as he was required to do.

31. On 22 January 1998 the applicant served further and better particulars of her case and a request for further and better particulars of the Ministry of Defence's case. She served a list of documents on 8 April 1998. On 20 May 1999 a supplemental list of documents, certified by an affidavit sworn by the Permanent Under Secretary of the Ministry of Defence, was served on the applicant. The applicant requested copies of those documents, which were provided on 20 July 1999. The applicant then asked to inspect the originals but was informed on 21 October 1999 that the Ministry of Defence did not have them.

E. Recent developments

1. The Stevens 3 inquiry

32. On 12 February 1999 the Government stated that at a meeting between the applicant and Dr Mowlem, the Secretary of State for Northern Ireland, a paper was handed over to Dr Mowlem which, it was claimed, contained new material relating to the murder of Patrick Finucane. This paper was passed on to John Stevens, now Deputy Commissioner of the Metropolitan Police, who had been appointed by the Chief Constable of the RUC to conduct an independent investigation into the murder of the applicant's husband (the Stevens 3 inquiry).

33. On 28 April 1999, at a press conference, John Stevens stated:

> "... in September 1989 ... I was appointed ... to conduct the so-called 'Stevens inquiry' into breaches of security by the security forces in Northern Ireland.
>
> This commenced after the theft of montages from Dunmurry Police Station.
>
> This inquiry resulted in 43 convictions and over 800 years of imprisonment for those convicted.
>
> My subsequent report contained over 100 recommendations for the handling of security documents and information.
>
> All of those recommendations were accepted and have been implemented.
>
> This 'Stevens 1' inquiry was followed by a 'Stevens 2' inquiry in April 1993 ...
>
> At the request of the DPP I was asked to investigate further matters which solely related to the previous inquiry and prosecutions. [The then RUC Chief Constable] referred to our return as 'tying up some loose ends'.
>
> At no time, either in Stevens 2 or in the original Stevens 1 inquiry did I investigate the murder of Patrick Finucane ... However, those inquiries through the so-called double agent, Brian Nelson, were linked into the murder of Patrick Finucane.
>
> [The] Chief Constable of the [RUC] has now asked me to conduct an independent investigation into the murder of Patrick Finucane. I am also investigating the associated matters raised by the British Irish Rights Watch document 'Deadly Intelligence' and the UN Commissioner's Report. ..."

2. The criminal prosecution

34. On or around 23 June 1999 charges were brought against William Stobie for the murder of Patrick Finucane and against Mark Barr, Paul Givens and William Hutchinson for offences of possession of documents containing information useful to terrorists.

35. It was reported by the Committee for the Administration of Justice that on being charged William Stobie made the following statement:

> "Not guilty of the charge that you have put to me tonight. At the time I was police informer for Special Branch. On the night of the death of Patrick Finucane I informed Special Branch on two occasions by telephone of a person who was to be shot. I did not know at the time of the person who was to be shot."

36. William Stobie's solicitor told the court that his client was a paid police informer from 1987 to 1990 and that he had given information to the police on two occasions before the Finucane murder which was not acted upon. He also stated that, at his client's trial on 23 January 1991 on firearms charges, the prosecution had adduced no evidence and his client was acquitted. The bulk of the evidence against his client had, he alleged, been known to the authorities for almost ten years.

37. On 26 November 2001 it was reported in the press that William Stobie's trial had collapsed when the Lord Chief Justice returned a verdict of not guilty in the absence of evidence. The prosecution had informed the court that the key witness, a journalist, was not able to give evidence due to serious mental illness.

38. On 12 December 2001 William Stobie was shot dead by gunmen, shortly after receiving threats from loyalist paramilitaries.

39. Further arrests were reported as having been made by officers in the Stevens inquiry in March 2002, with persons being questioned in relation to the Finucane murder.

3. the proposed international investigation

40. On 24 October 2001 the government announced in Parliament that, amongst the measures proposed to the Irish government in the context of the Good Friday Agreement, was the proposal for the United Kingdom and Irish governments to appoint a judge of international standing from outside both jurisdictions to undertake an investigation into allegations of security force collusion in loyalist paramilitary killings, including that of Patrick Finucane. In the light of the investigation, the judge would decide whether to recommend a public inquiry into any of the killings.

4. the Stevens 3 inquiry report

41. On 17 April 2003 John Stevens submitted his report to the DPP. A nineteen-page overview with recommendations was made public. It included the following:

> "4.6. I have uncovered enough evidence to lead me to believe that the murders of Patrick Finucane and Brian Adam Lambert could have been prevented. I also believe that the RUC investigation of Patrick Finucane's murder should have resulted in the early arrest and detection of his killers.

> 4.7. I concluded that there was collusion in both murders and the circumstances surrounding them. Collusion is evidenced in many ways. This ranges from the wilful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, through to the extreme of agents being involved in murder ..."

He stated that his inquiries with regard to satisfying the test for prosecution in relation to possible offences arising out of these matters were continuing.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Inquests

1. Statutory provisions and rules

42. The conduct of inquests in Northern Ireland is governed by the Coroners Act (Northern Ireland) 1959 and the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963. These provide the framework for a procedure within which deaths by violence or in suspicious circumstances are notified to the coroner, who then has the power to hold an inquest, with or without a jury, for the purpose of ascertaining, with the assistance as appropriate of evidence from witnesses and reports of, *inter alia*, post-mortem and forensic examinations, who the deceased was and how, when and where he died.

43. Under the Coroners Act, every medical practitioner, registrar of deaths or funeral undertaker who has reason to believe that a person died directly or indirectly by violence must inform the coroner (section 7). Every medical practitioner who performs a post-mortem examination has to notify the coroner of the result in writing (section 29). Whenever a dead body is found, or an unexplained death or death in suspicious circumstances occurs, the police of the district are required to give notice to the coroner (section 8).

44. Rules 12 and 13 of the Coroners Rules give power to the coroner to adjourn an inquest where a person may be or has been charged with murder or other specified criminal offences in relation to the deceased.

45. Where the coroner decides to hold an inquest with a jury, persons are called from the Jury List, compiled by random computer selection from the electoral register for the district on the same basis as in criminal trials.

46. The matters in issue at an inquest are governed by Rules 15 and 16 of the Coroners Rules:

> "15. The proceedings and evidence at an inquest shall be directed solely to ascertaining the following matters, namely –
>
> (a) who the deceased was;

(b) how, when and where the deceased came by his death;

(c) the particulars for the time being required by the Births and Deaths Registration (Northern Ireland) Order 1976 to be registered concerning his death.

16. Neither the coroner nor the jury shall express any opinion on questions of criminal or civil liability or on any matters other than those referred to in the last foregoing Rule."

47. The verdict forms used in Northern Ireland accord with this recommendation, recording the name and other particulars of the deceased, a statement of the cause of death (for example, bullet wounds) and findings as to when and where the deceased met his death. In England and Wales, the verdict form appended to the English Coroners Rules contains a section marked "conclusions of the jury/coroner as to the death", in which conclusions such as "lawfully killed" or "killed unlawfully" are inserted. These findings involve expressing an opinion on criminal liability in that they involve a finding as to whether the death resulted from a criminal act, but no finding is made that any identified person is criminally liable. The jury in England and Wales may also append recommendations to their verdict.

48. However, in Northern Ireland, the coroner is under a duty (section 6(2) of the Prosecution of Offences (Northern Ireland) Order 1972) to furnish a written report to the DPP where the circumstances of any death appear to disclose that a criminal offence may have been committed.

49. Until recently, legal aid was not available for inquests as they did not involve the determination of civil liabilities or criminal charges. Legislation which would have provided for legal aid at the hearing of inquests (the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, Schedule 1, paragraph 5) has not been brought into force. However, on 25 July 2000, the Lord Chancellor announced the establishment of an Extra-Statutory Ex Gratia Scheme to make public funding available for representation for proceedings before coroners in exceptional inquests in Northern Ireland. In March 2001 he published for consultation the criteria to be used in deciding whether applications for representation at inquests should receive public funding. These included, *inter alia*, consideration of financial eligibility, whether an effective investigation by the State was needed and whether the inquest was the only way to conduct it, whether the applicant required representation to be able to participate effectively in the inquest and whether the applicant had a sufficiently close relationship to the deceased.

50. The coroner enjoys the power to summon such witnesses as he thinks should attend the inquest (section 17 of the Coroners Act) and he may allow any interested person to examine a witness (Rule 7 of the Coroners Rules). In England and Wales, as in Northern Ireland, a witness is entitled to rely on the privilege against self-incrimination. In Northern

Ireland, this privilege is reinforced by Rule 9(2) of the Coroners Rules, which provides that a person suspected of causing the death may not be compelled to give evidence at the inquest.

51. In relation to both documentary evidence and the oral evidence of witnesses, inquests, like criminal trials, are subject to the law of public interest immunity, which recognises and gives effect to the public interest, such as national security, in the non-disclosure of certain information or certain documents or classes of document. A claim of public interest immunity must be supported by a certificate.

2. The scope of inquests

52. Rules 15 and 16 of the Coroners Rules (see paragraph 46 above) follow from the recommendation of the Brodrick Committee on Death Certification and Coroners:

> "... [T]he function of an inquest should be simply to seek out and record as many of the facts concerning the death as the public interest requires, without deducing from those facts any determination of blame ... In many cases, perhaps the majority, the facts themselves will demonstrate quite clearly whether anyone bears any responsibility for the death; there is a difference between a form of proceeding which affords to others the opportunity to judge an issue and one which appears to judge the issue itself."

53. Domestic courts have made, *inter alia*, the following comments:

> "... It is noteworthy that the task is not to ascertain how the deceased died, which might raise general and far-reaching issues, but 'how ... the deceased came by his death', a far more limited question directed to the means by which the deceased came by his death.
>
> ... [Previous judgments] make it clear that when the Brodrick Committee stated that one of the purposes of an inquest is '[t]o allay rumours or suspicions' this purpose should be confined to allaying rumours and suspicions of how the deceased came by his death and not to allaying rumours or suspicions about the broad circumstances in which the deceased came by his death." (Sir Thomas Bingham, MR, Court of Appeal, *R. v. the Coroner for North Humberside and Scunthorpe, ex parte Roy Jamieson*, April 1994, unreported)
>
> "The cases establish that although the word 'how' is to be widely interpreted, it means 'by what means' rather than in what broad circumstances ... In short, the inquiry must focus on matters directly causative of death and must, indeed, be confined to those matters alone ..." (Simon Brown LJ, Court of Appeal, *R. v. Coroner for Western District of East Sussex, ex parte Homberg and Others*, (1994) 158 Justice of the Peace Reports 357)
>
> "... [I]t should not be forgotten that an inquest is a fact finding exercise and not a method of apportioning guilt. The procedure and rules of evidence which are suitable for one are unsuitable for the other. In an inquest it should never be forgotten that there are no parties, no indictment, there is no prosecution, there is no defence, there is no trial, simply an attempt to establish the facts. It is an inquisitorial process, a process of investigation quite unlike a trial ...

> It is well recognised that a purpose of an inquest is that rumour may be allayed. But that does not mean it is the duty of the Coroner to investigate at an inquest every rumour or allegation that may be brought to his attention. It is ... his duty to discharge his statutory role – the scope of his enquiry must not be allowed to drift into the uncharted seas of rumour and allegation. He will proceed safely and properly if he investigates the *facts* which it appears are relevant to the statutory issues before him." (Lord Lane, Court of Appeal, *R. v. South London Coroner, ex parte Thompson* (1982) 126 Solicitors' Journal 625)

B. The Director of Public Prosecutions

54. The Director of Public Prosecutions (DPP), appointed pursuant to the Prosecution of Offences (Northern Ireland) Order 1972 ("the 1972 Order"), is an independent officer with at least ten years' experience of the practice of law in Northern Ireland who is appointed by the Attorney General and who holds office until retirement, subject only to dismissal for misconduct. His duties under Article 5 of the 1972 Order are, *inter alia*:

> "(a) to consider, or cause to be considered, with a view to his initiating or continuing in Northern Ireland any criminal proceedings or the bringing of any appeal or other proceedings in or in connection with any criminal cause or matter in Northern Ireland, any facts or information brought to his notice, whether by the Chief Constable acting in pursuance of Article 6(3) of this Order or by the Attorney General or by any other authority or person;
>
> (b) to examine or cause to be examined all documents that are required under Article 6 of this Order to be transmitted or furnished to him and where it appears to him to be necessary or appropriate to do so to cause any matter arising thereon to be further investigated;
>
> (c) where he thinks proper to initiate, undertake and carry on, on behalf of the Crown, proceedings for indictable offences and for such summary offences or classes of summary offences as he considers should be dealt with by him."

55. Article 6 of the 1972 Order requires, *inter alia*, coroners and the Chief Constable of the RUC to provide information to the DPP as follows:

> "(2) Where the circumstances of any death investigated or being investigated by a coroner appear to him to disclose that a criminal offence may have been committed he shall as soon as practicable furnish to the [DPP] a written report of those circumstances.
>
> (3) It shall be the duty of the Chief Constable, from time to time, to furnish to the [DPP] facts and information with respect to –
>
> (a) indictable offences [such as murder] alleged to have been committed against the law of Northern Ireland; ...
>
> and at the request of the [DPP], to ascertain and furnish to the [DPP] information regarding any matter which may appear to the [DPP] to require investigation on the ground that it may involve an offence against the law of Northern Ireland or

information which may appear to the [DPP] to be necessary for the discharge of his functions under this Order."

III. RELEVANT INTERNATIONAL LAW

56. Paragraph 9 of the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions ("United Nations Principles on Extra-Legal Executions"), adopted on 24 May 1989 by the Economic and Social Council in Resolution 1989/65, provides, *inter alia*:

> "There shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. ..."

57. Paragraphs 10 to 17 of the United Nations Principles on Extra-Legal Executions contain a series of detailed requirements that should be observed by investigative procedures into such deaths.

Paragraph 10 states, *inter alia*:

> "The investigative authority shall have the power to obtain all the information necessary to the inquiry. Those persons conducting the inquiry ... shall also have the authority to oblige officials allegedly involved in any such executions to appear and testify. ..."

Paragraph 11 specifies:

> "In cases in which the established investigative procedures are inadequate because of a lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognised impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided in these Principles."

Paragraph 16 provides, *inter alia*:

> "Families of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as all information relevant to the investigation and shall be entitled to present other evidence. ..."

Paragraph 17 provides, *inter alia*:

> "A written report shall be made within a reasonable time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures, methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. ..."

58. The "Minnesota Protocol" (Model Protocol for a Legal Investigation of Extra-Legal, Arbitrary and Summary Executions, contained in the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions) provides, *inter alia*, in Section B on the "Purposes of an inquiry":

> "As set out in paragraph 9 of the Principles, the broad purpose of an inquiry is to discover the truth about the events leading to the suspicious death of a victim. To fulfil that purpose, those conducting the inquiry shall, at a minimum, seek:
>
> (a) to identify the victim;
>
> (b) to recover and preserve evidentiary material related to the death to aid in any potential prosecution of those responsible;
>
> (c) to identify possible witnesses and obtain statements from them concerning the death;
>
> (d) to determine the cause, manner, location and time of death, as well as any pattern or practice that may have brought about the death;
>
> (e) to distinguish between natural death, accidental death, suicide and homicide;
>
> (f) to identify and apprehend the person(s) involved in the death;
>
> (g) to bring the suspected perpetrator(s) before a competent court established by law."

59. In Section D, it is stated that "in cases where government involvement is suspected, an objective and impartial investigation may not be possible unless a special commission of inquiry is established".

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

60. The applicant complained that there was no effective investigation into the death of her husband, Patrick Finucane, which had occurred in circumstances giving rise to suspicions of collusion of the security forces with his killers. She relied on Article 2 of the Convention, which provides in its first paragraph:

> "Everyone's right to life shall be protected by law. ..."

A. The parties' submissions

1. The applicant

61. The applicant submitted that the RUC investigation into her husband's death was, *inter alia*, hopelessly inadequate as it failed entirely to explore the possibility of collusion and as the investigating officers were hierarchically linked to those against whom allegations were made. The inquest was also strictly limited in its scope, involving no key witnesses or any persons suspected of involvement in the death and could not provide an effective part of the process of identifying or prosecuting the perpetrators of any unlawful act. As regards the first two Stevens inquiries, neither was concerned with investigating the murder of Patrick Finucane and neither fulfilled the requirements of independence, promptness, public scrutiny or accessibility to the next-of-kin. The inquiry teams never, for example, made contact with the applicant's family, her husband's firm of solicitors or any of his clients who had reported death threats.

62. As regards the third inquiry, this was commenced ten years after the murder. So far, the Stevens team had refused to disclose to the applicant any material held by it. As regards her alleged lack of cooperation in various investigations, she had always taken the position that an independent judicial inquiry was the appropriate solution. Nor was the third inquiry sufficiently independent as, like the others, it had been instigated by the Chief Constable of the RUC at the relevant time and John Stevens had reported, as far as she knew, to the Chief Constable. There was thus a hierarchical connection between the head of the investigation and the chief constable of the force against whom serious allegations had been made.

63. Further, the applicant argued that the examination by the DPP of the evidence throughout the history of the case had been secret, without any reasons being given for decisions not to prosecute. He could not be regarded as independent due to the relationship between his office and the police. His decisions not to prosecute also cast grave doubt on his independence, in particular as the evidence against William Stobie had been known to the authorities for at least ten years. She referred to the decision not to prosecute William Stobie in 1991 for his role in the Finucane murder or his involvement in the UDA, the decision not to adduce evidence against William Stobie at his trial on arms charges in January 1991 and the failure to prosecute Brian Nelson for conspiracy to murder, despite the evidence that he had passed a photograph of Patrick Finucane to known killers, or to prosecute Brian Nelson's army handlers for collusion despite their knowledge that Patrick Finucane was targeted.

2. The Government

64. The Government accepted that, in the light of the Court's previous judgments (*Hugh Jordan v. the United Kingdom*, no. 24746/94, 4 May 2001, *McKerr v. the United Kingdom*, no. 28883/95, ECHR 2001-III, *Kelly and Others v. the United Kingdom*, no. 30054/96, 4 May 2001, and *Shanaghan v. the United Kingdom*, no. 37715/97, 4 May 2001), the RUC investigation, the inquest and the Stevens inquiries did not cumulatively satisfy the procedural requirement imposed by Article 2 of the Convention. They pointed out, however, that the reports following the first and second Stevens inquiries were not made public as this would have prejudiced national security.

65. In any event, the Government stated that the third inquiry represented the only comprehensive investigation into the death of Patrick Finucane. This was ongoing, conducted by eighteen to twenty police officers from outside Northern Ireland and it was to report to the DPP. So far, apart from William Stobie, fourteen persons had been arrested and interviewed in connection with the murder. While the RUC were resisting the applicant's current application for disclosure of material generated in the third inquiry because of potential prejudice to national security, the material's relevance to matters before, or likely to come before, the courts or to ongoing investigations, it had been made clear that disclosure would be reconsidered if it were to become apparent that there would be no harm to those interests.

66. Furthermore, the Government submitted that significant efforts had been made by the Stevens team to keep the applicant as fully informed as possible. However, the applicant refused to meet with the police or the Stevens' team and repeatedly indicated her unwillingness to cooperate in the inquiry. In those circumstances, the Government argued that, although the first two Stevens inquiries did not satisfy the procedural obligation in Article 2 as they were not centrally concerned with the murder of the applicant's husband, the third inquiry was so concerned and it was being conducted with thoroughness. The Government accepted that, as it was taking place some years after the events, it did not satisfy the requirements of promptness and reasonable expedition.

B. The Court's assessment

1. General principles

67. The obligation to protect the right to life under Article 2 of the Convention, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention", requires by

implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force (see, *mutatis mutandis*, *McCann and Others v. the United Kingdom*, judgment of 27 September 1995, Series A no. 324, p. 49, § 161, and *Kaya v. Turkey*, judgment of 19 February 1998, *Reports of Judgments and Decisions* 1998-I, p. 324, § 86). The essential purpose of such investigation is to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility. What form of investigation will achieve those purposes may vary in different circumstances. However, whatever mode is employed, the authorities must act of their own motion, once the matter has come to their attention. They cannot leave it to the initiative of the next-of-kin either to lodge a formal complaint or to take responsibility for the conduct of any investigative procedures (see, for example, *mutatis mutandis*, *İlhan v. Turkey* [GC], no. 22277/93, § 63, ECHR 2000-VII).

68. For an investigation into alleged unlawful killing by State agents to be effective, it may generally be regarded as necessary for the persons responsible for and carrying out the investigation to be independent from those implicated in the events (see, for example, *Güleç v. Turkey*, judgment of 27 July 1998, *Reports* 1998-IV, p. 1733, §§ 81-82; *Oğur v. Turkey* [GC], no. 21594/93, §§ 91-92, ECHR 1999-III). This means not only a lack of hierarchical or institutional connection but also a practical independence (see, for example, *Ergi v. Turkey*, judgment of 28 July 1998, *Reports* 1998-IV, pp. 1778-79, §§ 83-84, and the recent Northern Irish cases cited above, for example, *McKerr*, § 128, *Hugh Jordan*, § 120, and *Kelly and Others*, § 114).

69. The investigation must also be effective in the sense that it is capable of leading to a determination of whether the force used was or was not justified in the circumstances (see, for example, *Kaya*, cited above, p. 324, § 87) and to the identification and punishment of those responsible (see *Oğur*, cited above, § 88). This is not an obligation of result, but of means. The authorities must have taken the reasonable steps available to them to secure the evidence concerning the incident, including, *inter alia*, eyewitness testimony, forensic evidence and, where appropriate, an autopsy which provides a complete and accurate record of injury and an objective analysis of clinical findings, including the cause of death (see, for example, *Salman v. Turkey* [GC], no. 21986/93, § 106, ECHR 2000-VII; *Tanrıkulu v. Turkey* [GC], no. 23763/94, § 109, ECHR 1999-IV; and *Gül v. Turkey*, 22676/93, § 89, 14 December 2000). Any deficiency in the investigation which undermines its ability to establish the cause of death or the person or persons responsible will risk falling foul of this standard (see the recent Northern Irish cases concerning the inability of inquests to compel the

security force witnesses directly involved in the use of lethal force, for example *McKerr*, cited above, § 144, and *Hugh Jordan*, cited above, § 127).

70. A requirement of promptness and reasonable expedition is implicit in this context (see *Yaşa v. Turkey,* judgment of 2 September 1998, *Reports* 1998-VI, pp. 2439-40, §§ 102-04; *Çakıcı v. Turkey* [GC], no. 23657/94, §§ 80, 87 and 106, ECHR 1999-IV; *Tanrıkulu*, cited above, § 109; and *Mahmut Kaya v. Turkey*, no. 22535/93, §§ 106-07, ECHR 2000-III). While there may be obstacles or difficulties which prevent progress in an investigation in a particular situation, a prompt response by the authorities in investigating a use of lethal force may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts (see, for example, *Hugh Jordan*, cited above, §§ 108, 136-40).

71. For the same reasons, there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from case to case. In all cases, however, the next-of-kin of the victim must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests (see *Güleç*, cited above, p. 1733, § 82; *Oğur*, cited above, § 92; *Gül*, cited above, § 93; and the recent Northern Irish cases, for example *McKerr*, cited above, § 148).

2. Application to the present case

72. The Court observes that, following the death of Patrick Finucane on 12 February 1989, an investigation was opened by the RUC. No prosecutions resulted at that stage. An inquest opened on 6 September 1990 and closed the same day. Two police inquiries, Stevens 1 and 2, took place in 1989-90 and 1993-95. A third inquiry, Stevens 3, commenced in 1999 and is still ongoing. On 23 June 1999 a criminal prosecution was brought against William Stobie for the murder of Patrick Finucane. A verdict of not guilty was returned on or around 26 November 2001, the prosecution having adduced no evidence.

73. The applicant has made numerous complaints about these procedures, alleging that they do not satisfy the procedural obligation imposed by Article 2 of the Convention. The Court notes that the Government have accepted, in large part, that the procedures failed to provide the requisite safeguards, although they do not agree with all the criticisms made by the applicant.

(a) The police investigation

74. Firstly, concerning the police investigation, the Court notes that it started immediately after the death and that the necessary steps were taken to secure evidence at the scene. The car and gun used in the incident were located, although this did not lead to any charges being brought in respect of

the killing. A number of suspects from the loyalist paramilitaries, commonly believed to have carried out the killing, were interviewed. During the inquest, the officer in charge of the investigation stated that, although he was reasonably certain that the main perpetrators of the murder were amongst them, there was insufficient evidence to support a prosecution.

75. It is not apparent to what extent the initial police investigation included inquiries into possible collusion by the security forces in the targeting of Patrick Finucane by a loyalist paramilitary group. A weapon believed to have been used in the murder had been stolen from the UDR, a member of which was convicted of the theft, and UFF members were convicted of possession of the gun. It was therefore apparent that the weapon had come into the hands of the loyalists via the security forces. At the inquest, however, the police officer in charge of the investigation stated that none of the fourteen persons interviewed in relation to the murder had any connection with the security forces. Allegations of collusion involving the police were also made from a very early stage, in particular with regard to threats made by the RUC in front of Patrick Finucane's clients.

76. In so far therefore as the investigation was conducted by RUC officers, they were part of the police force which was suspected by the applicant and other members of the community of issuing threats against Patrick Finucane. They were all under the responsibility of the Chief Constable of the RUC, who played a role in the process of instituting any disciplinary or criminal proceedings (see paragraph 55 above). In the circumstances, there was a lack of independence attaching to this aspect of the investigative procedures, which also raises serious doubts as to the thoroughness or effectiveness with which the possibility of collusion was pursued.

(b) The inquest

77. In Northern Ireland, as in England and Wales, investigations into deaths may also be conducted by inquests. Inquests are public hearings conducted by coroners – independent judicial officers – normally sitting with a jury, to determine the facts surrounding a suspicious death. Judicial review lies from procedural decisions by coroners and in respect of any mistaken directions given to the jury. There are thus strong safeguards as to the lawfulness and proper conduct of the proceedings. In *McCann and Others* (cited above, p. 49, § 162), the Court found that the inquest held into the deaths of the three IRA suspects shot by the SAS on Gibraltar satisfied the procedural obligation contained in Article 2, as it provided a detailed review of the events surrounding the killings and provided the relatives of the deceased with the opportunity to examine and cross-examine witnesses involved in the operation. However, it must be noted that the inquest in that case was to some extent exceptional when compared with the proceedings

in a number of cases in Northern Ireland (see *Hugh Jordan*, *McKerr* and *Kelly and Others*, cited above). The promptness and thoroughness of the inquest in *McCann and Others* left the Court in no doubt that the important facts relating to the events had been examined with the active participation of the applicants' highly competent legal representative.

78. In this case, however, the inquest was concerned only with the immediate circumstances surrounding the shooting of Patrick Finucane. There was no inquiry into the allegations of collusion by the RUC or other sections of the security forces. The applicant was refused permission to make a statement at the inquest about the threats made by the police against her husband as the coroner regarded these matters as irrelevant. As later events were to show, however, there were indications that informers working for Special Branch or the security forces knew about, or assisted in, the attack on Patrick Finucane (see paragraphs 16, 25 and 36 above, concerning William Stobie and Brian Nelson), which supported suspicions that the authorities knew about or connived in the murder. The inquest accordingly failed to address serious and legitimate concerns of the family and the public and cannot be regarded as providing an effective investigation into the incident or a means of identifying or leading to the prosecution of those responsible. In that respect, it fell short of the requirements of Article 2.

(c) The Stevens inquiries

79. The Court notes that the authorities responded to concerns arising out of allegations of collusion between the loyalist organisations and the security forces by instituting special police inquiries, headed by a senior police officer from outside Northern Ireland. It is not apparent, however, that the first two inquiries, however useful they may have been in uncovering information, were in fact concerned with investigating the death of Patrick Finucane with a view to bringing prosecutions as appropriate. In any event, the reports were not made public and the applicant was never informed of their findings. The necessary elements of public scrutiny and accessibility of the family are therefore missing.

80. As regards the most recent inquiry, Stevens 3, which is squarely concerned with the Finucane murder, the Government have admitted that, taking place some ten years after the event, it cannot comply with the requirement that effective investigations be commenced promptly and conducted with due expedition. It is also not apparent to what extent, if any, the final report will be made public, although a summary overview has recently been published. In the light of these defects, the Court does not find it necessary to consider further allegations of lack of accessibility of the applicant to the procedure or lack of independence of the inquiry from the Police Service in Northern Ireland (which has replaced the RUC).

(d) The DPP

81. The applicant also alleged that the DPP had shown a lack of independence in this case. The Court has noted in previous cases that the DPP, who is the legal officer responsible for deciding whether to bring prosecutions in respect of any possible criminal offences, is not required to give reasons for a decision not to prosecute, and in this case he did not do so. No challenge by way of judicial review exists in Northern Ireland to require him to give reasons, although it may be noted that in England and Wales, where the inquest jury may still reach verdicts of unlawful death, the courts have required the DPP to reconsider a decision not to prosecute in the light of such a verdict, and will review whether those reasons are sufficient. This possibility does not exist in Northern Ireland, where the inquest jury is no longer permitted to issue verdicts concerning the lawfulness or otherwise of a death.

82. The Court does not consider it possible at this stage for it to determine what in fact occurred in 1990-91 and in 1995 when decisions were taken concerning the prosecution of persons possibly implicated in the Finucane murder (see paragraphs 16 and 27 above). However, where the police investigation procedure is itself open to doubts as to its independence and is not amenable to public scrutiny, it is of increased importance that the officer who decides whether or not to prosecute also gives an appearance of independence in his decision-making. As the Court observed in *Hugh Jordan* (cited above, § 123), the absence of reasons for decisions not to prosecute in controversial cases may in itself not be conducive to public confidence and may deny the family of the victim access to information about a matter of crucial importance to them and prevent any legal challenge of the decision.

83. Notwithstanding the suspicions of collusion, however, no reasons were forthcoming at the time for the various decisions not to prosecute and no information was made available either to the applicant or the public which might have provided reassurance that the rule of law had been respected. This cannot be regarded as compatible with the requirements of Article 2, unless that information was forthcoming in some other way. This was not the case.

(e) Conclusion

84. The Court finds that the proceedings following the death of Patrick Finucane failed to provide a prompt and effective investigation into the allegations of collusion by security personnel. There has consequently been a failure to comply with the procedural obligation imposed by Article 2 of

the Convention and there has been, in this respect, a violation of that provision.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

85. 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

86. The applicant stated that the quantum of any award for non-pecuniary damage was for the Court to assess on an equitable basis. She raised concerns, however, that any just satisfaction award, as was made in the other Northern Ireland cases (*Hugh Jordan*, *McKerr*, *Kelly and Others* and *Shanaghan*, cited above), would be regarded as bringing to an end the investigative obligation imposed by Article 2 of the Convention. She referred in that regard to the approach adopted by the domestic courts in the application brought by Jonathan McKerr after the Court's judgment for a declaration that the State was in continuing breach of the procedural obligation under Article 2 and for an order of mandamus to compel it to provide an effective investigation. On 26 July 2002 the High Court in Northern Ireland rejected the application, finding that this Court would not have exercised its discretion to award just satisfaction had it envisaged the possibility of *restitutio in integrum* through the holding of an effective investigation and therefore considered that any continuing obligation had come to an end once the Court had delivered its judgment. This decision has since been overturned by the Northern Ireland Court of Appeal, on 10 January 2003, and an application by the Crown for leave to appeal is apparently pending before the House of Lords. The applicant requested the Court to state that awards of just satisfaction do not bring to an end the rights conferred by Article 2. Since she would not wish any just satisfaction award to jeopardise action taken at the domestic level to enforce an investigation, she requested the Court not to make such an award if it were to agree with the High Court's approach mentioned above.

87. The Government stated that the applicant had received a very significant sum – some half a million pounds sterling (GBP) – under the Criminal Injuries Compensation Scheme and had shown a certain ambivalence as to whether she wished to claim compensation for non-pecuniary damage. As her main concern was to obtain a judgment of the

Court against the United Kingdom, any such judgment would constitute in itself sufficient just satisfaction.

88. The Court observes that it has made awards for non-pecuniary damage in other similar cases in which it has found a breach of the procedural obligation under Article 2 of the Convention (see *Hugh Jordan*, *McKerr*, *Kelly and Others* and *Shanaghan*, cited above). The compensation referred to by the Government does not relate to the shortcomings in the official investigation and would not prevent an award for non-pecuniary damage in that respect.

89. As regards the applicant's views concerning the provision of an effective investigation, the Court has not previously given any indication that a Government should, as a response to such a finding of a breach of Article 2, hold a fresh investigation into the death concerned and has on occasion expressly declined to do so (see *Ülkü Ekinci v. Turkey*, no. 27602/95, § 179, 16 July 2002). Nor does it consider it appropriate to do so in the present case. It cannot be assumed in such cases that a future investigation can usefully be carried out or provide any redress, either to the victim's family or to the wider public by ensuring transparency and accountability. The lapse of time and its effect on the evidence and the availability of witnesses inevitably render such an investigation unsatisfactory or inconclusive, by failing to establish important facts or put to rest doubts and suspicions. Even in disappearance cases, where it might be argued that more is at stake since the relatives suffer from the ongoing uncertainty about the exact fate of the victim or the location of the body, the Court has refused to issue any declaration that a new investigation should be launched (see *Orhan v. Turkey*, no. 25656/94, § 451, 18 June 2002). It rather falls to the Committee of Ministers acting under Article 46 of the Convention to address the issues as to what may be required in practical terms by way of compliance in each case (see, *mutatis mutandis*, *Akdivar and Others v. Turkey* (Article 50), judgment of 1 April 1998, *Reports* 1998-II, pp. 723-24, § 47).

90. In sum, the Court is unable to make the declaration or clarifications requested by the applicant with a view to the consequences of this judgment. As she has stated that in this event she does not wish any award to be made, it will proceed on the basis that her claim is withdrawn.

B. Costs and expenses

91. The applicant claimed GBP 94,020.22, inclusive of value-added tax (VAT), for costs and expenses related to legal work done since the introduction of the case in 1995. This included fees of GBP 31,385.75 for

over 207 hours' work by a senior solicitor, GBP 6,580 for over 117 hours' work by a paralegal, GBP 29,375 for fees of senior counsel and GBP 19,583.32 for junior counsel.

92. The Government submitted that this was grossly excessive. While the case was complex, many of the legal issues were similar to those raised in the other Northern Ireland cases. The claims by lawyers included well over 300 hours by solicitors plus unspecified hours by two counsel. They considered there must have been a significant degree of duplication of work and that the applicant has not demonstrated that these legal costs were reasonably and necessarily incurred.

93. The Court notes that this case, which has been pending for some considerable time, has involved several rounds of written submissions and may be regarded as factually and legally complex. Nonetheless, no oral hearing has been held. It finds the fees claimed to be on the high side when compared with other cases from the United Kingdom and is not persuaded that they are reasonable as to quantum. Having regard to equitable considerations, it awards the sum of 43,000 euros, plus any VAT which may be payable.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

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

2. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 43,000 (forty-three thousand euros) in respect of costs and expenses, to be converted into pounds sterling at the rate applicable at the date of settlement, plus any tax that may be chargeable;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 1 July 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Matti PELLONPÄÄ
President