CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

CASE OF LAGERBLOM v. SWEDEN

(Application no. 26891/95)

JUDGMENT

STRASBOURG

14 January 2003

FINAL

14/04/2003

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 Lagerblom v. Sweden,

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

Sir Nicolas BRATZA, *President*,
Mr M. PELLONPÄÄ,
Mr A. PASTOR RIDRUEJO,
Mrs E. PALM,
Mr M. FISCHBACH,
Mr J. CASADEVALL,
Mr S. PAVLOVSCHI, *judges*,
and Mrs F. ELENS-PASSOS, *Deputy Section Registrar*,

Having deliberated in private on 10 December 2002,

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

PROCEDURE

1. The case originated in an application (no. 26891/95) against the Kingdom of Sweden lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Finnish national, Antero Lagerblom ("the applicant"), on 2 January 1995.

2. The applicant, who had been granted legal aid, was represented by Mr I. Salmi, a lawyer practising in Gothenburg. The Swedish Government ("the Government") were represented by their Agent, Ms I. Kalmerborn, Ministry for Foreign Affairs.

3. The applicant alleged, in particular, that his rights under Article 6 of the Convention had been violated in criminal proceedings against him, as he had not been given a Finnish-speaking public defence counsel.

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

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

6. By a decision of 15 February 2000 the Court declared the application admissible.

7. The Government, but not the applicant, filed observations on the merits (Rule 59 § 1). The Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 2 *in fine*), the applicant replied in writing to the Government's observations.

8. 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.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

9. The applicant, who was born in 1942, settled in Sweden in the second half of the 1980s. His mother tongue is Finnish.

10. On 3 December 1991 the applicant was charged before the District Court (*tingsrätten*) of Gothenburg with aggravated drunken driving and driving without a driver's licence. According to the record of the police investigation, he did not request the assistance of a public defence counsel. On 9 January 1992 the District Court, apparently of its own motion, appointed the lawyer H. as public defence counsel for the applicant.

11. On 22 April 1992 the applicant was charged with another incident of aggravated drunken driving and driving without a driver's licence. According to the record of the police investigation, he stated that he wished the lawyer S. to be appointed as public defence counsel.

12. On 31 August 1992 the applicant was charged with yet another incident of aggravated drunken driving and driving without a driver's licence. According to the record of the police investigation, he did not wish to be assisted by public defence counsel.

13. On 22 December 1992 the applicant was charged with causing a traffic accident, leaving the scene of the accident and driving without a driver's licence. According to the record of the police investigation, he did not wish to be assisted by public defence counsel.

14. On 21 January 1993 the applicant was charged with possessing a knife in a public place. According to the record of the police investigation, he did not wish to be assisted by public defence counsel.

15. On 22 January 1993 the public prosecutor applied for a detention order regarding the applicant, who was suspected of attempted aggravated assault. According to the prosecutor's application, the applicant wished to have S. as public defence counsel. At the subsequent hearing, the lawyer P.S. replaced, with the District Court's permission, H. as public defence counsel. According to the minutes from the hearing, the applicant requested that S., a Swedish lawyer who had previously assisted him and who knew Finnish, should be appointed as his public defence counsel, whereupon the judge informed him that he should give reasons for his request in writing. The court rejected the application for a detention order and released the applicant. Subsequently he did not submit a written request for a replacement of defence counsel.

16. On 9 February 1993 the applicant was charged with attempted aggravated assault and possessing a knife in a public place.

17. When scheduling the main hearing, the District Court had telephone contact with the applicant who reiterated his request to have S. appointed as his public defence counsel. The court asked the applicant to contact H. in the matter.

18. Before the District Court the applicant apparently lodged some submissions independently of counsel H. It appears that these submissions were all in Finnish, the applicant invoking his right under the Nordic Language Convention (*Nordiska språkkonventionen*) to submit pleadings in his mother tongue. All the written submissions were translated into Swedish and entered into the case-file.

19. At the main hearing on 10 May 1994 the applicant was assisted by H. as public defence counsel. Neither the minutes of the hearing nor the judgment delivered in the case contains any indication that the applicant at that time expressed a wish to have his public defence counsel replaced. In addition to counsel's oral submissions, the applicant defended himself orally in Finnish via a court-appointed interpreter. He denied some of the offences he was charged with, confessed some and declared that he neither confessed nor denied the remainder of the charges.

20. By a judgment of 24 May 1994 the applicant was convicted on all the above-mentioned counts and sentenced to 1 year and 2 months in prison. He was also ordered to pay 450 Swedish kronor (SEK) of the total litigation costs in the case. These included H.'s fees which amounted to SEK 10,395 for, *inter alia*, ten hours of work. The remainder of the costs was borne by the State.

21. The applicant appealed against the judgment in respect of the charges he had denied. The prosecution also appealed, seeking a more severe sentence. The prosecution stated that the applicant was in great need of public counsel for his defence, although he clearly did not wish to be represented by H.

22. On 23 August 1994, in the proceedings before the Court of Appeal (*hovrätten*) for Western Sweden, the applicant requested that counsel H. be replaced by S. The applicant reiterated that he had previously been assisted by S. and that he was able to communicate with him in Finnish. S. had declared that he was willing to assist the applicant as public defence counsel.

23. On 6 September 1994 the applicant's request was refused, the appellate court considering that sufficient reasons for counsel to be replaced had not been presented. On 30 November 1994 the Supreme Court (*Högsta domstolen*) refused the applicant leave to appeal against the Court of Appeal's decision.

24. As in the proceedings before the District Court, the applicant apparently lodged some submissions in Finnish before the appellate court, all of which were translated into Swedish and entered into the case-file.

25. The Court of Appeal heard the case on 22 May 1995. H. attended the hearing as the applicant's counsel. There is no indication in the minutes of the hearing that the applicant opposed H.'s presence. Having heard H.'s oral pleadings, the Court of Appeal gave the applicant the floor via a court-appointed interpreter.

26. On 6 June 1995 the Court of Appeal upheld the applicant's conviction and sentence. It also decided that the litigation costs in the appeal proceedings – including H.'s fees of SEK 3,455 – should be paid by the State.

27. On 23 August 1995 the Supreme Court refused the applicant leave to appeal.

II. RELEVANT DOMESTIC LAW AND PRACTICE

28. The references made in the following pertain to chapter 21 of the Code of Judicial Procedure (*Rättegångsbalken*; hereinafter "the Code"), if not otherwise indicated.

A. Appointment of defence counsel

29. The suspect may conduct the defence on his or her own (section 1) or with the assistance of a defence counsel (section 3) who, as a main rule, is appointed by the suspect (section 3, subsection 2). A defence counsel so appointed is referred to as private defence counsel, as opposed to one appointed by a court who is referred to as public defence counsel.

30. Public defence counsel is to be appointed for a person who is arrested or in detention, if he or she so requests. Upon request, such counsel will also be appointed for a person suspected of an offence for which the statutory penalty is imprisonment for at least six months (section 3 a, subsection 1). In addition, public defence counsel must be appointed under either of the following circumstances: (1) if the suspect is in need of counsel due to the criminal investigation, (2) if there is such a need on account of it being uncertain which penalty will be imposed and there is reason to impose a penalty other than a fine or a conditional sentence or a combination of those penalties, or (3) there are other special reasons relating to the suspect's personal situation or the subject matter of the case (section 3 a, subsection 2). However, if the suspect has already appointed defence counsel, no additional public counsel is to be appointed (section 3 a, subsection 3).

31. The court considers the question of appointing public defence counsel if such appointment has been requested or it finds cause therefor of

its own motion (section 4, subsection 2). A request for the appointment of public defence counsel may be made by the suspect or the public prosecutor responsible for the pre-trial investigation. In deciding this issue, the starting-point for the court is whether there is a need for counsel considering the character of the matter at stake. According to the preparatory documents to the legislation (Government Bill 1983/84:23, p. 13), there may not be any consideration of the suspect's economic situation in this context.

32. The suspect has a certain influence on the appointment of public defence counsel. Thus, the person suggested by the suspect is to be appointed if he or she is competent and the appointment would not cause a considerable increase in the costs or there are other special reasons against that appointment (section 5, subsection 2). According to the preparatory documents (*Nytt juridiskt arkiv* (NJA) II 1943, p. 285), it is important that the suspect has confidence in the person assisting him or her. Somebody else than the person suggested should be appointed only if the above-mentioned reasons are at hand. There is no right to have public defence counsel who speaks the suspect's mother tongue, but such considerations may be taken into account. Otherwise, the matter of language is solved by using interpreters paid out of public funds.

B. Revocation of appointment and replacement of defence counsel

33. The appointment of public defence counsel may be revoked if there is no longer a need for such counsel or if there is some other justifiable reason. If the suspect authorises another person than the publicly appointed counsel to conduct his or her defence, the appointment is to be revoked, unless this would cause considerable inconvenience (section 6).

34. A publicly appointed counsel may also be replaced; such a replacement, however, has to be supported by justifiable reasons (see NJA II 1943, p. 285). There are some examples in case-law of how this issue has been dealt with by the courts.

35. In one case (NJA 1980, p. 177) the Supreme Court allowed that public defence counsel be replaced on the ground that special importance had to be attached to a lack in the defendant's confidence in his counsel when there was a risk of long-term imprisonment and there could be differing opinions as to what evidence should be presented to the court. The District Court had sentenced the defendant to six years' imprisonment for, *inter alia*, an aggravated narcotics offence.

36. Another case (NJA 1981, p. 1080) concerned an accused who, pleading not guilty, had been sentenced for murder to life imprisonment. The Supreme Court stated that in such a case, where the accused had no confidence in his public defence counsel, he should be allowed to have that counsel replaced.

37. In a third case (*Rättsfall från hovrätterna* (RH) 17:84) a Finnish national was suspected of murder. The Court of Appeal did not allow the replacement of his public defence counsel in favour of someone who was able to speak Finnish.

C. Costs of the defence

38. Private defence counsel is paid for by the suspect. If the suspect is acquitted, the costs of the defence are normally reimbursed. Public defence counsel, however, is paid out of public funds (Section 3 a). Chapter 31 of the Code regulates who will eventually bear counsel's costs in such a case. Normally, if the suspect is convicted, he or she will have to pay the costs of the defence, in whole or in part, depending on his or her economic situation. If the suspect is acquitted, the State will bear the costs, as with the costs of private defence counsel.

D. Appeals

39. A decision by a District Court to refuse a request for the appointment of public defence counsel, or a decision to appoint another counsel than the one suggested by the suspect, may be appealed against to a Court of Appeal and further to the Supreme Court.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

40. The applicant complained that he had not been allowed to be defended by counsel of his own choosing, with whom he could have spoken Finnish and whose pleadings he would have been able to fully understand. Describing his level of Swedish as "street Swedish", he maintained that he had been able to communicate with H., the counsel appointed for him, only via an interpreter and that H., as a consequence, had not been able to carry out his duties properly. The applicant relied on Article 6 of the Convention which, in so far as relevant, provides the following:

> "1. In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...
>
> ...
>
> 3. Everyone charged with a criminal offence has the following minimum rights:
>
> ...

(c) to defend himself ... through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

...

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court."

A. The submissions of the parties

1. The Government

41. The Government maintained that, while Article 6 § 3 of the Convention guarantees the right to an adequate defence, it does not give the accused person a right to decide in what manner his or her defence should be secured. They asserted that the States have a wide discretion to decide how to fulfil their obligations under Article 6 § 3 (c).

42. The Government pointed out that the applicant had not expressed a wish to be assisted by public defence counsel when his case had been brought before the District Court in 1991. However, under the Code of Judicial Procedure, the courts were obliged to appoint public defence counsel under certain circumstances. Referring to chapter 21, section 3 a, subsection 2 (2) of the Code, the Government contended that in cases concerning aggravated drunken driving there might be reason to give a conditional sentence combined with an order to undergo different kinds of treatment and the courts therefore often consider the assistance of counsel to be necessary in order to have put forward arguments relating to the personal circumstances of the accused which speak in favour of penalties other than imprisonment. In the applicant's case, the District Court had appointed a public defence counsel of its own motion, obviously considering that the interests of justice required legal assistance. It is primarily for the domestic authorities to make such an assessment. By appointing a public defence counsel for the applicant, the court had guaranteed the right to an adequate defence. Moreover, the applicant had not been prevented from appointing S. as his private defence counsel. Nothing in the case-files of the Swedish courts indicated that the applicant had informed the courts that he was prepared to pay S.'s fees himself. If he had done so, the courts would certainly have revoked H.'s appointment as public defence counsel.

43. The Government also adduced that nothing in the case indicated that H. had not fulfilled his obligations as defence counsel by providing the applicant with effective legal assistance. In seeking to have H. replaced by S., the applicant had given the District Court no reasons for his request and had not referred to any co-operation difficulties or lack of confidence in H. before the Court of Appeal. Moreover, he had not brought to the attention of the courts any particular shortcomings in the defence conducted by H. Although told by the District Court to state the reasons for his replacement

request in writing, the applicant did not do so. A formal request for H. to be replaced by S. was not made until the case was pending before the Court of Appeal, at which stage of the proceedings a change of public defence counsel would have entailed substantial additional costs. The Government were further of the opinion that the assessment made by the courts of the need to replace defence counsel must clearly be considered as falling within the margin of appreciation afforded to a Contracting State when examining a question of this character. They also submitted that the minutes of the oral hearing before the Court of Appeal did not indicate that the applicant had objected to H.'s attendance as public defence counsel or that the applicant had been prevented from conducting his own defence.

44. Furthermore, the linguistic problems in the case had been solved by providing the applicant with the necessary assistance of an interpreter. The Government submitted that, even if S. had been appointed, interpretation into Finnish would have been necessary before the courts given the applicant's contention that his knowledge of Swedish was insufficient.

45. In conclusion, the Government maintained that neither the appointment of H. as public defence counsel nor the refusal to replace him with S. involved a failure of the courts to observe the applicant's rights under Article 6 §§ 1 and 3 of the Convention. He had accordingly had a fair trial.

2. The applicant

46. The applicant maintained that he had not wished to have public defence counsel appointed for him during the initial proceedings, since he had been aware of the likely sentence and could expect that part of the cost for that counsel would fall on him. It might be justified to appoint public defence counsel for a suspect in very complicated cases, but drunken driving and other traffic offences were not serious enough to warrant such an appointment against the will of the suspect. However, the applicant had denied the later charge of aggravated assault. At that moment, due to the severity of the charge and his understanding that he risked a long term of imprisonment, he had expressed the wish to be assisted by public defence counsel. He had clearly requested that S. be appointed. This request had been denied without specific reasons being given.

47. The applicant further submitted that H. had been unable to perform his duties effectively as defence counsel due to the applicant's refusal to co-operate with him and their difficulties in communicating. In general, communication between the defendant and his counsel is crucial in planning an effective defence strategy. Moreover, as S. had his office in the same city as H., there would not have been any increased costs in appointing him as public defence counsel. Further, he would have paid S.'s fees, if necessary. The applicant also maintained that, as he belongs to a large Finnish minority

in Sweden, the courts should have appointed a Finnish-speaking public defence counsel for him.

B. The Court's assessment

48. The Court first notes that the guarantees in paragraph 3 of Article 6 are specific aspects of the right to a fair trial in criminal proceedings set forth in paragraph 1 of the same Article. Accordingly, the applicant's complaint will be examined under these provisions taken together (see, among other authorities, the Benham v. the United Kingdom judgment of 10 June 1996, *Reports of Judgments and Decisions* 1996-III, p. 756, § 52).

49. The Court reiterates at the outset that, read as a whole, Article 6 of the Convention guarantees the right of an accused to participate effectively in a criminal trial. In general this includes not only the right to be present, but also the right to receive legal assistance, if necessary, and to follow the proceedings effectively. Such rights are implicit in the very notion of an adversarial procedure and can also be derived from the guarantees contained in sub-paragraphs (c) and (e) of Article 6 § 3 (see, among other authorities, the Stanford v. the United Kingdom judgment of 23 February 1994, Series A no. 282-A, pp. 10–11, § 26).

50. A legal requirement that an accused be assisted by counsel in criminal proceedings cannot be deemed incompatible with the Convention (see the Croissant v. Germany judgment of 25 September 1992, Series A no. 237-B, p. 32, § 27).

51. In determining whether the interests of justice require that an accused be given free legal assistance, regard must be had to the seriousness of the offence and the severity of the possible penalty as well as the complexity of the case (see the Quaranta v. Switzerland judgment of 24 May 1991, Series A no. 205, p. 17, §§ 32-34, and the Benham v. the United Kingdom judgment cited above, p. 757, § 60).

52. In the present case, the Court notes that the applicant did not request the assistance of public defence counsel when he was charged with the first traffic offence in December 1991. He requested such assistance in April 1992 in connection with the second traffic offence, but again made no request to this end when he was charged with further traffic offences in August and December 1992. Before the Court the applicant has stated that he did not wish to have public defence counsel appointed for him during the initial proceedings and that traffic offences were not serious enough to warrant such an appointment against his will. Only when he was charged with the more severe offence of aggravated assault did he wish to be assisted by counsel.

53. However, the Court has regard to chapter 21, section 3 a, subsection 2 (2) of the Code of Judicial Procedure, according to which public defence counsel must be appointed, unless the suspect already has legal assistance, if

the court considers it necessary owing to the possibility that a penalty other than a fine or a conditional sentence might be chosen. The Court accepts the Government's contention that this situation often arises in cases concerning aggravated drunken driving as there might be reason to give a conditional sentence combined with an order to undergo different kinds of treatment. Further considering that the assessment whether the interests of justice require that an accused be provided with legal assistance primarily rests with the national authorities, the Court finds that neither the legal requirement of legal assistance under the Code of Judicial Procedure nor the District Court's appointment of H. as the applicant's public defence counsel contravened the applicant's rights under Article 6 of the Convention, notwithstanding his obligation to pay a minor part of the litigation costs in the case.

54. It is true that Article 6 § 3 (c) entitles an accused to be defended by counsel "of his own choosing". Nevertheless, and notwithstanding the importance of a relationship of confidence between lawyer and client, this right cannot be considered to be absolute. It is necessarily subject to certain limitations where free legal aid is concerned. When appointing defence counsel the courts must certainly have regard to the accused's wishes but these can be overridden when there are relevant and sufficient grounds for holding that this is necessary in the interests of justice (see the Croissant v. Germany judgment cited above, p. 33, § 29).

55. Similarly, Article 6 § 3 (c) cannot be interpreted as securing a right to have public defence counsel replaced (see, among other authorities, Östergren v. Sweden, application no. 13572/88, Commission decision of 1 March 1991, Decisions and Reports 69, p. 198, at p. 204, and *Erdem v. Germany* (dec.), no. 38321/97, 9 December 1999, unreported).

56. However, the appointment of defence counsel does not necessarily settle the issue of compliance with the requirements of Article 6 § 3 (c). Although the conduct of the defence is essentially a matter between the accused and his counsel, the competent national authorities are required to intervene if a failure by public defence counsel to provide effective representation is manifest or sufficiently brought to their attention in some other way. Nevertheless, a State cannot be held responsible for every shortcoming on the part of a lawyer appointed for legal aid purposes (see, among other authorities, the Kamasinski v. Austria judgment of 19 December 1989, Series A no. 168, p. 33, § 65, and the Daud v. Portugal judgment of 21 April 1998, *Reports* 1998-II, pp. 749-50, § 38).

57. The Court notes that the applicant stated to the police in April 1992 that he wished S. to be appointed as his counsel. However, according to the records of the police investigations into the subsequent traffic offences, he did not wish to be assisted by public defence counsel. Having regard hereto and to the applicant's statement before the Court that he did not consider that traffic offences warranted such assistance against his will, the Court

cannot find that there was sufficient reason at that stage of the proceedings for the national authorities to consider H.'s replacement as counsel.

58. In January 1993, being suspected of attempted aggravated assault, the applicant repeated his wish to have S. as public defence counsel. However, he did not pursue the request at that time as, following the District Court's hearing on the issue of detention, he failed to comply with the judge's instruction to give reasons for his request in writing. In fact, a formal request for H. to be replaced by S. was not submitted until August 1994, when the case was before the Court of Appeal. It is true that the applicant informed the District Court of his wish when it scheduled its main hearing in the case. However, he did not pursue this request after having been told to contact H. and made no objection to H.'s appearance and assistance at the District Court's hearing in May 1994.

59. The Court takes note of the fact that at the time of the District Court's main hearing H. had been the applicant's counsel for about two and a half years. Thus, when the applicant – during the scheduling of that hearing – sought his replacement, H. had already undertaken a certain amount of work, notably in regard to the six indictments that had been made against the applicant on different occasions and in preparation for the main hearing. The amount of work undertaken had obviously increased when the Court of Appeal was seized with the replacement request in August 1994. In this connection, it should be noted that the courts approved H.'s invoices, including the ten hours of work accounted for in the District Court. Thus, whether the courts can be said to have been called upon to determine the question of replacement of counsel already when the applicant informed the District Court of his wish at the time of that court's hearing preparations or only when a formal request was made to that end before the Court of Appeal in August 1994, it is clear that the proceedings had reached a stage where the requested replacement would have caused certain inconvenience and entailed additional costs. The Court does not find it unreasonable, in view of the general desirability of limiting the total costs of legal aid, that national authorities take a restrictive approach to requests to replace public defence counsel once they have been assigned to a case and have undertaken certain activities.

60. Moreover, there is no evidence in the case that the applicant, before the Swedish courts, claimed that H., for any reason, was unable to provide him with effective legal assistance or that he lacked confidence in H., nor is there any indication of a manifest failure on the part of H. which should have led the courts to intervene of its own motion.

61. The reason for the applicant's wish to have H. replaced by S. was rather that he was able to communicate directly with the latter in Finnish. The Court reiterates that the right guaranteed under Article 6 § 3 (e) for an accused who cannot understand or speak the language used in court to have the free assistance of an interpreter extends to all those documents or

statements in the criminal proceedings which it is necessary for the accused to understand or to have rendered into the court's language in order to have the benefit of a fair trail. The interpretation assistance provided should be such as to enable the accused to have knowledge of the case against him and to defend himself, notably by being able to put before the court his version of the events (see, among other authorities, the Kamasinski v. Austria judgment cited above, p. 35, § 74).

62. The Court accepts that the applicant's knowledge of Swedish might have been somewhat limited despite his lengthy stay in Sweden. However, noting that the applicant described his proficiency as "street Swedish" and that he thus had a certain command of the language, the Court cannot find that he was so handicapped that he could not at all communicate with H. or understand him. It further observes that interpretation between Finnish and Swedish was arranged both at the District Court's and the Court of Appeal's hearings and that the applicant made oral submissions in Finnish during those hearings. Furthermore, in accordance with the Nordic Language Convention, he was allowed to make written submissions in Finnish to both courts which were translated and entered into the case-file. In these circumstances, the Court considers that the interpretation assistance provided for the applicant was adequate.

63. Finally, the Court notes the applicant's contention that he would have paid S.'s fees, if necessary. It appears, however, that he did not inform the courts of his readiness to defray those costs. Moreover, there is no indication that the courts would have refused S. as private defence counsel. Rather, if the applicant had appointed S. as private counsel, the courts could have been expected to revoke the appointment of H. in accordance with chapter 21, section 6 of the Code of Judicial Procedure.

64. Having regard to the foregoing, the Court considers that the applicant was able to participate effectively in his trial and that, consequently, the criminal proceedings, taken as a whole, cannot be regarded as unfair.

There has accordingly been no breach of Article 6 §§ 1 and 3 of the Convention.

FOR THESE REASONS, THE COURT

Holds unanimously that there has been no violation of Article 6 §§ 1 and 3 of the Convention.

Done in English, and notified in writing on 14 January 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President

N.B.
M.O'B