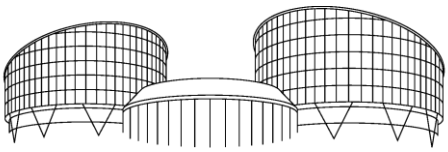

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF MATEESCU v. ROMANIA

(Application no. 1944/10)

JUDGMENT

STRASBOURG

14 January 2014

FINAL

14/04/2014

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Mateescu v. Romania,

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

Josep Casadevall, President,
Alvina Gyulumyan,
Corneliu Bîrsan,
Luis López Guerra,
Nona Tsotsoria,
Johannes Silvis,
Valeriu Griţco, judges,

and Santiago Quesada, Section Registrar,

Having deliberated in private on 10 December 2013,

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

PROCEDURE

1. The case originated in an application (no. 1944/10) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Romanian national, Mr Mircea Mateescu ("the applicant"), on 11 December 2009.

2. The applicant was represented by Ms Diana Elena Dragomir, a lawyer practising in Bucharest. The Romanian Government ("the Government") were represented by their Agent, Ms I. Cambrea, of the Ministry of Foreign Affairs.

3. The applicant alleged, in particular, that he was not allowed to practise simultaneously as a lawyer and as a doctor, in breach of his Convention rights.

4. On 26 January 2012 the application was communicated to the Government.

5. On 10 December 2013 the Chamber rejected the applicant's request that it relinquish jurisdiction in favour of the Grand Chamber (Rule 72 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1953 and lives in Bucharest.

7. He is a doctor with substantial experience, having been a general practitioner for more than eighteen years. In this capacity, he currently has

his own private practice, with two employees. He also teaches at the Bucharest Faculty of Medicine and has authored several works in the field of general medicine.

8. In 2006 the applicant graduated from law school; one year later, he registered to become a lawyer, after having passed the annual entrance examination organised by the Bucharest Bar. On 18 December 2007 the Bucharest Bar issued a decision validating the results of the examination and declaring that the applicant was admitted to the Bar.

9. The Bucharest Bar further decided on 14 February 2008 to register the applicant as a trainee lawyer (*avocat stagiar*) as of 15 February 2008. A two-year traineeship period being an obligatory condition for obtaining a licence to practise as a lawyer, the applicant signed a traineeship agreement (*contract de colaborare*) with the B.P. private law firm. On 15 February 2008 the Bar approved the applicant's traineeship within the firm.

10. On 13 March 2008 the applicant submitted a request to the Dean of the Bucharest Bar to be allowed to pursue his two-year traineeship (*stagiu*) in compliance with section 17 of Law no. 51/1995 regulating the legal profession, notwithstanding the fact that he simultaneously had his own private medical practice. He considered that "the medical profession was not incompatible with the dignity of the legal profession or the lawyers' rules of conduct within the meaning of Rule 30 of the Rules governing the Legal Profession".

On 20 March 2008, applying section 14 (b) and section 53 (2) (e) of Law no. 51/1995, the Bucharest Bar rejected the applicant's request. In its decision the Bar held:

> "the applicant's request to practise simultaneously as a lawyer and as a doctor is dismissed, and the applicant must consequently opt for one of the two professions."

11. On 21 April 2008 the applicant contested that decision before the National Bar Association. He challenged the reason for the dismissal of his request, which, citing section 14 (b), referred to ineligibility to practise as a lawyer for anyone who already pursued a "profession that infringes the dignity and the independence of the legal profession or is contrary to good morals". He contended that his professional CV, including a Ph.D. in medicine, a career of teaching at the university and the authorship of several books on medicine, could on no account infringe the dignity of the legal profession. At the same time, he pointed to the fact that he was neither an employee nor a trader, as proscribed by the legislation regulating the activities of lawyers.

On 18 June 2008 the National Bar Association upheld the Bucharest Bar's decision, this time on the basis of section 15 of Law no. 51/1995, which enumerated "exhaustively" the professions that were compatible with the profession of lawyer (see "Relevant domestic law" below). As the

practice of medicine was not specified among those professions, the applicant's request was dismissed.

12. That decision was contested before the Bucharest Court of Appeal.

In its reply to the applicant's submissions, the respondent argued, firstly, that the combined interpretation of sections 14 and 15 of the Law led to the conclusion that no other profession could be practised in parallel with that of a lawyer, except for those restrictively enumerated under section 15; furthermore, the practice of two liberal professions at the same time was not permitted by the law, nor was it desirable, in view of the fact that each liberal profession required 100% dedication on the part of the person practising it.

13. On 20 January 2009 the court allowed the applicant's claims, holding that section 14 (b) was not applicable, in so far as "the profession of doctor does not impinge on the independence of the profession of lawyer". The court further held that any restriction on practising a profession must be expressly and unequivocally prescribed by law, which was not the case in this instance. Moreover, the Romanian Constitution protected the right to work, which could not be subject to any limitations, with a few exceptions expressly enumerated in section 53, such as national security reasons, protection of public order, health and public morals or protection of individual rights and freedoms, none of which was applicable in the applicant's case.

Furthermore, the prohibition on practising as a lawyer while also practising as a doctor was not included in the text of section 14 (b) of Law no. 51/1995, which referred only to professions that infringed the dignity and the independence of the legal profession or were *contra bonos mores*.

The court further held that section 15 of the Law did not contain an exhaustive list of the professions compatible with the profession of lawyer, in spite of the National Bar Association's interpretation of that provision to the effect that if the medical profession was not included in the text among the compatible professions, this meant, by converse implication, that it was not compatible with the profession of lawyer. The incompatible professions were enumerated exhaustively in section 14, and the profession of doctor was not among them.

The assertion that practising a liberal profession required total dedication and implicitly a lot of time on the part of the practitioner could not be taken into consideration for the assessment of the lawfulness of the decisions taken by the local and national Bars; not having enough time to devote to clients' cases had nothing to do with the independence of the legal profession. The court thus confirmed the applicant's right to practise both professions simultaneously, annulling the Bars' decisions.

14. The National Bar Association appealed against that judgment to the High Court of Cassation and Justice. It argued that while section 14 of the Law listed the professions that were incompatible with the profession of

lawyer in a generic manner, giving examples, section 15 regulated, strictly and restrictively, the exceptions that were allowed, among which the profession of doctor was not mentioned. At the same time, the simultaneous practice of both professions infringed the principle of the independence of lawyers. In wanting to practise both professions, the applicant demonstrated only his extreme mercantilism, as he "minimised the importance of these professions, treating them as mere sources of income".

15. On 24 June 2009 the High Court allowed the appeal and dismissed the applicant's request, holding that the combined interpretation of sections 14 and 15 led to the conclusion that the list of compatible situations was exhaustive and thus section 15 referred to the only professions that by law were compatible with that of a lawyer; the High Court pointed out that even if the provisions of Rule 30 of the Rules governing the Legal Profession, relied on by the applicant in his defence, also enumerated other situations of incompatibility and compatibility, they were of inferior rank to a law and therefore they could not contradict those of the law itself.

II. RELEVANT DOMESTIC LAW AND PRACTICE

16. The applicable domestic legislation is presented below.

1. The Romanian Constitution

The relevant provisions of the Romanian Constitution read as follows:

Article 41

"(1) The right to work shall not be restricted. Everyone has the free choice of his or her profession, trade or occupation, and workplace."

Article 53

"(1) The exercise of certain rights or freedoms may only be restricted by law, and only if necessary, as the case may be, for: the defence of national security, of public order, health or morals, or of citizens' rights and freedoms; the conduct of a criminal investigation; or prevention of the consequences of a natural calamity, disaster or extremely severe catastrophe.

(2) Such restriction shall be ordered only if necessary in a democratic society. The measure shall be proportionate to the situation that caused it, shall apply without discrimination, and shall not impair the existence of such right or freedom."

2. Law no. 51/1995 regulating the legal profession

The relevant provisions of Law no. 51/1995 read as follows:

Section 11

"(1) A person who meets the following conditions may be a member of a Bar in Romania:

(a) he or she is a Romanian citizen and a holder of civil and political rights;

(b) he or she is a law faculty graduate or a doctor of law (Ph.D.);

(c) he or she is not in one of the categories of ineligibility specified by this Law;

(d) he or she is medically fit to practise as a lawyer.

(2) Compliance with the condition in point (d) of subsection (1) above shall be proved by means of a medical certificate attesting that the person is in good health, issued on the basis of findings by a medical board constituted under the terms specified in the Rules governing the legal profession."

Section 14

"Practising the profession of lawyer shall be incompatible with:

(a) a salaried activity within a profession other than the legal profession;

(b) occupations affecting the dignity and independence of the legal profession or good morals;

(c) direct involvement in trading activities."

Section 15

"Practising the profession of lawyer shall be compatible with:

(a) the position of member of parliament or senator, or member of a local or county council;

(b) teaching activities, and offices in higher legal education;

(c) literary and publishing activities;

(d) the function of arbitrator, mediator, conciliator or negotiator, tax adviser, adviser on intellectual property, adviser on industrial property, licensed translator, administrator or liquidator in procedures of judicial reorganisation or liquidation, in accordance with the law."

Section 16

"(1) Admission to the profession shall be obtained on the basis of an examination organised by the Bar, under the provisions of this Law and the Rules governing the profession. (...)"

Section 17

"(...)

(2) The conditions for completing the traineeship and the rights and obligations of lawyers on probation, and of supervising lawyers and the Bar towards them, shall be regulated by the Rules governing the profession.

(3) The training term shall be suspended if the lawyer performs military service or is conscripted, if he or she is absent from the profession for good reasons, or if the professional guidance is terminated through no fault of the lawyer on probation. The training already completed shall be taken into consideration when calculating the completion of the term.

(4) After the training term is completed, the lawyer on probation shall take the examination to become a permanent lawyer."

Section 53

"(1) A Bar Council shall be composed of five to fifteen members, elected for a four-year term of office. The President and Vice-President of the Bar shall be included in that number.

(2) The powers of the Bar Council shall be as follows:

(...)

(e) to check and establish that the lawful requirements have been met as regards applications for admission to the profession, and to approve admission to the profession on the basis of an examination or an exemption from the examination; (...)"

Section 63

"The Council of National Bar Associations shall have the following powers:

(...)

(o) it shall check, at the request of the persons concerned, that the decisions of the Bar Councils on admission to the profession are lawful and based on good grounds;

(p) it shall annul decisions by the Bar on grounds of unlawfulness, and settle complaints and legal disputes brought against decisions adopted by Bar Councils, in the circumstances specified by law and the Rules governing the profession; (...)"

3. Rules governing the Legal Profession

The relevant parts of the Rules governing the Legal Profession read as follows:

Rule 28

"In order to be registered and to practise this profession, the lawyer must not be in one of the situations of incompatibility referred to in the law."

Rule 30

"(1) The following are incompatible with the practice of the profession of lawyer, unless declared otherwise by a *lex specialis*:

(a) personal trading activities, performed with or without a licence;

(b) the status of associate in private companies such as a general partnership (*societate în nume colectiv*), a limited partnership or a partnership limited with shares (*societate comercială în comandită simplă sau în comandită pe acțiuni*).

(c) the status of manager of a limited partnership with shares private company (*societate în comandită pe acțiuni*);

(d) the status of CEO, sole manager or member of the board of directors of a private company such as limited liability or a joint-stock company (*societate comercială cu răspundere limitată sau pe acțiuni)*.

(2) The lawyer may be an associate or partner in a limited liability or a joint- stock private company (*societate comercială cu răspundere limitată sau pe acțiuni*)

(3) The lawyer may be a member of the Board of a limited liability or a joint-stock private company, on condition that he/she brings this information to the Dean of the Bar [...]

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

17. Relying on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1, the applicant complained that the national authorities' decision not to allow him to practise simultaneously as a lawyer and as a doctor was wrongful and in breach of the principles of international law guaranteeing the individual right to work.

As the Court is master of the characterisation to be given in law to the facts of the case, it does not consider itself bound by the characterisation given by the parties. A complaint is characterised by the facts alleged in it and not merely by the legal grounds or arguments relied on (see *Powell and Rayner v. the United Kingdom*, 21 February 1990, § 29, Series A no. 172). Therefore, in the present case the Court considers that the applicant's

complaints are to be examined under Article 8 of the Convention which reads as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

18. The Government contended that Article 8 was not applicable on account of a lack of significant interference with the applicant's private life. They submitted that the measure complained of had not significantly affected the development of the applicant's social identity, or his ability to develop relationships with the outside world (contrast *Bigaeva v. Greece* (no. 26713/05, §23, 28 May 2009, and *Sidabras and Džiautas v. Lithuania*, nos. 55480/00 and 59330/00, § 48, ECHR 2004-VIII). Furthermore, the Bar's refusal to register the applicant as a lawyer came shortly after the entrance exam, and the applicant was free to choose between two different liberal professions, so the measure by no means banned him from becoming a lawyer.

19. The applicant contested these arguments.

20. The Court recalls that Article 8 of the Convention "protects a right to personal development, and the right to establish and develop relationships with other human beings and the outside world" (see *Pretty v. the United Kingdom*, no. 2346/02, § 61, ECHR 2002-III), and that the notion of "private life" does not in principle exclude activities of a professional or business nature (see *C. v. Belgium*, 7 August 1996, § 25, *Reports of Judgments and Decisions* 1996-III). It is, after all, in the course of their working lives that the majority of people have a significant opportunity to develop relationships with the outside world (see *Niemietz v. Germany*, 16 December 1992, § 29, Series A no. 251-B).

The Court has further held that restrictions on registration as a member of certain professions (for instance, lawyer or notary) which could to a certain degree affect the applicant's ability to develop relationships with the outside world undoubtedly fall within the sphere of his or her private life (see *Campagnano v. Italy*, no. 77955/01, § 54, ECHR 2006-IV). In its more recent case of *Bigaeva v. Greece*, cited above, the Court held that Article 8 can also cover employment, including the right of access to a profession, namely that of lawyer (§ 24).

21. In the present case, the Court notes that the national authorities' decision to condition the applicant's right to practise as a lawyer on his renouncing his medical career came at a moment in his professional life when he expected to be able to make good use of the legal skills he had acquired by dint of considerable academic effort and after having been admitted to the Bar.

In view of the above, the Court considers that the impugned measure impaired the applicant's chances of carrying on the profession of lawyer, and thus had particular repercussions on his enjoyment of his right to respect for his private life (see again *Bigaeva*, cited above, § 25) which attracted the applicability of Article 8 of the Convention.

22. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

23. The applicant submitted that the whole decision-making process concerning his request to practise as lawyer while also maintaining his medical practice lacked a pertinent legal basis. Furthermore, the impugned measure did not serve a public interest and was, in any event, neither necessary in a democratic society nor proportional.

He further contended that the legal provisions relevant to his situation did not support the High Court's decision to refuse his registration as a lawyer. At the same time, the applicant considered that in so far as the Health Law Act did not refer to any incompatibility between the medical and legal professions, symmetrically, the law on the legal profession could not be interpreted as including such an incompatibility either.

No arguments were put forward to prove that were he to practise both professions at the same time, the dignity and the independence of either would be affected in any way. On the contrary, he alleged that his expertise as a medical practitioner would effectively complement his career as a lawyer specialised in malpractice cases. He further submitted a document from the National Health Insurance, attesting that a doctor was not an employee of the House, the contract between the House and the medical practice being one of provision of medical care.

24. The Government argued that in so far as imposing conditions on acceding to the Bar could be regarded as interference, that interference was based on the provisions of Sections 14 and 15 of the law governing the legal profession, and was aimed at protecting the rights of others, namely clients, by ensuring the lawyer's independence. They argued that general

practitioners such as the applicant were bound to work under contracts with the National Health Insurance, which could raise questions as to their independence from State influence.

The Government further contended that the High Court's interpretation of the relevant texts was predictable and reasonable, in accordance with the principle *exceptio strictissimae interpretationis est*.

The Government underlined that the corresponding legislation in certain countries generally excluded the concurrent exercise of a different profession with that of a lawyer.

25. Lastly, the Government maintained that the impugned interference was in accordance with the law and foreseeable, as part of the system governing the legal profession, and aimed at safeguarding the interests of others; in this context, the regulation of the liberal professions was a matter best dealt with by the domestic courts and by the relevant authorities, namely the local and national Bar.

2. The Court's assessment

26. The Court would first reiterate that the object of Article 8 is essentially that of protecting the individual against arbitrary interference by the public authorities, compelling the State to abstain from such interference. In such a context, regard must be had to the fair balance which has to be struck between the general interest and the interests of the individual. The State's margin of appreciation is wider where it is required to strike a balance between competing private and public interests or between different Convention rights (see, among many other authorities, *Evans v. the United Kingdom* [GC], no. 6339/05, § 77, ECHR 2007-I).

27. In the present case, the applicant alleged that he intended to put his considerable experience in the medical profession to yet another use, namely providing legal counsel in medical malpractice cases. With that in mind, he graduated from law school in 2006; one year later he passed the examination organised for aspiring lawyers; he was then admitted to the Bar and his traineeship contract was accepted (see paragraphs 8 and 9 above); however, in view of the fact that he had not given up his medical practice, the Bar refused to allow him to practise as a lawyer, considering that the two professions were incompatible. This point of view was endorsed by the National Bar Association, reversed in court by the Bucharest Court of Appeal and upheld again by the High Court of Cassation and Justice.

In view of the above, the Court considers that the authorities' decision to condition the applicant's practising as a lawyer on his giving up his medical career, when he had already been accepted in the Bar after passing the admission exam, constitutes an interference with his right to respect for his private life.

28. Such interference will be in breach of Article 8 of the Convention unless it can be justified under paragraph 2 of Article 8 as being "in

accordance with the law", pursuing one or more of the legitimate aims listed therein, and being "necessary in a democratic society" in order to achieve the aim or aims concerned.

29. The expression "in accordance with the law" requires, firstly, that the impugned measure should have a basis in domestic law. Secondly, it refers to the quality of the law in question, requiring that it should be formulated with sufficient precision so as to be accessible to the person concerned, who must moreover be able to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail (see, among other authorities, *The Sunday Times v. the United Kingdom (no. 1)*, 26 April 1979, § 49, Series A no. 30, and *Michaud v. France*, no. 12323/11, §§ 94-96 ECHR 2012). The level of precision required of domestic legislation – which cannot in any case provide for every eventuality – depends to a considerable degree on the content of the instrument in question, the field it is designed to cover and the number and status of those to whom it is addressed (see *Vogt v. Germany*, 26 September 1995, § 48, Series A no. 323).

30. In the present case, the Court notes that the measure complained of was based on sections 14 and 15 of the Law regulating the legal profession. Therefore, the interference had a basis in domestic law. The Court has no reason to doubt that these texts were accessible. It remains, therefore, to be determined whether the application of these provisions was foreseeable.

31. The Court notes at the outset that neither text expressly referred to the medical profession.

While section 15 establishes cases of compatibility with some precision, section 14 defines cases of incompatibility in more general terms, referring to "occupations affecting the dignity and independence of the profession or good morals". This section does not refer at all to medical practice as included in those occupations, nor gives any indication thereof; moreover, the Romanian court did not reasonably establish why the dignity and independence of the lawyer would be affected by the exercise of the medical profession.

The Court further observes that the domestic authorities' views on which text was relevant, and on its implication for the applicant's request, diverged; in fact, the courts applied the same legal texts in a contrasting manner, reaching totally opposite conclusions.

It considers that in such circumstances, it is unlikely that the applicant could reasonably have foreseen that – in spite of the fact that he was admitted to the Bar and registered as a trainee lawyer, and that the law governing the legal profession did not explicitly mention that the practice of medicine was incompatible with the profession of lawyer, together with the general principle according to which everything which is not forbidden is allowed – he would, in the end, not be allowed to practise as a doctor and also as a lawyer.

32. Accordingly, the wording of the legal provisions regulating the practice of the profession of lawyer was not sufficiently foreseeable to enable the applicant – even though, being aspiring lawyer, he was informed and well-versed in the law – to realise that the concurrent practice of another profession, not enumerated among those excluded by the law, entailed the denial of his right to practise as lawyer (see, for instance, *N.F. v. Italy*, no. 37119/97, § 31, ECHR 2001-IX; *Sorvisto v. Finland*, no. 19348/04, § 119, 13 January 2009; and *Ternovszky v. Hungary*, no. 67545/09, §26, 14 December 2010).

33. That being so, the Court concludes that the condition of foreseeability was not satisfied and that, accordingly, the interference was not in accordance with the law.

There has accordingly been a violation of Article 8 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

34. Lastly, the applicant complained under Article 14 of the Convention and Article 1 of Protocol No. 12 that the High Court's interpretation of the evidence and of the applicable law was discriminatory.

35. The Court, having examined these complaints, considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

36. 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

37. The applicant claimed 14,655 euros (EUR) in respect of pecuniary damage. He submitted that since 2007 when the measure complained of was taken, he had been prevented from earning income as a lawyer. Referring to the national minimum gross wage for people with higher education from

2007 to the present day, the applicant considered that he was entitled to the amount requested.

Relying on the fact that the ban imposed on him affected both his professional and his personal life and subjected him to considerable humiliation, the applicant requested EUR 1 in respect of non-pecuniary damage.

38. The Government contested the amount requested in respect of pecuniary damage, considering it highly speculative. They argued that according to the law lawyers were entitled to a specific guaranteed income only for the duration of their traineeship, namely the first two years of practice; the income following traineeship depended exclusively on the lawyer's ability to market his professional skills. Furthermore, the applicant's potential income from his legal practice would have been earned at the expense of his income from his medical practice.

They further maintained that a finding of a violation should constitute sufficient compensation in the present case.

39. The Court reiterates that there must be a clear causal connection between the damage claimed by the applicant and the violation of the Convention found. It further notes that the loss of earnings indicated by the applicant as a basis for the claim in respect of pecuniary damage refers to income potentially obtained from practising law, at the expense of his earnings from his medical practice, and is therefore speculative in nature (see, *mutatis mutandis*, *Thlimmenos v. Greece* [GC], no. 34369/97, § 67, ECHR 2000-IV). The Court, therefore, does not award the applicant any compensation for pecuniary damage.

Having regard to the nature of the violation found, the Court considers that this must have caused the first applicant frustration which cannot be compensated solely by the finding of a violation. The Court, taking into account the principle *ne ultra petita*, awards the applicant EUR 1 in respect of non-pecuniary damage.

B. Costs and expenses

40. The applicant also claimed EUR 6,210 for the costs and expenses incurred before the Court and submitted an itemised schedule of these costs.

41. The Government submitted that the requested amount was grossly exaggerated and not justified by the complexity of the case.

42. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum (see among many other authorities, *Campagnano v. Italy*, no. 77955/01, § 84, ECHR 2006-IV). In the present case, regard being had to the documents in its possession and the above criteria, the Court

considers it reasonable to award the sum of EUR 2,000 covering costs under all heads for the proceedings before the Court.

C. Default interest

43. The Court considers it appropriate that the default interest rate 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. *Declares* the complaint concerning the applicant's right to practise as a lawyer admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the respondent State's national currency at the rate applicable at the date of settlement:
      (i) EUR 1 (one euro), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 2,000 (two thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 14 January 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President