

## Section 1.1

# COUNCIL OF EUROPE COMMITTEE OF MINISTERS

## Resolution CM/ResDH(2007)...<sup>1</sup>

### **Execution of the judgment of the European Court of Human Rights Matijašević against Serbia**

(Application No. 23037/04, judgment of 19 September 2006, final on 19 December 2006)

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (hereinafter referred to as “the Convention” and “the Court”);

Having regard to the judgment in this case, transmitted by the Court once it had become final;

Recalling that the violation of the Convention found by the Court in this case concerns a breach of the presumption of innocence by a criminal court ordering extension of the applicant’s detention on remand (Article 6§2) (see details in Appendix);

Having invited the government of the respondent state to inform the Committee of the measures taken in order to comply with Serbia’s obligation under Article 46, paragraph 1, of the Convention to abide by the judgment;

Having examined the information provided by the government in accordance with the Committee’s Rules for the application of Article 46, paragraph 2, of the Convention;

Having satisfied itself that, within the time-limit set, the respondent state paid the applicant the just satisfaction provided in the judgment (see details in Appendix),

Recalling that a finding of violations by the Court requires, over and above the payment of just satisfaction awarded in the judgment, the adoption by the respondent state, where appropriate:

- of individual measures to put an end to the violations and erase their consequences so as to achieve as far as possible *restitutio in integrum*; and
- of general measures, preventing similar violations;

DECLARES, having examined the measures taken by the respondent state (see Appendix), that it has exercised its functions under Article 46, paragraph 2, of the Convention in this case and

DECIDES to close the examination of this case.

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<sup>1</sup> Adopted by the Committee of Ministers in June 2007 at the 997th meeting of the Ministers’ Deputies.

## Appendix to Resolution CM/ResDH(2007)...

### Information about the measures to comply with the judgment in the case of Matijašević against Serbia

#### Introductory case summary

The case concerns the violation of the principle of the presumption of the applicant's innocence in that in 2004 the Novi Sad District Court extended applicant's detention on remand for another two months relying in particular on the assumption that he had committed the offences of which he had been charged and which were under investigation.

The European Court found that the District Court had pronounced upon the applicant's guilt before it had been established according to law and that the Supreme Court had failed to rectify this "error" at appeal. It stated further that the fact that the applicant was ultimately found guilty and sentenced to a term of imprisonment did not negate the applicant's initial right to be presumed innocent until proved guilty according to the law (violation of Article 6§2).

#### I. Payment of just satisfaction and individual measures

##### a) Details of just satisfaction

Pecuniary damage	Non-pecuniary damage	Costs and expenses	Total
-	-	662 EUR	<b>662 EUR</b>
<b>Paid on 17/10/2006</b>			

##### b) Individual measures

The applicant is no longer detained on remand: he is serving the 8-year sentence resulting from the criminal proceedings. The violation of Article 6§2 affected neither the proceedings on the merits nor their outcome. Therefore, no individual measure is called for.

#### II. General measures

The European Court's judgment was promptly translated into Serbian and published in the *Official Gazette* No. 80 of 26/09/2006. The Serbian Government Agent sent the translated judgment, accompanied by an explanatory note, to all District Courts in Serbia asking their Presidents to distribute the judgments to all municipal courts in their area. All the courts were asked to pay the utmost attention to similar circumstances in order to prevent similar violations. Finally, the Agent has published an article analysing the case in a domestic legal journal and made several statements concerning the case in the media (daily *Politika* of 20/09/2006, p. 1 and 10) and in contacts with representatives of the judiciary.

#### III. Conclusions of the respondent state

The Government considers that the measures adopted will prevent new similar violations and that the Republic of Serbia has thus complied with its obligations under Article 46 paragraph 1 of the Convention.