EUROPEAN COURT OF HUMAN RIGHTS

SECOND SECTION

CASE OF JUHAS ĐURIĆ v. SERBIA

(Application no. 48155/06)

JUDGMENT

STRASBOURG

7 June 2011

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 Juhas Đurić v. Serbia,

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

Françoise Tulkens, *President,*
Danutė Jočienė,
Dragoljub Popović,
Giorgio Malinverni,
Işıl Karakaş,
Guido Raimondi,
Paulo Pinto de Albuquerque, *judges,*

and Stanley Naismith, *Section Registrar*.

Having deliberated in private on 17 May 2011,

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

PROCEDURE

1. The case originated in an application (no. 48155/06) against Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Serbian national, Mr Viktor Juhas Đurić ("the applicant"), on 20 November 2006.

2. The Serbian Government ("the Government") were represented by their Agent, Mr S. Carić.

3. The applicant alleged that he had been denied access to a court in the determination of his civil rights and obligations. He further complained about the length of the civil proceedings at issue, as well as the respondent State's interference with his right to pursue his application before the Court.

4. On 21 April 2010 the President of the Second Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (former Article 29 § 3 of the Convention).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1966. He is a practising lawyer and lives in Subotica, Serbia.

6. The facts of the case, as submitted by the parties, may be summarised as follows.

A. The applicant's request regarding D.G.

7. On 19 May 2004 the Police Department in Subotica appointed the applicant to represent D.G., a suspect in a preliminary criminal investigation, during his questioning by the police. The applicant provided no legal assistance to the suspect beyond this hearing.

8. On the same day the applicant filed a request with the police, seeking payment of his fees in accordance with the Tariff issued by the Bar Association.

9. Having received no response, on 13 September 2004 the applicant lodged a civil claim with the Municipal Court in Subotica, requesting that his fees be covered (7,800 Serbian Dinars, "RSD", approximately 105 Euros, "EUR", at the time, according to the exchange rate of the National Bank of Serbia).

10. On 21 April 2005, the Municipal Court rendered a judgment in default (*presuda zbog izostanka*) in favour of the applicant. It thereby ordered the Police Department to pay him a total of RSD 18,800 (approximately EUR 230 at the time), on account of his fees and litigation costs, plus statutory interest.

11. On 15 August 2005 the District Court in Subotica quashed this judgment on appeal.

12. On 23 January 2006 the Municipal Court declared itself as lacking jurisdiction *ratione materiae* to consider the applicant's claim on its merit (*oglasio se stvarno nenadležnim za postupanje*) and ordered the applicant to pay RSD 10,500 for litigation costs (approximately EUR 120 at the time).

13. On 29 September 2006 the District Court confirmed this decision on appeal and it thus became final.

14. Both the Municipal Court and the District Court reasoned, *inter alia*, that the fees in question were related to a preliminary criminal investigation, which was a specific kind of administrative proceedings, not a formal criminal procedure, and concluded that his claim was therefore not for the civil courts to determine. The police themselves, however, had had an obligation to decide upon the applicant's request.

15. On 13 November 2006 the applicant paid the litigation costs imposed against him.

16. On 23 January 2008, on the grounds that he had misdirected his payment of 13 November 2006, the applicant was ordered once again to pay the litigation costs at issue plus statutory interest. By March 2009 the applicant therefore paid another RSD 18,068 (approximately EUR 190 at the time).

B. The applicant's request regarding G.I., D.Č., V.Đ., B.Đ. and D.Đ.

17. On 31 July 2006 the Police Department in Subotica appointed the applicant to represent G.I., D.Č., V.Đ., B.Đ. and D.Đ., all suspects in a preliminary criminal investigation, during their questioning by the police.

18. On the same day the applicant filed a request with the police, seeking payment of his fees in accordance with the Tariff issued by the Bar Association (in total RSD 12,960, approximately EUR 155 at the time).

C. The applicant's request regarding S.S., B.B., A.S., and D.J.

19. On 6 August 2008, 24 April 2009, 19 May 2009 and 1 June 2009 the Police Department in Subotica appointed the applicant to represent S.S., B.B., A.S., and D.J., all suspects in a preliminary criminal investigation, during their questioning by the police.

20. On 11 August 2008, 11 May 2009, 21 May 2009 respectively the applicant filed a request with the police, seeking payment of his fees in accordance with the Tariff issued by the Bar Association (in total RSD 48,000, approximately EUR 500 at the time).

II. RELEVANT DOMESTIC LAW AND JURISPRUDENCE

A. The Criminal Procedure Code (Zakonik o krivičnom postupku; published in the Official Gazette of the Federal Republic of Yugoslavia – OG FRY – nos. 70/01 and 68/02, as well as the Official Gazette of the Republic of Serbia – OG RS – nos. 58/04, 85/05 and 115/05)

21. Article 193 § 1 provides, *inter alia*, that "criminal procedure costs" (*troškovi krivičnog postupka*) shall include all expenses incurred in connection with criminal proceedings, "from their commencement until their conclusion".

22. Article 193 § 6 provides that the costs incurred in the course of a preliminary criminal investigation (*pretkrivični postupak*), which concern fees to be paid to a police-appointed lawyer, shall be covered by the police themselves.

23. Article 196 provides, *inter alia*, that a defendant who has been convicted shall bear the costs of the criminal proceedings.

24. Article 197 § 1 provides, *inter alia*, that should criminal proceedings (*krivični postupak*) against a defendant be discontinued, the indictment be rejected, or the defendant be acquitted, the defence lawyer's fees shall be covered from the court's budget.

25. Article 197 § 6 provides, *inter alia*, that should the criminal court reject a claim for costs made under Article 197 § 1, or fail to rule thereupon within a period of three months, the defendant and his or her lawyer shall have the right to file a separate claim before the civil courts.

26. Article 225, *inter alia*, sets out the general duties of the police during a preliminary criminal investigation.

27. Article 226 §§ 7-9, *inter alia*, regulates the questioning by the police of persons suspected of having committed a crime, whose statements may, under certain conditions, be used as evidence in the subsequent criminal proceedings.

28. Article 243 provides, *inter alia*, that a formal judicial investigation shall commence upon the adoption of a specific judicial decision to this effect.

B. The relevant commentary as regards Articles 193, 225 and 226 of the Criminal Procedure Code

29. Costs covered by the police in connection with Article 225 of the Criminal Procedure Code cannot be considered as criminal procedure costs within the meaning of Article 193 thereof (see *Komentar Zakonika o krivičnom postupku*, Prof. dr Tihomir Vasiljević and Prof. dr Momčilo Grubač, IDP Justinijan, Belgrade, 2005, p. 338, paragraph 2).

30. General duties of the police during a preliminary criminal investigation are not formally regulated by the Criminal Procedure Code, the exception to this rule being those activities referred to in Article 226 §§ 7-9 (ibid., p. 397, paragraph 8).

C. The decision issued by the investigating judge of the District Court in Subotica (Ki 25/04 of February 2005)

31. The investigating judge held, *inter alia*, that the defendant against whom the charges had been dropped was not entitled to the full recovery of his lawyer's fees from the budget of the District Court in Subotica. Specifically, he noted that since a part of these fees concerned legal services rendered during a preliminary criminal investigation it was up to the police themselves to cover any such costs (the defendant's lawyer in the domestic proceedings being the applicant in the present case before the Court).

D. The Civil Procedure Act 2004 (Zakon o parničnom postupku; published in OG RS no. 125/04)

32. Article 1 provides, *inter alia*, that the Civil Procedure Act shall be applied to all property-related/pecuniary matters (*imovinskopravni sporovi*), except those where the law specifically provides for another procedure.

33. Article 16 provides, *inter alia*, that should a court establish its lack of jurisdiction *ratione materiae* it shall, *ex officio*, reject the claim in question regardless of the stage of the proceedings.

E. The Courts' Act 1991 (Zakon o sudovima; published in OG RS 46/91, 60/91, 18/92 and 71/92)

34. Article 12 § 2 (a) provides that Municipal Courts shall have jurisdiction to rule in respect of all property-related/pecuniary claims (*imovinskopravnim zahtevima*) unless they fall within the competence of the Commercial Courts.

35. Article 17 § 1 (z) provides that the Supreme Court shall be competent to assess the lawfulness of all final administrative decisions adopted by the State, unless specifically provided otherwise by law.

36. Article 17 § 2 (v) provides that the Supreme Court shall resolve any conflicts of jurisdiction (*rešava sukobe nadležnosti*) between the lower courts.

F. The Organisation of Courts Act 2001 (Zakon o uređenju sudova; published in OG RS nos. 63/01, 42/02, 27/03, 29/04, 101/05 and 46/06)

37. Article 4 provides that a court of law cannot refuse to consider a claim in respect of which its jurisdiction has been established by law or the Constitution.

G. The General Administrative Proceedings Act (Zakon o opštem upravnom postupku; published in OG FRY nos. 33/97 and 31/01)

38. Article 208 § 1 provides, *inter alia*, that in simple matters an administrative body shall be obliged to issue a decision within one month as of when the claimant had lodged his or her request. In all other cases, the administrative body shall render a decision within two months thereof.

39. Article 208 § 2 enables the claimant whose request has not been decided within the periods established in the previous paragraph to lodge an appeal as if his or her request has been denied. Where an appeal is not allowed, the claimant shall have the right to directly initiate an administrative dispute before the competent court of law.

H. The Administrative Disputes Act (Zakon o upravnim sporovima; published in OG FRY no. 46/96)

40. Article 6 provides that an administrative dispute may only be instituted against an "administrative act", which is, *inter alia*, an act/decision adopted by a State body in the determination of one's rights and obligations concerning "an administrative matter".

41. Article 9 § 1 (1) provides that an administrative dispute may not be instituted against an "act"/decision rendered in matters where judicial redress has been secured outside of the administrative disputes procedure.

42. Articles 8 and 24 provide, *inter alia*, that a claimant who lodged a request with an administrative body shall have the right to institute an administrative dispute before a court in the following situations:

(i) Should an appellate body fail to issue a decision upon his or her appeal within sixty days the claimant may repeat the request, and if the appellate body declines to rule within an additional period of seven days the claimant may institute an administrative dispute.

(ii) In accordance with the conditions set out under (i) above, should a first instance administrative body fail to issue a decision and there is no right to an appeal, the claimant may directly institute an administrative dispute.

(iii) Should a first instance administrative body fail to issue a decision upon the claimant's request within sixty days, in matters where an appeal has not been excluded, the claimant shall

have the right to lodge the said request with the appellate administrative body. Should that body render a decision, the claimant shall have the right to institute an administrative dispute against it, and should it fail to rule the claimant shall be entitled to institute an administrative dispute in accordance with the conditions set out under (i) above.

43. Article 41 § 5 provides that where an administrative dispute has been brought under Article 24 the court shall, should it rule in favour of the claimant, order the administrative body in question to decide upon the claimant's original request.

44. Articles 63 provides, *inter alia*, that should the said administrative body fail to comply with this instruction within a period of thirty days, the claimant shall be entitled to request the enforcement of the court's decision. Should the administrative body fail to respond to this request within a period of seven days, the claimant may petition the court to decide his case on the merits, i.e. to adopt the necessary decision in the administrative body's stead. The court shall then request information from the administrative body as to the reasons for its failure to comply with the court's order. Should the administrative body fail to respond within a period of seven days or should its explanation fail to satisfy the court, the court itself shall decide on the claimant's original request.

45. Articles 41 §§ 1-4, 61 and 62 provide details as regards other situations in which a claimant's request may be decided on its merits.

I. The relevant commentary as regards Article 24 of the Administrative Disputes Act

46. There is no deadline for the institution of an administrative dispute in accordance with Article 24 of the Administrative Disputes Act (see *Komentar Zakona o opštem upravnom postupku i Zakona o upravnim sporovima*, Svetislav Vuković, Poslovni biro, Belgrade, 2006, p. 219).

J. The relevant domestic case-law provided by the Government

47. In six judgments rendered between 8 December 1999 and 9 April 2009 the Supreme Military Court and the Supreme Court of Serbia, respectively, ruled on the merits of administrative disputes concerning pension entitlements, the right to stand for elections, property-related municipal decisions, disability benefits and the proposed change in the registration of persons authorised to represent political parties (see Up. br. 2530/03, Už. 133/92, Už. 11/08, U.br. 1739/08, U.br. 48/08 and U.br. 1093/02).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

48. The applicant complained under Article 6 § 1 that he had been denied access to a court of law in the determination of his civil rights and obligations, i.e. the payment of the fees in question. The applicant further complained, under the same provision, about the length of the proceedings before the courts in Subotica.

49. Article 6 § 1 of the Convention, in so far as relevant, reads as follows:

> "In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing within a reasonable time by ... [a] ... tribunal established by law ..."

A. As regards the access to a court

1. Admissibility

(a) Article 35 § 3 (b) of the Convention

50. The Government argued that the applicant's complaint concerning his fees of 19 May 2004 should be declared inadmissible since "he had not suffered a significant disadvantage" within the meaning of Article 35 § 3 (b) of the Convention. In particular, they noted that the applicant's claim concerned fees in the amount of EUR 105 only, and added that it had nevertheless been duly considered by the Municipal Court and District Court in Subotica. Lastly, the Government referred to the Court's recent case-law (*Mihai Ionescu v. Romania* (dec.), no. 36659/04, 1 June 2010; and *Bock v. Germany* (dec.), 19 January 2010), deeming it particularly relevant.

51. The applicant acknowledged that his claim concerned a relatively small amount, but argued that as a result of statutory interest it has since increased considerably. He further noted the amount of fees whose payment by the police he had requested subsequently (see paragraphs 17- 20 above); referred to the litigation costs which he had paid or which had been enforced against him (see paragraphs 12, 15 and 16 above); and recalled, in this context, that the average salary in Serbia was approximately EUR 310. The applicant also pointed out that Article 35 § 3 (b) of the Convention was not in force at the time when he had lodged his application with the Court, and maintained that the underlying issue in the present case was not primarily financial: it concerned the payment of fees to police-appointed defence counsel in the course of a preliminary criminal investigation, i.e. an issue of great significance for the functioning of the entire criminal justice system in Serbia. Finally, the applicant's claim had not been "duly considered" by the domestic courts since they had offered no reasoning as to why they considered it as an administrative rather than a civil matter.

52. The Court recalls that Article 35 of the Convention, as amended by Protocol No. 14, which entered into force on 1 June 2010, provides as follows:

"3. The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that:

...

b. the applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal."

53. As indicated in paragraph 79 of the Explanatory Report to Protocol No. 14: "The new criterion may lead to certain cases being declared inadmissible which might have resulted in a judgment without it. Its main effect, however, is likely to be that it will in the longer term enable more rapid disposal of unmeritorious cases".

54. The main aspect of this new criterion is whether the applicant has suffered any significant disadvantage, which assessment may itself be based on criteria such as the financial impact of the matter at issue or the importance of the case for the applicant (see, for example, *Mihai Ionescu v. Romania* (dec.), cited above).

55. However, even should the Court find that the applicant has suffered no significant disadvantage, it shall not declare an application inadmissible if respect for human rights, as defined in the Convention and the Protocols thereto, requires an examination on the merits, or if the matter has not been "duly considered" by a domestic tribunal.

56. Turning to the present case, even assuming that the applicant has not suffered a significant disadvantage in view of the said financial impact and quite apart from the requirement for his complaint to have been duly considered by a tribunal, the Court is of the opinion that respect for human rights, as defined in the Convention, requires its examination on the merits. As noted by the applicant, the role of a police-appointed lawyer in a preliminary criminal investigation is crucial in terms of maintaining the functioning and fairness of the Serbian criminal justice system, particularly since statements made in his or her presence may be used as evidence in the subsequent criminal procedure (see paragraph 27 above). It follows therefore that issues closely related to the procedural status of such lawyers, including the payment of their fees, without which their continued participation clearly could not be relied on, cannot be considered trivial, or, consequently, something that does not deserve an examination on the merits.

57. As regards the Court's decisions in *Mihai Ionescu v. Romania* and *Bock v. Germany* (both cited above), it is noted that these cases are clearly distinguishable from the application at hand since, *inter alia*, the former concerned access to a court in a case involving contractual issues between the applicant and a transportation company, whilst the latter concerned the length of proceedings in a suit where the applicant had claimed EUR 7.99 for the medication prescribed by his physician. In other words, neither raised issues of general interest.

58. In view of the above, the Government's objection must be dismissed.

(b) Exhaustion of domestic remedies

59. The Government maintained that the applicant had failed to make use of the relevant administrative remedies and thereafter, if needed, to institute an administrative dispute before the Supreme Court.

60. The Court considers that this objection goes to the very heart of the question whether the applicant had been denied the right of access to a court in the determination of his civil rights and obligations in breach of Article 6 § 1 of the Convention. It would thus be more appropriately examined at the merits stage.

(c) Conclusion

61. The Court notes that the applicant's complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other ground. It must therefore be declared admissible.

2. Merits

62. The Government submitted that there had been no violation of the Convention as the applicant had not been denied access to a court in respect of his fees-related request. Indeed, he had simply chosen an inappropriate avenue of redress, i.e. a civil claim, instead of having made use of the existing administrative remedies and then, if necessary, brought an administrative dispute before the Supreme Court. Further, the applicant should have tried the administrative avenue even if he had had some doubt as to its effectiveness. Lastly, the Government submitted that domestic courts have frequently ruled in administrative disputes on the very merits of a claimant's request, in which respect they provided the Court with relevant domestic jurisprudence (see paragraph 47 above).

63. The applicant firstly maintained that he had not instituted administrative proceedings on 19 May 2004, having instead merely requested the police to pay his fees. Secondly, this payment was not an administrative matter as defined under Articles 6 and 9 of the Administrative Disputes Act (see paragraphs 40 and 41 above). It was, rather, a pecuniary dispute referred to in Article 1 of the Civil Procedure Act, and, as such, actionable before the civil courts (see paragraph 32 above). Thirdly, even assuming that the administrative avenue could be deemed available, it could not be considered effective in a case such as the applicant's since the Government have failed to provide relevant domestic case-law to this effect. Moreover, administrative redress would have taken too long, and would have involved the Supreme Court which is normally most reluctant to decide a case on its merits, preferring instead to quash the impugned decision and remit the matter for administrative re-examination. Fourthly, the applicant recalled that, in any event, even where there are several effective remedies available, it is for the applicant to select which remedy to pursue.

64. In its *Golder v. the United Kingdom* judgment of 21 February 1975, the Court held that Article 6 § 1 "secures to everyone the right to have any claim relating to his civil rights and obligations brought before a court or tribunal" (§ 36, Series A no. 18). This "right to a court", of which the right of access is an aspect, may be relied on by anyone who considers on arguable grounds that an interference with the exercise of his or her civil rights is unlawful and complains that no possibility was afforded to submit that claim to a court meeting the requirements of Article 6 § 1 (see, *inter alia*, *Roche v. the United Kingdom* [GC], no. 32555/96, § 117, ECHR 2005-X).

65. Turning to the present case, it is noted that the applicant's fees-related claims clearly fall within the scope of Article 6 § 1 (see, *mutatis mutandis*, *Editions Périscope v. France*, 26 March 1992, § 40, Series A no. 234-B). Further, while it is not this Court's task to decide which domestic court, civil or administrative, had jurisdiction to determine these claims on their merits (see *Beneficio Cappella Paolini v. San Marino*, no. 40786/98, § 29, ECHR 2004-VIII (extracts)), it is noted that: (i) the domestic civil courts had considered the fees issue as an administrative matter and had offered some reasoning in this respect (see paragraph 14 above); (ii) the applicant could therefore have made use of the administrative avenue and, if needed, brought his case to the Supreme Court, apparently without a deadline for so doing (see paragraphs 38-46 above); and (iii) the Supreme Court could, ultimately, either have ruled on the merits or indicated which other court had jurisdiction to proceed (see paragraphs 44, 35 and 36 above, in that order; compare also to *Beneficio Cappella Paolini v. San Marino*, cited above, where both the civil and the administrative courts had declined jurisdiction). Finally, the applicant has failed to provide domestic case-law to the effect that in any other case such as his own the civil courts had declared themselves competent *ratione materiae*, whilst the respondent State has, for its part, produced jurisprudence indicating that the domestic judiciary has been willing to consider very diverse claims within an administrative disputes' context, as well as to grant redress on the merits where appropriate (see paragraph 47 above).

66. In such circumstances, the Court cannot but conclude that the applicant has not been denied access to a court in the determination of his civil rights and obligations. Accordingly, there has been no violation of Article 6 § 1 of the Convention.

67. The Court further finds that in the light of this conclusion it is not necessary to decide on the Government's objection as to the exhaustion of domestic remedies.

B. As regards the length of the proceedings before the civil courts

68. The impugned proceedings before the Municipal Court and District Court in Subotica lasted between September 2004 and September 2006, during which time the applicant's claim was considered at two instances. It follows that this part of the application is manifestly ill-founded and must, as such, be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

II. OBLIGATIONS UNDER ARTICLE 34 OF THE CONVENTION

69. The applicant noted that he had received correspondence from the Court with significant delay and, further, that the envelope itself had already been opened by others. In this connection he suggested that this could either have been an "innocent mistake" on the part of the Serbian postal services or a deliberate hindrance in the effective exercise of his right of petition to the Court within the meaning of Article 34 of the Convention. In support of the latter proposition, the applicant recalled that the Serbian postal services were State-run, and emphasised that his application before the Court involved sensitive police-related issues.

70. The Government submitted that there has been no violation of Article 34 of the Convention, as the applicant had not been pressured, directly or indirectly, by the State in order to be dissuaded from pursuing his application before the Court. The delay referred to by the applicant was of a purely technical nature, a fact well-known to the Court which has encountered the same problem in many other cases against Serbia currently pending before it.

71. Article 34 of the Convention provides as follows:

> "The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

72. According to the Court's case-law, a complaint under Article 34 of the Convention does not give rise to any issue of admissibility under the Convention (see *Cooke v. Austria*, no. 25878/94, § 46, 8 February 2000; and *Ergi v. Turkey*, judgment of 28 July 1998, § 105, *Reports* 1998-IV).

73. The Court notes that Article 34 of the Convention imposes an obligation on a Contracting State not to hinder the right of the individual effectively to present and pursue a complaint with the Court. While the obligation imposed is of a procedural nature distinguishable from the substantive rights set out in the Convention and Protocols, it flows from the very essence of this procedural right that it is open to individuals to complain of alleged infringements of it in Convention proceedings (see *Manoussos v. the Czech Republic and Germany* (dec.), no. 46468/99, 9 July 2002).

74. It is of the utmost importance for the effective operation of the system of individual application instituted by Article 34 that applicants should be able to communicate freely with the Court without being subjected to any form of pressure from the authorities to withdraw or modify their complaints. In this context, "pressure" includes not only direct coercion and flagrant acts of intimidation, but also other improper indirect acts or contacts designed to dissuade or discourage applicants from using a Convention remedy. The issue of whether or not contacts between the authorities and an applicant amount to unacceptable practices from the standpoint of Article 34 must be determined in the light of the particular circumstances (ibid.).

75. Turning to the present case, the Court finds that there is an insufficient factual basis for it to conclude that the authorities of the respondent State have interfered in any way with the applicant's exercise of his right of individual petition, it being noted that the applicant himself has allowed for the possibility that the entire situation was due to an "innocent mistake". It is further the case, as pointed out by the Government, that the Court has had problems with delayed postal deliveries to and from Serbia, and it certainly cannot speculate as to who may have opened the envelope of the correspondence addressed to the applicant and in which context.

76. In view of the foregoing, the Court finds that the respondent Sate has not failed to comply with its obligations under Article 34 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to join to the merits the Government's preliminary objection as to the non-exhaustion of domestic remedies in respect of the complaint about the applicant's access to a court;

2. *Declares* the complaint concerning the applicant's access to a court admissible and the complaint about the length of the proceedings at issue inadmissible;

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

4. *Holds* that the respondent State has not failed to comply with its obligations under Article 34 of the Convention;

5. *Holds* that in the light of its conclusions under points 2 and 3 it is not necessary to decide on the Government's preliminary objection mentioned in point 1.

Done in English, and notified in writing on 7 June 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith Françoise Tulkens
President" Registrar