SECOND SECTION

# CASE OF JOVANOVIĆ v. SERBIA

*(Application no. 32299/08)*

JUDGMENT

STRASBOURG

2 October 2012

*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** Jovanović v. Serbia**,**

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

Françoise Tulkens, *President,*
Danutė Jočienė,
Dragoljub Popović,
Işıl Karakaş,
Guido Raimondi,
Paulo Pinto de Albuquerque,
Helen Keller, *judges,*
and Stanley Naismith, *Section Registrar,*

Having deliberated in private on 11 September 2012,

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

# PROCEDURE

1. The case originated in an application (no. 32299/08) against the Republic of 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 Vladeta Jovanović ("the applicant"), on 18 June 2008.

2. The applicant was represented by Mr V. Sojkić, a lawyer practising in Kruševac. The Government of Serbia ("the Government") were represented by their Agent, Mr S. Carić.

3. The applicant alleged, in particular, that he had been arbitrarily denied access to the Supreme Court.

4. On 3 November 2010 the application was communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

# THE FACTS

## I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1944 and lives in Kruševac.

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

7. On 14 January 2003 the applicant's brother ("the plaintiff") filed a claim against the applicant with the Municipal Court in Kruševac (P. no. 63/2003). The claim concerned the validity of a "life-long maintenance contract" (*ugovor o doživotnom izdržavanju*) concluded between the applicant and their late mother in so far as it involved a house in which she had lived and the applicant's acquisition of the title thereto following her death. The value of the dispute (*vrednost spora*) indicated by the plaintiff was 1,000 dinars (RSD/equivalent to approximately 15 euros (EUR)).

8. On 19 February 2003 the applicant informed the court in one sentence that he contested the plaintiff's allegations and claim. He further stated that, in view of the main hearing scheduled for 27 February, he intended to lodge a comprehensive written pleading soon.

9. On 27 February 2003 the court formally stayed the proceedings (*doneo rešenje o mirovanju*) until 27 June 2003 as no one attended the hearing.

10. On 23 June 2003 the plaintiff requested the continuation of the proceedings.

11. The three following hearings, scheduled between September and November 2003, were adjourned due to problems with having the parties properly summoned or their own requests for adjournment.

12. On 8 January 2004 the court held a brief hearing. The plaintiff reaffirmed his claim, stating that he would provide further evidence after the applicant had submitted his response to the claim (*odgovor na tužbu*). The applicant requested the court to discontinue the proceedings pending the outcome of another case. The court ordered the applicant to submit his response to the claim and adjourned the hearing indefinitely.

13. In his written response of 14 January 2004, the applicant from the outset requested the court to determine a realistic value of the dispute.

14. On 12 February 2004 the court formally discontinued the proceedings (*doneo rešenje o prekidu postupka*) and requested the plaintiff to pay the court stamp duty (*sudska taksa*) calculated on the basis of the value of the dispute as initially specified by the plaintiff.

15. On 4 July 2006, at the outset of the first hearing held in the resumed proceedings, the Municipal Court formally established that the actual value of the dispute was RSD 600,000 (equivalent to approximately EUR 6,700). It further ordered the plaintiff to pay additional stamp duty, corresponding to the difference between the initially specified value of the dispute and that decided on by the court.

16. On 5 December 2006 the Municipal Court ruled in favour of the plaintiff, declaring the impugned contract partially void. In so doing, it reaffirmed that the value of the dispute was RSD 600,000.

17. On 27 March 2007 the District Court in Kruševac upheld this judgment on appeal, noting that the value of the dispute was RSD 600,000.

18. On 22 May 2007 the applicant filed an appeal on points of law (*izjavio reviziju*).

19. On 5 September 2007 the Supreme Court rejected this appeal. It found that the applicant was not entitled to lodge an appeal on points of law given that the value of the dispute in question, as specified in the claim of 14 January 2003, was RSD 1,000 and, as such, well below the applicable statutory threshold of RSD 300,000. The Supreme Court also noted, without any further explanation, that the determination of the value of the dispute on 4 July 2006 by the Municipal Court had been carried out in breach of Article 40 of the Civil Procedure Act.

20. The applicant was served with the Supreme Court's decision on 27 December 2007.

21. In the meantime, on 23 November 2007, the Municipal Court ordered the applicant to pay court fees calculated on the basis of the value of the dispute set at RSD 600,000.

22. The applicant has not yet paid this amount.

## II. RELEVANT DOMESTIC LAW AND PRACTICE

### A. The Civil Procedure Act 1977 (*Zakon o parničnom postupku;* published in the Official Gazette of the Socialist Federal Republic of Yugoslavia - OG SFRY - nos. 4/77, 36/77, 6/80, 36/80, 43/82, 72/82, 69/82, 58/84, 74/87, 57/89, 20/90, 27/90, 35/91 and the Official Gazette of the Federal Republic of Yugoslavia - OG FRY - nos. 27/92, 31/93, 24/94 and 12/98)

23. Articles 35-40 provide general rules as regards the means of establishing the value of a civil dispute. Article 40 § 2 provides that, in cases not relating to pecuniary requests, the relevant value of the dispute shall be the one indicated by the plaintiff in his claim. However, Article 40 § 3 provides that when the value of the dispute specified by the plaintiff appears to be "obviously too high or too low", and thus might affect, *inter alia*, the availability of an appeal on points of law, the court of first instance shall itself assess the accuracy of the specified value. This must be done speedily and in an adequate manner, at the preliminary hearing (*pripremno ročište*) at the latest, or, if one is not held, at the main oral hearing (*glavna rasprava*) before the examination of the merits.

24. Articles 227-320 prescribe the rules on the preparation for and the holding of the main hearing. In particular, Article 284 § 2 provides that a preliminary hearing shall not be scheduled when the civil proceedings at first instance are to be conducted by a single judge. Article 297 § 5 states, *inter alia*, that when a party objects on a certain issue, submits a motion or undertakes other procedural action in the proceedings before the respondent has begun contesting the subject-matter of the dispute, the respondent as a party may undertake such procedural steps before he has concluded his response to the claim.

25. Article 382 § 3 provides that an appeal on points of law (*revizija*) is "not admissible" in cases not relating to pecuniary requests where the value of the dispute, as indicated by the plaintiff in his claim, does "not exceed 15,000 ... dinars".

26. In accordance with Articles 383 and 394-397, *inter alia*, the Supreme Court shall, should it accept an appeal on points of law lodged by one of the parties concerned, have the power to overturn the impugned judgment or quash it and order a retrial before the lower courts. Lastly, Article 392 provides, *inter alia*, that the Supreme Court shall reject any and all appeals on points of law which it deems inadmissible.

### B. The amendments to the above legislation of 2002 (published in OG FRY no. 3/02)

27. Article 16 § 3, *inter alia*, increased the minimum requirement for an appeal on points of law from 15,000 new dinars to 300,000 new dinars.

### C. The Civil Procedure Act 2004 (*Zakon o parničnom postupku;* published in the Official Gazette of the Republic of Serbia, no. 125/04)

28. The Civil Procedure Act 2004 entered into force on 23 February 2005, thereby repealing the Civil Procedure Act 1977. Article 491 § 4 of the former, however, provides that in all cases which were brought before that date the applicable legislation, as regards

an appeal on points of law, shall be the legislation which was in force prior to 23 February 2005.

29. Article 422 § 10 further provides that a case may be reopened if the European Court of Human Rights has in the meantime rendered a judgment in respect of Serbia concerning the same or a similar legal issue.

### D. Conclusions adopted at the Consultations of the Civil and Civil-Commercial Divisions of the Federal Court, the Supreme Courts and the Supreme Military Courts on 10 and 11 June 1981 with regard to the application of the Civil Procedure Act 1977

30. If a claim does not contain a pecuniary request (Article 40 § 2), the value of the dispute concerning the contested part of the appellate decision relevant for the assessment of the right to appeal on points of law shall be the one indicated by the plaintiff in his or her civil claim, or the one established by the court, speedily and in an adequate manner, at the preliminary hearing at the latest, or, if one was not held, during the course of the main oral hearing before the examination of the merits (Article 40 § 3), hence, before the plaintiff had started arguing his claim (Article 297 § 1).

31. In this regard, if the court omitted to assess the value of the dispute, and if the respondent failed to submit an objection thereto at the preliminary hearing, or, if one was not held, at the first hearing of the main oral hearing before his response to the claim had been concluded (Article 297 § 5), both the courts and the parties are thereafter precluded from discussing the value of the dispute.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION CONCERNING THE APPLICANT'S ACCESS TO THE SUPREME COURT

32. The applicant relied on Articles 1, 6 § 1, 13 and 17 of the Convention, as well as Article 1 of Protocol No. 1. In substance he complained that the Supreme Court had arbitrarily refused to consider his appeal when he had the right to use this remedy.

33. Being the master of the characterisation to be given in law to the facts of any case before it, the Court considers that the above complaint falls to be examined under Articles 6 § 1 of the Convention only (see *Akdeniz v. Turkey*, no. 25165/94, § 88, 31 May 2005, and *Dobrić v. Serbia*, nos. 2611/07 and 15276/07, § 25, 21 June 2011). This provision, in its relevant part, reads as follows:

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

## A. Admissibility

### 1. *Compatibility* ratione temporis

34. In the Court's view, although the Government have not raised an objection as to the Court's competence *ratione temporis*, this issue nevertheless calls for its consideration (see, *mutatis mutandis*, *Blečić v. Croatia* [GC], no. 59532/00, § 67, ECHR 2006-III).

35. The Court observes that, in accordance with the generally accepted principles of international law, a Contracting Party is only bound by the Convention in respect of events occurring after its entry into force. It further notes that Serbia ratified the Convention on 3 March 2004 and that some of the events referred to in the application in the present case had indeed taken place before that date. The Court shall therefore have jurisdiction *ratione temporis* to examine the applicant's complaint in so far as it concerns events as of 3 March 2004. It shall nevertheless, for reasons of context and whilst examining the applicant's complaint as a whole, also take into account any and all relevant events prior to that date (see, *mutatis mutandis*, *Salontaji-Drobnjak v. Serbia*, no. 36500/05, § 110, 13 October 2009).

### 2. *The six-month time-limit*

36. The Government argued that the decision of the District Court of 27 March 2007 was the final decision for the purposes of Article 35 § 1 of the Convention. In any event, the application had to be considered to have been lodged out of time whether the Court took the decision of 27 March 2007 or that of 5 September 2007 to be the final one: the date of introduction should not be the date on the application (16 June 2008) or the date that the Court considered as relevant (18 June 2008), but rather the date when the application was received by the Court (14 July 2008).

37. The applicant contested the Government's argument, submitting a post office receipt dated 18 June 2008.

38. The Court observes that the alleged violation in the present case concerns precisely the manner in which the Supreme Court decided on the admissibility of the appeal on points of law. The final decision for the purposes of Article 35 § 1 was therefore adopted on 5 September 2007 and was served on the applicant on 27 December 2007.

39. In accordance with the established practice of the Convention organs, the Court normally considers the date of the introduction of an application to be the date of the first communication indicating an intention to lodge an application and giving some indication as to the nature of the application. Such first communication will interrupt the running of the six-month period. In the absence of explanations of an interval, of at least several days, between the date on which the initial submission was written and the date on which it was posted, the latter is to be considered the date of introduction of an application (see *Arslan v. Turkey* (dec.), no. 36747/02, decision of 21 November 2002, ECHR 2002-X (extracts) and *Růžičková v. the Czech Republic* (dec.), no. 15630/05, 16 September 2008), and not the date stamp indicating the application's receipt by the Court (*Kipritçi v. Turkey*, no. 14294/04, § 18, 3 June 2008).

40. The Court notes that the present application was dated 16 June 2007 and was posted on 18 June 2007, as confirmed by the certified date of dispatch on the envelope. In

the absence of any explanation for an interval of more than one day between the date on which the application form was drafted and the date on which it was posted, the latter date is to be regarded as the date of introduction of the application.

41. Accordingly, given that the six-month time-limit started to run on 28 December 2007, that is the day after the date of the receipt of the Supreme Court's decision by the applicant (see paragraph 20 above; see also *Worm v. Austria*, no. 22714/93, 29 August 1997, § 33, *Reports* 1997-V), whereas he lodged his application on 18 June 2007, the Government's objection must be dismissed.

*3. Conclusion*

42. 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*

43. The Government endorsed the Supreme Court's decision. They argued that the applicant had failed to challenge the value of the dispute in a timely manner: he had done so in his submission on 14 February 2004, thus, after the preliminary hearing of 8 January 2004. Even the determination of the value of the dispute by the lower court had not been in accordance with the Civil Procedure Act, as the court had done so too late. As to the order to pay court fees calculated on the basis of that value, the applicant could request reimbursement of the difference between the court fees that he had been ordered to pay and the fees that corresponded to the value of the dispute recognised by the Supreme Court. Therefore, the State cannot be held responsible for the failure of the applicant's lawyer to challenge the value of the dispute in time or to request the return of the court fees paid (referring to *Capuano v. Italy*, 25 June 1987, § 28, Series A no. 119, and *Cardarelli v. Italy*, 27 February 1992, § 17, Series A no. 229-G).

44. The applicant reaffirmed his complaint.

*2. The Court's assessment*

45. It is noted from the outset that the applicant's action concerned his alleged real estate entitlement and that his complaint, therefore, clearly falls within the scope of Article 6 (see, *mutatis mutandis*, *Zander v. Sweden*, 25 November 1993, § 27, Series A no. 279-B).

46. The Court reiterates that although Article 6 of the Convention does not compel the Contracting States to set up courts of appeal or of cassation (see, among other authorities, *Delcourt v. Belgium*, 17 January 1970, §§ 25-26, Series A no. 11), where such courts exist the guarantees contained in Article 6 must be complied with, *inter alia,* by ensuring effective access to the courts. Nevertheless, the "right to a court", of which the right of access is one aspect, is not absolute; it is subject to limitations permitted by implication, in particular where the conditions of admissibility of an appeal are concerned since by its very nature it calls for regulation by the State, which enjoys a certain margin of appreciation in this regard (see, for example, *García Manibardo v. Spain*, no. 38695/97, §

36, ECHR 2000-II, and *Mortier v. France*, no. 42195/98, § 33, 31 July 2001). However, these limitations must not restrict or reduce a person's access in such a way or to such an extent that the very essence of the right is impaired; specifically, such limitations will only be compatible with Article 6 § 1 if they pursue a legitimate aim and there is a proportionality between the means employed and the aim pursued (see *Guérin v. France*, 29 July 1998, § 37, *Reports* 1998-V). There is no violation of Article 6 § 1 where an applicant is refused access to a court of cassation due to his own procedural mistake (see *Brualla Gómez de la Torre v. Spain*, 19 December 1997, § 31, *Reports* 1997-VIII, and the *Edificaciones March Gallego S.A. v. Spain*, 19 February 1998, § 33, *Reports* 1998-I; and, contrast, *Dimova v. Bulgaria*, no. 31806/96, §§ 53 and 58, Commission's report of 21 October 1998).

47. In the present case, the Supreme Court barred the applicant's access to the review proceedings, finding, without further clarification, that the assessment of the value of the dispute (RSD 600,000) by the Municipal Court on 4 July 2006 had been carried out in breach of Article 40 of the Civil Procedure Act 1977, while the value as specified in the plaintiff's original claim (RSD 1,000) had been below the applicable statutory threshold (RSD 300,000). This clearly amounts to an interference with the applicant's right of access to a court.

48. As regards the legitimate aim thereof, the statutory threshold for appeals to the Supreme Court is a legitimate and reasonable procedural requirement having regard to the very essence of the Supreme Court's role to deal only with matters of the requisite significance (see *Dobrić*, cited above, § 54). Therefore, it remains to be established whether the interference with the applicant's access to the Supreme Court was disproportionate or not (see, for example, *Garzičić v. Montenegro*, no. 17931/07, § 33, 21 September 2010).

49. In this respect, the Court observes that a preliminary hearing does not appear to have been held (see paragraph 12; see also paragraph 24 above, Article 284 § 2). As regards the applicant's alleged procedural mistakes, it was the plaintiff and not the applicant who had set the unrealistic value of the dispute, which the applicant apparently challenged before he had concluded his own response to the claim (see paragraphs 12, 13, 24 (Article 297 § 5) and 31 above; also, compare and contrast to *Dobrić,* cited above, §§ 19 and 54). It further transpires that the Municipal Court, arguably before it had genuinely opened a discussion of the subject matter at the main hearing of these unorthodox proceedings, had complied with its obligation to establish the proper value of the dispute (approximately 6,700 euros) instead of the clearly inadequate amount specified by the plaintiff in his claim (approximately 15 euros). The Municipal Court thus issued a formal decision (*rešenje*) on the newly assessed value of the dispute (compare and contrast to *Dobrić,* cited above, § 54) and, furthermore, ordered the plaintiff to pay additional court stamp duty in this respect (compare and contrast to *Garzičić*, cited above, *ibid*.). The value of the dispute, which was above the threshold required for the lodging of an appeal on points of law, was clearly and repeatedly stated in the lower courts' judgments. The applicant was therefore entitled to believe that an appeal on points of law would be available to him in due course and if needed.

50. It is, of course, primarily for the national authorities, notably the courts, to resolve problems of interpretation of domestic legislation. The Court's role is not, save in the event of evident arbitrariness, to question it (see, among many authorities, *Nejdet Şahin*

*and Perihan Şahin v. Turkey* [GC], no. 13279/05, §§ 49-50, 20 October 2011; see also paragraph 26 above), but to verify whether the effects of such interpretation are compatible with the Convention (see *Kuchoglu v. Bulgaria*, no. 48191/99, § 50, 10 May 2007). The authorities should respect and apply domestic legislation in a foreseeable and consistent manner and the prescribed elements should be sufficiently developed and transparent in practice in order to provide legal and procedural certainty (see, *mutatis mutandis*, *Nejdet Şahin and Perihan Şahin,* cited above, §§ 56-57). The Court considers that these requirements applied to the present case, particularly in view of the legal complexity of the issue in question, calling for more transparency than a mere dismissal of the applicant's appeal on points of law by the Supreme Court without any further clarification of why it found the Municipal Court's conduct to be unlawful (compare and contrast to *Dobrić,* cited above, §§ 12 and 54*,* where the Supreme Court had adopted a sufficiently reasoned decision). Therefore, even assuming that the refusal of the applicant's access to the Supreme Court was in accordance with the relevant domestic law and having accepted its legitimate aim, the Court considers that the applicant's loss, in an unforeseeable and non-transparent manner, of the possibility of using a remedy which he had reasonably believed to be available, amounted to a disproportionate hindrance given that the applicant had not contributed to this situation in any respect.

51. There has accordingly been a violation of Article 6 § 1 of the Convention, it being understood that it is not this Court's task to determine what the actual outcome of the applicant's appeal on points of law would have been had the Supreme Court accepted to consider it on its merits (see, *mutatis mutandis*, *Vasilescu v. Romania*, 22 May 1998, § 39, *Reports* 1998-III).

## II. OTHER ALLEGED VIOLATIONS

52. The applicant re-stated the above complaint under Article 13 of the Convention. He further complained about the fairness and the outcome of the civil dispute, relying on Articles 1 and 6 § 1 of the Convention, as well as Article 1 of Protocol No. 1.

53. Having regard to its findings above (see paragraph 50 above) and given that Article 6 § 1 is to be considered as constituting a *lex specialis* in relation to Article 13 (see, for example, *Sukhorubchenko v. Russia*, no. 69315/01, § 60, 10 February 2005, and *Jalloh v. Germany* (dec.), no. 54810/00, 26 October 2004), the Court considers that it is not necessary to examine separately the admissibility or the merits of the applicant's identical complaint made under Article 13 of the Convention (see, *mutatis mutandis*, *Milanović v. Serbia*, no. 44614/07, § 103, 14 December 2010).

54. As regards the complaint under Article 6 § 1, the Court reiterates that it is not its function to deal with errors of fact or law allegedly committed by the national courts (see *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I; and *Cornelis v. the Netherlands* (dec.), no. 994/03, ECHR 2004-V (extracts)), as it is not a court of appeal – or, as is sometimes said, a "fourth instance" (see, among many other authorities, *Melnychuk v. Ukraine* (dec.), no. 28743/03, ECHR 2005-IX). Further, there is no evidence in the case file to suggest that the applicant suffered a violation of any other of the procedural rights guaranteed under Article 6. Therefore, this complaint must be declared inadmissible as manifestly ill-founded in accordance with Article 35 §§ 3 and 4 of the Convention.

55. The Court finally observes that Article 1 of Protocol No. 1 does not concern the regulation of civil law rights between parties under private law. In the instant case, therefore, the courts' decisions cannot be seen as an unjustified State interference with the property rights of the losing party. Indeed, it is the very function of the courts to determine such disputes, the regulation of which falls within the remit of domestic law and outside the scope of the Convention (see, *mutatis mutandis*, *Kuchar and Stis v. Czech Republic* (dec.), no. 37527/97, 21 October 1998; see also *Garzičić*, cited above, § 37). Therefore, this complaint is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4 thereof.

## III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

56. 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

57. The applicant claimed EUR 21,689.5 euros (EUR) in respect of pecuniary damage, which corresponds to half of the value of the flat in dispute. He further submitted that he had suffered from mental anguish, but made no specific request for compensation in this regard.

58. The Government contested the applicant's claim as excessive and unsubstantiated.

59. The Court's task is not to speculate about the actual outcome of the applicant's appeal on points of law or any pecuniary damage he may have sustained in that connection. The Court reiterates that the most appropriate form of redress for a violation of Article 6 § 1 would be to ensure that the applicant, as far as possible, is put in the position in which he would have been had this provision not been disregarded. Consequently, it considers that the most appropriate form of redress would be to reconsider the applicant's appeal on points of law in accordance with the requirements of Article 6 § 1 of the Convention, should the applicant so request (see, paragraph 29 above, and, *mutatis mutandis, Gençel v. Turkey*, no. 53431/99, § 27, 23 October 2003).

60. Given that the applicant did not submit a claim for non-pecuniary damage, the Court considers that there is no call to award him any sum on that account.

### B. Costs and expenses

61. The applicant also claimed EUR 1,647 in respect of the court stamp duty and court fees incurred before the first- and second-instance national courts. He also claimed EUR 1,050 for costs and expenses incurred before the Court.

62. The Government contested these claims as excessive.

63. In view of the above considerations (see paragraph 59 above), the Court rejects the claim for costs and expenses in the domestic proceedings. As regards to the second claim, 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 also reasonable as to their quantum (see, for example, *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI). 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 applicant the sum of EUR 850.

### C. Default interest

64. 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 right of access to a court under Article 6 of the Convention admissible and the other complaints under Article 6 of the Convention and Article 1 of Protocol No. 1 inadmissible;

2. *Holds* that there has been a violation of Article 6 of the Convention;

3. *Holds* that it is not necessary to examine separately the complaint under Article 13 of the Convention;

4. *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, EUR 850 (eight hundred and fifty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 2 October 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Stanley Naismith | Françoise Tulkens |
| Registrar | President |