



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

FIFTH SECTION

CASE OF OGNYAN ASENOV v. BULGARIA

(Application no. 38157/04)

JUDGMENT

STRASBOURG

17 February 2011

FINAL

17/05/2011

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

In the case of Ognyan Asenov v. Bulgaria,

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

Peer Lorenzen, *President*,

Karel Jungwiert,

Mark Villiger,

Isabelle Berro-Lefèvre,

Angelika Nußberger,

Julia Laffranque, *judges*,

Maiia Rousseva, *ad hoc judge*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 25 January 2011,

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

PROCEDURE

1. The case originated in an application (no. 38157/04) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Bulgarian national, Mr Ognyan Lyubomirov Asenov (“the applicant”), on 7 October 2004.

2. The applicant was represented by Mr D. Kanchev and Ms Z. Stefanova, lawyers practising in Sofia. The Bulgarian Government (“the Government”) were represented by their Agents, Ms M. Dimova and Ms S. Atanasova, of the Ministry of Justice.

3. The applicant alleged that a court order requiring him to reimburse the fees of counsel appointed for him during his criminal trial had violated his right under Article 6 § 3 (c) of the Convention to free legal assistance, and that he had not had effective remedies in that connection, in breach of Article 13 of the Convention.

4. On 16 June 2008 Zdravka Kalaydjieva, the judge elected in respect of the Republic of Bulgaria, withdrew from sitting in the case. On 11 March 2010 the Government appointed in her stead Pavlina Panova as an *ad hoc* judge (Article 27 § 2 of the Convention and Rule 29 § 1 of the Rules of Court, as worded before 1 June 2010). On 22 November 2010 Pavlina Panova also withdrew from sitting in the case. The same day the President of the Fifth Section chose Maiia Rousseva as an *ad hoc* judge from a list of three persons whom Bulgaria had designated as eligible to serve as such judges (Article 26 § 4 of the Convention and Rule 29 § 1 of the Rules of Court, as worded after 1 June 2010).

5. In the meantime, on 2 March 2009 the President of the Fifth Section decided to give notice of the application to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1978 and lives in Sofia. He has five children, born in 1998, 2001, 2004 and 2006.

7. According to a certificate issued by the competent employment bureau, for most of the period between July 1994 and June 2007 he was not in formal employment. According to a document issued by a street-cleaning company, between 2004 and 2007 it employed the applicant for approximately four months, paying him salaries ranging from 120 Bulgarian leva (BGN) (equivalent to 61.36 euros (EUR)) to BGN 200 (equivalent to EUR 102.26).

8. In 2001 the applicant and his brother were charged with raping a woman. They were arrested on 18 October 2001 and released on bail on 19 November 2002. Shortly after that they were committed for trial before the Sofia District Court (*Софийски районен съд*).

9. At the outset of the first hearing, held on 4 April 2003, the applicant and his brother stated that they were illiterate. The applicant also said that he could not afford to retain counsel. The court appointed counsel for each of them, relying on their illiteracy and grounding its decision on Article 70 § 1 (4) of the 1974 Code of Criminal Procedure (see paragraph 17 below).

10. At the close of its last hearing in the case, which took place on 10 June 2004, the court, noting the seriousness of the charges against the applicant and his brother, and observing that their counsel had represented them at several hearings, found that the counsel should be paid BGN 200 (equivalent to EUR 102.26) each.

11. On 10 June 2004 the Sofia District Court convicted the applicant and his brother of aggravated rape. It sentenced the applicant to eight years' imprisonment, but deducted from them the time which he had spent in pre-trial detention (see paragraph 8 above). Under Article 169 § 2 of the Code of Criminal Procedure (see paragraph 18 below), it ordered them to reimburse the costs of the proceedings, amounting to BGN 1,934.20 (equivalent to EUR 988.94) for each of them. It issued writs of execution for those sums.

12. Counsel for the applicant lodged an appeal against the conviction and sentence. In her detailed submissions she challenged the Sofia District Court's findings of fact and the manner in which it had assessed various pieces of evidence. She also challenged the manner in which the court had applied the substantive criminal law and the severity of the sentence that it had imposed.

13. On 8 November 2004 the Sofia City Court (*Софийски градски съд*) upheld the applicant's conviction, but reduced his sentence to five years'

imprisonment. It ordered the applicant and his brother to reimburse the costs of the appeal proceedings, which consisted of the fees of their court-appointed counsel. Those amounted to BGN 100 (the equivalent of EUR 51.13) for each of the two accused.

14. In a final judgment of 23 April 2007 (реш. № 7 от 23 април 2007 г. по н. д. № 672/2006 г., ВКС, II н. о.), given on an appeal by the applicant's brother, a three-member panel of the Supreme Court of Cassation (*Върховен касационен съд*) upheld the Sofia City Court judgment in full. As the applicant did not participate in the cassation proceedings, he was not ordered to pay any costs.

15. At the time of the latest information from the applicant on that point (20 March 2009), he was still serving his sentence. It is unclear whether he worked in prison. According to the Government, there was nothing to prevent him from doing so; he was of an active age and able to work. According to the applicant, he was not given any opportunity to work in prison and was, moreover, unable to do so due to his poor health. A certificate submitted by him shows that between 22 April and 10 September 2008 he was admitted to a prison hospital, where he was treated for pulmonary tuberculosis.

II. RELEVANT DOMESTIC LAW

A. The Constitution

16. Article 98, point 12 of the 1991 Constitution empowers the President of the Republic to remit uncollectable State debts. The President has set up a Commission for the Remission of Uncollectable State Debts to advise him in the exercise of his power under that provision.

B. The Code of Criminal Procedure

17. Article 70 of the 1974 Code of Criminal Procedure contained a list of circumstances requiring the appointment of defence counsel by the court. These included, among others, lack of command of the Bulgarian language (point 4). On 1 January 2000 a new point (7) was added. It was part of a comprehensive overhaul of the Code intended to bring it in line with the Convention, was based on its Article 6 § 3 (c), and provided that the appointment of counsel was compulsory if the accused could not afford it but wished to be legally represented and the interests of justice so required. On 29 April 2006 the 1974 Code was superseded by the 2005 Code of Criminal Procedure. The text of its Article 94 § 1 (9) is identical to that of Article 70 § 1 (7) of the 1974 Code.

18. Article 169 § 2 of the 1974 Code provided that if the accused was found guilty, the court were to order him or her to reimburse the costs of the proceedings, including the fees and disbursements of any court-appointed counsel. If there was more than one accused, the court was to apportion the costs between them at its discretion. In a judgment of 3 February 2005 (реш. № 33 от 3 февруари 2005 г. по н. д. 509/2004 г., ВКС, II н. о.), in reply to a submission that Article 169 § 2 of the Code was incompatible with Article 6 § 3 (c) of the Convention, the Supreme Court of Cassation found that the requirement for the accused to reimburse the fees of their court-appointed counsel after their conviction became final was not contrary to the latter provision.

19. Article 169 § 2 of the 1974 Code was superseded by Article 189 § 3 of the 2005 Code, which repeats it almost verbatim. As some courts were complying strictly with that provision, ordering all convicted accused to reimburse the fees of their court-appointed counsel, whereas others did not, in late 2009 the President of the Supreme Bar Council asked the General Meeting of the Criminal Chambers of the Supreme Court of Cassation to settle the issue. In a binding interpretative decision of 19 February 2010 (тълк. реш. № 4 от 19 февруари 2010 г. по тълк. д. № 4/2009, ОЧК на ВКС), General Meeting of the Criminal Chambers of the Supreme Court of Cassation held that Article 189 § 3 required convicted criminal defendants to reimburse the fees of their court-appointed counsel in all cases. Referring to *Croissant v. Germany* (25 September 1992, Series A no. 237-B), it expressed the view that that requirement did not run counter to Article 6 § 3 (c) of the Convention. Eleven out of the twenty-six judges who took part in the proceedings dissented, considering, *inter alia*, that the requirement for indigent accused to reimburse the fees of their court-appointed counsel after conviction was incompatible with Article 6 § 3 (c) of the Convention. The three members of the panel which had dealt with the case after the applicant's brother appealed on points of law (see paragraph 14 above) voted with the majority.

C. The 2005 Legal Aid Act

20. The 2005 Legal Aid Act came into force on 1 January 2006.

21. Under section 23(1), read in conjunction with section 21(3), counsel may be appointed for a litigant if legal representation is mandatory by law.

22. Under section 23(2), read in conjunction with section 21(3), counsel may be appointed for individuals subject to criminal proceedings if they do not have sufficient means to pay, wish to have counsel, and the interests of justice so require. The assessment whether such individuals lack sufficient means is made by the authority in charge of the proceedings, on the basis of their financial resources (section 23(3)). The decision can be taken either at the request of those concerned or *ex officio* (section 25(1)). Those who have

been granted legal aid must inform the authority of any relevant change of circumstances (section 27(1)). If they cease to be eligible for legal aid, the authority may discontinue it (section 27(2)). If they fail to provide information in a timely manner, they are liable to repay any amounts paid after the relevant change of circumstances (section 27(3)).

23. Once legal aid is granted, the competent authority sends a copy of its decision to the local bar council, which nominates a lawyer to be appointed as counsel for the accused (section 25(4)). The lawyer is paid for his or her services by the National Legal Aid Bureau, on the basis of a report for the work done (sections 37-39).

24. Paragraph 3 of the Act's transitional and concluding provisions provides that the Act does not apply to cases which were pending at the time when it came into force.

D. The Code of Civil Procedure and the Code of Tax and Social Security Procedure

25. Article 444 of the 2007 Code of Civil Procedure provides that money debts owed by individuals cannot be enforced against certain assets: (a) personal belongings set out in a list drawn up by the Council of Ministers; (b) food needed by the debtor or his family for one month; (c) fuel needed for three months; (d) machines, instruments, devices and books which the debtor needs to carry out his professional occupation; (e) gardens or vineyards smaller than 0.5 hectares, fields and pastures smaller than 3 hectares, as well as machines and consumables needed for working those; (f) two heads of cattle, one cow, five sheep or goats, ten beehives, poultry, as well as the food necessary to feed them until the next crop; (g) the debtor's home, if the debtor and the family members who live with the debtor have no other home, regardless of whether any of them lives in that home, provided that if the home is bigger than a certain minimum fixed by the Council of Ministers, the surplus area may be sold if it is possible to separate it.

26. Article 446 § 1 of the same Code provides that money debts cannot be enforced against wages and pensions if they are below a certain amount.

27. Article 448 § 1 of the Code provides that if the authorities do not find in the possession of the debtor enough assets against which they can enforce the debt, the debtor must appear before a district court judge and declare all his assets and income.

28. Article 213 of the 2005 Code of Tax and Social Security Procedure likewise provides that debts owed to the State cannot be enforced against certain assets: (a) personal belongings of the debtor and his or her family members, food, fuel, livestock and tools necessary for carrying a trade, to be set out in a list drawn up by the Council of Ministers; (b) the debtor's only home, if the area per family member is less than 30 square metres, provided

that if the home is bigger than a certain minimum fixed by the Council of Ministers, the surplus area may be sold if it is possible to separate it; (c) money in bank accounts, if it is not more than BGN 250 per family member; (d) agricultural land, if it is less than 0.3 hectares and is being worked by the debtor or a family member, as well as the tools necessary to do so; (e) wages and related payments, pensions and scholarships, up to BGN 250 per month; (f) social security payments, including unemployment benefits, social payments, gifts received by handicapped individuals, and alimony and child support payments.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 §§ 1 AND 3 (c) OF THE CONVENTION

29. The applicant complained that following his conviction he was ordered to reimburse the fees of his court-appointed counsel. He relied on Article 6 of the Convention, which provides, in so far as relevant:

“1. In the determination ... of any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...

...

3. Everyone charged with a criminal offence has the following minimum rights:

...

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

...”

A. Admissibility

30. The Government pleaded that the applicant had not exhausted domestic remedies. They said that he had not tried to challenge the order requiring him to reimburse the fees of his court-appointed counsel, and had not sought to have his debt remitted by the President of the Republic. If the President refused to do so, nothing prevented the applicant from applying again in the event of changes in his financial situation or health.

31. The applicant replied that he had appealed against the Sofia District Court's judgment as a whole, and his appeal had therefore included the order for costs. However, the Sofia City Court had not reviewed that order, and had instead issued a new order for costs relating to the proceedings before it. The applicant also submitted that the President enjoyed unlimited discretion whether or not to remit debts, and that in view of the specificity of the situation it was highly improbable that he would choose to exercise it in his case.

32. As regards the first limb of the Government's objection, the Court does not find it necessary to inquire whether or not it was possible for the applicant to challenge separately the order for costs against him. It observes that the requirement for an individual who has been finally convicted to bear the costs of proceedings, including the fees and disbursements of his or her court-appointed counsel, flowed directly from the wording of Article 169 § 2 of the 1974 Code of Criminal Procedure (see paragraph 18 above and, *mutatis mutandis*, *Immobiliare Saffi v. Italy* [GC], no. 22774/93, § 42 *in limine*, ECHR 1999-V). The Government have not cited any examples in which a convicted individual has been able to challenge successfully a court order requiring him to reimburse such costs (see, *mutatis mutandis*, *Granger v. the United Kingdom*, 28 March 1990, § 40, Series A no. 174). On the contrary, the Supreme Court of Cassation specifically rejected such a challenge in February 2005 (see paragraph 18 above). Moreover, on 19 February 2010 the General Meeting of the Criminal Chambers of that court held, in a binding interpretative decision, that the provision which superseded Article 169 § 2 of the 1974 Code of Criminal Procedure, Article 189 § 3 of the 2005 Code of Criminal Procedure, requires convicted criminal defendants to reimburse the fees of their court-appointed counsel in all cases. All three judges who had heard the applicant's case in the Supreme Court of Cassation voted in favour of that ruling (see paragraph 19 above). It thus seems that a legal challenge to the order for costs against the applicant would not have offered a reasonable prospect of success.

33. The second limb of the objection does not stand up to examination either. According to the Court's and the former Commission's established case-law, extraordinary remedies which depend on the discretionary power of a public authority cannot be regarded as effective (see, among many other authorities, *Byloos v. Belgium*, no. 14545/89, Commission decision of 9 October 1990, Decisions and Reports (DR) 66, p. 238; *Kustannus Oy Vapaa Ajattelija AB and Others v. Finland*, no. 20471/92, Commission decision of 15 April 1996, DR 85-A, p. 29, at p. 42; and *Seliwiak v. Poland*, no. 3818/04, § 46, 21 July 2009). The exercise of the President's power under Article 98, point 12 of the Constitution to remit uncollectible State debts (see paragraph 16 above) appears to be of a wholly discretionary character.

34. The Government's objection must therefore be dismissed.

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

B. Merits

36. The Government submitted that the opportunity for any individual to benefit from qualified legal advice was characteristic of any State governed by the rule of law. However, the applicant had not been denied a fair hearing. The order requiring him to reimburse the costs of his defence had not prevented him from having a proper defence and the services of counsel, and had not had a negative impact on the fairness of the proceedings against him. He could reimburse that sum, which was not exorbitant, by working, even while still in prison. There was no indication that he had paid it.

37. The Government further submitted that the new Legal Aid Act, in force since 1 January 2006, made provision for effective legal aid in all sorts of proceedings. Under that Act, counsel had to be appointed under the legal aid scheme in every case where legal representation was mandatory by law. The competent authority had to appoint such counsel of its own motion or upon the request of the individual concerned. The legal aid scheme was administered by the National Legal Aid Bureau and the bar councils and was funded by the State budget. That legislative arrangement, which was applicable to all proceedings commenced after it had come into force, was fully in line with the requirements of Article 6 §§ 1 and 3 (c) of the Convention.

38. The applicant argued that there existed a crucial difference between his case and *Croissant* (cited above). While Mr Croissant had not requested free legal assistance on the basis of his indigence, the applicant had specifically done so. His request had however been overlooked by the trial court, which had appointed counsel for him on a different ground. That had in itself amounted to a breach of Article 6 § 3 (c).

39. The applicant further submitted that the order requiring him to reimburse the fees of his court-appointed counsel had begun to be enforced immediately, because the trial court had issued a writ of execution pursuant to it. In view of the express wording of Article 169 § 2 of the 1974 Code of Criminal Procedure and of Article 189 § 3 of the 2005 Code of Criminal Procedure, he would inevitably be forced to comply with that order. Contrary to what the Government suggested, he had not been given any opportunity to work in prison, and had in any event been incapable of doing so because he had fallen ill with tuberculosis and had even been hospitalised for several months. Moreover, he had been in a poor financial situation at the time of his trial and afterwards. He had five children and between 1994 and 2007 had been almost constantly out of work, with a few brief spells of

employment with a street cleaning company, which had paid him very low wages.

40. The Court observes that the question whether it is compatible with Article 6 § 3 (c) of the Convention to require an individual convicted in criminal proceedings to reimburse the fees of his court-appointed counsel first came up, albeit obliquely, in *Luedicke, Belkacem and Koç v. Germany*. It left the issue open, saying that it did not intend to establish whether and under what conditions the expenses associated with the provision of free legal assistance under Article 6 § 3 (c) could be awarded against or left to be borne by the accused after his or her conviction (see *Luedicke, Belkacem and Koç v. Germany*, 28 November 1978, § 44, Series A no. 29).

41. Drawing on that, the former Commission found that such a situation was not incompatible with Article 6 § 3 (c), unless the accused's means were insufficient. It reasoned that the existence of a qualifying condition in that provision implied that the term “free” in this context was not incompatible with a mere temporary exemption from costs, operating only as long as the accused did not have sufficient means to pay them. The phrase “has not sufficient means to pay” does not, in the Commission's view, refer solely to the moment when the authorities decide whether to provide free legal assistance, but is relevant also at the time when it is being decided whether and to what extent the convicted individual has to pay the costs of the proceedings (see *X v. Germany*, no. 9365/81, Commission decision of 6 May 1982, DR 28, p. 229, and *K. v. Germany*, no. 11626/86, Commission decision of 6 May 1986, unreported).

42. Later, in *Croissant v. Germany* the Court noted that under German law the requirement for a convicted individual to pay the fees and disbursements of his court-appointed counsel was a normal consequence of the conviction, and that it was only in the ensuing enforcement proceedings that his or her financial situation played a role. In the Court's view, such a system would not be compatible with Article 6 if it adversely affected the fairness of the proceedings. There was, however, no indication that it generally produced such a result or had done so in Mr Croissant's case. The appointment of his defence counsel had been compatible with the requirements of Article 6 and it was therefore not incompatible with that provision that he was liable to pay their fees, which were not excessive (see *Croissant*, cited above, §§ 35 and 36).

43. The Court left open the question whether, under such a system, it would be compatible with Article 6 § 3 (c) for the State to continue to seek full or partial reimbursement of the costs of the accused's defence after he or she subsequently establishes that he or she lacks sufficient means to bear them. It did so because it found that in the Land where the case originated it was standard practice to grant at least a partial remission of costs where the individual concerned was able to establish that he or she could not afford to pay the entire sum. In that connection, the Court found it admissible that the

burden of proving a lack of sufficient means should be borne by the person who pleads it (*ibid.*, § 37).

44. In the present case, contrary to what the applicant seems to suggest, the question of costs did not adversely affect the fairness of the criminal proceedings against him (see *P.W. v. Denmark* (dec.), no. 38986/97, 15 June 1999; *Schrieder v. Denmark* (dec.), no. 32085/96, 6 April 2000; and *Dmitrijevs v. Latvia* (dec.), no. 62390/00, 7 November 2002). There is no indication that the possibility of being ordered to bear the costs of his defence in the event of his being convicted inhibited the applicant from asking the trial court to appoint counsel for him. On the contrary, he stated at the outset of his trial that he could not afford to retain counsel and that he was illiterate, and the court appointed counsel for him (contrast *Tsonyo Tsonev v. Bulgaria* (no. 2), no. 2376/03, §§ 15, 16 and 39, 14 January 2010). It is true that the appointment of counsel was not premised on the applicant's indigence, but on the fact that he did not have sufficient command of the Bulgarian language (see paragraph 9 above). Even so, as correctly pointed out by the Government, the applicant benefited from a proper defence, irrespective of whether he had sufficient means during the proceedings (see paragraphs 10 and 12 above).

45. However, the question remains whether it was compatible with Article 6 § 3 (c) for the State to seek reimbursement of the fees paid to counsel appointed for the applicant after the end of the proceedings.

46. On that point, the Court starts by observing that in cases arising from individual applications it is not its task to review domestic law in the abstract, but to examine the manner in which that law has been applied to the applicant (see, as a recent authority, *Taxquet v. Belgium* [GC], no. 926/05, § 83 *in fine*, 16 November 2010). In the case at hand, there is no indication that the authorities have taken any steps to enforce the court order requiring the applicant to pay the costs of the criminal proceedings against him, including the fees of his court-appointed counsel (see *P.W. v. Denmark*, cited above). Nor is there any indication that the applicant has made any payments in relation to that matter (contrast *Croissant*, cited above §§ 17 and 18). The mere issuing of a writ of execution cannot be equated with the order's actual enforcement. If the authorities try to enforce it, they will be bound by the provisions of Articles 444 and 446 § 1 of the 2007 Code of Civil Procedure and Article 213 of the 2005 Code of Tax and Social Security Procedure, which shield certain assets and classes of income from execution (see paragraphs 25, 26 and 28 above). The effect of those provisions is similar to the practice disclosed in *Croissant* to grant at least a partial remission of costs where the individual concerned was able to establish that he or she could not afford to pay the entire amount (see *Croissant*, cited above, §§ 17-19, 21 and 37, and *Pfister v. Germany*, no. 19512/92, Commission decision of 7 September 1993, unreported).

47. Furthermore, although the applicant appears not to have been in formal employment during the bulk of the period 1994-2007, has five young children and was sentenced to five years' imprisonment (see paragraphs 6 and 7 above), he has not produced evidence which gives a full picture of his overall financial situation (assets, liabilities and income), at the time when the costs order against him became final or afterwards. The Court thus lacks an adequate basis on which to conclude that throughout that time the applicant remained unable to reimburse the relatively modest fees of his counsel (see paragraphs 10 and 13 above and also, *mutatis mutandis*, *P.W. v. Denmark*, cited above, and contrast, *mutatis mutandis*, *Pakelli v. Germany*, 25 April 1983, § 34, Series A no. 64). As already mentioned, it is not contrary to the Convention that the burden of proving a lack of sufficient means should be borne by the person who pleads it.

48. There has therefore been no violation of Article 6 §§ 1 and 3 (c) of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

49. The applicant complained that he did not have effective remedies in respect of the alleged breach of Article 6 §§ 1 and 3 (c). He relied on Article 13 of the Convention, which provides as follows:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

50. The Court does not find it necessary to examine whether the applicant's complaint is arguable. It already found that a legal challenge to the order requiring him to reimburse the fees of his court-appointed counsel would not have stood a reasonable prospect of success (see paragraph 32 above). However, this was so because of the wording of the applicable law, whereas Article 13 of the Convention does not go so far as to guarantee a remedy allowing a Contracting State's laws as such to be challenged before a national authority on the ground of being contrary to the Convention (see, as a recent authority, *Petrov v. Bulgaria*, no. 15197/02, § 65, 22 May 2008).

51. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Dismisses* the Government's preliminary objection;

2. *Declares* the complaint concerning the requirement for the applicant to reimburse the fees of his court-appointed counsel admissible and the remainder of the application inadmissible;
3. *Holds* that there has been no violation of Article 6 §§ 1 and 3 (c) of the Convention.

Done in English, and notified in writing on 17 February 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President