



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

FIRST SECTION

CASE OF SHACOLAS v. CYPRUS

(Application no. 47119/99)

JUDGMENT

STRASBOURG

4 May 2006

FINAL

04/08/2006

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 Shacolas v. Cyprus,

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

Mr C.L. ROZAKIS, *President*,

Mr L. LOUCAIDES,

Mrs N. VAJIĆ,

Mr A. KOVLER,

Mr K. HAJIYEV,

Mr D. SPIELMANN,

Mr S.E. JEBENS, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 11 April 2006,

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

PROCEDURE

1. The case originated in an application (no. 47119/99) against the Republic of Cyprus lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Cypriot national, Mr Nikos K. Shacolas (“the applicant”), on 4 January 1999.

2. The applicant was represented by Mr P. Ioannides and Mr A. Demetriou, lawyers practising in Nicosia. The Cypriot Government (“the Government”) were represented by their Agent, Mr P. Clerides, Attorney-General of the Republic of Cyprus.

3. The applicant alleged a violation of Article 6 § 1 of the Convention in that the length of the civil proceedings before the District Court of Nicosia brought against him in 1986 exceeded the “reasonable time” requirement in Article 6 § 1 of the Convention.

4. The application was allocated to the Third Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. By a decision of 3 April 2001, the Court declared the application admissible.

6. The applicant and the Government each filed observations on the merits (Rule 59 § 1). The Chamber having decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 3 *in fine*), the parties replied in writing to each other’s observations. In addition, third-party comments were received from the Federal Bank of Lebanon, which had been given leave by the President of the Chamber to intervene in the

written procedure (Article 36 § 2 of the Convention and Rule 44 § 2). The parties replied to those comments (Rule 44 § 5).

7. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Second Section (Rule 52 § 1).

8. On 1 November 2004 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed First Section (Rule 52 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

9. The applicant was born in 1927 and lives in Nicosia.

A. Background to the case

10. The applicant, a businessman, was the defendant in an action filed against him before the District Court of Nicosia on 23 January 1986 by the Federal Bank of Lebanon (civil action no. 747/86). The plaintiff bank sued the applicant in his capacity as guarantor of a Greek company, Hellas Eurotrade Ltd.

11. The facts leading to the action had taken place between 1975 and 1977 in a number of countries, including Cyprus, Lebanon, Nigeria, France and Greece.

12. Hellas Eurotrade Ltd had been established in 1975 and had three shareholders: the applicant who held 40% of the shares and three other individuals that held the remaining shares in equal parts. The company had been set up for the purposes of performing a contract between another company, World Tide Shipping Corporation, and the Nigerian Defence Ministry for the provision of 240,000 metric tons of cement to the latter. The Nigerian Central Bank had opened a letter of credit for this purpose, issued by a French bank- Banque Nationale de Paris. The obligations and the rights deriving from the contract and the letter of credit were transferred and/or assigned to Hellas Eurotrade Ltd in 1975. The plaintiff bank had undertaken to act as guarantor of the above-mentioned company for the delivery of the cement and the fulfilment of the obligations connected thereto and to provide banking and exchange facilities regarding the above obligation against personal guarantees, including that of the applicant. The action had been based on differences that arose between the plaintiff bank

and the applicant from the performance of the obligation for delivery of cement to the Nigerian Government.

13. On 17 December 1977 the plaintiff bank addressed a letter to the Bank of Cyprus Ltd in Nicosia, together with two bills of exchange, one for 465,915.82 US dollars (USD) and the other for USD 300,000, with instructions that they be presented to the applicant for acceptance and payment. The applicant filed a civil action (no. 5746/77) before the District Court of Nicosia. On 29 December 1977 the court declared the two bills void *ab initio* and without any legal effect.

14. Consequently, on 29 November 1985 the plaintiff bank filed a civil action before the District Court of Nicosia (action no. 11078/85) against the applicant in his capacity as guarantor of the above-mentioned company. However, this action was discontinued and withdrawn by the plaintiff on 9 January 1986.

15. The plaintiff bank then filed civil action no. 747/86 against the applicant claiming an amount of USD 598,729 plus compound interest, the performance of accounts as to the sums which the company had received from the Nigerian Government and a court order for the payment of an amount equivalent to 1% of the received sum which in total exceeded USD 18,881.562 plus interest. On account of the Limitation of Actions Law, Cap. 115, the filing of the action would have been outside the limitation periods prescribed by the said law. However the Law of Suspension of Limitation of Actions (no. 57/64 of 1964) had suspended the laws of limitations in Cyprus.

B. The proceedings before the District Court of Nicosia

1. The main proceedings

16. The action was filed on 23 January 1986 by way of writ of summons.

17. The appearance was filed on 25 February 1986 and the statement of claim was filed on 13 May 1986.

18. On 28 May 1986 the applicant filed an application for security of costs which was granted on 11 June 1986 by consent.

19. Between the above date and 2 October 1987, the applicant filed his defence and the court dealt with four applications by the parties. The plaintiff applied twice for extension of time for the purpose of filing its reply (applications that he later withdrew) and also filed an application for amendment of pleadings. The applicant filed an application for discovery of documents. In this period the case was adjourned five times - twice at the parties' request and three times at the plaintiff's request with the applicant's consent.

20. On 2 October 1987 the plaintiff filed an application to exclude one of the applicant's advocates. The hearing of this application was adjourned twice, once by the court and once at the plaintiff's request with the applicant's consent. The hearing was held on 30 April 1988 and on 30 July 1988 the application was dismissed. On 30 July 1988 the plaintiff filed civil appeal no. 7702 against this ruling (see paragraphs 54-57 below).

21. In the meantime, on 19 October 1987 the amended writ of summons was filed. The plaintiff filed an application on 7 November 1987 for an extension for filing the amended statement of claim. This was granted the same day and the statement of claim was filed one month later. On 28 January 1988 the applicant filed an application for an extension for submitting his defence and on 5 April 1988 he submitted a second application for the same reasons. On 28 June 1988 the applicant filed his defence and counterclaim.

22. On 10 October 1988 the plaintiff filed an application to strike out the applicant's counterclaim. Following the filing of the applicant's opposition the application was fixed for hearing for 27 October 1988 but was then adjourned by the court until 24 November 1988. The hearing took place on 3 December 1988 and on 11 January 1989 the court granted the application striking the counterclaim out of the action. On 22 January 1989 the applicant filed civil appeal no. 7804 against this ruling (see paragraphs 58-63 below).

23. From 9 October 1989 until 2 March 1990 the court dealt with two applications. Firstly, it dealt with an application filed by the plaintiff to strike out the applicant's defence. The applicant had been granted two extensions of time for filing his opposition to this application. Secondly, the court dealt with an application filed on 17 November 1989 by the applicant to stay the proceedings. As a result the hearing of the first application was adjourned twice, once by the court and once at the parties' suggestion that the application be heard after determination of the applicant's application for stay of the proceedings. When the latter application was dismissed on 16 February 1990, on 22 February 1990 the court fixed the plaintiff's application for hearing for 2 March 1990 and on that date with an *ex tempore* ruling it dismissed the application. On 15 March 1990 the plaintiff filed civil appeal no. 8076 against this decision (see paragraphs 64-67 below).

24. On 21 April 1992 the Supreme Court delivered its judgment in appeal no. 7804 and the plaintiff withdrew appeal no. 8076.

25. On 7 May 1992 the case was fixed for mention for 27 May 1992 by the court, *ex proprio motu*. The case was adjourned at the applicant's request with the plaintiff's agreement until 10 June 1992.

26. In the meantime, on 22 May 1992 the plaintiff withdrew appeal no. 7702. Further, on 27 May 1992 the applicant filed another application to stay the proceedings before the district court until the determination of an

application which he had filed before the European Commission of Human Rights (application no. 20492/92) complaining that as a result of the domestic courts' decision to not examine his counterclaim he had been deprived of his right to a fair trial¹. The plaintiff filed an objection to this application on 9 June 1992. On 6 July 1992 the hearing of the application was adjourned by the court because the case-file could not be traced. The application was heard on 16 September 1992. On 22 September 1992 the district court dismissed the application.

27. In the intervening time, on 10 June 1992, the main action was fixed for hearing for 11 November 1992. However, on 19 October 1992, the parties jointly applied for the adjournment of the hearing. The court directed the parties that if until 18 December 1992 no application for fixing a hearing was filed, the case file would be brought before the court for directions.

28. Meanwhile, on 6 October 1992 the applicant filed an application for discovery of documents. Following one adjournment to allow service of the application, the case was fixed for 16 October 1992 and then for 11 January 1993 at the parties' request. In the meantime, on 15 December 1992 the plaintiff had also filed an application for discovery. This was also fixed for 11 January 1993. On that date, at the parties' request, the applications were fixed for 25 January 1993. On 4 February 1993 the district court issued the relevant orders, and the parties complied with them on 12 April 1993.

29. Within the same period, on 18 December 1992 the plaintiff had filed an *ex parte* application for extension of time for filing the reply. The application was granted the same day and on 14 January 1993 the plaintiff filed its reply.

30. On 20 September 1993 the plaintiff applied for the main action to be fixed for hearing. It was fixed for mention for 18 October 1993 and then adjourned at the parties' request to complete the discovery procedure until 16 December 1993. On that date the case was adjourned for the same reasons on the joint request of the parties until 31 January 1994, with discovery to be completed by 28 January 1994.

31. On 31 January 1994, the case was fixed for 23 May 1994 in view of the fact that discovery had not been completed yet. In the meantime, on 18 March 1994, the applicant requested an extension for the purposes of discovery and this was granted on 24 March 1994.

32. On 23 May 1994 the hearing was adjourned following a written request by the parties. The parties requested that the hearing start after the summer holidays. The hearing was adjourned until 14 October 1994 and then until 14 February 1995 at the parties' request.

33. One day before, on 13 February 1995 the applicant filed an application to have the action dismissed. The application was based, *inter*

¹ This application was declared inadmissible (see *Nicos Shacolas v. Cyprus*, no. 20492/92, Commission decision of 2 March 1994).

alia, on the Cypriot Rules of Civil Procedure, Articles 30, 33, 34 and 35 of the Cypriot Constitution and Articles 6, 13 and 14 of the European Convention on Human Rights. The applicant complained that there had been an inordinate delay both in the filing of the action by the plaintiff and in the hearing of the case. As a result he claimed that deciding the issue of delay at a later stage would infringe the relevant Constitutional and Convention provisions and deprive him of his right to a fair hearing within a reasonable time. The applicant maintained that the continuation of the proceedings would be vexatious and would constitute an abuse of the process of the court. In this context, he requested the court to consider the delay on the part of the plaintiffs in filing the action and the fact that, according to the Limitation of Actions Law (Cap. 115) the action would have been statute-barred several years before its filing, had the operation of this Law not been suspended by the Law of Suspension of Limitation of Actions (no. 57/64 of 1964), the constitutionality of which was challenged. Further, he noted that he had suffered damage because of the protracted length of the proceedings. In this connection he alleged, among other things, that important witnesses had died and that he would not be able to initiate compensation proceedings since one of the co-guarantors had died and Hellas Eurotrade Ltd had been dissolved.

34. On 14 February 1995 the hearing of the main action was adjourned with the plaintiff's consent, so that the above application would be heard first. The court fixed the application for hearing for 14 and 16 March 1995. From 14 March 1995 until 5 April 1995, four hearing sessions were held and the decision was reserved on the latter date. On 1 August 1995 the district court rejected the application. It noted amongst others that it had not been argued that the action itself and its continuation were frivolous or vexatious and thus, under the applicable rules, the application could not be dismissed on that ground. Furthermore, it concluded that the delays in the proceedings –amounting to five and nine months- were not significant and did have any adverse effects on the applicant so as to justify the dismissal of the action. On the contrary it was more likely that the delays in the presentation of oral and/or written evidence caused prejudice to the plaintiffs who had the burden of proof in the action. Finally, the Supreme Court found that, in line with its jurisprudence, the Law of Suspension of Limitation of Actions was constitutional.

35. On 9 August 1995 the applicant lodged civil appeal no. 9520 against this decision (see paragraphs 68-74 below).

36. On 3 October 1995 the case was fixed before the court. On that date the applicant requested the stay of the main proceedings before the district court pending the determination his appeal. The district court noted that it was well established in the Supreme Court's case-law that piecemeal appeals could not constitute a valid reason for delaying or adjourning the

main proceedings and rejected the applicant's request. The court fixed the main action for hearing for 4 March 1996.

37. On 4 March 1996 the applicant applied for an adjournment of the hearing pending the determination of his appeal but this was rejected. The hearing thus began on that date with Kronides J and four hearing sessions were held until 8 March 1996. The hearing was then set for 20 March 1996 but was then adjourned until 25 April 1996 at the parties' request for the purposes of discovery. From that date until 1 July 1996 the hearing was adjourned four times by the court itself in view of the fact that the presiding judge had been promoted to the Supreme Court. On 1 July 1996 the hearing was set for 16 October 1996 to take place *de novo*.

38. The hearing was however adjourned once at the plaintiff's request with the applicant's consent and once by the court due to the enactment of an amendment to the Courts of Justice Law 1960 (Law no. 14/60) abolishing full courts. On 5 December 1996 the hearing was set for 12 February 1997. Following a one-day adjournment by the court and one adjournment at the plaintiff's request, with no objection on the applicant's part, the hearing was fixed for 8 May 1997 before Kramvis J, the new President of the District Court.

39. On 8 May 1997 the hearing commenced and from that date until 15 July 1997 nineteen hearing sessions were held.

40. On 17 July 1997 the plaintiff applied for an adjournment which was accepted by the applicant. The case was fixed for 3 September 1997 and then for hearing for 7 September 1997 with continuing hearing sessions to be held.

41. On 8 July 1997 the plaintiffs applied for an order of inspection of documents in the applicant's possession. The application was fixed for hearing for 11 September 1997 and then 12 September 1997. Following an application by the applicant for an extension to file his opposition it was set for 7 October 1997. On 15 October 1997 the case was assigned to the newly appointed President of the District Court, Clerides J. The applicant filed his objection to the application on 20 November 1997 and the hearing was held on 21 November 1997. On the latter date the application was dismissed in view of the parties' failure to appear before the court.

42. On 15 December 1997 the President of the District Court fixed the main action for directions for 23 January 1998 and for hearing on 9 and 10 March 1998. The plaintiff requested that the case be heard in March and the applicants accepted.

43. In the meantime, on 22 December 1997, the plaintiffs filed a new application for the inspection of documents, to which the applicant filed an objection on 23 February 1998, following the grant of an extension for its submission. The hearing of the application commenced on 25 February 1998 and four hearing sessions were held on the dates that had been scheduled for the hearing of the main action. The hearing of the application

was completed on 8 April 1998 and the application was granted on 5 May 1998.

44. In the intervening time, on 6 March 1998 the plaintiffs filed an application to amend their statement of claim for the second time. The case was fixed for directions for 11 March 1998 and then 30 March 1998, the applicant's opposition to be filed within this period.

45. On 9 March 1998 the plaintiffs filed an application to allow the continuation of the hearing from where it had been left with the previous President of the District Court. This application was also fixed for 30 March 1998. From that date onwards both applications were considered together. They were fixed for 15 April 1998 with directions for filing opposition. On that date the applicant applied for an extension of time for the filing of his opposition and the applications were fixed for 5 May 1998. On the latter date the hearing was adjourned since the file of the case was transferred to the Supreme Court for the hearing of civil appeal no. 9520, and the applications were fixed for 11 May 1998. On this date the presiding judge requested that no more delays take place. Following another application by the applicant for an extension of time for the filing of his opposition the applications were fixed for hearing for 24 June 1998. On that date the hearing of the first application was fixed for 1 July 1998 whereas the second application was withdrawn. The hearing of the first application took place on 1 July 1998 and on 6 October 1998 it was rejected. On 15 March 1998, the plaintiff lodged civil appeal no. 10341 against the district court's ruling.

46. Due to the above applications, the hearing of the action which had been fixed for 9 March 1998 was adjourned until 24 June 1998 and then re-adjourned until 15 September 1998. In the interim, on 7 July 1998, the Supreme Court delivered its judgment in appeal no. 9520.

47. On 15 September 1998 the hearing of the main action was scheduled for 21, 22, 25, 26, 27 and 28 January 1999. On 19 January 1999, the Supreme Court issued judgment in appeal no. 10341 reversing the district court's ruling and granting the plaintiff's application for amendment. The hearing of the main action was then rescheduled for 29, 30, 31 March and 6 and 7 April 1999.

48. In the meantime the parties submitted their amended pleadings and on 23 March 1999 the applicant filed an application for amendment of his statement of defence which was fixed for 29 March 1999. On that date the application was granted with the plaintiff's consent. The main action was then re-scheduled for hearing for 31 March 1999. On that date the court fixed the hearing for 6 April 1999 following a joint request by the parties.

49. On 6 April 1999 the hearing of the main action commenced. Between that date and 17 October 2000 approximately twenty-five hearing sessions were held for the examination of the plaintiff's first witness. Within this period three adjournments took place, two due to the ill-health of the parties' representatives and one following an application by the

applicant for another stay of the proceedings pending the transcription of the records of the previous hearings that had been conducted before the full court and subsequently before the one presiding judge.

50. The cross-examination of the above witness started on 17 October 2000 and continued until 12 September 2001. Approximately thirty-one hearing sessions were held. In this period the hearings were adjourned approximately six times: three times at the plaintiff's request, one at the applicant's due to the ill-health of his lawyer and two by the court.

51. From 26 September 2001 until 27 May 2003 they were approximately one hundred and twenty-three sittings for the examination and cross-examination of eleven witnesses, including the applicant. Within this period the applicant filed an application for the amendment of his defence and an application for the withdrawal of his lawyer from the case.

52. From 3 July 2003 until 13 August 2003 the parties' addressed the court. There were twenty-two sittings in this respect. The court reserved its judgment on the latter date.

53. On 15 September 2005 the district court delivered its judgment dismissing the action and awarding costs in favour of the applicant.

2. The interim proceedings before the Supreme Court

(a) Appeal no. 7702

54. On 30 July 1988 the plaintiff filed appeal (civil appeal no. 7702) against the ruling of the district court dismissing its application for the exclusion of one of the applicant's lawyers.

55. On 29 August 1988 the District Court Registrar forwarded the notice of appeal to the Chief Registrar of the Supreme Court and notified him that the record was being prepared. On 7 September 1988 the Chief Registrar sent a notice to the plaintiff to submit the prescribed fee for the preparation of the record so that the appeal could be fixed for hearing.

56. The file of the proceedings was forwarded to the Supreme Court on 27 September 1988 and on 24 November 1988 the plaintiff wrote to the Supreme Court registry requesting that the appeal be fixed for hearing. On 5 September 1991 the appeal was fixed for hearing on 19 November 1991 together with civil appeals nos. 7804 and 8076. On that date the Supreme Court directed that the hearing in the appeal would take place after the completion of the hearing in appeal no. 7804.

57. On 21 April 1992, following the judgment in appeal no. 7804, on the plaintiff's request the appeal was fixed for directions for 14 May 1992 and then 15 May 1992. On the latter date the plaintiff requested an adjournment and then withdrew the appeal on 22 May 1992.

(b) Appeal no. 7804

58. On 22 January 1989 the applicant filed civil appeal no. 7804 against the district court's decision ordering the exclusion of the counterclaim from the action.

59. On 7 March 1989 the applicant applied to the Registrar to fix a hearing date.

60. On 29 November 1989 the Registrar advised the parties that the appeal was fixed for hearing for 22 February 1990. On the latter date a member of the bench exempted himself from hearing the appeal and the Registrar was directed to make arrangements for the case to be assigned to a different bench. The Chief Registrar gave notice to the parties that the appeal was fixed for hearing on 26 April 1990.

61. On 12 April 1990 the applicant applied with the plaintiff's consent for an adjournment of the hearing. The appeal was adjourned *sine die* and the Registrar was directed to fix it as soon as possible. The hearing was fixed for 19 November 1991.

62. The hearing commenced on the latter date and continued on 13 and 17 January 1992. Judgment was reserved on the latter date.

63. On 21 April 1992 the appeal was dismissed.

(c) Appeal no. 8076

64. On 15 March 1990 the plaintiff filed civil appeal no. 8076 against the district court's decision for dismissal of its application to strike out the defence in the main action.

65. The notice of appeal was forwarded by the District Court Registrar to the Supreme Court and on 28 March 1990 the plaintiff was notified to submit the prescribed fee for preparation of the records.

66. On 19 November 1991 the appeal was fixed together with appeals nos. 7702 and 7804.

67. On 21 April 1992, following the judgment in appeal no. 7804, in view of the outcome of the appeal, the plaintiff sought leave to withdraw the appeal. Leave was granted and no costs were claimed by the applicant.

(d) Appeal no. 9520

68. On 9 August 1995 the applicant filed appeal no. 9520 against the district court's ruling of 1 August 1995 rejecting his application to have the action dismissed due to the delay in the proceedings.

69. On 10 April 1997 the appeal was fixed for preliminary hearing on 22 May 1997. On that date it was adjourned by the court for 27 June 1997 due to the ill-health of one of the judges.

70. Due to the fact that the typed record of the proceedings had only been received on 26 June 1997, the preliminary hearing was set for 17 July 1997.

71. On 17 July 1997 the court gave directions to the parties for the submission of their outline addresses and instructed the Registrar to fix a hearing date.

72. On 4 November 1997 the Registrar fixed the hearing for 28 January 1998. On the latter date the President of the Supreme Court exempted himself from the proceedings.

73. On 2 February 1998 the applicant applied in writing to the Chief Registrar of the Supreme Court to fix a hearing date before the full bench in view of the important issues raised in the appeal. On 11 February 1998 the plaintiff addressed a letter to the Chief Registrar objecting to this. On 18 February 1998 a hearing was fixed on this issue for 6 April 1998. The hearing was conducted on that day and on 15 April 1998 the Supreme Court rejected the applicant's application. The hearing of the appeal was then fixed for 5 May 1998.

74. Judgment was given on 7 July 1998 and the appeal was partly upheld. In its judgment the Supreme Court considered that the fairness of the proceedings ought to be considered with, and as part of, the proceedings relating to the action itself. It concluded that the district court should not have considered the applicant's allegations within the context of an interim application but within the framework of the trial taken as a whole. Only in the latter context would it be possible to determine whether or not the trial had been fair. The protection of rights aimed at securing a fair trial and not hampering it. The Supreme Court further rejected the contention that the Law of Suspension of Limitation of Actions which permitted the filing of an action without any time limitation was unconstitutional as decided in its judgment in the case of *Michael Paporis v. the National Bank of Greece* (civil appeal no. 6897, judgment of 18 December 1986). Accordingly, the Supreme Court ordered the proceedings to be continued and the hearing of the action to be fixed as soon as possible.

(e) Appeal no. 10341

75. On 15 March 1998 the plaintiff filed civil appeal no. 10341 against the district court's decision for dismissal of its application for amendment of its statement of claim. The Supreme Court fixed the appeal for hearing for 15 November 1998. The hearing was held on that day and judgment was delivered on 1 January 1999 upholding the appeal.

3. The district court's judgment in so far as the length of proceedings was concerned

76. In its judgment of 15 September 2005 the district court firstly dealt with the applicant's claims before it concerning the violation of his right under the Cypriot Constitution and the Convention for a fair trial within reasonable time. In this context the court examined the responsibility of the

parties and the courts in the delay of the proceedings as well as other factors that the applicant alleged contributed to the delay.

77. In sum, the court found that the parties had caused serious delays to the commencement and the smooth running of the proceedings. The parties' non-timely observance of the rules or directions of the court, the submission of applications for adjournments and the bombardment of all kinds of interlocutory proceedings and appeals were the principal cause for the delay and perpetuation of the proceedings. The court noted that the defendant (applicant) had not complied with set deadlines and had repeatedly sought the stay of the proceedings. The plaintiff bank had contributed to the overall prolongation of the proceedings by delaying the lodging of the action. The court observed that the courts had dealt with the parties' handling of the case and applications with satisfactory responsiveness and tolerance and without excessive delay. It was not possible to work out the exact blame of each litigant but it was clear that neither party showed a spirit of pressing on with the case.

78. The court observed that part of the responsibility for the late commencement and/or continuation of the trial was also due to the judicial mechanisms. In this context it pointed out the changes that had taken place in the bench and the delays at the interim appeal stage, in particular the delay that occurred before the Supreme Court in the trial of the interim appeal concerning the striking out of the applicant's counterclaim. In any event, the court considered that this delay had not affected or should not have affected the furtherance of the main action by the parties, since, pending the appeal, no stay of proceedings had been ordered. On the contrary the applicant had applied to the district court for a stay pending the determination of the above appeal, which was rejected.

79. The court found that the overall length delay in determining the parties' rights and obligations did not in any way negatively affect the presentation of their case. It concluded that the trial had been fair and that the litigants had been provided with every possible opportunity.

B. The proceedings before the Supreme Court

80. On 12 December 2005 the Court was informed that the plaintiff filed an appeal against the first instance judgment on 27 October 2005 (civil appeal no. 314/05). These proceedings are still pending.

II. RELEVANT DOMESTIC LAW

81. Articles 30 (2) and 35 of the Cypriot Constitution in so far as relevant provide as follows:

30 (2) "In the determination of his civil rights and obligations ..., every person is entitled to a ... hearing within a reasonable time by [a] ... court ...".

35 “The legislative, executive and judicial authorities of the Republic shall be bound to secure, within the limits of their respective competency the efficient application of the provisions of this Part”.

82. In the case of *Takis Yiallourous v. Evgenios Nicolaou* (8 May 2001, civil action no. 9931) the Supreme Court upheld the first instance decision of the Nicosia District Court establishing that a violation of any rights protected by the Cypriot Constitution provided the victim with an actionable right. The respondent had brought an action against the appellant for damages sustained as a result of the violation of his right to private life and secrecy of correspondence and communications by the appellant. The Supreme Court found that the violation of the above rights safeguarded by Articles 15 (1) and 17 of the Constitution gave rise to a right for legal protection through the course of justice and to remedies provided by the law. The respondent was awarded damages as compensation for the consequences of the violation of his rights.

83. On 30 July 2001 the Supreme Court adopted “The Rule of Judicial Practice” which provides as follows:

“During the Court’s meeting of 3 July 2001 and before the Court proceeds with its judicial work, the President announced the issuing of the following Judicial Rule of practice.

The President of the Supreme Court Mr G.M. Pikis stated as follows:

With the unanimous agreement of all the Judges of the Supreme Court, the following Rule of Practice is issued:

It is acknowledged that the duty for the hearing of cases within a reasonable time is the individual duty of the trial judge and a collective duty of the judicial function. The establishment of rules for conducting a trial within reasonable time and the supervision of the procedures towards preventing delays is the responsibility of the Supreme Court. Its performance must be regulated in a way which secures, not only in advance but also during the course of the trial of cases, that the safeguards set by Article 30.2 of the Constitution and the principles governing the proper administration of Justice, as set out in circulars of the Supreme Court, are complied with. For achieving this purpose, the present Rule of Practice is adopted:

Whenever it comes within the knowledge of the Supreme Court (either through the Registries or following representations made by any person having an interest in the trial of the case without delay) that the trial of the case is being delayed, or it appears from the arrangements made – in respect of its trial – that it is possible that the trial be delayed, or where it appears that the hearing is not conducted uninterruptedly as determined by the circulars of the Supreme Court, the Supreme Court may issue directions for preventing delays in the hearing of the case and for the uninterrupted trial of the case as it deems fit. The responsibility of observing the conduct of cases undergoing trial, for the purpose of briefing the Supreme Court of delays noted or envisaged in the trial of civil and criminal cases, shall be vested with the Registrar, who will serve at the Supreme Court. The gathering of information on this matter shall be regulated by the Chief Registrar in due course”.

THE LAW

I. THE GOVERNMENT'S PRELIMINARY OBJECTIONS

A. Exhaustion of Domestic Remedies

1. The submissions before the Court

84. The Government submitted that the applicant had failed to exhaust domestic remedies as required by Article 35 § 1 of the Convention.

85. Firstly, they maintained that the applicant had raised the issue of delay in the proceedings by way of interim application before the district court (application dated 13 February 1995) and the Supreme Court (civil appeal no. 9250). That court had decided that the fairness of the trial due to delay should be determined within and as part of the trial proceedings of the action itself, that is at the stage of the hearing of the substance of the case, when the Court is in a position to actually determine whether there has been a fair trial or not. This matter could not therefore be considered and decided on the basis of the interim application. The ruling of the Supreme Court was in accordance with domestic case-law and the jurisprudence of the Commission and the Court. The applicant, by prematurely applying to the Court without utilising the procedure for challenging the delay in the proceedings, had tried to avoid having recourse to domestic remedies in anticipating that they would have been ineffective.

86. In addition the Government noted that the above-mentioned interim application that had been filed by the applicant had focused exclusively on the delay caused by the plaintiff combined with the suspension of the limitation period. Hence, it had not been the same in substance as the one examined by the Court in the present application. The applicant had not complained about delays caused by the judicial authorities in the action itself or in the appeal process, nor had he alleged a violation by the State of his specific right to a hearing within a reasonable time. His contention had been rather that his Constitutional and/or Conventional right to fair trial had been violated because of the plaintiff's delay in filing and pursuing the action against him.

87. Moreover, within the proceedings the applicant could have had recourse to certain remedies. For example, he could have filed a dismissal for action for want of prosecution from the very outset of the proceedings invoking, *inter alia*, the alleged delay by the plaintiff in bringing the action before the courts or, later on in the proceedings, due to the delay by the plaintiff to file his statement of claim.

88. The Government further submitted that a violation of a right under the Constitution and/or the Convention constituted a valid cause of action before the domestic courts and the victim of violation could seek all the remedies prescribed by the law including damages. In support of their arguments, the Government relied on the judgment of the Supreme Court in the case of *Takis Yiallourous v. Evgenios Nicolaou* (8 May 2001, civil action no. 9931) finding that the violation of the plaintiff's right to the private life and the right to secrecy of correspondence and communications, as guaranteed by the Cypriot Constitution, provided him with an actionable right. The above judgment illustrated that in practice a system of effective remedies existed so that violations of rights protected both under the Constitution and the Convention could be brought before the domestic courts and determined effectively.

89. Finally, the Government referred to the "Rule of Judicial Practice" issued on 3 July 2001, according to which the Supreme Court could issue directions *ex proprio motu* or upon application by an interested party to the action, in order to prevent delays and interruptions from occurring during the course of the hearing of cases and, any party to the appeal could apply in writing to the Chief Registrar requesting an expedited hearing of the appeal. They stated that the Supreme Court had on several occasions on its own motion fixed appeals for hearing on an expedited basis, thus by-passing the usual pre-trial hearing stage and the filing of written outline addresses. The Government gave two examples of civil appeals in which the proceedings were expedited. Firstly, in civil appeal no. 11006 they noted that following the application by the appellant for an expedited hearing, the Supreme Court allowed the application and fixed the case directly for oral hearing upon preparation of the transcribed record, thus circumventing the usual procedure of fixing the case for a pre-trial hearing. Secondly, in civil appeal no. 11013 the Supreme Court on its own motion accelerated the hearing of the appeal allowing the appeal process to be completed in a period of five months. The Government also pointed out that in the instant case during the proceedings concerning appeal no. 10341 the Supreme Court had on its own motion fixed an expedited oral hearing and in appeal no. 9520 the applicant's lawyer had applied to the court for a hearing date to be fixed. This application had been declined however since he had failed to address the court for an expedited hearing at an earlier stage of the appeal proceedings.

90. In the Government's opinion not only did each of the above remedies constitute effective remedies but also the aggregate clearly illustrated that within the Cyprus legal system complaints as to violations of the right to hearing within a reasonable time could be raised and determined effectively.

91. The applicant contested the Government's arguments. He argued that the Government were estopped from raising this objection at the merits' stage.

92. In the alternative, the applicant submitted that no effective remedy existed in relation to his complaints. In this connection, he noted that he had given the opportunity to the domestic courts to prevent the alleged violation or its continuation by filing an application to that effect in the district court (dated 12 February 1995) and then civil appeal no. 9520. However, the Supreme Court, by majority, had decided that the issue of delay should be resolved at the final stage of the proceedings and thus, in effect that the applicant should be subjected to an unduly long trial. He considered that this judgment contravened both the provisions of the Cypriot Constitution and the Convention.

93. Furthermore, the applicant maintained that the Government had not shown that the use by the applicant of certain procedural steps at the beginning and/or during the proceedings would have led to the dismissal of the action.

94. The applicant finally claimed that he had clearly established that he had exhausted domestic remedies in an endeavour to prevent the continuation of an obvious and flagrant violation of his rights but also that the domestic remedies had proved to be inadequate and ineffective in remedying or preventing the violation he complained about.

2. *The Court's assessment*

95. The Court reiterates that according to Rule 55 of the Rules of Court, any plea of inadmissibility must, in so far as its character and the circumstances permit, be raised by the respondent Contracting Party in its written or oral observations on the admissibility of the application (see *K. and T. v. Finland* [GC], no. 25702/94, § 145, ECHR 2001-VII; *N.C. v. Italy* [GC], no. 24952/94, § 44, ECHR 2002-X). Where a new legally relevant procedural event occurs in the course of the proceedings before the Court, it is in the interests of the proper administration of justice that the Contracting Party makes any formal objection without delay (see, *mutatis mutandis*, *N.C. v. Italy* [GC], cited above, § 45).

96. The Court firstly observes that the Government's submissions concerning interim appeal no. 9520 and the recourse to certain remedies during the proceedings before the district court refer to events that had occurred before the application was lodged with the Court and that could have been raised by the Government in their observations on the admissibility of the case. On that account the Government may be considered to be estopped from raising these objections at this stage of the proceedings (Rule 55 of the Rules of Court; see *inter alia*, *Amrollahi v. Denmark*, no. 56811/00, § 22, 11 July 2002; and *Nikolova v. Bulgaria* [GC], no. 31195/96, § 44, ECHR 1999-II).

97. Concerning the remainder of Government's submissions on the remedies available following the adoption of the judgment in the case of *Takis Yiallourous v. Evgenios Nicolaou* on 8 May 2001 and the issuing of the "Rule of Judicial Practice", on 3 July 2001, the Court notes that these could be considered as relevant legal developments that arose subsequent to its admissibility decision of 3 April 2001. This being so, the Court finds that the Government's objection can be taken into account at this stage of the proceedings.

98. Firstly, as regards the Government's claim that the applicant could have raised his complaint about the length of the proceedings by filing a civil action against the Government, the Court notes that although the case of *Yiallourous* illustrates the possibility of recourse before the domestic courts in respect of allegations concerning violations of rights protected under the Cypriot Constitution and the Convention, it does not indicate whether the applicant in the present case could in reality obtain relief – either preventive or compensatory – by having such recourse in respect of his length complaint. Moreover, the Government have not made reference to specific, established case-law on the availability of adequate damages for delays already suffered and their consequences, or on the possibility of such an action being preventative of further delay (*Kudla v. Poland* [GC], no. 30210/96, § 159, ECHR 2000-XI).

99. Further, as regards the "Rule of Judicial Practice", the Court observes that when the Supreme Court is informed either through a court's registry or an interested party that the trial of a case has been or will possibly be delayed, it may issue directions to the relevant court concerning the prevention of delays and the continuation of the hearing forthwith. While accepting that such directions may have the effect of speeding up the proceedings if the court in question follows them without delay, the Court notes that this rule does not lay down any practical steps that the Supreme Court can take to expedite the proceedings before a district court nor does it envisage any sanctions for failure of the relevant court to comply with such directions. Finally, the Court observes that this remedy advocated by the Government does not give litigants a personal right to compel the Supreme Court to exercise its supervisory powers.

100. In these circumstances, the Court considers that the Government have failed to show that, at the relevant time, an effective domestic remedy was available to the applicant in respect of the length of the domestic proceedings or that the applicant, at this stage, should be required to go back to the national courts and attempt to make use of them. Accordingly, the applicant's complaint cannot be rejected on this basis.

B. Abuse of the right of application

1. The submissions before the Court

101. The Government raised an objection in that the application was an abuse of the right of procedure within the meaning of Article 35 § 3 of the Convention. They contended that the applicant, by submitting unsubstantiated and/or false allegations, holding back certain factual information, and exaggerating his claims in relation to the prejudice and damage he allegedly suffered, intended to mislead the Court as to the factual aspects of the case. They considered that the Court had been misled when adopting its admissibility decision of 3 April 2001.

102. The applicant contested the Government's submissions. He pointed out that all factual information regarding the case had been submitted in his observations and exhibits and that the Court had been informed of any mistakes that had been made in his application.

2. The Court's assessment

103. Having examined the parties' submissions the Court finds that it has not been established that the present case was brought before it in abuse of the right of application. Furthermore, in so far as the Government is understood to argue that the applicant has not substantiated his claims as to a violation of the Convention and alleged damages suffered therefrom, that issue goes to the merits of the complaint and the question of just satisfaction.

It follows that the Government's preliminary objection in this regard must be dismissed.

C. Waiver of the applicant's right to a hearing within a reasonable time

1. The submissions before the Court

104. The Government submitted that the applicant had waived his rights to complain about the delay in the domestic proceedings and therefore should be estopped from raising them before the Court. They pointed out that: firstly, his behaviour throughout the proceedings causing constant delay; secondly, the applicant's agreement to continue the proceedings following the dismissal of appeal no. 9520 by the Supreme Court on 7 July 1998; thirdly, the fact that the applicant in his interim application of 13 February 1995 before the district court and in his subsequent appeal (no. 9520) had only complained about the delay in the proceedings caused by the plaintiff's conduct and not by the judicial authorities.

105. The applicant submitted in reply that the Government were estopped from raising this objection at the merits' stage. Furthermore, he contested the Government's arguments and noted that he had requested the domestic courts on various occasions to stay the proceedings but his applications to this effect had all been rejected.

2. The Court's assessment

106. The Court observes that firstly, in so far as the Government may be understood to submit that the applicant's conduct contributed to the delay in the proceedings, that issue goes to the merits of the complaint. Secondly, it notes that once the Supreme Court had rejected appeal no. 9520, the applicant, being the defendant in the case, did not have a choice in whether or not to continue with the proceedings. Finally, the fact that the applicant did not complain in the above-mentioned appeal about the responsibility of the judicial authorities in the delay cannot be construed as a waiver of his right to complain about the overall length of the domestic proceedings before this Court.

Accordingly, this objection must be dismissed.

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

107. The applicant complained that the length of the proceedings before the District Court of Nicosia had been incompatible with the "reasonable time" requirement, provided in Article 6 § 1 of the Convention, which reads as follows:

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

108. The Government and the intervening third-party contested that argument.

A. Period to be taken into consideration

109. The proceedings before the District Court of Nicosia began on 23 January 1986 and ended on 15 September 2005. According to information received by the Court on 12 December 2005, the appeal before the Supreme Court is still pending.

110. The period to be taken into consideration began on 1 January 1989, when the recognition by Cyprus of the right of individual petition took effect. It has thus lasted approximately seventeen years for two levels of jurisdiction.

111. However, the Court reiterates that, in order to determine the reasonableness of the length of time in question, regard must be had to the state of the case on 1 January 1989 (see, among other authorities,

Styranowski v. Poland, no. 28616/95, § 46, ECHR 1998-VIII). In this connection the Court notes that the proceedings in the action commenced on 23 January 1986 and that, therefore, when the right of individual petition took effect in respect of Cyprus, the proceedings had already been pending for two years, eleven months and nine days.

B. Reasonableness of the length of the proceedings

112. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicants and the relevant authorities and what was at stake for the applicants in the dispute (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II and *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

1. Complexity of the case

113. The Government contended that the case had been of considerable complexity and had involved amongst other things issues of private international law, banking law and practice and the interpretation of the Cyprus Constitution and the Convention. A number of witnesses had been from abroad and the proceedings involved the submission of detailed and lengthy pleadings that had been repeatedly amended along with extremely bulky documentary evidence that had been difficult to gather. The taking of evidence had also been lengthy, complicated - approximately one hundred and seventy-nine sittings were held in this respect – whilst the evidence given from foreign witnesses had to be translated. Furthermore, the Government stated that the case had been rendered more complicated by the numerous interlocutory applications and appeals filed by the parties.

114. The applicant submitted that the delays in the case had not been linked to the complexity of the case. The main reasons for delay had been the abortive hearings, the organisational problems in the judicial system and the periods of inactivity, particularly, during the interim appeals.

115. The intervening third-party submitted that the proceedings were of an extremely complex nature involving difficult points of law from three jurisdictions. The time required to deal with these issues would have been lengthy even under ideal conditions.

116. The Court considers that the case was particularly complex factually, procedurally and legally. This is clearly evidenced by the extensive documents submitted by the parties and the fact that more than two hundred hearing sittings were held. It also shares the Government's view that the large number of interlocutory applications filed by the parties increased the complexity of the case at least from a procedural standpoint. In this connection it notes that the District Court of Nicosia in its final

judgment drew attention to this intense activity and emphasised that this had been a cause of the protracted length of the proceedings.

2. Conduct of the applicant

117. According to the Government, the applicant's conduct had been the primary cause of delay in the proceedings. The applicant had misused his procedural rights by using dilatory tactics which sometimes obstructed the continuation of the proceedings. They noted that the applicant had filed twelve interim applications, many of which had been unnecessary. At least four of these applications reached a hearing stage and the applicant had appealed to the Supreme Court against the rulings of the district court in respect of two of these applications. Furthermore, the applicant, *inter alia*, had filed applications before the court just when the main hearing of the action was to begin, had opposed even normal applications by the plaintiff concerning the discovery and inspection of documents, had filed several applications for stays of action, had failed to resort to available domestic procedural means for expediting the proceedings and had not complied with time limits or hearing dates. Moreover, the Government noted that a significant number of adjournments had been at the applicant's request or the parties' joint request. The applicant had also consented to the adjournments requested by the plaintiff.

118. The applicant contested the allegation that he had been responsible for the delay in the proceedings and emphasised the fact that he had filed interlocutory applications in order to complain about the ongoing delays and to prevent the violation of his rights. He argued that the Government had failed to indicate how his applications resulted in the delay of the main hearing or whether without them the hearing of the main action would have started earlier. He also maintained that he had consented to the production of all necessary documents for the purposes of expediting the proceedings. The applicant considered that he had been entitled to make use of the available procedures.

119. The intervening third-party alleged that the applicant had failed to act with diligence and had actively prolonged the proceedings, in particular through the filing of applications, requests for adjournments and by the withholding of documents crucial to the trial, leading the plaintiffs to bring additional actions for these purposes. Furthermore, it noted that the applicant had been unwilling to accept the holding of hearing sessions during the summer recess of July 1997 for the purposes of avoiding a *de novo* trial.

120. The Court considers that the applicant contributed considerably to prolonging the proceedings. It notes, amongst other things, that the parties either alone or in agreement with each other requested more than thirty adjournments and/or extensions of time for the filing of applications.

Furthermore it observes that within the proceedings twelve interim applications and two interim appeals were filed by the applicant.

3. Conduct of the authorities

121. The Government maintained that the authorities had acted diligently throughout the proceedings. The main delays in the proceedings were due to the judicial promotions and the reorganisation of the district court and the delays before the Supreme Court in appeals nos. 7804 and 9520. However, the Government pointed out that the overall delay caused by the *de novo* hearing of the case due to appointments of the presiding judges to the Supreme Court was very short and the case had been set for hearing promptly. Further, the delay before the Supreme Court as regards appeal no. 9520 had not affected the main proceedings since the latter had not been stayed but had continued in parallel with the appeal proceedings. Moreover, although the Government admitted that there had been inertia and unreasonable delay in appeal no. 7804, they noted that the Court should bear in mind that appellate proceedings were slower and that a hearing date had to be normally fixed for about nine months after the filing of the appeal. Thus, only the period thereafter could be considered as delay in the proceedings. Finally the Government emphasised that the main proceedings had continued in parallel with all the appeal proceedings and the interlocutory proceedings and therefore no delay had been caused to the main action.

122. The applicant in reply submitted that the authorities had been primarily responsible for the delays. He argued that the bulk of the delay had been caused by lengthy periods of inactivity, particularly before the Supreme Court in appeals nos. 7804 and 9520, by the re-hearing of the case following the consecutive appointments of the presiding judges to the Supreme Court. He considered that the domestic courts had not taken the appropriate steps to ensure the speedy completion of the proceedings. In this connection, he pointed out the limited working hours of Cypriot courts.

123. The Court notes that the both the District Court of Nicosia and the Supreme Court were responsible for a number of delays in the proceedings. In the main proceedings before the district court there was at least one long period of inertia from 2 March 1990 until 7 May 1992 amounting to approximately two years and two months. Furthermore, a delay of approximately four months took place because of the appointment of two of the presiding judges to the Supreme Court. In addition it is observed that it took the district court more than two years to deliver its judgment. This appears to be unreasonably long even taking into consideration the complexity of the case. In the appeal proceedings there were two considerable periods of delay. Firstly, in appeal no. 7804 a period of approximately thirteen months passed until the appeal was fixed for hearing and then, following an adjournment at the applicant's request, it took the

Supreme Court Registry approximately one year and seven months to re-set the appeal for hearing. Secondly, in appeal no. 9520, it took the court approximately two years and five months to set the appeal for hearing. Although for part of this period the main and/or interlocutory proceedings before the district court were still continuing the Court cannot ignore the significant delays that occurred during the examination of the interim appeals.

4. Conclusion

124. In an overall assessment of the various factors, the Court concludes that the delays occasioned by the difficult nature of the case and by the applicant's behaviour do not of themselves justify the length of the proceedings on the whole. Furthermore, in so far as the delays in the proceedings were the consequence of the numerous procedural possibilities open to the parties, the Court recalls that Article 6 § 1 of the Convention imposes on the Contracting States the duty to organise their judicial system in such a way that their courts can meet each of its requirements, including the obligation to hear cases within a reasonable time (see *Pélissier and Sassi*, § 74; and *Frydlender*, § 45, both cited above; and *König v. Germany*, judgment of 28 June 1978, Series A no. 27, p. 34, § 100).

125. The Court finds, having regard to all the circumstances of the case and having taken into account the overall duration of the proceedings, that in the instant case the length of the proceedings before the District Court of Nicosia was excessive and failed to meet the "reasonable time" requirement.

There has accordingly been a breach of Article 6 § 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

126. 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

127. The applicant claimed 100,000 Cypriot pounds (CYP) in respect of non-pecuniary damage for the damage to his personal and business reputation and/or for mental anguish in having a case against him involving large amounts of money with interests at high rates pending for a long period of time. He also claimed interest at a suggested rate of 9% per annum on the above amount.

128. The Government contested the claim.

129. The Court considers that the applicant must have sustained non-pecuniary damage. Taking into consideration the applicant's conduct in the proceedings (see paragraph 120 above) and ruling on an equitable basis it awards him EUR 8,000 under that head, plus any tax that may be chargeable on that amount.

B. Costs and expenses

130. The applicant also claimed CYP 142,337 for the costs and expenses incurred before the domestic courts and CYP 23,904 for those incurred before the Court. Both amounts included VAT. He also claimed interest at the proposed rate of 9% as usual bank interest in Cyprus or 8% as provided for by the Courts of Justice Law (14/60) on all judgments.

131. The Government contested these claims.

132. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI). In the present case, regard being had to the information in its possession and the above criteria, the Court rejects the claim for costs and expenses in the domestic proceedings and considers it reasonable to award the sum of EUR 4,000 for the proceedings before the Court, plus any tax that may be chargeable on that amount.

C. Default interest

133. The Court considers it appropriate that the default interest 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. *Dismisses* the Government's preliminary objections;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 8,000 (eight thousand euros) in respect of non-pecuniary damage and EUR 4,000 (four thousand euros) for costs and expenses, to be converted into Cyprus pounds at the rate

applicable at the date of settlement, plus any tax that may be chargeable on the above amounts;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 4 May 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President