



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

FIRST SECTION

CASE OF MUŽEVIĆ v. CROATIA

(Application no. 39299/02)

JUDGMENT

STRASBOURG

16 November 2006

FINAL

16/02/2007

*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 Mužević v. Croatia,

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

Mr C.L. ROZAKIS, *President*,

Mr L. LOUCAIDES,

Mrs F. TULKENS,

Mrs N. VAJIĆ,

Mr A. KOVLER,

Mrs E. STEINER,

Mr K. HAJIYEV, *judges*,

and Mr S. QUESADA, *Deputy Section Registrar*,

Having deliberated in private on 24 October 2006,

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

PROCEDURE

1. The case originated in an application (no. 39299/02) against the Republic of Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Croatian national, Mrs Vesna Mužević (“the applicant”), on 18 October 2002.

2. The Croatian Government (“the Government”) were represented by their Agents, first Mrs L. Lukina-Karajković and subsequently Mrs Š. Stažnik.

3. On 25 November 2004 the Court declared the application partly inadmissible and decided to communicate the complaint concerning the length of the five enforcement proceedings. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the remainder of the application at the same time.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1952 and lives in Crikvenica.

5. On 28 May 1986 the applicant and her former husband A.P. (“the debtor”) concluded an in-court settlement (*sudska nagodba*) by which he undertook an obligation to: (a) hand over to her certain items of movable property listed therein (among which some jewellery), and (b) supply her with certain goods (house equipment and furniture). Under Croatian law an

in-court settlement is equal, in terms of its effects, to a *res judicata* judgment and constitutes an enforcement title.

6. On 9 January 1989, 9 April 1991 and 2 June 1992, respectively, the applicant also obtained three court judgments against the debtor obliging him to pay her certain amounts of money.

7. In the period between 1988 and 1992 the applicant instituted five enforcement proceedings against the debtor before the Crikvenica Municipal Court (*Općinski sud u Crikvenici*) in order to enforce the above settlement and the judgments.

8. On 15 May 1991 the Municipal Court decided to join three of those proceedings i.e. those instituted in 1988 (two proceedings) and 1989, respectively (see under A., B. and C. below). The intervention of the bailiff (*sudski izvršitelj*) of 6 June 1991 (see paragraphs 31 and 43 below) was therefore undertaken with a view to seizing the debtor's movables in order to satisfy the applicants claims in at least two proceedings (those under B. and C.). Likewise, they were both affected by the third party intervention resulting in inadmissibility of the enforcement in respect of some of the movables seized (see paragraphs 32 and 44 below). However, it would appear that the court subsequently separated the three proceedings again.

9. The remaining two proceedings complained of (see under D. below) remained separate until 27 March 2001 when the court decided to join them.

A. Enforcement proceedings no. I-2217/88 (I-139/89)

10. On 2 September 1988 the applicant applied for enforcement of the part of the settlement concerning the handover of movable property. The court issued a writ of execution (*rješenje o izvršenju*) on 15 September 1988 ordering the debtor to hand over the movables to the applicant. The writ became final on 7 October 1988.

11. Two successive attempts of the bailiff, on 24 October 1988 and 19 June 1990, to seize the movables failed as he was unable to find them in the possession of the debtor. The applicant therefore on 6 December 1993 invited the court to assess the value of the movables and oblige the debtor to pay her their monetary equivalent.

12. In order to satisfy her request, on 17 September 1997 the court decided to obtain an expert opinion on the value of the movables and appointed an expert to prepare and submit a report thereon. The expert submitted his report on 22 October 1997 and the court immediately forwarded it to the parties. On 26 June 1998 the applicant objected to the report and invited the court to obtain a new one from another expert.

13. On 20 October 1998 the President of the Municipal Court instructed the judge in the case to expedite the proceedings.

14. The Government submitted that on 17 May 1999 the police had served the summons on the applicant because she had been refusing to

receive it. The applicant submitted that she had never refused to receive the summons and explained that this had been common practice of serving the court's correspondence at the time. Namely, due to budgetary restrictions the court had often asked the police authorities (which were located in the same building as the court) to distribute the summons through their policemen while they were patrolling the town.

15. At the hearing held on 26 May 1999 the court accepted the applicant's request for an additional expert opinion and appointed another expert. The second expert submitted his report on 14 July 1999 to which the applicant made no objections. Nevertheless, on 20 September 1999 the court invited the expert to supplement his findings by calculation of the statutory default interest. The expert did so on 11 November 1999.

16. At the hearing held on 27 October 1999 the court heard the debtor and decided to obtain an opinion from an expert competent to assess the value of the jewellery.

17. In the period between 25 November 1999 and 21 March 2001 the applicant filed four rush notes urging the court to accelerate the proceedings. Also, on 31 May 2000 she had challenged the partiality of all judges of that court but eventually, on 19 January 2001, withdrew her challenge.

18. On 27 April 2001 the President of the court for the second time instructed the judge in the case to expedite the proceedings.

19. At the hearing held on 10 July 2001 the court invited the two experts to harmonise their opinions.

20. In the period between 21 September 2001 and 19 August 2002 the applicant filed three rush notes asking the court to speed up the proceedings.

21. On 8 October 2003 the President of the court dismissed the applicant's request for withdrawal of the judge in the case submitted seven days earlier.

22. On 22 October 2003 the court accepted the applicant's request of 6 December 1993 (see paragraph 11 above) and issued a decision ordering the debtor to pay the applicant 20,552 Croatian kunas (HRK). The decision became final on 5 November 2003.

23. Meanwhile, the applicant apparently made another request for withdrawal of the judge in the case. On 10 November 2003 the President of the court accepted her request and assigned the case to another judge.

24. On 25 November 2003 the court invited the applicant to indicate the means and object of the enforcement, i.e. the debtor's assets against which the decision of 22 October 2003 could be executed. The applicant did so on 5 December 2003 indicating that the debtor owned two cars.

25. On 20 January 2004 the court issued a writ of execution by seizure of the debtor's cars and invited the applicant to advance the costs of the bailiff's intervention. As the applicant had advanced the costs on 2 February 2004, the case was forwarded to the bailiff four days later.

26. The police authorities informed the court on 22 November 2004 that they had made a notice of seizure in the register of vehicles in respect of the debtor's cars.

27. On 11 July 2005 the bailiff effected an *in situ* inspection and seized the debtor's cars by making an inventory thereof. The court sent the minutes of the inspection to the applicant for comment on 22 November 2005 and invited her to make further proposals as regards the seized vehicles. In her reply of 15 December 2005 the applicant asked the court to assess the value of the seized cars and thereafter sell them in satisfaction of her claim.

28. It appears that the proceedings are still pending.

B. Enforcement proceedings no. I-2219/88 (I-162/90, Ovr-750/05)

29. On 2 September 1988 the applicant also applied for enforcement of another part of the settlement (see paragraph 5 above). On 15 September 1988 the court issued a writ of execution entitling the applicant to perform the debtor's obligation herself, at his expense. Subsequently, it accepted the applicant's proposal and on 15 April 1991 issued an order to the debtor to advance the costs of obtaining the goods.

30. The debtor failed to comply. Therefore, on 22 May 1991 the court, at the applicant's proposal and in order to cover those costs, ordered the seizure and sale of the debtor's movable property to be found at his home and his business premises.

31. On 6 June 1991 the bailiff seized some debtor's movables (those apparently included, at least, a car and a motorcycle). They were entrusted to a guardian – a certain M.Č. – for safekeeping.

32. However, M.R.P. intervened in the proceedings as a third party claiming that she was the owner of some of the seized movables as the debtor had transferred them to her. Eventually, on 19 October 1994 M.R.P. obtained a final court judgment in her favour declaring inadmissible the enforcement of the applicant's claim in respect of those movables. It appears that the applicant did not thereafter ask the court to continue with the enforcement by seizure of other movable property.

33. On 11 July 2000 the court decided to discontinue the enforcement proceedings on the ground that the applicant's claim had been satisfied.

34. The applicant appealed against this decision on 4 December 2000 to the Rijeka County Court (*Županijski sud u Rijeci*). She argued that, since the enforcement in respect of certain movables had been found inadmissible, her claim had not actually been satisfied and the court should have continued with the enforcement.

35. On 12 June 2002 the County Court quashed the first-instance decision and remitted the case.

36. In the resumed proceedings, on 9 October 2003 the President of the court dismissed the applicant request for withdrawal of the judge in the

case. However, on 4 November 2003 he accepted her second request to that end and assigned the case to another judge.

37. On 11 January 2005 the court set aside its decisions of 15 April and 22 May 1991 and discontinued the enforcement in its part ordering the debtor to advance the costs. Thus, from then on it was for the applicant, pursuant to the writ of 15 September 1988, to procure the goods and submit the invoice, whereupon she could apply to the court for a decision ordering the debtor to cover the costs. Both parties appealed.

38. On 9 February 2005 the Municipal Court gave a decision discontinuing the enforcement proceedings. The applicant appealed.

39. On 18 May 2005 the Rijeka County Court upheld the Municipal Court's decision of 11 January 2005 and dismissed the parties' appeals against it. On the other hand, accepting the applicant's appeal, it quashed that court's decision of 9 February 2005 and remitted the case.

40. The Government submitted that in the resumed proceedings, on 23 June 2005 the applicant asked the Municipal Court to "appoint an expert to assess the value of the movables" and that at the hearing held on 5 October 2005 the court accepted her proposal. On January 2006 the applicant advanced the costs thereof.

41. It appears that the proceedings are still pending.

C. Enforcement proceedings no. I-381/89 (Ovr-237/04)

42. On 11 October 1989 the applicant applied for enforcement of the 1989 judgment seeking seizure of the debtor's movable property to be found at his home and his business premises. She specified that the court should seize, in particular, the debtor's car and motorcycle, as well as the tools, machinery and equipment from his car mechanic workshop. The court issued a writ of execution on 12 February 1990.

43. As already mentioned above, on 6 June 1991 the bailiff seized some debtor's movables (paragraphs 8 and 31), and they were entrusted to M.Č. as the guardian.

44. It appears that after M.R.P.'s intervention (see paragraphs 8 and 32 above) the applicant did not ask the court to continue with the enforcement by seizure of other movable property.

45. On 20 October 1998 the President of the court instructed the judge in the case to expedite the proceedings

46. On 19 April 2001 the court decided to discontinue the proceedings on account that the applicant's claim had been satisfied. On 30 April 2001 the applicant appealed to the Rijeka County Court.

47. On 3 March 2004 the County Court quashed the first-instance decision and remitted the case.

48. At the hearing held on 14 June 2004, the court invited the applicant to inform it of the address of M.Č. with a view to establishing the location

of the movables seized on 6 June 1991. On 29 June 2004 the court invited the police authorities to provide that information.

49. In their reply of 7 July 2004 the police authorities responded that there existed several persons with the same name and that they needed more data in order to identify the person to whom the movables had been entrusted. The court informed the applicant of the reply of the police on 3 August 2004 and invited her to provide the address of M.Č. It appears that, to date, the applicant has not done so.

50. On 28 June 2005 the court invited the applicant's new representative in the proceedings to submit the power of attorney. It repeated its request on 24 October 2005.

51. It appears that the proceedings are still pending.

D. Enforcement proceedings nos. I-90/92 and I-97/93 (subsequently joined under no. I-90/92)

1. Enforcement proceedings no. I-90/92

52. On 25 March 1992 the applicant applied for enforcement of a part of the 1991 judgment. On 15 April 1992 the Municipal Court issued a writ of execution by seizure of movable property.

53. The bailiff's attempt of 18 November 1992 to seize the debtor's movable property failed as he found no movables susceptible to seizure.

54. On 20 October 1998 the President of the court instructed the judge in the case to expedite the proceedings.

55. On 19 June 2000 the court invited the applicant to submit a copy of the 1991 judgment, indicate the amount to be enforced in Croatian kunas, and provide the calculation of the statutory default interest. The applicant did so on 5 July 2000 by seeking payment of HRK 25,926.73.

56. The President of the court again invited the judge in the case to expedite the proceedings on 20 November 2000, 18 January and 26 February 2001.

57. On 13 March 2001 the court requested the applicant to submit a copy of the 1991 judgment stamped with the certificate of enforceability (*clausula execuendi*). The applicant did so on 21 March 2001.

2. Enforcement proceedings no. I-97/93

58. On 29 March 1993 the applicant applied for enforcement seeking execution of the 1992 judgment. She sought HRK 83,140.93. On the same date the Municipal Court issued a writ of execution by seizure of movable property.

59. The bailiff's attempt of 30 June 2000 to seize the debtor's movables was unsuccessful since no seizable movable property was found.

60. On 13 March 2001 the court invited the applicant to make further proposals as how to continue the enforcement given that already two attempts of the bailiff to seize the debtor's movable property had failed.

3. *Joined enforcement proceedings under no. I-90/92*

61. On 27 March 2001 the court decided to join the two above proceedings.

62. The bailiff attempted to seize the debtor's movable property on 18 April 2001 but found no car registered on his name. On the other hand, it found a boat for which the debtor claimed was the property of his current wife.

63. On 21 June 2001 the court decided to discontinue the enforcement proceedings. The applicant did not appeal and the decision became final on 10 July 2001.

II. RELEVANT DOMESTIC LAW AND PRACTICE

64. The relevant part of section 63 of the Constitutional Act on the Constitutional Court (*Ustavni zakon o Ustavnom sudu Republike Hrvatske*, Official Gazette no. 49/2002 of 3 May 2002 – “the Constitutional Court Act”) reads as follows:

“(1) The Constitutional Court shall examine a constitutional complaint whether or not all legal remedies have been exhausted if the competent court fails to decide a claim concerning the applicant's rights and obligations or a criminal charge against him or her within a reasonable time ...

(2) If a constitutional complaint ... under paragraph 1 of this section is upheld, the Constitutional Court shall set a time-limit within which the competent court must decide the case on the merits...

(3) In a decision issued under paragraph 2 of this section, the Constitutional Court shall assess appropriate compensation for the applicant for the violation of his or her constitutional rights ... The compensation shall be paid out of the State budget within three months from the date a request for payment is lodged.”

65. Under the case-law of the Constitutional Court, constitutional complaints lodged under section 63 in the context of enforcement proceedings were to be declared inadmissible. In its decision no. U-III/A/1165/2003 of 12 September 2003 the Constitutional Court interpreted section 63 as follows:

“The Constitutional Court shall institute proceedings pursuant to a constitutional complaint lodged under section 63 of the Constitutional Act [on the Constitutional Court] for the length of proceedings only in cases where the court has not decided within a reasonable time on the merits of the rights and obligations of the complainant, that is, where it has failed to deliver a decision on the merits within a reasonable time.

In the present case the constitutional complaint has been lodged for non-enforcement of a final decision by which the party's rights and obligations had already been decided.

Taking into consideration the above cited provisions of the Constitutional Act [on the Constitutional Court] ..., the Constitutional Court is of the opinion that in this case the conditions for applicability of section 63 were not met.”

In its decision no. U-III A/781/2003 of 14 May 2004 the Constitutional Court provided further interpretation of section 63:

“Taking into consideration the above cited provisions of the Constitutional Act [on the Constitutional Court] and the fact that the constitutional complaint was not lodged for a failure to deliver a decision within a reasonable time but rather because the enforcement was not carried out, the Constitutional Court is of the opinion that in this case the conditions for applicability of section 63 were not met.”

66. In decision no. U-III A/1128/2004 of 2 February 2005 the Constitutional Court changed its practice, accepting a constitutional complaint and awarding compensation as well as ordering the competent court to conclude the enforcement proceedings within six months from its decision. In doing so, the Constitutional Court expressly relied on the Court's case-law on the matter.

THE LAW

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

67. The applicant complained that the length of the above enforcement proceedings had been incompatible with the “reasonable time” requirement, laid down 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...”

68. The Government contested that argument.

69. The Court reiterates that execution of a judgment given by any court must be regarded as an integral part of the “hearing” for the purposes of Article 6 (see *Hornsby v. Greece*, judgment of 19 March 1997, *Reports of Judgments and Decisions* 1997-II, pp. 510–11, § 40). Therefore, the enforcement proceedings must be regarded as the second stage of civil proceedings (see *Zappia v. Italy*, judgment of 26 September 1996, *Reports of Judgments and Decisions* 1996-IV, pp. 1411-1412, § 20).

70. The period to be taken into consideration began on 6 November 1997, the day after the entry into force of the Convention in respect of

Croatia. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time.

71. The period in question has not yet ended in respect of the proceedings described above under A., B. and C. They have so far lasted almost nine years. On the other hand, the relevant period in respect of the joined fourth and fifth set of proceedings (see above under D.) ended on 10 July 2001, when the Municipal Court's decision to discontinue them became final. They thus lasted some three years and eight months.

A. Admissibility

1. Exhaustion of domestic remedies

72. The Government invited the Court to reject the application for non-exhaustion of domestic remedies. They submitted that the applicant could have lodged a constitutional complaint under section 63 of the Constitutional Court Act. In support of their argument, the Government produced a copy of the Constitutional Court decision of 2 February 2005 (see paragraph 66 above) in which that court had found a violation of the complainant's right to a hearing within a reasonable time on account of lengthy enforcement proceedings.

73. The applicant contested that argument. She noted, in particular, that the Constitutional Court had changed its practice to extend the guarantees of section 63 of the Constitutional Court Act to enforcement proceedings only in February 2005, that is, after she had introduced her application with the Court.

74. The Court recalls that as of 22 March 2002 a constitutional complaint under section 63 of the Constitutional Court Act is considered an effective remedy in respect of the length of proceedings still pending in Croatia (see *Slaviček v. Croatia* (dec.), no. 20862/02, ECHR 2002-VII). However, at that time it was not clear whether the new remedy would at all apply to the length of enforcement proceedings (see *Pibernik v. Croatia* (dec.), no. 75139/01, 4 September 2003). The subsequent developments in the Constitutional Court's case-law showed that only as of 2 February 2005 did a constitutional complaint become an effective remedy for the length of enforcement proceedings (see *Karadžić v. Croatia*, no. 35030/04, § 38, 15 December 2005).

75. The Court reiterates that the issue whether domestic remedies have been exhausted is normally determined by reference to the date when the application was lodged with the Court (see *Baumann v. France*, no. 33592/96, § 47, ECHR 2001-V (extracts)).

76. In the instant case, the applicant did not lodge a constitutional complaint, but instead, on 18 October 2002 she introduced her application with the Court. It was not until more than two years later that the

Constitutional Court held for the first time that there had been a violation of the right to a hearing within reasonable time in respect of the length of enforcement proceedings. Accordingly, the applicant could not have been expected to lodge such a complaint, which at that time did not offer her any reasonable prospects of success. The Government's objection must therefore be dismissed.

2. Compliance with the six month rule

77. The Court recalls that, pursuant to Article 35 § 1 of the Convention, the Court may only deal with a matter “within a period of six months from the date on which the final decision was taken”. However, when the alleged violation relates, as in the present case, to a continuing situation against which no domestic remedy is available, the six month period begins to run only when that situation has ended (see, among many other authorities, *Pekov v. Bulgaria*, no. 50358/99, § 60, 30 March 2006).

78. The Court observes in this connection that the two enforcement proceedings joined under no. I-90/92 ended on 10 July 2001, whereas the applicant introduced her application with the Court on 18 October 2002, that is, more than six months later.

79. On the other hand, no plea of inadmissibility concerning compliance with the six month rule was made by the Government in their observations.

80. The Court reiterates however that it is not open to it to set aside the application of the six-month rule, solely because a government has not made a preliminary objection to that effect (see *Walker v. the United Kingdom* (dec.), no. 34979/97, ECHR 2000-I). This is so because the six-month rule, in reflecting the wish of the Contracting Parties to prevent past decisions being called into question after an indefinite lapse of time, serves the interests not only of the respondent Government but also of legal certainty as a value in itself. The rule marks out the temporal limits of supervision carried out by the organs of the Convention and signals to both individuals and State authorities the period beyond which such supervision is no longer possible (see *Walker*, cited above).

81. It follows that this part of the application is inadmissible under Article 35 § 1 and must be rejected pursuant to Article 35 § 4 of the Convention.

82. The Court further notes that the remainder of the application as set out under points A., B. and C. above is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It also notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

83. The Court reiterates that the State has an obligation to organise a system of enforcement of judgments that is effective both in law and in

practice and ensures their enforcement without any undue delay (see *Fuklev v. Ukraine*, no. 71186/01, § 84, 7 June 2005). However, a possible failure to enforce a judgment because of the debtor's indigence cannot be held against the State unless and to the extent that it is imputable to the domestic authorities, for example, to their errors or delay in proceeding with the enforcement (see, *mutatis mutandis*, *Omasta v. Slovakia* (dec.), no. 40221/98, 10 December 2002).

84. 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 applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Cocchiarella v. Italy* [GC], no. 64886/01, § 68, to be published in ECHR 2006; and *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). The Court reiterates that enforcement proceedings by their very nature need to be dealt with expeditiously (see *Comingersoll S.A. v. Portugal* [GC], no. 35382/97, § 23, ECHR 2000-IV).

85. The Court considers that the length of the three sets of enforcement proceedings at issue, that have so far lasted more than eight years each, and are still pending, is *a priori* unreasonable and calls for a global assessment. Their overall length could be justified only under exceptional circumstances. However, the Government's arguments concerning the complexity of the case and the conduct of the parties cannot sufficiently explain such a substantial delay, which was, in the Court's view, caused mainly by the failure of the domestic courts to effectively control the enforcement proceedings. Moreover, it cannot be argued that the proceedings are still pending only formally, that is, as a mere procedural safeguard enabling the applicant to secure the seizure of any assets, of an otherwise insolvent debtor, which may potentially arise in the future (see, by converse implication, *Balázs v. Hungary* (dec.), no. 63673/00, 25 January 2005). To the contrary, as it appears from the case-file, the debtor owns several cars and runs a car mechanic business, which has been registered on his name since at least 1996. Therefore, the failure to enforce the court settlement and the judgment against him until now can hardly be attributed to his lack of means.

86. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see, for example, *Poláček v. Slovakia*, no. 58707/00, 15 November 2005; *Heger v. Slovakia*, no. 62194/00, 17 May 2005; and *Estima Jorge v. Portugal*, judgment of 21 April 1998, *Reports of Judgments and Decisions* 1998-II).

87. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers that in the instant

case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

88. 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

89. The applicant claimed 20,000 euros (EUR) in respect of pecuniary and non-pecuniary damage.

90. The Government contested the claim.

91. As regards the pecuniary damage alleged, the Court notes that the State's outstanding obligation to ensure the effective enforcement of the in-court settlement of 28 May 1986 and of the judgment of 9 January 1989 is not in dispute. The Court recalls that the most appropriate form of redress in respect of a violation of Article 6 is to ensure that the applicant as far as possible is put in the position she would have been had the requirements of Article 6 not been disregarded (see *Piersack v. Belgium* (Article 50), judgment of 26 October 1984, Series A no. 85, p. 16, § 12; and, *mutatis mutandis*, *Gençel v. Turkey*, no. 53431/99, § 27, 23 October 2003). The Court finds that in the present case this principle applies as well, having regard to the violation found. It therefore considers that the Government shall secure, by appropriate means, the enforcement of the in-court settlement of 28 May 1986 and the judgment of 9 January 1989, as modified by the writs of execution issued in the respective enforcement proceedings.

92. As regards the non-pecuniary damage, the Court, ruling on an equitable basis, awards the applicant EUR 4,800 under that head, plus any tax that may be chargeable on that amount.

B. Costs and expenses

93. The applicant did not submit a claim for the costs and expenses. Accordingly, the Court considers that there is no call to award her any sum on that account.

C. Default interest

94. 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. *Declares* the complaint concerning the excessive length of the three enforcement proceedings nos. I-2217/88 (I-139/89), I-2219/88 (I-162/90, Ovr-750/05) and I-381/89 (Ovr-237/04) admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds*
 - (a) that the respondent State shall secure, by appropriate means, the enforcement of the in-court settlement of 28 May 1986 and the judgment of 9 January 1989;
 - (b) 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 4,800 (four thousand eight hundred euros) in respect of non-pecuniary damage, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable;
 - (c) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 16 November 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago QUESADA
Deputy Registrar

Christos ROZAKIS
President