



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

1959 · 50 · 2009

FOURTH SECTION

CASE OF GJYLI v. ALBANIA

(Application no. 32907/07)

JUDGMENT
(merits)

STRASBOURG

29 September 2009

FINAL

29/12/2009

This judgment may be subject to editorial revision.

In the case of Gjyli v. Albania,

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

Nicolas Bratza, *President*,

Lech Garlicki,

Giovanni Bonello,

Ljiljana Mijović,

Päivi Hirvelä,

Ledi Bianku,

Nebojša Vučinić, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 8 September 2009,

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

PROCEDURE

1. The case originated in an application (no. 32907/07) against the Republic of Albania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Albanian national, Mr Ali Gjyli (“the applicant”), on 13 July 2007.

2. The applicant, who had been granted legal aid, was represented by Mr S. Puto, a lawyer practising in Tirana. The Albanian Government (“the Government”) were represented by their then Agent, Ms S. Meneri.

3. The applicant complained about the non-enforcement of two court judgments.

4. On 7 November 2007 the application was given priority under Rule 41 of the Rules of Court.

5. On 12 December 2007 the President of the Chamber to which the case was allocated decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it was decided to examine the merits of the application at the same time as its admissibility.

6. The applicant and the Government each filed written observations (Rule 59 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicant was born in 1945 and lives in Durrës, Albania.

A. Proceedings concerning the applicant's dismissal

8. The applicant was employed by the National Employment Service (NES) as the Director of Durrës Vocational Training Centre ("the Durrës VTC"). The NES is responsible to the Ministry of Labour. On 9 July 2005 the applicant was dismissed. Considering his dismissal arbitrary, he challenged it before the Durrës District Court. The applicant did not seek an award of pecuniary damage.

9. In its judgment of 27 September 2005, the Durrës District Court found the dismissal void due to a flawed procedure and ordered the applicant to be reinstated. On 1 November 2005 the NES filed an appeal with the Durrës Court of Appeal, ("the Court of Appeal").

10. By judgment of 12 December 2005, the Durrës Court of Appeal declared the appeal inadmissible as having been filed out of time. That judgment became final as no appeal was filed with the Supreme Court.

11. For the purposes of executing the Durrës District Court's judgment of 27 September 2005, an execution writ was issued by the court on 22 December 2005 pursuant to Articles 510 (a) and 511 (a) of the Code of Civil Procedure (see "Relevant domestic law and practice" below).

12. On 23 January 2006 the bailiff's office imposed a fine on the Minister of Labour concerning the failure to enforce the Durrës District Court's judgment. To date, the Durrës District Court's judgment of 27 September 2005 has not been executed.

B. Proceedings concerning payment of arrears of salary

13. On an unspecified date the applicant lodged a complaint with the Durrës District Court requesting payment of salary arrears since 9 July 2005.

14. On 24 October 2006 the Durrës District Court found in the applicant's favour and ordered the NES to pay the applicant his salary from 9 July 2005 until the date of his actual reinstatement.

15. On 14 June 2007 the Durrës Court of Appeal rejected an appeal by the NES. The NES appealed to the Supreme Court. According to the information before the Court, it appears that these proceedings are pending before the Supreme Court.

16. On 6 December 2006, at the applicant's request, the Durrës District Court issued an execution writ in respect of its judgment of 24 October 2006.

17. On an unspecified date the NES sought the immediate suspension of execution. The Durrës District Court decided that the case fell outside its territorial jurisdiction and transferred the case file to the Tirana District Court.

18. On 31 January 2008 the Tirana District Court dismissed the NES action. On an unspecified date the NES appealed. It appears that the proceedings are pending before the Tirana Court of Appeal.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The Constitution of Albania

19. The relevant parts of the Albanian Constitution read as follows:

“Article 42 § 2

In the protection of his constitutional and legal rights, freedoms and interests, or in defending a criminal charge, everyone has the right to a fair and public hearing, within a reasonable time, by an independent and impartial court established by law.”

“Article 131

The Constitutional Court shall determine: ... (f) complaints by individuals alleging a violation of their constitutional rights to a fair hearing, provided all legal remedies for the protection of those rights have been exhausted.”

“Article 142 § 3

State bodies shall comply with judicial judgments.”

B. The Constitutional Court (Organisation and Operation) Act (Law no. 8577) of 10 February 2000

20. The Constitutional Court Act, in so far as relevant, reads as follows:

“Article 81 – Execution of decisions

1. The Constitutional Court's judgments are binding.

2. The execution of the Constitutional Court's judgments is ensured by the Council of Ministers by virtue of respective State administration bodies.

3. The Constitutional Court may assign another body responsible for the execution of its judgment and, as necessary, the method of its execution.

4. The persons who do not enforce or prevent the enforcement of the Constitutional Court's judgments, when their action does not constitute a criminal offence, are liable to a fine (...) imposed by the President of the Constitutional Court, whose decision is final and constitutes an executive title."

C. Relevant case-law of the Albanian Constitutional Court

1. Judgment no. 6/06 of 31 March 2006

21. The case concerned a labour dispute arising out of the appellant's dismissal from work. The domestic courts ruled in favour of the appellant's reinstatement and ordered the payment of his salary arrears. Since the bailiff was ineffective in enforcing the final ruling against a municipality, the appellant seized the Constitutional Court.

22. By judgment no. 6 of 31 March 2006, the Constitutional Court, having considered this Court's judgment in *Qufaj Co. Sh.p.k. v. Albania*, (no. 54268/00, 18 November 2004), found that there had been a violation of the appellant's right to a fair hearing on account of the non-enforcement of a final court ruling. However, no award was made to the appellant.

2. Judgment no. 43/07 of 13 November 2007

23. The case concerned the non-enforcement of a domestic court ruling concerning the payment of the appellant's salary arrears by a local government administrative unit (*Këshilli i Rrethit*).

24. The Constitutional Court held that the defendant's argument about lack of funds was insufficient and could not justify the non-fulfilment of the obligation towards the appellant. The judgments reads, in so far as relevant, as follows.

"(...) the Constitutional Court does not find any reasonable grounds that justify a violation of the appellant's right to a fair hearing on the account of the competent authorities' refusal to enforce a final court judgment. It considers that, in the proceedings at issue, the debtor (*pala debitore*) had all means available throughout the entire period, from the date of the adoption of the judgment and onwards, to pay the appellant the amount owed by virtue of the court judgment. Moreover, during the examination of the case the Constitutional Court could not discern any concrete steps of the debtor which would demonstrate any willingness to enforce the obligation that resulted from a final court judgment.

Additionally, as regards the authority responsible under the law for the enforcement of final court judgments, namely the bailiff, the Constitutional Court considers that they should have diligently (*me korrektësi*) applied the relevant procedural law, notwithstanding the fact that the debtor is a State institution. All parties, whether they are private or public entities, bear the same responsibility when confronted with the obligation to enforce a final court judgment.

To conclude, having regard to the above reasoning, in the proceedings at issue the Constitutional Court observes (*konstaton*) that the non-enforcement of the final (...) court judgment constitutes a violation of the appellant's right to a fair hearing, as envisaged by Article 42 of the Constitution and Article 6 § 1 of the Convention."

25. However, no awards were made to the appellant.

3. Judgment nos. 1/09 and 6/09 of 19 January and 6 March 2009

26. The judgment no. 1/09 concerned the non-enforcement of a final administrative decision in relation to the appellant's reinstatement and the payment of his salary arrears. The judgment no. 6/09 concerned the non-enforcement of a final court judgment as regards the vacation of a plot of land.

27. In both judgments the Constitutional Court declared that there had been a violation of the appellants' right of access to court on the account of the non-enforcement of a final administrative decision and a court judgment, respectively. The Constitutional Court did not order the appellant's reinstatement in relation to judgment no. 1/09. No pecuniary or non-pecuniary award was made to any of the appellants.

D. The Code of Civil Procedure

28. The relevant parts of the Code of Civil Procedure read as follows:

Article 451 – Final judgments

"A court judgment becomes final when:

- (a) no further appeal lie against it;
- (b) no appeal has been filed against it within the time-limits prescribed by the law or when the appeal has been withdrawn;
- (c) the appeal has not been accepted;
- (d) it was upheld, amended or the case was dismissed (*pushuar*) in the appeal proceedings."

Article 479 – Suspension of the enforcement of a [court's] judgment

"The Supreme Court decides on the suspension of a judgment when:

- (a) its immediate enforcement would result in serious, irreparable damage;
- (b) the party who filed an appeal makes a deposit that ensures the enforcement of the judgment."

Article 510 – Executive titles

“Enforced execution can be made only on the basis of an executive title. Executive titles include:

(a) civil court’s judgments which have become final. ...”

“Article 511 – The execution writ

“The executive title is executed at the request of the creditor. An execution writ is issued for this purpose:

(a) by the court which gave the judgment in cases provided for in [Article 510 (a)];
(...).”

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

29. The applicant complained under Article 6 § 1 of the Convention about the non-enforcement of the Durrës District Court’s judgment of 27 September 2005 ordering his reinstatement and the Durrës District Court’s judgment of 24 October 2006 ordering payment of his salary arrears.

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

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

A. Admissibility*1. Non-enforcement of the Durrës District Court’s judgment of 24 October 2006 concerning payment of salary arrears*

30. The Government argued that the applicant had failed to exhaust domestic remedies in relation to this complaint. To date, the proceedings are pending before the Supreme Court (see paragraphs 13–15 above).

31. The applicant accepted that the proceedings were pending before the Supreme Court, but argued that the Durrës Court of Appeal’s judgment was enforceable. The Supreme Court had not suspended enforcement pursuant to Article 479 of the Code of Civil Procedure.

32. In the present case, the Court notes that the Durrës District Court's judgment of 24 October 2006, as upheld by the Durrës Court of Appeal's judgment of 14 June 2007, recognised the applicant's right to payment of arrears of his salary from 9 July 2005 until the date of his actual reinstatement. An execution writ was issued in accordance with Articles 510 (a) and 511 (a) of the Code of Civil Procedure. In the meantime, the defendant filed an appeal to the Supreme Court against both lower courts' judgments (see paragraph 15 above).

33. Against this background, the Court considers that the Durrës District Court's judgment of 24 October 2006 cannot be considered final and binding, as it had been open to appeal. In fact, appeal proceedings are pending before the Supreme Court. Even if an appeal to the Supreme Court does not have automatic suspensive effect and, apart from the power of the Supreme Court under Article 479 of the Code of Civil Procedure, the Court recalls that Article 6 protects the enforcement of final and binding judicial judgments, and not judgments which may be subject to subsequent control of a higher instance court and, eventually, quashed (see, for example, *Ouzounis and Others v. Greece*, no. 49144/99, § 21, 18 April 2002; *Ioannis Karahalios v. Greece* (dec.), n° 62499/00, 26 September 2002; *Xheraj v. Albania*, no. 37959/02, § 70, 29 July 2008).

34. Having regard to the pending proceedings before the Supreme Court, which means that the Durrës District Court's judgment does not have the effect of *res judicata*, the Court considers that this complaint is inadmissible as being premature and must be rejected under Article 35 §§ 3 and 4 of the Convention.

2. Non-enforcement of the Durrës District Court's judgment of 27 September 2005 concerning the applicant's reinstatement

35. The Government challenged the applicability of Article 6 § 1, relying on the *Pellegrin v. France* judgment ([GC] no. 28541/95, §§ 66-67, ECHR 1999-VIII). They argued that employment disputes between the State and its civil servants, were not, as a rule, regarded as "civil" within the meaning of Article 6 § 1 of the Convention.

36. The Government also submitted that the Constitutional Court was a remedy to be exhausted in cases concerning the non-enforcement of a final court judgment. They invoked this Court's judgment in *Qufaj Co. Sh.p.k. v. Albania*, (no. 54268/00, § 42, 18 November 2004), as applied by the Constitutional Court (judgments nos. 6/06 and 43/07, see paragraphs 21-27 above).

37. The Court reiterates that Article 6 § 1 under its "civil" head is applicable to all disputes involving civil servants, unless the national law expressly excludes access to a court for the post or category of staff in question, and this exclusion is justified on objective grounds in the State's interest. There can in principle be no justification for the exclusion from the

guarantees of Article 6 of ordinary labour disputes, such as those relating to salaries, allowances or similar entitlements, on the basis of the special nature of the relationship between the particular civil servant and the State in question (see *Eskelinen and Others v. Finland*, no. 43803/98, § 62, 8 August 2006).

38. Turning to the present case, the Court notes that the applicant's civil claim was examined and granted by the domestic courts following the ordinary rules of civil procedure. The applicant was not excluded by domestic law from "access to a court" within the meaning of Article 6 of the Convention. Based on the test developed in the case of *Eskelinen and Others*, cited above, the Court concludes that Article 6 is applicable to the domestic proceedings at issue.

39. The Court considers that the question of exhaustion of domestic remedies is closely connected and central to the issue of effectiveness of the constitutional complaint in relation to the non-enforcement of a final court judgment, which has been considered under Article 13 below (see paragraphs 48–61 below).

40. It considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further finds that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

41. The Government submitted that the applicant's appointment as the Director of the Durrës VTC had been unlawful. Consequently, he had been dismissed.

42. The applicant contended that the Durrës District Court's judgment of 27 September 2005, which had become final on 14 January 2006, had not yet been enforced, thus constituting a violation of Article 6 of the Convention. The efforts undertaken by the bailiff had been insufficient and ineffective.

2. The Court's assessment

43. The Court reiterates that an unreasonably long delay in enforcement of a final and binding judgment may breach the Convention (see *Burdov v. Russia*, no. 59498/00, ECHR 2002-III). The reasonableness of such delay is to be determined having regard in particular to the complexity of the enforcement proceedings, the applicant's own behaviour and that of the competent authorities and the amount and nature of the court award (see *Raylyan v. Russia*, no. 22000/03, § 31, 15 February 2007).

44. A person who has obtained a judgment against the State may not be expected to bring separate enforcement proceedings (see *Metaxas v. Greece*, no. 8415/02, § 19, 27 May 2004). In such cases, the defendant State authority must be duly notified of the judgment and is thus well placed to take all necessary initiatives to comply with it or to transmit it to another competent State authority responsible for execution.

45. The Court observes that the Government did not provide any plausible reasons for the failure of the responsible authorities to comply with the Durrës District Court's judgment of 27 September 2005. As to the Government's suggestion that the applicant's appointment was made unlawfully, the domestic courts found in his favour. The risk of any mistake must be borne by the State and errors must not be remedied at the expense of the individual concerned (see *Xheraj*, cited above, § 58).

46. The national authorities appear to have made no efforts to offer the applicant an alternative solution, for example to accommodate him in another position of similar rank. There is no information to indicate that the enforcement entailed any complexity. The applicant did not prevent the enforcement. The Court finds no justification for this period of non-enforcement, which continues to date and has impaired the essence of the applicant's right to a court.

47. For the foregoing reasons, the Court considers that there has been a violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 13 IN CONJUNCTION WITH ARTICLE 6 § 1 OF THE CONVENTION

48. The applicant did not complain about a lack of effective domestic remedies as regards non-enforcement of the judgments in his favour.

49. However, the Court observes that the ineffectiveness of domestic remedies is being increasingly raised before this Court in cases concerning a failure to enforce or delayed enforcement of final domestic judgments. It has therefore decided of its own motion to examine this issue under Article 13 of the Convention (see, for example, *Burdov v. Russia* (no. 2), no. 33509/04, §§ 89-117, 15 January 2009; *Beshiri and Others v. Albania*, no. 7352/03, 22 August 2006; and *Qufaj Co. Sh.p.k. v. Albania*, no. 54268/00, 18 November 2004).

Article 13 of the Convention provides that:

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

A. Admissibility

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

B. Merits

1. The parties' submissions

51. The Government maintained that a constitutional complaint is an effective remedy in the light of this Court's judgment in *Qufaj Co. Sh.p.k.*, cited above, and the Constitutional Court's case-law (see paragraphs 21–27 above).

52. The applicant maintained that a constitutional complaint about the non-enforcement of a final court judgment was not effective as required by Article 13 of the Convention. The Constitutional Court's judgments (see paragraphs 21–27 above) were limited to the finding of a violation of a declaratory nature. They did not provide a remedy or eliminate the continuing violation in respect of the non-enforcement of a final court judgment.

2. The Court's assessment

a. General principles

53. Article 13 of the Convention guarantees the availability at a national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they may happen to be secured in the domestic legal order. The effect of Article 13 is thus to require the provision of a domestic remedy to deal with the substance of an “arguable complaint” under the Convention and to grant appropriate relief (see *Kudła v. Poland* [GC], no. 30210/96, § 157, ECHR 2000-XI).

54. The scope of the Contracting States' obligations under Article 13 varies depending on the nature of the applicant's complaint; however, the remedy required by Article 13 must be “effective” in practice as well as in law (see, for example, *İlhan v. Turkey* [GC], no. 22277/93, § 97, ECHR 2000-VII) in the sense either of preventing the alleged violation or its continuation, or of providing adequate redress for any violation that has occurred (see *Kudła*, cited above, § 158).

b. Application in the present case

55. The Court observes first that in the Albanian legal system anyone who considers that there has been a violation of his right to a fair hearing can, if he has exhausted all domestic remedies, lodge a constitutional complaint with the Constitutional Court under Article 131 (f) of the Constitution.

56. In its *Qufaj Co. Sh.p.k.* judgment, (cited above, § 42), the Court found that:

“the Constitutional Court was competent to deal with the applicant company’s complaint relating to non-compliance with a final judgment as part of its jurisdiction to secure the right to a fair trial”.

This element of the right to a fair hearing was embodied for the first time in the Constitutional Court’s judgment no. 6/06, subsequently upheld in its judgments nos. 43/07, 1/09 and 6/09.

57. In the present case, however, the Court notes that the applicant did not lodge a constitutional complaint with the Constitutional Court concerning the non-enforcement of the Durrës District Court’s judgment of 27 September 2005. The Court must determine whether the above-noted remedy would have been “effective” in the sense either of preventing the alleged violation or its continuation or of providing adequate redress for any violation that had already occurred.

58. The Court notes that the Constitutional Court judgments (see paragraphs 21–27 above) recognised that there had been a violation of the appellants’ right of access to court on account of the non-enforcement of domestic courts’ judgments. However, their findings were declaratory so that the Constitutional Court did not offer any adequate redress. In particular, it did not make any awards of pecuniary and/or non-pecuniary damage, nor could it offer a clear perspective to prevent the alleged violation or its continuation.

59. Furthermore, the Court notes that the bailiff’s actions were not effective in the present case. Moreover, the Government did not contend the existence of any other alternative preventive remedy which, in the circumstances of the case, could have been relied upon by the applicant.

60. The Court concludes that there has accordingly been a violation of Article 13 in conjunction with Article 6 § 1 of the Convention.

61. On that account, the Government’s preliminary objection based on non-exhaustion of domestic remedies must be dismissed.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

62. 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. Pecuniary damage

63. The applicant claimed 2,724,965 leks (approximately EUR 22,272) in respect of pecuniary damage. He submitted an estimate of his salary arrears from 9 July 2005 until 31 May 2008 having regard to the Durrës District Court’s judgment of 24 October 2006.

64. The Government submitted that the proceedings concerning the payment of the applicant’s salary arrears are pending before the Supreme Court. They requested the Court to stay the examination of Article 41 until the ruling of the Supreme Court. While the Government undertook to submit a table estimating the applicant’s salary arrears, no further information has been provided to date.

65. The Court reiterates that a judgment in which it finds a breach imposes on the respondent State a legal obligation under the Convention to put an end to the breach and make reparation for its consequence (see, for example, *Beshiri and Others v. Albania*, no. 7352/03, § 110, 22 August 2006).

66. Among the matters which the Court takes into account when assessing compensation are pecuniary damage (the loss actually suffered as a direct result of the alleged violations) and non-pecuniary damage (reparation for the anxiety, inconvenience and uncertainty caused by the violation) and other non-pecuniary loss (see, among other authorities, *Ernestina Zullo v. Italy*, no. 64897/01, § 25, 10 November 2004). In addition, if one or more heads of damage cannot be calculated precisely or if the distinction between pecuniary and non-pecuniary damage proves difficult, the Court may decide to make a global assessment (see *Comingersoll v. Portugal* [GC], no. 35382/97, § 29, ECHR 2000-IV).

67. The Court considers that the question of compensation for the failure to reinstate the applicant may be linked to the pending proceedings before the Supreme Court concerning salary arrears. Consequently, the Court considers that the question of the application of Article 41 in respect of pecuniary damage is not ready for decision. The question must accordingly be reserved and the further procedure fixed with due regard to domestic developments in the arrears’ proceedings.

B. Non-pecuniary damage

68. The applicant claimed 1,500,000 leks (approximately EUR 12,260) in respect of non-pecuniary damage. The Government disagreed with the amount claimed by the applicant.

69. The Court accepts that the applicant suffered distress that would have been avoided had the authorities complied with the final judgment. In this connection, making its assessment on an equitable basis, the Court awards the applicant EUR 2,100 in respect of non-pecuniary damage.

C. Costs and expenses

70. The applicant, who received EUR 850 in legal aid from the Council of Europe in connection with the presentation of this case, sought 162,194 leks (approximately EUR 1,277) for the legal expenses incurred in the domestic proceedings. He provided supporting documents in respect of postage, legal fees and the tax paid to the bailiff for the enforcement of the Durrës District Court's judgment of 24 October 2006. The applicant requested EUR 3,665 for the expenses incurred in the Strasbourg proceedings. He submitted a receipt to this end.

71. The Government contested the applicant's claim for costs and expenses, maintaining that the domestic and Strasbourg legal fees were not substantiated by officially recognised taxable receipts.

72. 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 to quantum (see, for example, *Xheraj*, cited above, § 85).

73. As regards the costs and expenses incurred in the domestic proceedings, the Court notes that it is satisfied with the postage fees as claimed by the applicant. It considers the legal fees incurred in the first set of proceedings reasonable having regard to the information in its possession. However, it makes no awards as regards the legal fees and the bailiff's tax incurred in relation to the second set of proceedings as that complaint has been declared inadmissible.

74. As regards the costs and expenses incurred in the Strasbourg proceedings, the Court notes that this case was not complex. It did not require extensive research in the light of the Court's settled case-law, nor was there a large amount of evidentiary support involved.

75. In these circumstances and having regard to the details of the claim submitted by the applicant, the Court awards him, in respect of the domestic and Strasbourg proceedings, EUR 3,000 less the EUR 850 received by way of legal aid from the Council of Europe.

C. Default interest

76. 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 under Article 6 § 1 of the Convention as regards the non-enforcement of the Durrës District Court's judgment of 24 October 2006 inadmissible;
2. *Joins* to the merits the Government's preliminary objection regarding the applicant's failure to exhaust domestic remedies in respect of the Durrës District Court's judgment of 27 September 2005 and *declares* the remainder of the application admissible;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention as regards the non-enforcement of the Durrës District Court's judgment of 27 September 2005;
4. *Holds* that there has been a violation of Article 13 in conjunction with Article 6 § 1 of the Convention in respect of the lack of effective remedies for a failure to enforce the Durrës District Court's judgment of 27 September 2005 and *dismisses* in consequence the Government's preliminary objection;
5. *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, the following amounts, to be converted into the respondent State's national currency, at the rate applicable at the date of settlement:
 - (i) EUR 2,100 (two thousand one hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 2,150 (two thousand one hundred fifty euros), plus any tax that may be chargeable, in respect of costs and expenses;
 - (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;

6. *Holds* that the question of the application of Article 41 of the Convention in respect of pecuniary damage is not ready for decision; accordingly,
- (a) *reserves* the said question;
 - (b) *invites* the respondent Government and the applicant to submit, within the forthcoming three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, their written observations on the matter and, in particular, to notify the Court of domestic developments;
 - (c) *reserves* the further procedure and *delegates* to the President of the Chamber the power to fix the same if need be.

Done in English, and notified in writing on 29 September 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President