

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

SECOND SECTION

DECISION

Application no. 5353/11
Radoljub MARINKOVIĆ
against Serbia

The European Court of Human Rights (Second Section), sitting on 29 January 2013 as a Chamber composed of:

Guido Raimondi, *President,*
Danutė Jočienė,
Peer Lorenzen,
Dragoljub Popović,
Işıl Karakaş,
Nebojša Vučinić,
Paulo Pinto de Albuquerque, *judges,*

and Stanley Naismith, *Section Registrar,*

Having regard to the above application lodged on 30 December 2010,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Radoljub Marinković, is a Serbian national, who was born in 1955 and lives in Užice. His application was lodged on 30 December 2010. He was represented before the Court by Ms R. Garibović, a lawyer practising in Novi Pazar.

2. The Serbian Government ("the Government") were represented by their Agent, Mr S. Carić.

A. The circumstances of the case

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

4. The applicant was employed by Raketa-Putnički Saobraćaj AD, a company based in Užice (hereinafter "the debtor").

5. On 15 June 2008 the applicant was dismissed from his employment.

6. On unspecified dates the applicant instituted three separate sets of civil proceedings against the debtor, seeking payment of his salary arrears and various social security contributions.

1. First set of proceedings

7. On 2 March 2007 the Užice Municipal Court ruled in favour of the applicant and ordered the debtor to pay him:

(a) salary arrears in the amount of 8,232 Serbian dinars (RSD) for June 2006, RSD 9,408 for July 2006, and RSD 8,232 for August 2006, plus statutory interest;
(b) RSD 900 for his legal costs; and
(c) the pension, disability, health and unemployment insurance contributions due for the period June to December 2006.

8. On 22 September 2007 the judgment became final.

9. On 2 October 2007 the applicant filed a request for the enforcement of the above judgment before the Požega Municipal Court.

10. On 16 April 2008 the court accepted the applicant's request and issued an enforcement order.

2. Second set of proceedings

11. On 26 July 2007 the Užice Municipal Court ruled in favour of the applicant and ordered the debtor to pay him:

(a) salary arrears in the amount of RSD 8,800 for February 2007, RSD 9,680 for March 2007, RSD 9,240 for April 2007, and RSD 10,120 for May 2007, plus statutory interest;
(b) employee meal benefits (*naknada za ishranu na radu*) in the amount of RSD 4,385 for December 2006, RSD 4,385 for February 2007, RSD 4,385 for March 2007, and RSD 4,385 for April 2007, plus statutory interest;
(c) holiday pay (*regres za godišnji odmor*) in the amount of RSD 25,000 for 2006, plus statutory interest from 1 January 2007;
(d) RSD 1,950 for his legal costs; and
(e) the pension, disability, health and unemployment insurance contributions due for the period February to May 2007.

12. On 11 September 2007 the judgment became final.

13. On 2 October 2007 the applicant filed a request for the enforcement of the above judgment before the Požega Municipal Court.

14. On 7 February 2008 the court accepted the applicant's request and issued an enforcement order.

3. Third set of proceedings

15. On 24 August 2007 the Užice Municipal Court ruled in favour of the applicant and ordered the debtor to pay him:

(a) salary arrears in the amount of RSD 10,648 for February 2007, RSD 10,648 for March 2007, RSD 10,648 for April 2007, and RSD 10,648 for May 2007, plus statutory interest;
(b) employee meal benefits (*naknada za ishranu na radu*) in the amount of RSD 4,620 for September 2006, RSD 4,620 for December 2006, RSD 4,620 for January 2007, RSD 4,620 for February 2007, RSD 4,620 for March 2007, RSD 4,620 for April 2007, and RSD 4,620 for May 2007, plus statutory interest;
(c) holiday pay (*regres za godišnji odmor*) in the amount of RSD 35,135 for 2007, plus statutory interest from 24 June 2007;
(d) RSD 6,748.50 for his legal costs; and
(e) the pension, disability, health and unemployment insurance contributions due for period October 2006 to June 2007.

16. On 20 September 2007 that judgment became final.

17. In January 2009 the applicant filed a request for the enforcement of the above judgment before the Municipal Court in Požega.

18. On 12 May 2009 the court accepted the applicant's request and issued an enforcement order.

4. Insolvency proceedings

19. On 12 July 2010 the Užice Commercial Court opened insolvency proceedings in respect of the debtor, which led to the ongoing enforcement proceedings before the Požega Municipal Court being stayed.

20. In July 2010 the applicant duly registered a claim for the sums specified in the judgments referred to above.

21. On an unspecified date he was recognised as a secured creditor.

22. On 17 April 2012 some of the debtor's property was sold. A sale of the remaining assets was advertised in the newspapers and a public bid opening procedure was scheduled for 29 June 2012.

5. The debtor's status

23. On 30 December 2002 the debtor was privatised.

24. On 17 July 2007 the contract for the sale of the debtor was annulled because the buyer in question had failed to fulfil his contractual obligations.

25. As at February 2008 the debtor still consisted of predominantly socially/State-owned capital.

B. Relevant domestic law and practice

1. *The Constitution of the Republic of Serbia 2006 (*Ustav Republike Srbije*; published in the Official Gazette of the Republic of Serbia ("OG RS") no. 98/06)*

26. Article 18 § 3 of the Constitution provides, *inter alia*, that human rights guaranteed by ratified international treaties shall be "implemented directly", and, further, that human rights provisions shall be interpreted in accordance with "the practice of international institutions which supervise their implementation".

27. Article 170 provides that a "constitutional appeal may be lodged against individual decisions or actions of State bodies or organisations exercising delegated public powers which violate or deny human or minority rights and freedoms guaranteed by the Constitution, if other legal remedies for their protection have already been exhausted or have not been prescribed".

2. *The Constitutional Court Act (*Zakon o Ustavnom sudu*; published in OG RS no. 109/07)*

28. The relevant provisions of the Act read as follows:

Article 7 § 1

"The decisions of the Constitutional Court shall be final, enforceable and binding."

Article 82 §§ 1 and 2

"A constitutional appeal may be lodged against an individual decision or an action of a State body or an organisation exercising delegated public powers which violates or denies human or minority rights and freedoms guaranteed by the Constitution, if other legal remedies have already been exhausted or have not been prescribed or where the right to their judicial protection has been excluded by law.

A constitutional appeal may be lodged even if all available remedies have not been exhausted in the event of a breach of an applicant's right to a trial within a reasonable time."

Article 83 § 1

"A constitutional appeal may be lodged by any individual who believes that any of his or her human or minority rights or freedoms guaranteed by the Constitution have been violated or denied by an individual decision or an action of a State body or an organisation exercising delegated public powers."

Article 84 § 1

"A constitutional appeal may be lodged within thirty days of receipt of the individual decision or the date of commission of the actions ... [in question] ..."

Article 89 §§ 2 and 3

"When the Constitutional Court finds that an ... individual decision or action has violated or denied a human or minority right or a freedom guaranteed by the Constitution, it shall annul the ... decision in question or ban the continuation of such action or order the implementation of other specific measures as well as the removal of all adverse consequences within a specified period of time.

The decision of the Constitutional Court accepting a constitutional appeal shall constitute a legal basis for requesting compensation or the removal of other adverse consequences before a competent body, in accordance with the law."

Article 90

"[An applicant who has obtained a Constitutional Court decision in his or her favour] ... may lodge a compensation claim with the Commission for Compensation in order to reach an agreement in respect of the amount ... [of compensation to be awarded] ...

If the Commission for Compensation does not rule favourably in respect of a compensation claim or fails to issue a decision within thirty days from the date of its submission, the applicant may file a civil claim for damages before the competent court. If only partial agreement has been achieved, a civil claim may be filed in respect of the remainder of the amount sought.

The composition and operation of the Commission for Compensation shall be regulated by the Minister of Justice."

3. *The Amendments and Additions to the Constitutional Court Act (*Izmene i dopune Zakona o ustavnom sudu*; published in OG RS no. 99/11)*

29. Articles 33 and 34 of the Act read as follows:

Article 33

"... Article 89 §§ 2 and 3 shall be amended so as to read as follows:

When the Constitutional Court finds that an ... individual decision or action has violated or denied a human or minority right or a freedom guaranteed by the Constitution, it may annul the impugned decision, except for court decisions, ban the continuation of such action, or order the implementation of other specific measures or actions aimed at eliminating any adverse consequences of the violation found ... and may also award just satisfaction to the claimant.

In a decision adopting the constitutional appeal, the Constitutional Court shall also decide on the claimant's request for compensation for the pecuniary and the non-pecuniary damage suffered when such a request has been filed."

Article 34

"... Article 90 shall be deleted"

4. Relevant provisions concerning socially-owned companies

30. These provisions are set out in the case of *R. Kačapor and Others v. Serbia* (nos. 2269/06, 3041/06, 3042/06, 3043/06, 3045/06 and 3046/06, 15 January 2008, §§ 71-76).

*5. The Privatisation Act (*Zakon o privatizaciji*; published in OG RS nos. 38/01, 18/03, 45/05, 123/07, 30/10 and 93/12)*

31. The relevant provisions of the Act are set out in the case of *Milunović and Čekrlić v. Serbia* ((dec.), nos. 3716/09 and 38051/09, §§ 35-39, 17 May 2011). In addition, on 17 December 2012, amendments to this Act have been published in OG RS no. 119/12 according to which the deadline for the suspension of enforcements in respect companies undergoing restructuring has been extended by 30 June 2014, at the latest.

*6. The Constitutional Court's opinion of 19 April 2012 (*Stav Ustavnog suda*)*

32. In its opinion, the Constitutional Court held that there were no grounds for awarding compensation in respect of pecuniary damage to a claimant for a violation of his "right to a trial within a reasonable time" or his "right to property" in enforcement proceedings concerning the payment of compensation which had been established by a final court judgment given against a debtor – a socially-owned company undergoing restructuring – since the deadline for completion of the restructuring process had expired and therefore enforcement proceedings against such a debtor could have been initiated or continued.

*7. The Constitutional Court's decision of 19 April 2012 (*odluka Ustavnog suda *Už 775/2009)*

33. On 21 May 2009 the claimant in the case in question lodged an appeal with the Constitutional Court, seeking redress for the non-enforcement of a final judgment rendered against a socially-owned company. On 5 March 2010 the Kragujevac Commercial Court opened insolvency proceedings in respect of the company in question. The insolvency proceedings against the company in question are still pending.

34. The claimant argued, in particular, that the State was responsible for failing to fully enforce the judgment in his favour, and requested that it be ordered to pay him the specified sums awarded in the judgment in question, plus legal costs. The claimant did not seek compensation in respect of non-pecuniary damage.

35. On 19 April 2012 the Constitutional Court held that the claimant had indeed suffered a violation of his "right to a trial within a reasonable time", as well as a breach of his "right to peaceful enjoyment of possessions", and ordered the State to pay the claimant from its own funds the sums specified in the domestic judgment, less the amount of 13.12%, which the claimant had obtained through the insolvency proceedings.

36. In doing so, the Constitutional Court noted the Court's findings in a number of cases involving the Serbian authorities' liability for the non-enforcement of judgments rendered against companies predominantly comprised of socially-owned capital (see, among others, *Milunović and Čekrlić,* cited above).

37. The Constitutional Court's decision was published in the Official Gazette of 22 June 2012 (OG RS no. 61/2012).

*8. The Constitutional Court's decision of 13 June 2012 (*odluka Ustavnog suda *Už 1392/2012)*

38. On 25 February 2010 the claimant in the case in question lodged an appeal with the Constitutional Court, seeking redress in a matter concerning the non-enforcement of a final domestic judgment rendered against a socially-owned company. In particular, he argued that the State was responsible for failing to enforce the final judgment against the socially-owned company in question, and requested, *inter alia*, that it be ordered to pay him the specified sums awarded by the judgment at issue.

39. On 13 June 2012 the Constitutional Court established that insolvency proceedings against the claimant's debtor had been completed in one day, and that on 23 August 2011 the company had been erased from the Companies Register. The Constitutional Court further held that the claimant had indeed suffered a violation of his "right to a trial within a reasonable time", and in respect of non-pecuniary damage awarded him 500 euros (EUR), which would be converted into Serbian dinars at the rate applicable on the date of payment. The Constitutional Court, lastly, ordered the State to pay the claimant, from its own funds, the sums specified in the final domestic judgment.

*9. The Constitutional Court's decision of 19 April 2012 (*odluka Ustavnog suda *Už 1385/2010)*

40. On 1 March 2010 the claimants in the case in question lodged an appeal with the Constitutional Court, seeking redress in a matter concerning

the non-enforcement of a final judgment against a socially-owned company undergoing restructuring. In particular, they argued that the State was responsible for failing to enforce the final judgment in question, and requested, *inter alia*, that it be ordered to compensate them for both non-pecuniary and pecuniary damage.

41. On 19 April 2012 the Constitutional Court held that the claimants had indeed suffered a breach of their property rights, as well as a violation of their "right to a trial within a reasonable time", and ordered the competent court to enforce the final judgment as soon as possible. The Constitutional Court also ordered the State to pay each claimant EUR 300 in respect of non-pecuniary damage, which would be converted into Serbian dinars at the rate applicable on the date of payment.

42. As regards the claimants' claim for compensation in respect of pecuniary damage, the Constitutional Court, considered that they had the opportunity to obtain payment in the enforcement proceedings against the debtor and found no reason to award them the damages sought, namely payment by the State, from its own funds, of the sums specified in the domestic judgment in question.

10. The Constitutional Court's other decisions rendered in the context of socially-owned companies undergoing restructuring

43. Following the above-mentioned decision and the opinion of 19 April 2012 (see paragraphs 32 and 42 above), the Constitutional Court, in matters concerning the non-enforcement of final domestic judgments rendered against socially-owned companies undergoing restructuring, adopted four further separate decisions to the same effect on 10 May 2012 (Už 2544/2009), 30 May 2012 (Už 2701/2010), 13 June 2012 (3531/2010), and 28 June 2012 (Už 1382/2010).

44. In all of those decisions, the Constitutional Court rejected the claimants' respective claims for compensation in respect of pecuniary damage, namely payment by the State, from its own funds, of the specified sums awarded in the domestic judgments in question.

COMPLAINTS

45. The applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 that the respondent State had failed to enforce the final judgments in question.

46. The applicant further complained, under Article 13 of the Convention, of the absence of an effective domestic remedy in respect of the unenforced judgments.

THE LAW

A. The applicant's complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1

47. As noted above, the applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention about the non-enforcement of the final judgments rendered in his favour.

48. The relevant provisions of these Articles read as follows:

Article 6 § 1

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

Article 1 of Protocol No. 1

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

..."

1. Exhaustion of domestic remedies

49. The Government submitted that the Constitutional Court had harmonised its case-law with that of the Court (see paragraph 51 below) and cited, in this connection, the judgment in *Grzinčič v. Slovenia* (no. 26867/02, §§ 102-106, 3 May 2007). They maintained that the applicant had failed to make use of a constitutional appeal, and that his application should be rejected on the grounds of non-exhaustion of domestic remedies.

50. The applicant argued that a constitutional appeal could not be considered effective in the particular circumstances of his case.

51. The effectiveness of a constitutional appeal in the context of socially-owned companies was examined in the case of *Milunović and Čekrlić* (cited above). In that case, the Court held as follows:

" 61 ... [T]he Court recalls its settled case-law to the effect that the respondent State has consistently been held responsible *ratione personae* for the non-enforcement of judgments rendered against companies predominantly comprised of socially-owned capital (see, for example, *R. Kačapor and Others v. Serbia*, cited above; and *Grišević and Others v. Serbia*, nos. 16909/06, 38989/06 and 39235/06, 21 July 2009), it being understood that the Serbian authorities may, *a fortiori*, also be found responsible in respect of such companies where there has been a subsequent change to their share capital structure resulting in the predominance of State-owned and socially-owned capital. Further, in the Court's above-cited jurisprudence, whenever violations of the

> Convention and/or Protocol No. 1 have been established, the applicants have been granted pecuniary and non-pecuniary damages, the former requiring the respondent State to pay, from its own funds, the sums awarded in the final domestic judgments at issue.
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> 62. It follows, therefore, that in a case such as that of the applicants, comprehensive constitutional redress, in addition to a finding of a violation where warranted, would have to include compensation for both the pecuniary and the non-pecuniary damage sustained.
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> 63. On 16 July 2009 the Constitutional Court held that the first applicant had suffered a violation of her constitutional rights and declared that she was thus entitled to the non-pecuniary damages sought ... but did not order the State to pay her, from its own funds, the pecuniary damages, i.e. the specified sums awarded by the final judgment in question, as required by the Court's above-cited jurisprudence.
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> 64. The first applicant thereafter never filed a claim with the Commission for Compensation in accordance with Article 90 of the Constitutional Court Act (see paragraph 33 above). Nevertheless, since the Constitutional Court had acknowledged that she was only entitled to the recovery of the non-pecuniary damages sought and had failed to order the payment of the sums at issue, opting instead to merely urge the Municipal Court to enforce the final judgment as soon as possible, it is this Court's opinion that the first applicant would have had no realistic chances of obtaining pecuniary damages before the Commission for Compensation or, for that matter, in any subsequent proceedings before the civil courts. The Government have certainly offered no case-law to the contrary, and on 21 January 2010 and 3 June 2010, in two separate matters involving the same issue, the Constitutional Court reaffirmed its approach of 16 July 2009, rendering practically identical rulings in all relevant aspects ...
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> 65. In such circumstances, it is clear that notwithstanding the fact that "a constitutional appeal should, in principle, be considered as an effective domestic remedy within the meaning of Article 35 § 1 of the Convention in respect of all applications introduced [against Serbia] as of 7 August 2008" (see *Vinčić and Others v. Serbia*, cited above, § 51), this particular avenue of redress cannot be deemed effective as regards cases involving complaints such as the ones put forth by the applicants.
>
> 66. ... [T]he Court might in future cases reconsider its view as regards the remedy in question if there is clear evidence that the Constitutional Court has subsequently harmonised its approach with the Court's relevant case-law ...

52. The Court observes that, since the adoption of its decision in *Milunović and Čekrlić*, the Constitutional Court's case-law has indeed evolved in an attempt to comply with the Court's own case-law in the context of socially-owned companies.

53. In this connection the Court notes that in the Constitutional Court's decision no. 775/2009 of 19 April 2012, in a case concerning the non-enforcement of a final judgment rendered against a socially-owned company undergoing insolvency proceedings (see paragraphs 33 to 37 above), the Constitutional Court, in addition to finding a violation of the

claimant's rights, ordered the State to pay the claimant, in respect of pecuniary damage, the sums awarded in the final domestic judgment rendered against the socially-owned company in question. The claimant in that case did not claim compensation for non-pecuniary damage.

54. On 13 June 2012, in a case concerning the non-enforcement of a final judgment rendered against a socially-owned company which had in the meantime *ceased to exist* (see paragraphs 38 and 39 above), the Constitutional Court, in addition to finding a violation of the claimant's constitutional rights, awarded the claimant EUR 500 in respect of non-pecuniary damage and ordered the State to pay the claimant, in respect of pecuniary damage, the specified sums awarded in the domestic judgment at issue.

55. However, on 19 April 2012 the Constitutional Court adopted an opinion, to the effect that compensation for pecuniary damage would not be awarded in cases concerning the non-enforcement of final judgments rendered against socially-owned companies if the debtor in question was undergoing restructuring (see paragraph 32 above).

56. The Court further observes that on the very same date the Constitutional Court adopted a decision in a matter concerning the non-enforcement of a final judgment rendered against a socially-owned company *undergoing restructuring*, where it held that the claimants had indeed suffered a violation of their constitutional rights and awarded them compensation for non-pecuniary damage, but did not order the State to pay, from its own funds, the specified sums awarded in the final domestic judgment in question (see paragraphs 40-42 above). The Constitutional Court reaffirmed this approach in four further cases, adopting practically identical rulings (see paragraphs 43-44 above).

57. From the above-mentioned case-law, it can be concluded that, in matters concerning the non-enforcement of judgments rendered against socially-owned companies *undergoing insolvency proceedings* and/or that *had ceased to exist*, in addition to finding a violation of the relevant constitutional rights, the Constitutional Court was prepared to award compensation for non-pecuniary damage as well as pecuniary damage, that is to say, it was willing to order the State to pay from its own funds the specified sums awarded in domestic judgments.

Conversely, in cases where the debtor company was still *undergoing a process of restructuring*, the Constitutional Court, in addition to finding a violation of the relevant constitutional rights, was only willing to award compensation for non-pecuniary damage. In other words, it was unwilling to order the State to pay, from its own funds, the sums awarded in the final judgments in question as required by the Court's relevant case-law (see paragraph 51 above).

58. Consequently, a constitutional appeal still cannot be considered effective in cases involving the respondent State's liability for the non-

enforcement of judgments against socially-owned companies *undergoing restructuring*. However, the Court might, in future cases, reconsider its position if there is clear evidence that the Constitutional Court has subsequently fully harmonised its approach with the Court's relevant case-law. Indeed, the Court has, in its relevant case-law, consistently held the respondent State responsible *ratione personae* for the non-enforcement of final judgments rendered against socially/State-owned companies, irrespective of the status of the company in question (see, for example, *R. Kačapor and Others*, cited above; *Crnišanin and Others v. Serbia*, nos. 35835/05, 43548/05, 43569/05 and 36986/06, 13 January 2009; and *Rašković and Milunović*, nos. 1789/07 and 28058/07, 31 May 2011).

59. On the other hand, as regards the non-enforcement of final judgments rendered against socially-owned companies *undergoing insolvency proceedings* and/or those which have *ceased to exist*, the Court concludes that the Constitutional Court has harmonised its approach with the Court's relevant case-law. Therefore, in cases of this kind, a constitutional appeal should, in principle, be considered an effective domestic remedy within the meaning of Article 35 § 1 of the Convention in respect of all applications lodged from 22 June 2012 onwards, that being the date when the first Constitutional Court decision in which the respondent State was ordered to pay, from its own funds, the sums awarded in a final domestic judgment rendered against a socially-owned company was published in the respondent State's Official Gazette (see paragraph 37 above; see also, *mutatis mutandis*, *Vinčić and Others v. Serbia*, nos. 44698/06, 44700/06, 44722/06, 44725/06, 49388/06, 50034/06, 694/07, 757/07, 758/07, 3326/07, 3330/07, 5062/07, 8130/07, 9143/07, 9262/07, 9986/07, 11197/07, 11711/07, 13995/07, 14022/07, 20378/07, 20379/07, 20380/07, 20515/07, 23971/07, 50608/07, 50617/07, 4022/08, 4021/08, 29758/07 and 45249/07, § 51, 1 December 2009).

60. In the present case, however, since the applicant lodged his application well before that date, namely on 30 December 2010, and because the issue whether domestic remedies have been exhausted is normally determined by referring to the date when the application was lodged, the Court finds no reasons to depart from this rule and considers that the applicant had indeed no obligation to use this particular avenue of redress before turning to the Court (see *Baumann v. France*, no. 33592/96, § 47, ECHR 2001-V, and *Vinčić and Others*, cited above, § 51).

61. It follows that the Government's objection concerning the non-exhaustion of effective domestic remedies must be dismissed.

2. Conclusion

62. The Court finds, moreover, that the applicant's complaints are not manifestly ill-founded within the meaning of Article 35 § 3 of the

Convention. No other grounds for declaring them inadmissible have been established. They must therefore be declared admissible.

B. The applicants' complaints under Article 13 of the Convention

63. The applicant further complained, under Article 13 of the Convention, of the absence of an effective domestic remedy in respect of the unenforced judgments.

64. Article 13 reads as follows:

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

65. The Court notes that this complaint is linked to the ones examined above and therefore must likewise be declared admissible.

For these reasons, the Court unanimously

Decides to discontinue the joint consideration of the admissibility and merits of the application, in accordance with Article 29 § 1 of the Convention;

Declares the application admissible, without prejudging the merits of the case.

Stanley Naismith Registrar	Guido Raimondi President