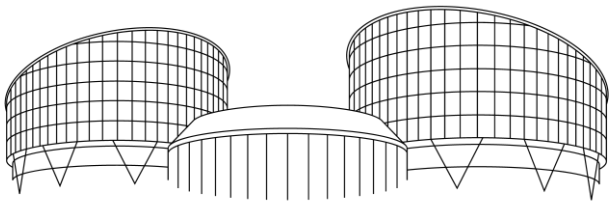

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF OLSBY v. SWEDEN

(Application no. 36124/06)

JUDGMENT

STRASBOURG

21 June 2012

FINAL

21/09/2012

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

In the case of Olsby v. Sweden,

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

Dean Spielmann, *President*,
Elisabet Fura,
Karel Jungwiert,
Mark Villiger,
Ann Power-Forde,
Ganna Yudkivska,
André Potocki, *judges*,
and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 29 May 2012,

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

PROCEDURE

1. The case originated in an application (no. 36124/06) against the Kingdom of Sweden lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Swedish national, Mr Ralf Gunnar Olsby ("the applicant"), on 23 August 2006.

2. The applicant was represented by Mr P. Cronhult, a lawyer practising in Stockholm. The Swedish Government ("the Government") were represented by their Agent, Ms I. Kalmerborn, of the Ministry for Foreign Affairs.

3. The applicant alleged that he had been deprived of effective access to court in contravention of Article 6 § 1 of the Convention.

4. On 30 September 2008 the application was communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

5. On 1 February 2011 the Court changed the composition of its Sections (Rule 25 § 1 of the Rules of Court) and the above application was assigned to the newly composed Fifth Section.

6. The Government submitted a unilateral declaration which did not offer sufficient basis for finding that respect for human rights as defined in Article 37 § 1 the Convention had been fulfilled (*Prencipe v. Monaco*, no. 43376/06, §§ 62-63, 16 July 2009). The Court was therefore required to continue the examination of the case.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicant was born in 1943 and lives in Sundbyberg.

8. By letter dated 9 August 2005, the Enforcement Authority (*Kronofogdemyndigheten*) informed the applicant that its representative would come to his home on 17 August 2005 to attach property to secure his tax debts amounting to SEK 979,503 (approximately EUR 110,000). It noted that he had previously been informed about his debts but that, since he had not paid, an attachment would be carried out. It is not known when the letter was sent or when the applicant received it.

9. On 19 August 2005 the Enforcement Authority attached SEK 9,128 (approximately EUR 950) from a bank account belonging to the applicant. A document called Proof of Attachment (*bevis om utmätning*) was sent to the applicant confirming this and advising him how to go about appealing against the decision and that this had to be done within three weeks from the date that the decision was served on him. The applicant, who was on holiday at the time, did not receive the Proof of Attachment until he returned home on 8 September 2005 and was formally served the decision.

10. In a decision of 24 August 2005 the Enforcement Authority distributed and paid the attached money to the creditor, in this case, the State itself. The decision was open to appeal within three weeks from the date of the decision.

11. On 20 September 2005 the applicant requested the Enforcement Authority to rectify (*besluta om rättelse*) the decision concerning attachment as he considered it to be incorrect. The Enforcement Authority, in a decision of the same day, rejected the applicant's request for rectification on the ground that it had been submitted too late. It further stated that it was not possible to appeal against the decision in that part and that, as regarded its other decisions, appeals were possible within the time-frames of which the applicant had previously been notified.

12. On 22 September 2005 the applicant appealed against the attachment decision to the District Court (*tingsrätten*) of Stockholm. He mainly objected that the Enforcement Authority had not sufficiently taken into account, and made deductions for, the need to cover his basic living expenses.

13. In a comment (*yttrande*) by the Enforcement Authority in connection with the appeal, it stated that the appeal had been made within the stated time-limit but that, since the decision as regards the distribution and payment of the funds had gained legal force, the applicant's appeal could not be tried by the court.

14. On 19 October 2005 the District Court dismissed the appeal after first having noted that the decision as regarded the payment of the attached

funds had gained legal force on 15 September 2005 and that the applicant had appealed against the attachment decision on 22 September 2005. Thereafter the court, with reference to case-law from the Supreme Court, stated that an appeal against an attachment decision that was lodged after a decision regarding the payment of the attached funds had gained legal force could not be considered by the court.

15. The applicant appealed against the decision to the Svea Court of Appeal (*hovrätten*) requesting that it quash the lower court's decision. The applicant submitted that he had not been aware of the attachment decision until 8 September 2005, when he was formally served the Proof of Attachment, and that he had never been notified of the fact that the Enforcement Authority, five days after the attachment decision, had distributed and paid the attached money. In his view, it should not have been permitted to distribute attached money until the actual attachment decision had gained legal force.

16. On 16 December 2005 the Court of Appeal upheld the District Court's decision in full.

17. The applicant appealed to the Supreme Court (*Högsta domstolen*) which, on 28 February 2006, refused leave to appeal.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Enforcement proceedings

18. Domestic provisions of relevance to the present case are found mainly in the Enforcement Code (*Utsökningsbalken*; 1981:774) and the Enforcement Ordinance (*Utsökningsförordningen*; 1981:981). The Enforcement Authority is responsible for enforcement of judgments or other enforcement titles (*exekutionstitel*) comprising an obligation to pay or some other obligation. Enforcement cases are dealt with as public cases (*allmänna mål*), as in the applicant's case, or private cases (*enskilda mål*; cf. Chapter 1, Article 6 of the Enforcement Code). Public cases are, for example, imposition of fines, taxes, and other funds to which the State is entitled.

19. According to Chapter 3, Article 1, of the Enforcement Code, an enforcement title may consist of a court judgment, but also of a decision of an administrative authority that may be enforced in accordance with a special regulation. Moreover, according to Article 23 of the same Chapter, enforcement titles in public cases may be enforced before they have gained legal force, if this has been specially prescribed. In this respect, Chapter 2, Article 19 of the Enforcement Code stipulates that a decision of the Enforcement Authority applies immediately, and the enforcement continues even if the decision is appealed against, unless otherwise prescribed by the Enforcement Code or ordered by a court.

20. In line with Chapter 4, Article 9 of the Enforcement Code, the Enforcement Authority shall investigate the debtor's employment and income situation and whether he or she has attachable property. Attachment shall take place as soon as possible after the necessary documents have been received by the Enforcement Authority (Chapter 4, Article 10). With some exceptions, notification shall be sent to the debtor by post or given in an appropriate manner within such time that the debtor can be expected to have sufficient time to protect his or her rights (Chapter 4, Article 12). Chapter 6, Article 9 of the Enforcement Ordinance stipulates that the debtor shall be notified in writing and the notification is to be served, unless it is known that the debtor cannot be found. Moreover, the Enforcement Authority shall, as a rule, notify the interested parties about its decision of distribution of funds (Chapter 13, Article 11 of the Enforcement Ordinance). The debtor is generally not notified about distribution of funds and payment to the creditors and the enclosure to the attachment order does not contain any such information.

21. The attachment of bank funds is safeguarded by a notification prohibiting the bank from fulfilling its obligations to others than the Enforcement Authority, and the bank is, as a rule, requested to pay the attached funds to the Enforcement Authority (Chapter 6, Article 3 and Chapter 9, Articles 11-12 of the Enforcement Code).

22. Decisions regarding attachment and all subsequent decisions, such as the decision to distribute and pay the attached funds to the creditor, are taken by the Enforcement Authority and may be appealed against to the District Court, and further to the Court of Appeal and the Supreme Court. The rules regarding appeal against decisions taken by the Enforcement Authority are to be found in Chapter 18 of the Enforcement Code. Article 7, paragraph 2, of that Chapter stipulates that an attachment decision of the type in question shall be appealed against by a party within three weeks from the date when the decision was served on him. Article 7, paragraph 3, states that a decision on distribution or payment of funds shall be appealed against within three weeks of the decision. Article 14 of the same Chapter stipulates that, in the event of the grant of an appeal against a particular decision, a later decision in the case may also be revoked, if this can be done, provided the decision is connected with the former decision and that it had not gained legal force against the appellant at the time when he appealed against the first decision.

23. In its judgment of 26 March 1990 (NJA 1990 p. 166), the Supreme Court found that a prerequisite to trying an appeal against a decision regarding attachment is that no subsequent decision regarding the payment of the attached funds has gained legal force. In reaching its decision, the Supreme Court had regard to Chapter 18, Section 14 of the Enforcement Code as well as the preparatory works to that provision (Government Bill 1980/81:8, p. 1239).

24. In its comments on the above case, the National Tax Board (*Riksskatteverket*, formerly in charge of tax administration and enforcement service in Sweden), stated, *inter alia*, the following:

> "In public cases, the funds are accounted for immediately, unless the official in charge of the matter has given special instructions. In cases concerning attachment of bank funds, it may take a while for the bank to account for the funds received. Once received by the Enforcement Authority, the funds are accounted for promptly to the creditors. Several weeks may elapse between the attachment day and the accounting day. The appeals provisions in Chapter 18, Section 7 of the Enforcement Code do not seem to be coordinated in the sense that the funds are to be accounted for after the appeal period has elapsed, and there is no support for such an interpretation of the Enforcement Code."

B. Compensation for violations of the Convention

25. Please see *Eriksson v. Sweden* (no. 60437/08, §§ 27-36, 12 April 2012) or *Eskilsson v. Sweden* ([dec.], no. 14628/08, 24 January 2012) for a comprehensive summary of this issue.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

26. The applicant complained that, even though he had appealed against the decision within the prescribed time-limit, his case was dismissed by the national courts and he was effectively refused access to court, in contravention of Article 6 § 1 of the Convention, which in relevant parts reads as follows:

> "1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. ..."

27. The Government left it to the Court's discretion whether the case revealed a violation of Article 6 § 1 of the Convention.

A. Admissibility

28. The Government submitted that the application was inadmissible on the ground that the applicant had not exhausted domestic remedies. In this respect, they referred in particular to the Swedish Supreme Court's judgments dated in 2005 and 2007 in which the court had awarded individual compensation for pecuniary and non-pecuniary damage concerning the violation of different Articles of the Convention. In the

Government's opinion, these showed that Swedish law now provided a remedy in the form of compensation for both pecuniary and non-pecuniary damage in respect of any violation of the Convention, including violations under Article 6 § 1 of the Convention. Although the Government acknowledged that the legal position on this matter under domestic law had been less clear prior to the Supreme Court's judgment in 2005, they submitted that following this judgment the legal position must have been considered sufficiently clear. Therefore, since the applicant lodged his application with the Court on 23 August 2006, he should have been aware of the Supreme Court judgment and that there was an effective domestic remedy available to him which he should have been obliged to exhaust prior to examination of the case by the Court.

29. In any event, they noted that the limitation period in respect of compensation claims against the State is ten years from the point in time when the damage occurred (Section 2 of the Limitation Act, *preskriptionslagen*, 1981:130), for which reason he could still file a claim against the State in Sweden and should do so before the Court examined his case.

30. The applicant disagreed and maintained that he had exhausted all domestic remedies required of him, noting in particular that his case had already been before the Supreme Court and that it thus had had the opportunity to set things right.

31. The Court reiterates that the purpose of the requirement of exhaustion of domestic remedies under Article 35 § 1 of the Convention is to afford the Contracting States the opportunity to prevent or put right the violations alleged against them before those allegations are submitted to the Court. Consequently, States are dispensed from answering for their acts before an international body before they have had an opportunity to put matters right through their own legal system. That rule is based on the assumption, reflected in Article 13 of the Convention – with which it has close affinity – that there is an effective remedy available in the domestic system in respect of the alleged breach. In this way, it is an important aspect of the principle that the machinery of protection established by the Convention is subsidiary to the national systems safeguarding human rights. Thus the complaint intended to be made subsequently to the Court must first have been made – at least in substance – to the appropriate domestic body, and in compliance with the formal requirements and time-limits laid down in domestic law (see *Selmouni v. France* [GC], no. 25803/94, § 74, ECHR 1999-V, with further references).

32. However, the only remedies which Article 35 § 1 requires to be exhausted are those that relate to the breach alleged and are available and sufficient. The existence of such remedies must be sufficiently certain not only in theory but also in practice, failing which they will lack the requisite accessibility and effectiveness: it falls to the respondent State to establish

that these conditions are satisfied (see, among many other authorities, *Mifsud v. France* (dec.) [GC], no. 57220/00, § 15, ECHR 2002-VIII; *Leandro Da Silva v. Luxembourg*, no. 30273/07, §§ 40 and 42, 11 February 2010; and *McFarlane v. Ireland* [GC], no. 31333/06, § 107, 10 September 2010).

33. In the present case, the applicant complained in substance about the lack of effective access to court before the Court of Appeal and the Supreme Court. He thus did what was required of him in order to afford the national authorities the opportunity to remedy the violation alleged by him.

34. The Government claimed, however, that the applicant had failed to avail himself of available remedies capable of affording him sufficient redress in the form of compensation for the alleged violation. In this respect, the Court notes that, of the final domestic judgments and the decision referred to by the Government, only one was delivered before the introduction of the present application, in a case relating to length of criminal proceedings, whereas the present case concerns effective access to court. In these circumstances, in the Court's view, it has not been shown that, at the time of introduction of the present application before the Court on 23 August 2006, there existed a remedy in Sweden which was able to afford redress in respect of the violation alleged by the applicant (see, *Fexler v. Sweden*, no. 36801/06, § 43, 13 October 2011, and *Eriksson*, cited above, § 45).

35. The Government further claimed that, in any event, the applicant had still had the opportunity to claim compensation before the Swedish courts and should be obliged to use this remedy. The Court observes that the proceedings about which the applicant is complaining were terminated on 28 February 2006 and that the alleged violation of effective access to court thus must be considered to have occurred at this point in time. Consequently, in accordance with Section 2 of the Limitation Act, the applicant has the possibility to claim compensation from the Swedish State in relation to this alleged damage until 28 February 2016.

36. The Court would like to reiterate that the assessment of whether domestic remedies have been exhausted is normally carried out with reference to the date on which the application was lodged with it. However, this rule is subject to exceptions, which may be justified by the particular circumstances of each case (see, for example, *Baumann v. France*, no. 33592/96, § 47, 22 May 2001, *Brusco v. Italy* (dec.), no. 69789/01, ECHR 2001-IX, and *Andrei Georgiev v. Bulgaria*, no. 61507/00, § 78, 26 July 2007).

37. In the case at hand, the Court notes that the applicant lodged his application with the Court already in August 2006 at a time when, as established above, there was no effective remedy in Sweden for his complaint. It further considers that there are no particular circumstances in this case to justify departing from the general rule that the assessment of

whether domestic remedies have been exhausted is carried out with reference to the date on which the application was lodged with the Court. Consequently, the Court finds that, in the instant case, it could not be required of the applicant to pursue the remedy invoked by the Government. The Government's objection as to the exhaustion of domestic remedies must therefore be dismissed.

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

B. Merits

1. The Parties' submissions

39. The applicant maintained that he had not been granted effective access to court. In his view, it was unreasonable that an individual who followed the legal provisions about time-limits to submit an appeal as well as the appeal instructions in the Enforcement Authority's decision could nevertheless find himself precluded from having his appeal tried by a court.

40. He noted that, in general, the debtor was served an attachment order through ordinary mail. However, decisions about the distribution or payments of attached funds were generally not notified to, and certainly not served on, the debtor. Still, such decisions should be appealed against within three weeks from the date of the decision. According to the applicant, it was not uncommon for the attachment order, the attachment itself and the distribution and payment of the attached funds to be executed almost simultaneously.

41. Having regard to the Supreme Court's judgment in 1990 (see above § 21), that an appeal against an attachment order could only be tried by a court if no subsequent decision regarding payment of the attached funds had gained legal force, and given that only the attachment order was served on the debtor, the time-limit for appeal of the distribution or payment of the attached funds was likely to expire before the time-limit for appeal of the attachment order. The appeal instructions given with the attachment order were therefore misleading as the actual time for appeal was shorter than the stipulated three weeks from when the attachment order was served. The applicant submitted that, in fact, the actual time-limit for appeal could already have expired before the debtor was served, or even informed of, the attachment order.

42. The applicant argued that this was a lacuna in the right to access to court and that the Government must have been aware of it since the Supreme Court judgment of 1990. Consequently, he insisted that he had

been deprived of effective access to court in violation of Article 6 § 1 of the Convention.

43. The Government admitted that the attachment order concerning the applicant's funds had not been tried by a court and that it was not due to a failure by the applicant to comply with the procedural rules but a result of the Supreme Court's 1990 judgment which, in turn, had been based mainly on Chapter 18, Article 14 of the Enforcement Code. However, they noted that the right to access to court was not an absolute right but could be subjected to limitations although the limitations applied should not restrict or reduce the access left to the individual in such a way or to such an extent that the very essence of the right was impaired.

44. In the present case, the Government submitted that it was clear that the domestic courts' decisions had had a legal basis in Swedish law and that they did not disclose any arbitrariness. They did not dispute, however, that the applicant had received instructions stating that an appeal against the attachment order had to be made within three weeks from the date when the decision had been served on him and that by lodging his appeal on 22 September 2005 he had complied with these instructions as well as with the relevant provision in the Enforcement Code. In the light of this, the Government acknowledged that some doubt could arise as to whether the relevant appeals provisions could be considered sufficiently clear or sufficiently attended by safeguards to prevent misunderstanding regarding procedures for making use of the available remedies, as required by the Court's case-law (such as *F.E. v. France*, 30 October 1998, § 47, *Reports of Judgments and Decisions* 1998-VIII).

45. In the Government's view, the limitation of the applicant's access to court had pursued legitimate aims, namely the proper functioning of the legal system as well as legal certainty. They argued that attachment of property was a coercive measure aiming at executing an enforcement title and was carried out in the interest of the creditors. The proper functioning of the legal system, as well as the financial and economic system in general, required not only that creditors had access to the judiciary to obtain an enforcement title, but also that they were offered the possibility of enforcing their rights speedily and efficiently, thereby preventing the debtor from withholding property. Moreover, the limitation to appeal once a decision on the distribution and payment of attached funds had gained legal force was intended to create certainty and predictability as to the legal effects of that latter decision and for the creditors involved.

46. Lastly, the Government reiterated that States were afforded a certain margin of appreciation in balancing the means employed and aim sought to be achieved. In this respect, they stressed that an attachment order could only concern debts that had already been established by a court or a public authority, such as in the present case, the Tax Authority. Thus, in principle, a defendant's objections to an attachment order could not bear upon the

correctness of the enforcement title as such but were limited to issues which could constitute impediments to the attachment, for example as in the applicant's case, that the Enforcement Authority had not sufficiently considered what the debtor needed for his basic living expenses. Here the Government considered that there was nothing to indicate that there had been any impediments to the attachment of the applicant's funds.

47. Consequently, the Government held that there were several arguments in favour of the conclusion that the limitation of the applicant's right of access to court had been proportionate but that it could be questioned whether the limitation had been clear enough. They therefore left it to the Court to decide whether there had been a breach of Article 6 § 1 of the Convention in the present case.

2. The Court's assessment

48. The Court reiterates that Article 6 § 1 of the Convention secures to everyone the right to have any claim relating to his or her civil rights and obligations brought before a court or tribunal. In this way it embodies the "right to a court", of which the right of access, that is the right to institute proceedings before courts in civil matters, constitutes one aspect (see *Golder v. the United Kingdom*, 21 February 1975, §§ 35-36, Series A no. 18).

49. However, the Court observes that the right of access to a court is not absolute and may be subject to legitimate restrictions, particularly regarding the conditions of admissibility of an appeal. Where an individual's access is limited either by operation of law or in fact, the restriction will not be incompatible with Article 6 where the limitation does not impair the very essence of the right and where it pursues a legitimate aim, and there is a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (see *Ashingdane v. the United Kingdom*, judgment of 28 May 1985, § 57, Series A no. 93 and *F.E.*, cited above, § 44).

50. Moreover, the Court notes that the rules governing the formal steps to be taken and the time-limits to be complied with in lodging an appeal are aimed at ensuring the proper administration of justice and compliance with the principle of legal certainty for all parties involved in a dispute. These are, as noted by the Government, legitimate aims for regulating the access to court. However, these aims are directed not only to protect creditors but also to protect the debtors. Thus, while the Court agrees with the Government that creditors have an interest to enforce their rights speedily and efficiently, it also considers that the debtors have to be able to protect correctly their interests. In principle, this does not rule out that once a decision on the distribution and payment of attached funds has gained legal force, certain limitations on appeal of the actual attachment decision may be imposed in

order to create certainty and predictability as to the legal effects of the decisions.

51. A distinction has to be made though, between imposing certain limitations and effectively hindering an appeal on the merits. In this respect, the Court observes that for the right of access to court to be effective, an individual must have a clear, practical opportunity to challenge an act that is an interference with his rights (see *F.E.*, cited above, § 46). In the Court's view, this includes the need for legal certainty for the debtor to be able to trust that the time-limit for appeal given in the law and expressly mentioned in a decision is valid and not open to exceptions, unless those exceptions are explicitly mentioned. Otherwise, trust in the legal system and instructions given by the authorities would be eroded.

52. Furthermore, as the Court has established in earlier cases, the parties to a dispute must be able to avail themselves of the right to bring an action or to lodge an appeal from the moment they can effectively apprise themselves of court decisions imposing a burden on them or which may infringe their legitimate rights or interests (see for example *Miragall Escolano and Others v. Spain*, nos. 38366/97, 38688/97, 40777/98, 40843/98, 41015/98, 41400/98, 41446/98, 41484/98, 41487/98 and 41509/98, §§ 33 and 37, ECHR 2000-I).

53. Turning to the case at hand, the Court notes from the outset that the applicant's formal right to access to court was guaranteed in law, namely through Chapter 18, Article 7, paragraph 2, of the Enforcement Code which stated that he had three weeks to appeal against the attachment order from the date when the decision was served on him. Moreover, it is undisputed that the applicant lodged his appeal to the District Court within the time-limit prescribed.

54. However, in the present case, this right was circumvented by the rapid payment of the attached funds to the creditor, namely, the State. Thus, the attachment took place on 19 August 2005 and the attached funds were paid to the creditor on 24 August 2005 while the applicant was only served the decision of the attachment order on 8 September 2005, when he returned from vacation. Consequently, the decision of distribution and payment of funds gained legal force on 15 September 2005, whereas the time-limit for appeal against the attachment order expired on 29 September 2005. Since the Supreme Court's 1990 judgment, with reference to Chapter 18, Article 14, of the Enforcement Code, had established that an appeal against an attachment decision that was lodged after a decision regarding the payment of the attached funds had gained legal force could not be considered by the court, the applicant was in reality blocked from having his appeal tried, despite having followed the instructions about appeal in the attachment decision. Moreover, since he had not been informed about the distribution and payment of the attached funds, he was not aware of this limitation. To the Court, this cannot be considered satisfactory and it is of

the opinion that the national system lacked safeguards to avoid such a situation.

55. The Court further notes that, in accordance with the Enforcement Code (see above § 20), the attachment of bank funds is safeguarded by a notification prohibiting the bank from fulfilling its obligations to others than the Enforcement Authority and the bank is, as a rule, requested to pay the attached funds to the Enforcement Authority. In these circumstances, the Court considers that the creditor's interest must be considered to have been sufficiently secured once the attachment was carried out since the applicant could then no longer administer his funds. It must then have been for the applicant also to be able to protect his interests.

56. The foregoing considerations are sufficient to enable the Court to conclude that the applicant did not have a clear practical opportunity to challenge the attachment order and that the very essence of his right to effective access to court was thereby impaired.

57. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. 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

59. The applicant claimed EUR 10,000 in respect of non-pecuniary damage.

60. The Government argued that the finding of a violation would in itself constitute sufficient just satisfaction. In any event, they regarded the sum claimed as excessive in comparison with sums awarded by the Court in similar cases and considered that any compensation should not exceed EUR 1,000.

61. The Court considers that the applicant must have suffered some non-pecuniary damage which cannot be compensated solely by the finding of the violation of Article 6 § 1. Ruling on an equitable basis, the Court awards the applicant EUR 1,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

62. The applicant did not claim compensation for costs and expenses incurred before the Court. Accordingly, the Court considers that there is no call to award him any sum on that account.

C. Default interest

63. The Court considers it appropriate that the default interest rate 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 application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amount, to be converted into the currency of the respondent State at the rate applicable at the date of settlement, EUR 1,000 (one thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (b) 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 21 June 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Dean Spielmann
President