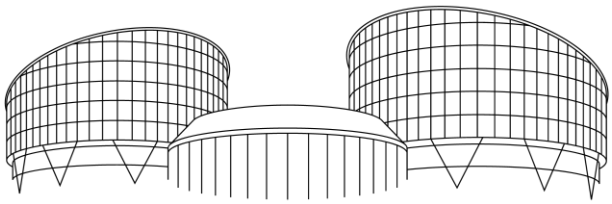

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF KARŅEJEVS v. LATVIA

(Application no. 14749/03)

JUDGMENT

STRASBOURG

5 July 2011

FINAL

05/10/2011

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

In the case of Karņejevs v. Latvia**,**

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

Josep Casadevall, *President,*
Corneliu Bîrsan,
Alvina Gyulumyan,
Ineta Ziemele,
Luis López Guerra,
Mihai Poalelungi,
Kristina Pardalos, *judges,*
and Santiago Quesada, *Section Registrar,*

Having deliberated in private on 14 June 2011,

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

PROCEDURE

1. The case originated in an application (no. 14749/03) against the Republic of Latvia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a permanently resident non-citizen of Latvia, Mr Valentīns Karņejevs ("the applicant"), on 24 April 2003.

2. The Latvian Government ("the Government") were represented by their Agent, Mrs I. Reine.

3. On 21 September 2009 the President of the Third Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1978 and is currently serving a prison sentence in Jelgava.

A. The applicant's arrest and pre-trial detention

1. The applicant's initial arrest

5. On 4 October 1999 two bodies (male and female) were found in a lake in Garkalne parish, near Rīga.

6. On 8 October 1999 the applicant was arrested on suspicion of murder. Several other persons, namely, V.U., A.V. and A.C. ("the co-accused"), were arrested in connection with the same criminal proceedings. They were released on 11 October 1999 on an undertaking not to change their places of residence.

7. On 9 October 1999 the applicant was questioned by the police and he provided his version of the events.

8. On 11 October 1999 a judge of the Rīga District Court (*Rīgas rajona tiesa*) authorised the applicant's detention for two months.

9. On 9 November 1999 the applicant was repeatedly questioned and maintained his version of the events. In addition, he confessed to having murdered the male victim but not the female.

2. The applicant's detention between 6 December 1999 and 24 May 2000 (the preliminary investigation stage)

10. On 6 December 1999 the same judge extended the applicant's detention until 31 January 2000.

11. On 27 January and 22 March 2000 another judge of the Rīga Regional Court extended the applicant's detention until 31 March and 31 May 2000 respectively.

12. On 27 April 2000 the preliminary investigation was completed and the applicant started to acquaint himself with the case materials. He finished on 17 May 2000.

13. On 18 May 2000 the final charge was brought against the applicant and the co-accused and the case was sent to the Rīga Regional Court, where it was received the next day.

3. The applicant's detention between 24 May 2000 and 15 September 2003 (the trial stage)

(a) The detention between 24 May 2000 and 1 November 2002

14. On 24 May 2000 the applicant and the co-accused persons were committed for trial and the first hearing was scheduled for November 2001. The preventive measures – the applicant's detention and the co-accused's undertaking not to change their places of residence – remained unchanged, as the judge considered them to have been duly applied in view of the

severity of the crimes and the personalities of the accused. The applicant was not brought before the court.

15. During this period the order for applicant's detention was not reviewed.

(b) Detention between 1 November 2002 and 15 September 2003

(i) On the basis of the court order of 1 November 2002

16. In view of the forthcoming amendments to the Code of Criminal Procedure to the effect that detention beyond one year and six months following committal for trial was not allowed save for in exceptional circumstances (see *Svipsta v.* Latvia, no. 66820/01, § 63, ECHR 2006-III (extracts)), the Rīga Regional Court forwarded the case to the Senate of the Supreme Court to decide on the issue of the applicant's further detention.

17. On 1 November 2002 in a preparatory meeting the Senate extended the applicant's detention until 30 April 2003 on the ground that he was accused of having committed an especially serious crime with violence and in order to ensure that the proceedings would not be hindered. The applicant was not brought before the court.

18. In the meantime, on 18 October 2002, the applicant applied to the Rīga Regional Court with a view to being released given the fact that he had already been detained for more than two years and four months (following his committal for trial) and the trial date had not yet been scheduled. He asked for the preventive measure imposed on him to be changed from detention either to an undertaking not to change his place of residence or to police supervision.

19. On 6 November 2002 the judge of the Rīga Regional Court replied to the applicant in a letter that there were no grounds for his release. The judge merely referred to the amended section 77, paragraph 7 of the Code of Criminal Procedure and to the fact that on 1 November 2002 the Senate of the Supreme Court had extended his detention until 30 April 2003. No other reasons were given.

(ii) On the basis of the court order of 13 March 2003

20. On 13 March 2003 the Senate, following an application lodged by the Rīga Regional Court, extended the applicant's detention until 15 November 2003. In its relevant part, the decision reads:

> "The criminal case was received at the Rīga Regional Court on 19 May 2000 and [the applicant] was committed for trial on 24 May 2000; the preventive measure – detention – remained unchanged. With the decision of 1 November 2002 taken by the Supreme Court in its preparatory meeting [the applicant's] detention was extended until 30 April 2003. The judge of the Rīga Regional Court has submitted an application, which shows that the first-instance court will not be able to examine the case by that date because [the applicant] was ordered to undergo a forensic psychiatric

and psychological examination. The judge is asking for an extension of his detention until 15 November 2003.

Having examined the case materials and the judge's application, the Criminal Department of the Senate confirms that, exceptionally, it is possible to extend [the applicant's] detention. [The applicant] is accused of having committed an especially serious crime with violence. There are no guarantees that the applicant, if released, will not evade the trial or continue illegal activities. Therefore, on the above-mentioned grounds and in accordance with section 77, paragraph 7 of the Code of Criminal Procedure, the Criminal Department of the Senate decides: to extend the applicant's detention until 15 November 2003. No appeal can be lodged against this decision."

21. On 14 March 2003 the Criminal Department of the Senate of the Supreme Court informed the applicant that his detention had been extended until 15 November 2003 and that no appeal lay against that decision.

22. In reply to a letter from the applicant with unspecified contents, on 30 July 2003 the judge informed that he had replied on 6 November 2002 to the applicant's request for release.

23. In reply to several letters from the applicant with unspecified contents, on 19 August 2003 another judge of the Rīga Regional Court informed the applicant that he could not receive copies of his letters to that court under the Code of Criminal Procedure. At the same time, she sent the applicant a copy of her colleague's letter of 6 November 2002 (see paragraph 19 above).

24. On 15 September 2003 the Rīga Regional Court, acting as a court of first instance, convicted the applicant (see paragraph 30 below).

4. New charge against the applicant

25. In the meantime, on 25 May 2000 the applicant confessed that he had stolen a car in January or February 1999. Another set of criminal proceedings against the applicant were opened in that connection.

26. On 10 November 2000 the preliminary investigation was completed and on 25 November 2000 the final charge was brought against the applicant in that regard. On 30 November 2000 the case was sent to the Rīga Regional Court for adjudication.

27. On 4 December 2000 the applicant was committed for trial and the first hearing was scheduled for November 2001. No preventive measure was ordered for the applicant as he was already detained for the purposes of the criminal proceedings concerning the murder charge. The judge noted in the decision that the criminal proceedings concerning the theft charge would be joined to the first proceedings at a later stage.

28. The criminal proceedings concerning the murder and theft charges were joined on 24 February 2003.

B. The applicant's trial

29. On 21 and 24 February 2003 the Rīga Regional Court held the first hearings in the applicant's criminal case. On the latter date the criminal proceedings concerning the applicant's murder and theft charges were joined. On the same date the court ordered the applicant to undergo a forensic psychiatric and psychological examination.

30. On 15 September 2003 the Rīga Regional Court convicted the applicant of aggravated murder on two counts and aggravated theft on two counts and sentenced him to life imprisonment. One of the co-accused, V.U., was convicted of aggravated murder on one count.

31. On 13 February 2004, on an appeal by the applicant, the Criminal Chamber of the Supreme Court upheld and re-qualified his conviction to one count of aggravated (double) murder and upheld the conviction of aggravated theft on two counts. The applicant's sentence was reduced to twenty-one years of imprisonment.

32. On 25 October 2004 the applicant's appeal on points of law was rejected in a preparatory meeting of the Criminal Department of the Senate of the Supreme Court.

II. RELEVANT DOMESTIC LAW AND PRACTICE

33. A full description of the law and practice at the relevant time may be found in *Svipsta* (cited above, §§ 53-66).

34. In case no. 2003-03-01 the Constitutional Court examined individual constitutional complaints lodged by several individuals, who complained about the impossibility to lodge an appeal against a detention order issued by the Senate of the Supreme Court under section 77, paragraph 7 of the Code of Criminal Procedure. In its judgment of 27 June 2003 the Constitutional Court declared that provision unconstitutional on the basis of incompliance with the right to a fair trial and declared it null and void as of 1 October 2003. The Constitutional Court ruled that the impossibility to lodge an appeal against the detention order did not infringe the right to a fair trial; however the right to a fair trial had not been respected in the proceedings before the Senate of the Supreme Court because it had not ensured adversarial proceedings and the right to be heard.

35. As of 1 October 2003 the relevant provision of the Code of Criminal Procedure was amended to ensure the right to be heard. From then on detention orders under section 77, paragraph 7 of the Code of Criminal Procedure were issued by the appellate courts.

THE LAW

I. COMPLAINTS COVERED BY THE UNILATERAL DECLARATION

36. The applicant complained about the length of his pre-trial detention and of the length of the criminal proceedings against him. He relied on Articles 5 § 3 and 6 § 1 of the Convention which, in so far as relevant, provides as follows:

Article 5 (right to liberty and security)

"3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

Article 6 (right to a fair hearing)

"In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

37. By letter dated 12 February 2010 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by this part of the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

38. The declaration provided as follows:

"The Government of the Republic of Latvia represented by their Agent Inga Reine (hereinafter – the Government), admit that the length of detention and total length of criminal proceedings initiated against Valentīns Karņejevs (hereinafter – the applicant) did not meet the standards enshrined in Article 5, paragraph 3 and Article 6, paragraph 1, of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – the Convention). Being aware of that, the Government undertake to adopt all necessary measures in order to avoid similar infringements in future.

The Government declare that they offer to pay to the applicant the compensation in the amount of 2,900 euros (LVL 2,039), this amount being the global sum and covering any pecuniary and non-pecuniary damage together with any costs and expenses incurred, free of any taxes that may be applicable, with a view to terminating the proceedings on Article 5, paragraph 3, and Article 6, paragraph 1, of the Convention pending before the European Court of Human Rights (hereinafter – the Court) in the case of Karņejevs v. Latvia (application no. 14749/03).

The Government undertake to pay the above compensation within three months from the date of notification of the decision (judgment) by the Court pursuant to Article 37 of the Convention. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on the amount,

> as established in the decision (judgment) by the Court. The above sum shall be transferred in Latvian lati to the bank account indicated by the applicant.
>
> This payment will constitute the final resolution of the alleged complaints."

39. In a letter of 18 March 2010 the applicant expressed the view that the Government's declaration did not cover all his complaints and that the compensation offered was unacceptably low.

40. The Court reiterates that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

> "for any other reason established by the Court, it is no longer justified to continue the examination of the application".

41. It further reiterates that, in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

42. To this end, the Court will examine carefully the declaration in the light of the principles emerging from its case-law (see, in particular, *Tahsin Acar v. Turkey* (preliminary issue) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *Kapitonovs v. Latvia* (dec.), no. 16999/02, 24 June 2008; *Ozoliņš v. Latvia* (dec.), no.12037/03, 2 September 2008; and *Borisovs v. Latvia* (dec.), no. 6904/02, 2 September 2008).

43. The Court has established in a number of cases, including those brought against Latvia, its practice concerning the right of a detained person to be tried within a reasonable time (see *Svipsta*, cited above, §§ 106-113; *Estrikh v. Latvia*, no. 73819/01, §§113-127, 18 January 2007; and *Moisejevs v. Latvia*, no. 64846/01, §§ 112-119, 15 June 2006) and concerning the right to a hearing within a reasonable time (see *Lavents v. Latvia*, no. 58442/00, §§ 85-87, 99-104, 28 November 2002; *Freimanis and Līdums v. Latvia*, nos. 73443/01 and 74860/01, §§ 106-109, 123-126, 9 February 2006; *Kornakovs v. Latvia*, no. 61005/00, §§ 113-116, 120-130, 15 June 2006; *Moisejevs*, cited above, §§ 123-126, 132-142; *Estrikh*, cited above, §§ 136-143; and *Čistiakov v. Latvia*, no. 67275/01, §§ 74-81, 8 February 2007).

44. Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed, the Court considers that it is no longer justified to continue the examination of this part of the application (Article 37 § 1(c)).

45. Moreover, in the light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols

thereto does not require it to continue the examination of this part of the application (Article 37 § 1 *in fine*).

46. In view of the above, it is appropriate to strike the case out of the list in so far as it relates to the complaints under Articles 5 § 3 and 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

47. The applicant complained about the lawfulness of his detention after May 2000, that is, after he was committed for trial on 24 May 2000. He called into question the lawfulness of the detention orders issued by the Rīga Regional Court on 24 May 2000 and those issued by the Senate of the Supreme Court on 1 November 2002 and 13 March 2003.

48. The Court will examine this complaint under Article 5 § 1 (c) of the Convention (see, *mutatis mutandis*, *Svipsta*, cited above, §§ 88-89, and *Shannon v. Latvia*, no. 32214/03, §§ 42-50, 24 November 2009), which, in its relevant part, reads as follows:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> ...
>
> (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence ..."

Admissibility

49. The Government pointed out that the detention orders had been issued by the competent domestic courts – the Rīga Regional Court and the Senate of the Supreme Court – and argued that no question of lawfulness thus arose. They further argued, with reference to the specified evidence in the criminal case file, that there had been a reasonable suspicion against the applicant throughout his pre-trial detention.

50. The applicant disagreed and submitted that his pre-trial detention had been unlawful since it had been unreasonable and not supported by necessary and persuasive evidence.

51. The Court refers to its previous case-law establishing the applicable principles (see *Svipsta*, cited above, § 79).

52. The Court observes at the outset that the applicant only complained about the lawfulness of his detention for the period that followed his committal for trial, that is, after 24 May 2000. He did not call into question the lawfulness of his detention prior to that stage (see, by contrast, *Svipsta*,

cited above, §§ 69, 82-87; *Jurjevs v. Latvia*, no. 70923/01, § 36, 43-46, 15 June 2006; and *Shannon*, cited above, §§ 36, 46-47).

53. The Court considers that the applicant's detention from 24 May 2000, when he was committed for trial by the Rīga Regional Court, until 15 September 2003, when he was convicted by that court, was based on detention orders issued by the competent domestic courts in accordance with national law. The first detention order in the period under consideration was issued by the Rīga Regional Court on 24 May 2000 in accordance with the relevant provisions of the Code of Criminal Procedure. Moreover, on the very day when the legislative amendments limited the length of detention pending trial to one year and six months at the trial stage, the Senate of the Supreme Court issued an order authorising the applicant's further detention until 30 April 2003 under the amended section 77, paragraph 7 of the Code of Criminal Procedure (see paragraphs 16 to 17 above). A further order was issued by the Senate authorising the applicant's detention until 15 November 2003 (see paragraphs 20 to 21 above) under the same provision of the Code of Criminal Procedure. Therefore, the applicant's detention during this period of over three years was "lawful" and imposed "in accordance with a procedure prescribed by law" within the meaning of Article 5 § 1 of the Convention

54. The Court agrees with the Government that the reasonable suspicion against the applicant was based on the evidence in the criminal case file. It is further satisfied that the nature of the suspicion against the applicant did not change during the period in question (see *Svipsta*, cited above, § 88, and *Shannon*, cited above, § 48).

55. Accordingly, the Court finds that this complaint is manifestly ill-founded and it must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

56. The applicant also considered that Article 5 § 4 had been violated in that he could not have his detention reviewed after he had been committed for trial in May 2000. He also complained about the fact that he could not appeal against the detention orders issued by the Senate of the Supreme Court. Finally, relying on Article 13 of the Convention, he considered to have had no effective remedy to have the lawfulness of his detention reviewed.

57. The Court will consider this complaint solely under Article 5 § 4 of the Convention, the relevant part of which reads as follows:

> "4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful."

A. Admissibility

58. The Government argued that the applicant had not exhausted domestic remedies as he had not requested the Rīga Regional Court or the Senate of the Supreme Court to reassess the lawfulness and reasonableness of his detention pursuant to section 222.[1] of the Code of Criminal Procedure. They considered that the applicant's letter of 18 October 2002 had not contained any reasons for the judge to grant the applicant's request. The Government relied on the Court's decision in the case of *Dobrovoļskis v. Latvia* (no. 2233/03, 5 May 2009) and submitted that in legally and factually similar circumstances the Court had declared the complaint inadmissible for non-exhaustion of domestic remedies.

59. The applicant disagreed and pointed out that he could not have lodged an appeal against the orders issued by the Senate of the Supreme Court on 1 November 2002 and 13 March 2003.

60. The Court notes at the outset that the present case differs from the aforementioned *Dobrovoļskis* case, where the applicant did not approach the relevant court with any requests. Leaving aside the question whether the remedy contained in section 222.[1] of the Code of Criminal Procedure was available and effective for the purposes of Article 35 § 1 of the Convention (see, for a case where an argument concerning the effectiveness of section 222.[1] as a remedy concerning an appeal has been rejected, *Estrikh*, cited above, § 98), the Court observes that in the present case, unlike in the *Dobrovoļskis* case, the applicant approached the Rīga Regional Court. His request of 18 October 2002, however succinct, contained his reasons: that the trial had been unduly protracted and that he had been held in pre-trial detention for already more that two years and four months since his committal for trial (see paragraph 18 above). Moreover, the Court would add that since the applicant's arrest on 8 October 1999 more than three years had already passed when the judge of the Rīga Regional Court received the applicant's letter, a fact which the Government admit is in violation of Article 5 § 3 of the Convention. Moreover, the applicant appears to have applied to that court on several other occasions (see paragraphs 22 and 23 above). Even though the Court has not been furnished with copies of those requests, it can be inferred from the replies given by the judges of the Rīga Regional Court that these letters contained, at least in substance, similar requests to that of 18 October 2002.

61. In such circumstances, the Court finds that the applicant did approach the Rīga Regional Court with requests to review the lawfulness of his detention and rejects the Government's preliminary objection of non-exhaustion of domestic remedies in that regard.

62. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention, nor inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

63. The Government did not submit any observations on the merits of this complaint. Their position was that there had been no violation.

64. The applicant reiterated his previous submissions.

65. The Court refers to its previous case-law establishing the applicable principles (*Svipsta*, cited above, § 129) and notes at the outset that the applicant's complaint in the present case concerns only one particular aspect of the rights contained in Article 5 § 4 of the Convention. The Court notes that the applicant did not complain about the reasoning contained in the detention orders either (see, by contrast, *Svipsta*, cited above, §§ 120, 130-134, and *Shannon*, cited above, §§ 51, 62-66) or about the speed of review (see, by contrast, *Shannon*, cited above, §§ 51, 67-74). The applicant's complaint in the present case is limited to the absence of an adequate remedy by which to obtain a review of the lawfulness of his detention at the trial stage, that is, after he was committed for trial on 24 May 2000 until his conviction by the first-instance court on 15 September 2003 (see, for a similar complaint, *Svipsta*, cited above, §§ 141-143).

66. Concerning the period between 24 May 2000 and 1 November 2002, the Court observes that on the former date the judge of the Rīga Regional Court decided to commit the applicant for trial while keeping him in detention. Under the Code of Criminal Procedure, as then in force, there was no time-limit placed on detention pending trial and the detention order, in principle, remained in force until judgment had been given on the merits. The Court has already found that no remedy was available under Latvian law whereby the lawfulness of detention could be periodically reviewed at the trial stage before the examination of the merits of the case had begun (*Svipsta*, cited above, §§ 141-143). Moreover, when the judge replied to the applicant's request for release of 18 October 2002, he explicitly referred to the applicable provisions of the domestic law and noted that the Senate of the Supreme Court had extended his detention until 30 April 2003 (see paragraph 19 above). The Court considers that such an explanation confirms that no remedy existed in Latvian law at that time for the applicant to contest the lawfulness of his detention. The Court would further add that Article 5 § 4 of the Convention obliges the court to provide guarantees appropriate to the kind of deprivation of liberty in question. In the case of a person whose detention falls within the ambit of Article 5 § 1 (c), a hearing is required (see, among many other authorities, *Assenov and Others v. Bulgaria*, 28 October 1998, § 162, *Reports of Judgments and Decisions* 1998-VIII). It is evident from the facts of the case that no such hearing had taken place either before the Senate of the Supreme Court or before the judge of the Rīga Regional Court during the period under consideration. Therefore, the Court considers that the applicant was not offered the procedural safeguards contained in Article 5 § 4 of the Convention.

67. As for the period between 1 November 2002 and 15 September 2003, the Court observes that the applicant's detention was authorised by the Senate of the Supreme Court. It stems from the facts that also during that period the applicant's requests for release (see paragraphs 22 and 23 above) were rejected by the judge of the Rīga Regional Court, which review does not meet the requirements of Article 5 § 4 of the Convention (see the above paragraph).

68. The Court therefore considers that, after 24 May 2000, the applicant did not have an adequate remedy by which to obtain a review of the lawfulness of his detention pending the outcome of the judicial proceedings, in breach of Article 5 § 4 of the Convention.

69. Finally, the Court notes that in view of the Constitutional Court's ruling (see paragraph 34 above), the law and practice in Latvia was changed and since 1 October 2003 proceedings concerning detention orders issued under section 77, paragraph 7 of the Code of Criminal Procedure had to be adversarial.

70. In view of the above finding of a violation of Article 5 § 4 of the Convention, the Court does not consider it necessary to examine separately the applicant's complaint as regards the inability to lodge an appeal against the detention orders issued by the Senate of the Supreme Court.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

71. 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."

72. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Takes note* of the terms of the respondent Government's declaration and the modalities for ensuring compliance with the undertakings referred to therein;

2. *Decides* to strike the application out of its list of cases in so far as it relates to the complaints under Articles 5 § 3 and 6 § 1 of the Convention, in accordance with Article 37 § 1 (c) of the Convention;

3. *Declares* the complaint under Article 5 § 4 of the Convention admissible and the remainder of the application inadmissible;

4. *Holds* that there has been a violation of Article 5 § 4 of the Convention.

Done in English, and notified in writing on 5 July 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President