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

COURT (CHAMBER)

CASE OF ALLENET DE RIBEMONT v. FRANCE
(INTERPRETATION)

(Application no. 15175/89)

JUDGMENT

STRASBOURG

07 August 1996

In the case of Allenet de Ribemont v. France (interpretation of the judgment of 10 February 1995)[1],

The European Court of Human Rights, sitting, in accordance with Article 43 (art. 43) of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and Rule 57 para. 4 of Rules of Court A[2], as a Chamber composed of the following judges:

Mr R. RYSSDAL, *President*,
Mr F. GÖLCÜKLÜ,
Mr L.-E. PETTITI,
Mr J. DE MEYER,
Mr I. FOIGHEL,
Mr A.N. LOIZOU,
Mr J.M. MORENILLA,
Mr G. MIFSUD BONNICI,
Mr B. REPIK,

and also of Mr H. PETZOLD, *Registrar*, and Mr P.J. MAHONEY, *Deputy Registrar*,

Having deliberated in private on 22 February, 22 April and 24 June 1996,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The European Commission of Human Rights ("the Commission") submitted a request to the Court, under Rule 57 of Rules of Court A, for the interpretation of the judgment delivered on 10 February 1995 in the case of Allenet de Ribemont v. France (Series A no. 308). The request, dated 15 September 1995, was filed on 19 September 1995, within the three-year period laid down by Rule 57 para. 1, and was signed by Mr Trechsel, the President of the Commission.

2. In accordance with paragraph 4 of that Rule, the request for interpretation has been considered by the Chamber which gave the aforementioned judgment, composed of the same judges.

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[1] The case is numbered 3/1994/450/529. The first number is the case's position on the list of cases referred to the Court in the relevant year (second number). The last two numbers indicate the case's position on the list of cases referred to the Court since its creation and on the list of the corresponding originating applications to the Commission.

3. On 26 September 1995 the Registrar communicated the request to the French Government ("the Government") and to the applicant and invited them to submit any written comments by 12 January 1996, the time-limit laid down by the President of the Chamber (Rule 57 para. 3).

The Registrar received the Government's observations on 12 January 1996 and the applicant's on 16 January.

The Court decided to dispense with a hearing.

THE REQUEST FOR INTERPRETATION

4. The case of Allenet de Ribemont v. France originated in an application against the French Republic lodged with the Commission under Article 25 (art. 25) by a French national, Mr Patrick Allenet de Ribemont, on 24 May 1989.

5. On 21 January 1994 the Commission referred the case to the Court, which gave judgment on 10 February 1995. The Court held that there had been a breach of Article 6 para. 2 of the Convention (art. 6-2) in that the principle of presumption of innocence had not been complied with, and of Article 6 para. 1 (art. 6-1) on account of the unreasonable length of the proceedings brought by the applicant to secure compensation.

6. The Court ruled on the question of the application of Article 50 of the Convention (art. 50) in the same judgment.

Mr Allenet de Ribemont had sought compensation for pecuniary and non-pecuniary damage, which he assessed at 10,000,000 French francs (FRF) in total. He had also asked the Court to hold that the State should guarantee him against any application for enforcement of a judgment delivered by the Paris tribunal de grande instance on 14 March 1979 or, failing that, to give him leave to seek an increase in the amount of just satisfaction at a later date. Lastly, he had sought FRF 270,384.28 for costs and expenses.

The Court's rulings on these three claims are given in paragraphs 62, 65 and 68 respectively of the judgment of 10 February 1995:

> "62. The Court does not accept Mr Allenet de Ribemont's reasoning with regard to pecuniary damage. It considers, nevertheless, that the serious accusations made against him at the press conference of 29 December 1976 certainly diminished the trust placed in him by the people he did business with and thus made it difficult for him to pursue his occupation. It therefore finds the claim for compensation in respect of pecuniary damage to be justified in part.
>
> Moreover, it agrees with the Delegate of the Commission that the applicant indisputably sustained non-pecuniary damage on account of the breach of Article 6 para. 1 (art. 6-1) and especially Article 6 para. 2 (art. 6-2). Although the fact that Mr de Broglie was well known, the circumstances of his death and the stir it caused certainly gave the authorities good reason to inform the public speedily, they also

made it predictable that the media would give extensive coverage to the statements about the inquiry under way. The lack of restraint and discretion vis-à-vis the applicant was therefore all the more reprehensible. Moreover, the statements in issue were very widely reported, both in France and abroad.

Taking into account the various relevant factors and making its assessment on an equitable basis, as required by Article 50 (art. 50), the Court awards Mr Allenet de Ribemont a total sum of FRF 2,000,000."

"65. Like the Government, the Court points out that under Article 50 (art. 50) it does not have jurisdiction to issue such an order to a Contracting State (see, mutatis mutandis, the Idrocalce S.r.l. v. Italy judgment of 27 February 1992, Series A no. 229-F, p. 65, para. 26, and the Pelladoah v. the Netherlands judgment of 22 September 1994, Series A no. 297-B, pp. 35-36, para. 44). It further considers that the question of just satisfaction is ready for decision."

"68. Making its assessment on an equitable basis, the Court awards the applicant FRF 100,000 plus VAT."

7. The operative provisions of the judgment of 10 February 1995 read as follows:

"FOR THESE REASONS, THE COURT

...

3. Holds by eight votes to one that the respondent State is to pay the applicant, within three months, 2,000,000 (two million) French francs for damage;

4. Holds unanimously that the respondent State is to pay the applicant, within three months, 100,000 (one hundred thousand) French francs, plus value-added tax, for costs and expenses;

5. Dismisses unanimously the remainder of the claim for just satisfaction."

8. In a letter of 15 May 1995 to the Ministry of the Interior and Regional Development, Mr Allenet de Ribemont's lawyer protested against the Government's failure to pay the sums due to him under the Court's judgment of 10 February 1995.

9. On 18 May 1995 the Ministry sent the applicant's lawyer the originals of two orders for payment - one for a sum of FRF 2,000,000 and the other for a sum of FRF 118,600 (FRF 100,000 plus 18.6% VAT) - in favour of Mr Allenet de Ribemont.

10. In July-August 1995 the applicant was informed that an attachment had been effected on 3 March 1995 at the request of the de Broglie family under a judgment given by the Paris tribunal de grande instance on 14 March 1979, which had become final.

In July 1995 the bailiff through whom the attachment had been effected had received by transfer two sums from the Treasury office: one of FRF

2,000,000 and the other of FRF 118,600, following which he sent a cheque to the applicant's lawyer made out in the latter's favour for the second sum.

11. In a letter of 20 July 1995 - supplemented by another one of 16 August 1995 - Mr Allenet de Ribemont asked the President of the Commission to lodge with the Court a request for interpretation of the judgment of 10 February 1995 in order

> "...
>
> To determine in the total sum of 2,000,000 ... francs awarded in compensation the part awarded for non-pecuniary damage and the part awarded for pecuniary damage, it being clearly understood that the additional sum of 100,000 ... francs plus VAT awarded in the judgment ... is expressly intended to cover the costs and expenses of counsel.
>
> Further, to determine the attachable and non-attachable parts of that compensation.
>
> Finally, to determine the date on which any interest shall become payable in the event of non-payment by the Government of the French Republic.
>
> ..."

12. With reference to paragraph 2 of Rule 57, the Commission in its request for interpretation put the following three questions to the Court:

> "Firstly: Is it to be understood that Article 50 of the Convention (art. 50), which provides for an award of just satisfaction to the injured party if the domestic law of the High Contracting Party allows only partial reparation to be made for the consequences of the decision or measure held to be in conflict with the obligations arising from the Convention, means that any sum awarded under this head must be paid to the injured party personally and be exempt from attachment?
>
> Secondly: In respect of sums subject to legal claims under French law, should a distinction be made between the part of the sum awarded under the head of pecuniary damage and the part awarded under the head of non-pecuniary damage? and
>
> Thirdly: If so, what were the sums which the Court intended to grant the applicant in respect of pecuniary damage and non-pecuniary damage respectively?"

13. On 19 October 1995 the Committee of Ministers of the Council of Europe adopted the following resolution (Resolution DH (95) 247):

> "The Committee of Ministers ...,
>
> ...
>
> Declares, after having taken note of the information supplied by the Government of France, that it has exercised its functions under Article 54 of the Convention (art. 54) in this case, subject to any new examination which could be required as a result of the Court's interpretative judgment.
>
> Appendix to Resolution DH (95) 247

Information provided by the Government of France during the examination of the Allenet de Ribemont case by the Committee of Ministers

...

With regard to the payment of the just satisfaction the Government can give the following information.

Anxious to ensure the proper execution of the judgment of the European Court of Human Rights of 10 February 1995, the French Government set in motion the payment procedure necessary in order to ensure that Mr Allenet de Ribemont was paid in the course of May 1995.

However, on 6 March 1995 the heirs of Mr de Broglie, Mr Allenet de Ribemont's creditors, notified the General Payment Office (Paierie générale du Trésor) of their request that the sum be seized.

No attachment judgment was necessary since Mr de Broglie's heirs had a valid execution title in the form of a judgment from 1979 and the Payment Office paid Mr Allenet de Ribemont's creditors on 18 July 1995 upon production of an affidavit of non-opposition (certificat de non-opposition) issued by Me Noquet, Enforcement Officer in Paris.

France has accordingly complied with its obligations under the judgment of the European Court of Human Rights and cannot be concerned by the problems which on this occasion may oppose private parties."

AS TO THE LAW

14. Under the terms of Rule 57 of Rules of Court A,

"1. A Party or the Commission may request the interpretation of a judgment within a period of three years following the delivery of that judgment.

2. The request shall state precisely the point or points in the operative provisions of the judgment on which interpretation is required ...

..."

15. The Government argued that the request for interpretation was inadmissible. The Court had clearly laid down in its judgment of 10 February 1995 that it had no jurisdiction to rule on whether the sums in issue were or were not liable to attachment, so that the judgment was not "obscure" or "ambiguous".

They added that the Court had no jurisdiction to determine the dispute between the recipient of just satisfaction and that person's creditors. Yet this was the purpose of the Commission's request since, as the Committee of

Ministers had found on 19 October 1995, the Government had discharged their obligations under Article 54 of the Convention (art. 54).

Furthermore, it followed from the Court's case-law that the Court could not declare exempt from attachment the sums it awarded under Article 50 (art. 50).

Lastly, and only in the alternative, the Government said that there was no principle in French law that sums awarded by national courts for pecuniary or non-pecuniary damage were exempt from attachment. At all events, it would be impossible in the instant case to identify the sums that the Court had meant to award Mr Allenet de Ribemont for pecuniary damage and non-pecuniary damage respectively as the judgment of 10 February 1995 did not itself do so.

16. The applicant, who had asked the Commission to submit a request for interpretation to the Court, contended that the request was admissible.

On the merits his main submission was that the sums awarded by the Court pursuant to Article 50 (art. 50) were autonomous vis-à-vis domestic law. Indeed, the purpose of just satisfaction, he argued, was to compensate for specific damage arising from a breach of the Convention - an international treaty - for which the internal law of the State held to have committed a breach allowed only partial reparation to be made. It was also designed to penalise that State. Lastly, supervision of the execution of the Court's judgments in which one or more breaches of the Convention had been found - and the State in question, where appropriate, ordered to pay specified sums - was governed by special rules. Under Article 54 of the Convention (art. 54), it was for the Committee of Ministers of the Council of Europe to deal with any difficulties of execution, and not for the State's administrative or judicial authorities. Given also the indissoluble bond between the award and its recipient, all the sums ordered to be paid to the victim of a breach were exempt from attachment, whatever the domestic rules on the subject.

In the alternative, the applicant argued that if the Court held that only sums in respect of non-pecuniary damage were exempt from attachment, it should take into account the fact that the judgment of 10 February 1995 compensated for that damage distinctly more than for pecuniary damage.

Mr Allenet de Ribemont also sought FRF 50,000 in respect of costs and fees incurred during the present proceedings for interpretation.

17. The Court observes that, when considering a request for interpretation, it "is exercising inherent jurisdiction: it goes no further than to clarify the meaning and scope which it intended to give to a previous decision which issued from its own deliberations, specifying if need be what it thereby decided with binding force" (see the Ringeisen v. Austria judgment of 23 June 1973, Series A no. 16, p. 8, para. 13).

18. In its first question the Commission asks the Court whether "Article 50 of the Convention (art. 50) ... means that any sum awarded under this

head must be paid to the injured party personally and be exempt from attachment".

19. The Court understands this question as an invitation to interpret Article 50 (art. 50) in a general, abstract way. That, however, goes outside not only the bounds laid down by Rule 57 of Rules of Court A but also those of the Court's contentious jurisdiction under the Convention (see, mutatis mutandis, the Ringeisen judgment previously cited, p. 8, para. 13, and the Lawless v. Ireland judgment of 14 November 1960, Series A no. 1, p. 11).

At all events, the Court did not in the present case rule that any sum awarded to Mr Allenet de Ribemont was to be free from attachment. The applicant had asked the Court to hold that the State should guarantee him against any application for enforcement of the judgment delivered by the Paris tribunal de grande instance on 14 March 1979 (paragraph 63 of the judgment of 10 February 1995). In response the Court said that "under Article 50 (art. 50) it does not have jurisdiction to issue such an order to a Contracting State" (paragraph 65 of the judgment). Accordingly, the question was left to the national authorities acting under the relevant domestic law.

20. The Commission's second and third questions read as follows:

> "In respect of sums subject to legal claims under French law, should a distinction be made between the part of the sum awarded under the head of pecuniary damage and the part awarded under the head of non-pecuniary damage?"

> "If so, what were the sums which the Court intended to grant the applicant in respect of pecuniary damage and non-pecuniary damage respectively?"

21. In its judgment of 10 February 1995 the Court awarded the applicant FRF 2,000,000 "for damage" without distinguishing between pecuniary and non-pecuniary damage.

In its reasoning it found "the claim for compensation in respect of pecuniary damage to be justified in part" and considered that the applicant "indisputably sustained non-pecuniary damage" (paragraph 62 of the Court's judgment of 10 February 1995; paragraphs 6-7 above). Taking into account "the various relevant factors and making its assessment on an equitable basis", it awarded the applicant "a total sum of FRF 2,000,000" (ibid.).

22. It follows that, in relation to the sum awarded, the Court considered that it did not have to identify the proportions corresponding to pecuniary and non-pecuniary damage respectively. The Court is not bound to do so when affording "just satisfaction" under Article 50 of the Convention (art. 50). In point of fact it is often difficult, if not impossible, to make any such distinction, as is illustrated in several previous judgments where the Court granted an aggregate sum (see, among other authorities, the following judgments: Billi v. Italy, 26 February 1993, Series A no. 257-G, p. 90, para.

25; Barberà, Messegué and Jabardo v. Spain, 13 June 1994, Series A no. 285-C, p. 58, para. 20; and López Ostra v. Spain, 9 December 1994, Series A no. 303-C, pp. 57-58, paras. 62-65).

23. The Court's judgment of 10 February 1995 is clear on the points in the operative provisions on which interpretation has been requested. To hold otherwise would not be to clarify "the meaning and scope" of that judgment but rather to modify it in respect of an issue which the Court decided "with binding force" (see the Ringeisen judgment previously cited, p. 8, para. 13).

Accordingly, there is likewise no matter for interpretation within the meaning of Rule 57 of Rules of Court A.

FOR THESE REASONS, THE COURT

1. Holds by eight votes to one that it has no jurisdiction to answer the first question put by the Commission, and consequently rejects the Commission's request for interpretation on this point;

2. Holds unanimously that it is unnecessary to answer the Commission's second and third questions, and consequently rejects the request for interpretation on these points.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 7 August 1996.

Rolv RYSSDAL
President

Herbert PETZOLD
Registrar

In accordance with Article 51 para. 2 of the Convention (art. 51-2) and Rule 53 para. 2 of Rules of Court A, the following separate opinions are annexed to this judgment:

(a) concurring opinion of Mr Pettiti;

(b) dissenting opinion of Mr De Meyer.

R.R.
H.P.

CONCURRING OPINION OF JUDGE PETTITI

(Translation)

I voted with the majority, accepting in particular that the Court had to answer the questions as put by the Commission. This was not a general, abstract request for interpretation from the Committee of Ministers under Protocol No. 2 to the Convention (P2), which could have related to the specific nature of compensation for non-pecuniary damage under Article 50 of the Convention (art. 50).

The Court rejects both the Government's submission that the Court had no jurisdiction to determine the issue and the submission that the Court could not rule on a question of exemption from attachment.

The Court rightly notes that when considering a request for interpretation, it may exercise an inherent jurisdiction in a particular case and, if need be, clarify its decision in respect of Article 50 of the Convention (art. 50).

The applicant's complaints relating to the procedural circumstances of enforcement measures taken in France are still under the jurisdiction of the national courts.

It was therefore solely in reply to the questions as put by the Commission under Rule 57 of Rules of Court A that the Court rejected the Commission's request.

DISSENTING OPINION OF JUDGE DE MEYER

(Translation)

1. In my opinion, we should have answered the Commission's first question in the affirmative.

It is true that this question can be understood "as an invitation to interpret Article 50 (art. 50) in a general, abstract way"[1]. But that is so only in appearance. In reality, the Commission was asking us to say, in concrete terms and in the particular case of Mr Allenet de Ribemont, whether the "just satisfaction" awarded him in the judgment of 10 February 1995 had or had not to be "paid to [him] personally and be exempt from attachment".

At all events, it must not be forgotten, firstly, that questions "concerning the interpretation and application"[2] of Article 50 of the Convention (art. 50) are just as much within the Court's jurisdiction as those concerning the Convention's other provisions and, secondly, that we very often include in the reasons given for our judgments forms of words defining "in a general, abstract way" the meaning to be given to such provisions before applying them to the particular case.

Nor is it sufficient to point out that in the judgment of 10 February 1995 the Court held that it had no jurisdiction to order the French State to "guarantee" the applicant "against any application for enforcement of the judgment delivered by the Paris tribunal de grande instance on 14 March 1979". That does not necessarily mean that it thus resolved the problem raised by the Commission in its first question by leaving it "to the national authorities acting under the relevant domestic law"[3].

Such a solution is scarcely in keeping with the spirit of the Convention.

For one thing, it is hard to accept that the execution of a judgment in which an applicant is awarded "just satisfaction" under Article 50 (art. 50) should be subject to different legislation in different countries.

For another, it is just as hard to accept that the right to compensation for a breach of fundamental rights recognised by the Convention may be frustrated by an ordinary debt arising under national law. This is particularly offensive in the instant case as the claim against the applicant arose, at least indirectly, from a breach of such rights in regard to him[4].

We should therefore have said, as our predecessors did in the Ringeisen case in reply to an identical question, that the compensation is to be paid to the applicant "personally and free from attachment"[5].

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[1] Paragraph 19 of the judgment, first sub-paragraph.
[2] Article 45 of the Convention (art. 45).
[3] Paragraph 19 of the judgment, second sub-paragraph.
[4] See the judgment of 10 February 1995, Series A no. 308, p. 22, para. 59, and paragraph 10 of the present judgment.

2. As regards the other two questions put by the Commission, I am of the same opinion as the other members of the Chamber.

[5] See the Ringeisen v. Austria judgment of 23 June 1973, Series A no. 16, p. 9, second point of the operative provisions, p. 6, para. 8, and p. 9, para. 15.