

***De Geouffre de la Pradelle v. France* - 12964/87**

Judgment 16.12.1992

Article 6

Article 6-1

Access to court

Access to the *Conseil d'État* to challenge the lawfulness of a decree designating an area as being of outstanding beauty: *violation*

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I. THE GOVERNMENT'S PRELIMINARY OBJECTION (failure to exhaust domestic remedies)

Applicant had drawn the *Conseil d'État's* attention to requirements of legal certainty and non-discrimination that were also reflected in the Convention and he had derived arguments from national law that amounted to complaining, in substance, of an infringement of rights secured in Articles 6 and 13.

Conclusion: objection dismissed (unanimously).

II. ARTICLE 6 § 1 OF THE CONVENTION

"Right to a court": enshrined in Article 6 - subject to limitations which must not, however, impair its very essence.

Possibility of challenging relevant decree in court: not disputed - it remained to be ascertained whether procedure for making such an application, in particular as regards calculation of time-limit to be complied with, was such as to ensure that the right to a court was effective.

Rule that designation decisions were to be published nationally: offered undeniable advantages. However, the positive law resulting from legislation on conservation of places of interest taken together with case-law on classification of administrative acts was extremely complex - in view also of the proceedings that had actually taken place in respect of applicant, such complexity was likely to create legal uncertainty as to exact nature of designation decree and as to how to calculate time-limit for bringing an appeal.

Applicant had been entitled to a clear, practical and effective opportunity to challenge an administrative act that was a direct interference with his right of property - as system was not sufficiently coherent and clear, applicant had not had a practical, effective right of access to the *Conseil d'État*.

Conclusion: violation (eight votes to one).

III. ARTICLE 13 OF THE CONVENTION

Requirements of Article 13 less strict than those of Article 6 and were in this instance absorbed by them.

Conclusion: no examination necessary (unanimously).

IV. ARTICLE 50 OF THE CONVENTION

1. Pecuniary damage - loss of opportunities taken into account.
2. Costs and expenses - reimbursement assessed on an equitable basis.

Conclusion: respondent State to pay specified sums to applicant (unanimously).

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