

In the Neves e Silva case*,

(*) Note by the registry: The case is numbered 5/1988/149/203. 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.

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 the relevant provisions of the Rules of Court, as a Chamber composed of the following judges:

Mr R. Ryssdal, President,
Mr J. Pinheiro Farinha,
Mr L.-E. Pettiti,
Mr B. Walsh,
Sir Vincent Evans,
Mr A. Spielmann,
Mr N. Valticos,

and also of Mr M.-A. Eissen, Registrar, and Mr H. Petzold, Deputy Registrar,

Having deliberated in private on 24 January and 29 March 1989,

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

PROCEDURE

1. The case was referred to the Court by the European Commission of Human Rights ("the Commission") and by the Government of the Republic of Portugal ("the Government") on 14 March and 11 April 1988 respectively, within the three-month period laid down by Article 32 para. 1 and Article 47 (art. 32-1, art. 47) of the Convention. It originated in an application (no. 11213/84) against Portugal lodged with the Commission under Article 25 (art. 25) by Mr José Neves e Silva, a Portuguese national, on 17 October 1984.

The Commission's request referred to Articles 44 and 48 (art. 44, art. 48) of the Convention and to the declaration whereby Portugal recognised the compulsory jurisdiction of the Court (Article 46) (art. 46); the Government's application referred to Article 48 (art. 48). The object of the request was to obtain a decision from the Court as to whether there had been a breach by the respondent State of its obligations under Article 6 para. 1 (art. 6-1); the application sought a finding that there had been no such breach.

2. In response to the enquiry made in accordance with Rule 33 para. 3 (d) of the Rules of Court, the applicant stated that he wished to take part in the proceedings pending before the Court and designated the lawyer who would represent him (Rule 30).

3. The Chamber to be constituted included ex officio Mr J. Pinheiro Farinha, the elected judge of Portuguese nationality (Article 43 of the Convention) (art. 43), and Mr R. Ryssdal, the President of the Court (Rule 21 para. 3 (b)). On 25 March 1988, in the presence of the Registrar, the President drew by lot the names of the other five members, namely Mr L.-E. Pettiti, Mr B. Walsh, Sir Vincent Evans, Mr A. Spielmann and Mr N. Valticos (Article 43 in fine of the Convention and Rule 21 para. 4) (art. 43).

4. Mr Ryssdal assumed the office of President of the Chamber (Rule 21 para. 5) and, through the Registrar, consulted the Agent of the Government, the Delegate of the Commission and the applicant's lawyer on the need for a written procedure (Rule 37 para. 1). In accordance with the orders made in consequence, the Registrar received the Government's memorial on 16 August 1988. By a letter of 26 September 1988, Mr Neves e Silva's lawyer indicated that he no longer intended to submit a memorial. On 18 October 1988 the Secretary to the Commission informed the Registrar that the Delegate would submit his observations at the hearing.

5. Having consulted, through the Registrar, those who would be appearing before the Court, the President directed on 8 October 1988 that the oral proceedings should open on 23 January 1989 (Rule 38).

6. On the President's instructions, the Registrar requested the Government to produce various documents; they did so on 31 May and 1 December 1988. The applicant's claims under Article 50 (art. 50) of the Convention reached the registry on 12 December 1988.

7. The hearing took place in public in the Human Rights Building, Strasbourg, on the appointed day. The Court had held a preparatory meeting immediately beforehand.

There appeared before the Court:

(a) for the Government

Mr I. Cabral Barreto, Deputy Procurador-Geral,	Agent,
Mrs M. Santos Pais, of the Procurador-Geral's Office,	Counsel;

(b) for the Commission

Mr A. Weitzel,	Delegate;
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(c) for the applicant

Mr J.V. Jardim, advogado,	
Mr J.P. de Lima, advogado,	Counsel.

The Court heard addresses by Mr Cabral Barreto for the Government, by Mr Weitzel for the Commission and by Mr Jardim for the applicant, as well as their replies to its questions. The representatives of the Government and of the applicant produced various documents on the occasion of the hearing.

AS TO THE FACTS

I. Particular circumstances of the case

8. Mr José Neves e Silva, a retired accountant of Portuguese nationality, resides in Lisbon.

9. In April 1962 the private company Molda Plásticos Nesil, Lda, of which he was one of the owners and the managing director, requested the Directorate General for Industry for an authorisation to use an automatic machine in order to manufacture plastic fibres ("monofilamentos"), from which material its products were made. On 7 June 1962 the Director General for Industry refused this authorisation on the ground that the request had not been submitted in accordance with the terms of an Act of 11 March 1952 making certain industrial activities subject to the issue of prior authorisation

("condicionamento industrial").

10. Two further requests, of 2 January and 2 May 1963, were also rejected. However, the Under-Secretary of State for Industry granted a fourth request on 28 December 1963, subject to two conditions: a deposit of 500,000 escudos and proof, within sixty days, that the company was engaging in the mechanical manufacture of synthetic cord articles.

11. In the meantime, on 9 July 1963, Molda Plásticos Nesil had amended its articles of association. A new company had been set up, Indústrias de Plástico Póvoa Mar, Lda. 30% of the share capital was held by Mr Neves e Silva, 20% by Mr Francisco Quintas and 50% by the company Companhia Industrial de Cordoarias Têxteis e Metálicas Quintas e Quintas, S.A.R.L.

12. The applicant failed to comply with the conditions referred to above, with the result that his authorisation lapsed. The Quintas e Quintas company, on the other hand, and three other competitors obtained the authorisation.

13. From 1968 to 1971 Mr Neves e Silva, who considered that the manufacture of plastic fibres fell outside the scope of the Act of 11 March 1952, made numerous representations to the Prime Minister (3 January 1968, 7 April 1970 and 13 August 1971) and the Secretary of State for Industry (2 August 1968, 12 July and 27 November 1969, 31 March 1970), but without success.

14. On 11 May 1972 he instituted proceedings in the Lisbon Administrative Court (auditoria administrativa) against the State, a chief engineer in the Directorate General for Industry and the two other shareholders in the Póvoa Mar company. He alleged in particular that the chief engineer had acted fraudulently in the exercise of his official duties and that the third and fourth defendants had derived benefit from the operation. Against the State he relied on Articles 2 and 3 of Legislative Decree no. 48.051 of 21 November 1967 on the State's non-contractual liability for acts of public administration. These provisions are worded as follows:

Article 2

"1. The State and other public bodies shall be liable to third parties in civil law for such breaches of the latter's rights, or of legal provisions designed to protect the latter's interests, as are caused by unlawful and culpable acts (actos ilícitos culposamente praticados) of their agencies or officials in, or as a result of, the performance of their duties.

2. Where any compensation is paid pursuant to the previous paragraph, the State and other public bodies shall have a right of recourse against the members of the agency or the officials at fault if they failed to act with proper diligence."

Article 3

"1. Members of the agency and officials of the State and other public bodies shall be liable to third parties in civil law for unlawful acts in breach of their rights, or of legal provisions designed to protect the interests of such parties, where they have exceeded their powers or if they acted with wrongful intent in exercising them.

2. The public body shall always be jointly liable with the members of the agency or the officials concerned for acts performed with wrongful intent."

15. After receiving the originating application (petição inicial),

the court issued a summons to the defendants and requested them to lodge their submissions in reply (contestação).

The chief engineer and the two above-mentioned shareholders filed their submissions on 2 and 19 October 1972. The State, represented by State Counsel, transmitted its observations on 21 December, after an extension of the time-limit. The applicant communicated his reply (réplica) on 12 January 1973 and the defendants submitted their rejoinder (tréplica) ten days later.

16. On 24 February 1973 the court decided to hold a hearing on preliminary objections raised by the defendants, namely, that the applicant lacked locus standi (ilegitimidade), that the action was time-barred (caducidade) and that the court did not have jurisdiction.

17. State Counsel filed notice of an interlocutory appeal (agravo) against this decision to the Supreme Administrative Court (Supremo Tribunal Administrativo). He lodged this application with the Lisbon Administrative Court which, on 28 March 1973, ruled that the appeal had suspensive effect and ordered its immediate transmission, with the file, to the Supreme Administrative Court; this transmission in fact took place on 2 May.

On 14 June the Supreme Administrative Court overruled the decision attributing suspensive effect to the appeal and ordered the resumption of the proceedings in the lower court. On 7 November 1973 the file was returned to the Registrar of the Administrative Court who, two days later, forwarded it to the court.

On 17 May 1976, in accordance with the decision of the Supreme Administrative Court, the Lisbon Administrative Court ordered that the interlocutory appeal be joined to any appeal in the main proceedings.

18. The preliminary hearing finally took place on 1 July 1976.

19. At the applicant's request, on 15 July the court sent the file to the National Commission of Inquiry (Comissão Nacional de Inquérito), a body empowered to investigate complaints directed against the unlawful activities of civil servants carried out before 25 April 1974, under the previous political regime. The file was not returned until 29 May 1978, after a finding by the National Commission that the competent administrative authority had misused its powers.

20. On 12 June 1978 the Lisbon Administrative Court ruled that it lacked jurisdiction to hear the dispute, thereby bringing the proceedings before that court to an end.

21. Mr Neves e Silva was not notified of this decision until 25 January 1979, whereupon, on 6 February 1979, he filed notice of an interlocutory appeal to the Supreme Administrative Court against it.

By an order of 7 February 1979, which the registrar communicated to the applicant on 11 June 1979, the Lisbon Administrative Court declared the appeal admissible. The parties submitted their observations and on 3 October, after calculating the costs and expenses (custas) of the proceedings, the court ordered that the file be transmitted to the Supreme Administrative Court, which acknowledged receipt on 13 March 1980.

22. On 16 May 1980 the Supreme Administrative Court was informed that Mr Francisco Quintas had died and it thereupon stayed the proceedings. On 1 October the applicant applied to it for leave to continue the proceedings against the deceased's heirs (incidente de habilitação - Articles 371 to 377 of the Code of Civil Procedure). However, he had to file a fresh request on 18 May 1981, the first having been ruled inadmissible because of a procedural defect.

On 30 May 1981 the Supreme Administrative Court accorded the defendants a period of eight days within which to lodge their submissions in reply (contestação). On 26 November 1981 it allowed the applicant's request and ordered that the proceedings be resumed.

23. By a judgment of 11 November 1982, notified to the parties on 15 November, the Supreme Administrative Court held that the Lisbon Administrative Court had jurisdiction to hear the action for damages, but only in so far as it was directed against the State, and not against the other defendants. Following calculation of costs and expenses, it returned the file to the Registrar of the Administrative Court on 30 June 1983. The file was registered on 3 October and did not reach the court until 25 October.

24. In its decision (despacho saneador) of 13 March 1984, the Lisbon Administrative Court found that the right relied on was statute-barred (prescrição). It was accepted that the applicant had locus standi, but he had not instituted proceedings in the court until 11 May 1972 and accordingly not within the three years following 25 November 1968, the date on which his request of 2 August 1968 had been rejected by the Secretary of State for Industry. He had therefore failed to satisfy the requirement laid down in Article 498 para. 1 of the Civil Code.

25. On 26 March 1984 Mr Neves e Silva filed notice of appeal (apelação) against this decision. Two days later the first-instance court found the appeal admissible and, on 10 May, ordered that it be forwarded to the higher court. On 6 June 1984 the judge rapporteur gave the parties until 26 June to submit their observations (alegações). By a judgment of 30 May 1985, notified to the parties on 9 June, the Supreme Administrative Court upheld the decision of the Lisbon Administrative Court.

26. On 7 July 1985 the applicant appealed to the Supreme Administrative Court in plenary session (Pleno).

The judge rapporteur noted that an appeal against a judgment of the Supreme Administrative Court sitting in its appellate capacity (em segundo grau de jurisdição) only lay where there were conflicting judgments (oposição de julgamentos). He therefore found the appeal inadmissible and ordered the applicant to pay the costs.

The applicant then lodged a further appeal (reclamação) to the Conferencia, a judicial committee consisting of the judge rapporteur and two other members of the court: he argued that the existence of only two levels of jurisdiction was unconstitutional and that the order that he should bear the costs was unjust. On 4 March 1986 this committee upheld the judge rapporteur's decision.

II. Situation of the administrative courts in Portugal

27. The Government themselves conceded that since the restoration of democracy in April 1974 a certain backlog had built up in the Portuguese administrative courts.

During the period 1974-1984, there was a substantial upsurge in the number of cases coming before the Lisbon Administrative Court: 78 in 1974, 142 in 1977, 184 in 1979, 233 in 1983 and 229 in 1984. Similarly, the number of cases registered in the Supreme Administrative Court increased considerably: 294 in 1974, 815 in 1977, 1,638 in 1978, 1,688 in 1983 and 1,983 in 1984.

28. In order to relieve the workload of the Supreme Administrative Court, Legislative Decrees of 27 April and 29 November 1984 introduced major changes in the organisation and functions of the administrative courts. The first-instance administrative courts (tribunais administrativos de circulo, formerly auditorias administrativas) now

have jurisdiction to hear disputes concerning the acts of the administration (public-law bodies, directors general and other authorities). They may also comprise several chambers. They sit in Lisbon, Oporto and Coimbra.

29. In addition to legislative reform, the Government took a number of measures intended to reduce the backlog, in the administrative courts in the short term. Under Legislative Decree no. 250/74 of 12 June 1974 these courts were given greater resources, particularly in terms of staff.

In the Lisbon Administrative Court, which had only one judge in 1974, three posts of auxiliary judge were created up to 1984 and five others in October 1987. At the same time the number of registry officials was increased from three in 1976 to four in 1977, five in 1980 and eight in 1981.

In the Supreme Administrative Court, the number of judges rose from six in 1977 to sixteen in 1980 and that of auxiliary judges to seven in 1984; the number of officials increased from thirty-two in 1980 to thirty-seven in 1981.

PROCEEDINGS BEFORE THE COMMISSION

30. In his application of 17 October 1984 (no. 11213/84), Mr Neves e Silva complained that the administrative courts had not heard his case within a reasonable time, within the meaning of Article 6 para. 1 (art. 6-1) of the Convention.

The Commission found the application admissible on 13 October 1986. In its report of 17 December 1987 (Article 31) (art. 31), it expressed the unanimous opinion that there had been a violation of Article 6 para. 1 (art. 6-1). The full text of its opinion is reproduced as an annex to this judgment.

THE GOVERNMENT'S FINAL SUBMISSIONS TO THE COURT

31. In their memorial the Government requested the Court to hold

"that it does not have jurisdiction to decide the merits of the case because the applicant is not a 'victim' within the meaning of Article 25 (art. 25) of the Convention;

in the alternative, that Article 6 para. 1 (art. 6-1) of the ... Convention ... is inapplicable in the instant case and that the Court does not have jurisdiction to decide the merits of the case because the application is incompatible with the provisions of the Convention;

and, should the Court reach a different conclusion in this respect, to find

that there has been no violation of Article 6 para. 1 (art. 6-1) of the Convention".

AS TO THE LAW

32. Mr Neves e Silva complained that the duration of the action for damages which he had brought against the State in the Lisbon Administrative Court exceeded the reasonable time referred to in Article 6 para. 1 (art. 6-1), according to which

"In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by (a) ... tribunal ...".

33. Primarily, the Government contended before the Court, as they had done before the Commission, that the application was inadmissible

on the ground of its incompatibility *ratione personae* and *ratione materiae* with the provisions of the Convention. In the alternative, they argued that there had been no violation of Article 6 para. 1 (art. 6-1).

I. THE PRELIMINARY OBJECTIONS RAISED BY THE GOVERNMENT

34. It is necessary in the first place to consider the applicability of Article 6 (art. 6). The Government's submission in this respect appears more far-reaching than the objection that the applicant lacked the status of a "victim" within the meaning of Article 25 para. 1 (art. 25-1). It goes to the very jurisdiction of the Court and not merely to the admissibility of the application.

A. The applicability of Article 6 para. 1 (art. 6-1)

35. In the Government's view, the Lisbon Administrative Court did not "determine" a "contestation" (dispute) by its judgment of 13 March 1984. It found that the right relied on was statute-barred and therefore did not have to rule on the merits of the applicant's claim. In addition, the applicant could not rely on a pre-existing "right" in his favour because the decision to grant the authorisation to manufacture plastic fibres fell within the discretion of the administrative authorities. The latter had in fact rejected all the requests made by Molda Plásticos Nesil with the exception of the fourth, granted subject to two conditions which were subsequently not satisfied (see paragraphs 10 and 12 above). Any right to compensation generated by these decisions of the official of the Directorate General for Industry was vested solely in the company Póvoa Mar which had alone been involved in a direct relationship with the administrative authorities. Finally, the State's intervention precluded classifying the right in question as a "civil right". The public authorities were free to determine the expediency of granting the authorisation concerned, so that their decision in this matter was to be regarded as a "public-law measure".

36. The Commission, for its part, took the view that there had been a "contestation", in particular because the proceedings had involved the completion of various procedural steps and the submission of several written observations. Referring to the Baraona judgment of 8 July 1987 (Series A no. 122), it also concluded that the present case concerned a "civil right". In its view, the two cases raised similar legal problems.

37. Article 6 para. 1 (art. 6-1) extends to "contestations" (disputes) over (civil) "rights" which can be said, at least on arguable grounds, to be recognised under domestic law, irrespective of whether they are also protected under the Convention (see, amongst other authorities, the Golder judgment of 21 February 1975, Series A no. 18, p. 16, para. 33, and the H. v. Belgium judgment of 30 November 1987, Series A no. 127-B, p. 31, para. 40).

These conditions are satisfied in the present case. In bringing an action in the Lisbon Administrative Court, Mr Neves e Silva claimed essentially that the fraudulent and unlawful conduct of a public official, acting from questionable motives, entailed the civil liability of the State. Various preliminary and substantive objections were raised by that State. A "contestation" therefore arose between them. It no longer concerned the "right" to manufacture plastic fibres, but the right to receive compensation for culpable conduct on the part of the administrative authorities, pursuant to Articles 2 and 3 of Legislative Decree no. 48.051 (see paragraph 14 above and the Baraona judgment, cited above, Series A no. 122, p. 17, para. 41). The Court must ascertain whether the applicant's arguments were sufficiently tenable and not whether they were well-founded in terms of the Portuguese legislation. The National Commission of Inquiry expressed the opinion that the Directorate General for Industry had misused its powers (see paragraph 19 above). For its

part, the Administrative Court recognised that the applicant had locus standi (see paragraph 24 above); it did indeed find that the right was statute-barred, but in doing so it determined the "contestation". The right claimed by the applicant consisted in financial reparation for pecuniary damage. It was therefore a "civil right", notwithstanding the origin of the dispute and the jurisdiction of the administrative courts (see the Baraona judgment, p. 18, para. 43).

Accordingly, Article 6 para. 1 (art. 6-1) is applicable in this case.

B. Alleged lack of the status of "victim"

38. In the Government's view, the applicant did not have the status of a "victim" within the meaning of Article 25 para. 1 (art. 25-1). Since he held only 30% of the share capital, he could not claim to have suffered direct damage. The Government pointed to a decision of the Commission to this effect (decision of 28 January 1983 on the admissibility of application no. 9266/81, *Yarrow v. the United Kingdom*, Decisions and Reports no. 30, p. 155).

The Commission's reply to this argument was that the decision in question concerned solely Article 1 of Protocol No. 1 (P1-1).

39. The Court stresses that its task is to determine not whether Mr Neves e Silva met with an unlawful refusal to grant him the authorisation sought, but whether the case was heard within a "reasonable time" as is required under Article 6 para. 1 (art. 6-1). In this respect, he is entitled to claim the status of "victim" for the purposes of Article 25 (art. 25). The fact that he was a minority shareholder is immaterial in this connection. The national courts had already recognised his right to a decision on the merits (binding judgment ("assento") of the Supreme Court of Justice, of 1 February 1963, *Diário do Governo*, 1st Series, of 21 February 1963).

II. ALLEGED VIOLATION OF ARTICLE 6 PARA. 1 (art. 6-1)

A. Period to be taken into consideration

40. In this case the period to be considered did not begin to run when the action was first brought before the competent court (11 May 1972; see paragraph 14 above) but only when, on 9 November 1978, the Convention entered into force with regard to Portugal. In order to establish whether the time which elapsed following this date was reasonable, it is however necessary to take account of the stage which the proceedings had reached at that point.

The period in question ended on 9 June 1985, the date of the notification of the Supreme Administrative Court's judgment to the applicant (see paragraph 25 above); the latter's subsequent appeals were not decisive for the outcome of the dispute (see paragraph 26 above).

The period to which the Court must direct its scrutiny therefore lasted six years and seven months.

B. Reasonableness of the length of the proceedings

41. The reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard, *inter alia*, to the complexity of the case and to the conduct of the parties and the competent authorities (see, in particular, the *Zimmermann and Steiner* judgment of 13 July 1983, Series A no. 66, p. 11, para. 24).

42. It is common ground between the participants in the proceedings before the Court that the dispute was not a complex one; however, their views differ with regard to the conduct of the

applicant and that of the judicial authorities.

According to the Government, Mr Neves e Silva lengthened the proceedings considerably by seeking the referral of the case to the National Commission of Inquiry (see paragraph 19 above) at the very moment when the Administrative Court was about to give its ruling.

43. This argument does not appear well founded. Responsibility for the delay resulting from the step taken by the applicant cannot be imputed to him. Although under Article 264 para. 1 of the Portuguese Code of Civil Procedure it is for the parties to take the initiative with regard to the progress of proceedings, Article 266 thereof places the court under a duty to show diligence (see the Guincho judgment of 10 July 1984, Series A no. 81, p. 14, para. 32, and the Martins Moreira judgment of 26 October 1988, Series A no. 143, p. 17, para. 46). The suspension of the proceedings requires a decision of the court (Articles 276 to 279 of the Code of Civil Procedure) and, in this case, could have been avoided if the Administrative Court had sent a photocopy of the file to the National Commission of Inquiry.

44. It remains to examine the conduct of the competent Portuguese courts.

In the opinion of the applicant and the Commission, the cause of the excessive length of the proceedings lies in the manner in which the judges and the registries of the Lisbon Administrative Court and the Supreme Administrative Court carried out their duties. This was aggravated by the chronic backlog in the case-loads of these courts.

The Government acknowledged that there were several periods of inactivity in the proceedings, due principally to a "temporary backlog" in the administrative courts, but they maintained that the authorities had made every effort to correct this situation by repeatedly taking appropriate measures (see paragraphs 27-29 above).

45. The Court recognises the improvements made by the Portuguese State in particular with regard to the organisation of the administrative courts and tribunals. However, it has here to examine a specific case. Mr Neves e Silva had to wait, after Portugal's ratification of the Convention (see paragraph 40 above), more than six years for a decision which, moreover, merely found that the right relied on was statute-barred. The delays in these proceedings, which were instituted in 1972, cannot be regarded as the consequence of a temporary crisis or justified thereby.

46. Having regard to all the circumstances of the case, the Court finds that the "reasonable time" was exceeded, resulting in a violation of Article 6 para. 1 (art. 6-1).

III. APPLICATION OF ARTICLE 50 (art. 50)

47. Under Article 50 (art. 50) of the Convention:

"If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the ... Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party."

A. Non-pecuniary damage

48. The applicant claimed in the first place 8,000,000 escudos in respect of non-pecuniary damage. He maintained that for years he had lived in a state of uncertainty regarding the outcome of his action, which had caused him serious physical and psychological problems and

had ultimately brought about a deterioration in the state of his health.

The Government considered this claim unreasonable because no causal connection had been established between any violation of Article 6 para. 1 (art. 6-1) and the damage alleged.

The Commission's Delegate, for his part, recommended the award of compensation, but made no suggestion as to the amount.

The Court considers that the applicant was under a degree of mental stress during the period exceeding a "reasonable time" and undoubtedly suffered non-pecuniary damage. Making an assessment on an equitable basis, as is required by Article 50 (art. 50), it awards him 500,000 escudos under this head.

B. Costs and expenses

49. Mr Neves e Silva also requested the payment of 400,000 escudos for lawyers' fees and various expenses in connection with the proceedings before the Portuguese courts.

The Government's Agent did not dispute this claim.

The applicant - who was awarded legal aid before the Convention organs - is entitled to recover the costs incurred by him in Portugal in so far as the length of the proceedings, attributable to the judicial authorities (see paragraph 45 above), gave rise to additional expenses for him. Although he has not itemised such expenses, the Court has no grounds for supposing that they were not actually incurred. Furthermore, the amount claimed is not excessive.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Dismisses the objection based on the inapplicability of Article 6 para. 1 (art. 6-1) of the Convention in this case;
2. Dismisses the objection based on the applicant's lack of the status of victim, within the meaning of Article 25 (art. 25);
3. Holds that there has been a violation of Article 6 para. 1 (art. 6-1);
4. Holds that the respondent State is to pay to the applicant 500,000 (five hundred thousand) escudos in respect of non-pecuniary damage and 400,000 (four hundred thousand) escudos in respect of costs and expenses;
5. Dismisses the remainder of the claim for just satisfaction.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 27 April 1989.

Signed: Rolv RYSSDAL
President

Signed: Marc-André EISSEN
Registrar