

In the Oliveira Neves case*,

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. Cremona,
Mrs D. Bindschedler-Robert,
Mr F. Gölcüklü,
Mr J. Pinheiro Farinha,
Mr A. Spielmann,
Mr S.K. Martens,

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

Having deliberated in private on 23 May 1989,

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

* Note by the Registrar. The case is numbered 5/1989/165/221. 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.

PROCEDURE

1. The case was referred to the Court by the European Commission of Human Rights ("the Commission") on 16 March 1989, within the three-month period laid down in Article 32 para. 1 and Article 47 (art. 32-1, art. 47) of the Convention. It originated in an application (no. 11612/85) against the Republic of Portugal lodged with the Commission under Article 25 (art. 25) by Mrs Maria de Conceição Oliveira Neves, a Portuguese national, on 11 June 1985.

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 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).

2. 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) of the Rules of Court). On 30 March 1989, in the presence of the Registrar, the President drew by lot the names of the other five members, namely Mr J. Cremona, Mrs D. Bindschedler-Robert, Mr F. Gölcüklü, Mr A. Spielmann and Mr S.K. Martens (Article 43 in fine of the Convention and Rule 21 para. 4) (art. 43).

3. By a letter of 30 March 1989, the Agent of the Government communicated to the Registrar the terms of a friendly settlement reached with the applicant (see paragraph 10 below). At the same time he asked the Court whether it could accept this arrangement

and, accordingly, strike the case out of its list pursuant to Rule 48 para. 2.

On 3 April 1989 the applicant's lawyer confirmed the agreement in question.

The Delegate of the Commission was consulted and stated, on 17 April, that he did not wish to make any observations.

AS TO THE FACTS

4. Mrs Maria de Conceição Oliveira Neves, a Portuguese national born in 1932, is a poultry dealer and resides at Vila Nova de Gaia (Portugal).

5. On 13 March 1979 she dismissed an employee whom she had engaged in October 1976, Mrs Maria Rosa Silva.

On 25 March 1980 her former employee instituted proceedings against her in the fifth chamber (juízo) of the Oporto Labour Court, composed of a single judge. She alleged that her dismissal was void because there had been no prior disciplinary procedure. In addition, she claimed 201,200 escudos in arrears of salary and various amounts payable in compensation.

6. On 10 April 1980 the judge ordered that the applicant be summonsed. She submitted her observations in reply within the time-limit laid down.

On 2 May 1980 the registrar of the Labour Court transmitted the file to the judge in preparation for the preliminary decision (despacho saneador) and in order to determine the facts to be clarified at the hearing (questionário).

7. On 10 April 1982 the judge informed the parties that, in view of the amount claimed, the case could be dealt with under a summary procedure. He gave them eight days to submit their lists of witnesses.

On 14 March 1985 he set down the hearing for 11 April. On that date he gave his decision, finding for Mrs Silva; at the same time he ruled that certain of the sums awarded should be calculated in subsequent proceedings.

The defendant did not lodge an appeal.

PROCEEDINGS BEFORE THE COMMISSION

8. In her application of 11 June 1985 to the Commission (no. 11612/85), Mrs Oliveira Neves complained of the length of the proceedings instituted against her in the Oporto Labour Court. She relied on Article 6 para. 1 (art. 6-1) of the Convention.

9. The Commission declared the application admissible on 17 December 1987. In its report of 15 December 1988 (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 judgment¹.

¹ Note by the Registrar: For technical reasons this annex will appear only with the printed version of the judgment (volume 153-B of Series A of the Publications of the Court), but a copy of the Commission's report is obtainable from the registry.

AS TO THE LAW

10. The Government and the applicant have reached the following friendly settlement (see paragraph 3 above):

"... Article 1 - Mrs Oliveira Neves agrees to accept the sum of 1,300,000 (one million three hundred thousand) escudos as compensation from the Portuguese Government, constituting full and final reparation for all the material and non-material damage alleged in this case and also covering all the lawyers' fees and other costs incurred.

Article 2 - Mrs Oliveira Neves undertakes, subject to the payment of the aforementioned sum, not to proceed with the case pending before the Court and not to institute any subsequent proceedings in this connection against the Portuguese State, in the domestic or international courts.

Article 3 - Mrs Oliveira Neves accepts that this sum of 1,300,000 (one million three hundred thousand) escudos will be paid by the Portuguese Government immediately following the decision of the European Court of Human Rights to strike the case out of its list pursuant to Rule 48 para. 2 of the Rules of Court."

The Government invited the Court to approve this settlement in accordance with Rule 48 para. 2 of the Rules of Court, which provides as follows:

"When the Chamber is informed of a friendly settlement ... it may, after consulting, if necessary, ... the Delegates of the Commission ..., strike the case out of the list."

The Commission's Delegate has been consulted and has raised no objection (see paragraph 3 above).

11. The Court takes formal note of the friendly settlement reached by the Government and the applicant. It would nevertheless be open to the Court, having regard to its responsibilities under Article 19 (art. 19) of the Convention, to decide to continue its examination of the case if a reason of public policy appeared to necessitate such a course (Rule 48 para. 4). However, it finds no such reason.

In this connection, the Court notes that it has had to review the "reasonableness" of the length of "civil" proceedings, in Portugal (see the following judgments, *Guincho*, 10 July 1984; *Baraona*, 8 July 1987; *Martins Moreira*, 26 October 1988 and *Neves e Silva*, 27 April 1989; Series A nos. 81, 122, 143 and 153-A respectively), and in other countries (see the following judgments, *König*, 28 June 1978; *Buchholz*, 6 May 1981; *Zimmermann and Steiner*, 13 July 1983; *Pretto and Others*, 8 December 1983; *Deumeland*, 29 May 1986; *Erkner and Hofauer*, 23 April 1987; *Poiss*, 23 April 1987; *Lechner and Hess*, 23 April 1987; *Capuano*, 25 June 1987; *H. v. United Kingdom*, 8 July 1987 and *Bock*, 29 March 1989; Series A nos. 27, 42, 66, 71, 100, 117-B, 117-C, 118, 119-A, 120-B and 150). In so doing, it clarified the nature and extent of the obligations undertaken in this area by the Contracting States.

Accordingly, it is appropriate to strike the case out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English and in French, and notified in writing under

Rule 54 para. 2, second sub-paragraph, of the Rules of Court, on
25 May 1989.

Signed: Rolv RYSSDAL
President

Signed: Marc-André EISSEN
Registrar