



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

COURT (CHAMBER)

CASE OF BEAUMARTIN v. FRANCE

(Application no. 15287/89)

JUDGMENT

STRASBOURG

24 November 1994

In the case of Beaumartin v. France*,

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 Rules of Court A**, as a Chamber composed of the following judges:

Mr R. RYSSDAL, President,

Mr F. MATSCHER,

Mr L.-E. PETTITI,

Mr A. SPIELMANN,

Mr A.N. LOIZOU,

Mr F. BIGI,

Sir John FREELAND,

Mr G. MIFSUD BONNICI,

Mr J. MAKARCZYK,

and also of Mr H. PETZOLD, Acting Registrar,

Having deliberated in private on 24 June and 25 October 1994,

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") on 9 September 1993, 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. 15287/89) against the French Republic lodged with the Commission under Article 25 (art. 25) by three French nationals, Mr Pierre Beaumartin and his two sisters, Mrs Jeanne Droin and Mrs Paule Thibout, on 19 July 1989.

The Commission's request referred to Articles 44 and 48 (art. 44, art. 48) and to the declaration whereby France recognised the compulsory jurisdiction of the Court (Article 46) (art. 46). The object of the request was to obtain a decision as to whether the facts of the case disclosed a breach by

* The case is numbered 35/1993/430/509. 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.

** Rules A apply to all cases referred to the Court before the entry into force of Protocol No. 9 (P9) and thereafter only to cases concerning States not bound by that Protocol (P9). They correspond to the Rules that came into force on 1 January 1983, as amended several times subsequently.

the respondent State of its obligations under Article 6 para. 1 (art. 6-1) of the Convention.

2. In response to the enquiry made in accordance with Rule 33 para. 3 (d) of Rules of Court A, the applicants stated that they wished to take part in the proceedings and designated the lawyer who would represent them (Rule 30).

3. The Chamber to be constituted included ex officio Mr L.-E. Pettiti, the elected judge of French nationality (Article 43 of the Convention) (art. 43), and Mr R. Ryssdal, the President of the Court (Rule 21 para. 3 (b)). On 24 September 1993, in the presence of the Registrar, the President drew by lot the names of the other seven members, namely Mr F. Matscher, Mr A. Spielmann, Mr S.K. Martens, Mr A.N. Loizou, Mr F. Bigi, Sir John Freeland and Mr G. Mifsud Bonnici (Article 43 in fine of the Convention and Rule 21 para. 4) (art. 43). Subsequently, Mr J. Makarczyk, substitute judge, replaced Mr Martens, who was unable to take part in the further consideration of the case (Rules 22 para. 1 and 24 para. 1).

4. As President of the Chamber (Rule 21 para. 5), Mr Ryssdal, acting through the Registrar, consulted the Agent of the French Government ("the Government"), the applicants' lawyer and the Delegate of the Commission on the organisation of the proceedings (Rules 37 para. 1 and 38). Pursuant to the order made in consequence, the Registrar received the applicants' and the Government's memorials on 18 February 1994. On 10 May the Secretary to the Commission informed the Registrar that the Delegate would submit his observations at the hearing.

On 6 November 1993 the Commission had produced the file on the proceedings before it, as requested by the Registrar on the President's instructions.

5. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 24 May 1994. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

- for the Government

Mr J.-P. PUISSOCHET, Director of Legal Affairs,

Ministry of Foreign Affairs,

Agent,

Ms M. MERLIN-DESMARTIS, administrative court judge

on secondment to the Department of Legal Affairs,

Ministry of Foreign Affairs,

Counsel;

- for the Commission

Mr J.-C. SOYER,

Delegate;

- for the applicants

Ms C. WAQUET, avocate

at the Conseil d'Etat and the Court of Cassation, *Counsel.*

The Court heard addresses by Mr Puissochet, Mr Soyer and Ms Waquet, and also replies to its questions and those of several judges.

AS TO THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. Mr Pierre Beaumartin, a retired industrialist of French nationality, lives in Léognan (Gironde). His sisters, Mrs Jeanne Droin and Mrs Paule Thibout, live respectively in Bordeaux and Paris.

A. The nationalisation

7. The applicants held between them ten shares in the Société immobilière du Karmat El Hadj, a company under Moroccan law whose sole asset was an agricultural estate of more than 400 hectares in the Moroccan province of Kenitra and whose share capital comprised 6,000 shares. They further owned almost all of the share capital of the Société foncière du Quartier de l'Europe, a non-trading company (société civile) under French law, which itself owned 5,959 shares in the Moroccan company in addition to a building in Paris.

8. Under a dahir (royal decree) of 2 March 1973 the Moroccan Government nationalised agricultural land belonging to foreigners.

B. The compensation proceedings

9. On 2 August 1974, following negotiations, the Moroccan and French Governments concluded a Protocol with a view to making provision for the financial consequences of the nationalisation of French citizens' assets. The following provisions are relevant to the instant case:

Article 1

"The Moroccan Government shall pay the French Government compensation in a single lump sum and the French Government shall be responsible for apportioning that sum among the beneficiaries of this Protocol.

The beneficiaries shall be natural persons of French nationality who are individual or joint landowners or members of partnerships or companies, or who suffered the consequences of the dahir of 2 March 1973 in any other capacity."

Article 4

"The French Government shall be responsible for apportioning the compensation provided for in this Protocol. ..."

Article 6

"With effect from the signature of this Protocol, each Government undertakes, subject to the other Government's compliance with their obligations under the Protocol, to refrain from submitting to the other Government or to an arbitral tribunal or a court any claims made by their nationals in respect of the assets, rights and interests referred to in Articles 1, 2 and 5 of this Protocol or from supporting such claims."

A decree of 3 January 1975 promulgated the text of the agreement and charged the Prime Minister and the Minister for Foreign Affairs with implementing it.

10. Under a decree of 6 November 1979 a committee responsible for apportioning the Moroccan indemnity was set up. Article 3 of the decree provided:

"The committee shall comprise

- (a) a representative of the Ministry of Foreign Affairs, who shall chair the committee;
- (b) a representative of the Ministry of Justice;
- (c) a representative of the Ministry of the Interior; and
- (d) a representative of the Ministry of the Economy.

The Chairman and members of the committee shall be appointed by order of the Minister for Foreign Affairs.

...

Decisions shall be taken by a majority. The Chairman shall have a casting vote."

11. In a decision of 23 June 1980, notified on 31 July 1980, the committee awarded the applicants, as natural persons, compensation solely in respect of the shares they owned directly in the Société immobilière du Karmat El Hadj, i.e. four shares in Mr Beaumartin's case and three shares in the case of each of his sisters. On the other hand, pursuant to the second paragraph of Article 1 of the Protocol, it refused to pay them compensation in their capacity as majority shareholders of the Société foncière du Quartier de l'Europe.

C. The judicial proceedings

1. In the Paris Administrative Court

12. On 26 September 1980 the applicants challenged this decision in the Paris Administrative Court. The grounds for their application were set out in

a memorial filed on 9 February 1981. They complained that the committee had determined the compensation to be awarded in respect of the Moroccan property company's agricultural estate solely on the basis of the shares they held in that company in their own names, without taking into consideration the shares they owned in the French property company.

The Minister for Foreign Affairs, the respondent in the proceedings, submitted his observations in reply on 2 April 1981.

13. In an order of 15 June 1981 the Vice-President of the Administrative Court held that the dispute fell outside that court's jurisdiction and forwarded the application and the file to the Conseil d'Etat.

2. In the Conseil d'Etat

14. The Minister for Foreign Affairs filed observations on 25 February 1983.

15. On 3 October 1986 the Conseil d'Etat deferred its decision on the application until the authority empowered to interpret the Protocol had given its opinion. It gave the following reasons:

"The outcome of this dispute depends on whether, under this Article [1 of the Franco-Moroccan Protocol], natural persons are entitled to claim compensation solely as members of partnerships or companies that were the direct owners of assets conferring a right to compensation under the above-mentioned Protocol or whether they are also entitled to do so as shareholders of companies themselves members of the partnerships or companies which owned such assets. The outcome of the dispute is accordingly contingent on the interpretation of the Protocol. The Protocol is an international agreement and its meaning is unclear. Consequently, only the Minister for Foreign Affairs is competent to interpret it."

16. In a note of 2 July 1987 the Minister replied that the Protocol in question "was not ... intended to cover natural persons holding shares in companies which themselves were members of the partnerships or companies that owned the assets conferring a right to compensation", with the result that the applicants were not entitled to compensation under the Protocol.

17. On 13 October 1987 the applicants filed further submissions, in which they argued that, if the Conseil d'Etat considered itself bound by the minister's interpretation, such a decision would entail a violation of Article 6 para. 1 (art. 6-1) of the Convention.

The respondent filed submissions on 10 November 1988.

18. In a judgment of 27 January 1989 the Conseil d'Etat dismissed the application on the following ground: "The interpretation given by the Minister for Foreign Affairs is binding on the Conseil d'Etat which can only draw the legal conclusions which follow from it."

II. THE FRENCH CASE-LAW RELATING TO THE INTERPRETATION OF INTERNATIONAL TREATIES

A. The Conseil d'Etat's position

1. The case-law applied to the instant case

19. Since 1823 (see the *Veuve Murat, Comtesse de Lipona*, judgment of 23 July 1823, *Recueil des arrêts du Conseil d'Etat* [Reports of the judgments of the Conseil d'Etat], p. 545) the Conseil d'Etat had held that the interpretation of international treaties fell outside the scope of its judicial functions. When confronted with provisions that it considered insufficiently clear - except for Community legislation, the interpretation of which is governed by Article 177 of the Treaty of Rome - it relied on the official interpretation given by the Minister for Foreign Affairs. It deemed that interpretation to be a prerogative act that could not be dissociated from international relations, had binding force and was not open to challenge in the courts (see the full court's judgment of 3 July 1931 in the case of *Karl and Toto Samé*, *Recueil des arrêts du Conseil d'Etat*, p. 722, *Sirey* 1932, III, p. 129).

2. The subsequent case-law

20. On 29 June 1990 the Conseil d'Etat, sitting as a full court and endorsing the submissions of the Commissaire du gouvernement, Mr Ronny Abraham, delivered a judgment relating to the conditions of circulation, residence and employment of Algerian nationals and their families in France (*G.I.S.T.I.* judgment, *Recueil des arrêts du Conseil d'Etat*, p. 171; *Actualité juridique. Droit administratif* 1990, p. 621; *Revue générale de droit international public* 1990, p. 879; *Revue française de droit administratif* 1990, p. 923, with a note by Mr Jean-François Lachaume; *Revue critique de droit international public* 1991, p. 61). It discontinued the practice - which had no equivalent in the other member States of the Council of Europe - of referring a preliminary question to the minister on the construction of an international treaty containing ambiguous or unclear provisions. It now interprets international agreements itself and, if it seeks the opinion of the executive, it does not regard itself as bound thereby.

B. The Court of Cassation's position

21. Since a judgment of 24 June 1839 (*Dalloz* 1839, part one, p. 257), the Civil Divisions of the Court of Cassation have held that the ordinary courts are entitled to interpret clauses of a treaty "provided that they do not

raise issues liable to jeopardise good international relations" (l'ordre public international). Otherwise, if an instrument is unclear they still require the question to be referred to the Minister for Foreign Affairs (judgment of 7 June 1989, First Civil Division, *Juris-classeur périodique* 1990, part two, no. 21448).

In the Criminal Division the principle of a lack of jurisdiction entailing an obligation to seek a preliminary interpretation continues to apply. With the exception of the European Convention on Human Rights, "international treaties are measures taken by the highest administrative authorities which can only be interpreted, if necessary, by the authorities which concluded them" (judgment of 3 June 1985, *Bulletin des arrêts de la Cour de cassation* [Court of Cassation law reports], no. 212, p. 542). The official interpretation is of general application and is binding on the courts (judgment of 7 June 1988, *Bulletin des arrêts de la Cour de cassation*, no. 257, p. 683).

On the other hand, the Social Division recently abandoned the approach of distinguishing between international treaties and now interprets them without seeking to establish whether issues liable to jeopardise good international relations are raised (*Caisse autonome mutuelle de retraite des agents des chemins de fer* judgment of 29 April 1993 and submissions filed by the Advocate-General, Mr Chauvy, *Gazette du Palais*, 11-12 March 1994, p. 13).

PROCEEDINGS BEFORE THE COMMISSION

22. Mr Beaumartin and his sisters lodged their application with the Commission on 19 July 1989. Relying on Article 6 (art. 6) of the Convention, they alleged that their case had not been heard within a reasonable time by the administrative courts and that they had not been given a fair hearing by the Conseil d'Etat since that court held itself to be bound by the opinion of the Minister for Foreign Affairs.

23. The Commission declared the application (no. 15287/89) admissible on 10 January 1992. In its report of 29 June 1993 (Article 31) (art. 31), the Commission expressed the opinion that there had been a violation of Article 6 para. 1 (art. 6-1) in respect of the applicants' two complaints (by ten votes to five). The full text of the Commission's opinion and of the dissenting opinion contained in the report is reproduced as an annex to this judgment*.

* Note by the Registrar. For practical reasons this annex will appear only with the printed version of the judgment (volume 296-B of Series A of the Publications of the Court), but a copy of the Commission's report is obtainable from the registry.

GOVERNMENT'S FINAL SUBMISSIONS TO THE COURT

24. In their memorial the Government requested the Court to

"dismiss the application on the following grounds:

1. principally, that the provisions of Article 6 (art. 6) of the Convention ... are inapplicable to the dispute;

2. alternatively, that France has not infringed the rules of a fair hearing laid down by those provisions".

AS TO THE LAW

I. ALLEGED VIOLATIONS OF ARTICLE 6 PARA. 1 (art. 6-1) OF THE CONVENTION

25. The applicants complained of the length of the proceedings they had brought in the administrative courts and the unfairness of those conducted in the Conseil d'Etat. They relied on Article 6 para. 1 (art. 6-1) of the Convention, which provides:

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

A. Applicability of Article 6 (art. 6)

26. The applicants and the Commission agreed that Article 6 (art. 6) was applicable in the instant case.

27. The Government took the opposite view. Referring in particular to Mr Danelius's dissenting opinion annexed to that of the Commission, they contended by way of primary submission - and this argument was adduced for the first time before the Court - that the Franco-Moroccan Protocol was an international agreement giving rise to rights and obligations for the two Governments, which did not confer an individual right to compensation on the persons concerned; it was the measures subsequently taken by the French authorities that established such a right. The Protocol merely provided a general definition of the beneficiaries and contained no specific rule on apportionment of the compensation.

In the alternative, they argued, as they had done before the Commission, that the entitlements claimed, which were derived from an international agreement freely negotiated by France in carrying out its role of affording diplomatic protection to its nationals, were not civil rights at all. They added

that the subject-matter of the "contestation" (dispute) did not have any direct link with the deprivation of property suffered by the applicants, responsibility for which measure lay with another State.

28. The Court is not persuaded by the Government's argument. The negotiations entered into by the French Government, in the exercise of their sovereign prerogative, with a view to obtaining reparation from Morocco for damage sustained by French nationals whose property had been expropriated undoubtedly fell within the scope of the State's role of affording diplomatic protection. The first paragraph of Article 1 of the Protocol provided: "The Moroccan Government shall pay the French Government compensation in a single lump sum and the French Government shall be responsible for apportioning that sum among the beneficiaries of this Protocol" (see paragraph 9 above). The Protocol therefore already proclaimed the principle of the right to compensation of certain categories of expropriated persons, even though it was for the French authorities to determine, through a compensation committee set up by decree, how the compensation was to be apportioned.

In undertaking to assume responsibility for apportionment of the lump sum, the French Government at the same time waived their right to submit any claims by French nationals to the Moroccan Government or to support such claims (Article 6 of the Protocol - see paragraph 9 above). French nationals could, pursuant to the decree of 6 November 1979 (see paragraph 10 above), assert a right to a share of the compensation received by France before the administrative committee set up for this purpose.

The entitlement to compensation thus established in favour of the applicants, among other persons, was unquestionably a pecuniary right and consequently a civil one, notwithstanding the origin of the dispute and the fact that the administrative courts had jurisdiction (see, *mutatis mutandis*, the *Neves e Silva v. Portugal* judgment of 27 April 1989, Series A no. 153-A, p. 14, para. 37, and the *Editions Périscope v. France* judgment of 26 March 1992, Series A no. 234-B, p. 66, para. 40).

The dispute brought before the administrative courts originated in an expropriation measure and related to the principle and/or the extent of reparation. It thus directly affected the applicants' property right, which was a civil right; the outcome of the dispute, which depended on the interpretation of the treaty, was directly decisive for a right of that nature.

Article 6 para. 1 (art. 6-1) is accordingly applicable.

B. Compliance with Article 6 (art. 6)

1. The length of the proceedings

29. Mr Beaumartin and his sisters claimed that, particularly in the Conseil d'Etat, their case had not been heard within a reasonable time.

The Government disputed this assertion, whereas the Commission endorsed it.

30. The period to be taken into consideration began on 26 September 1980, when the application was filed in the Paris Administrative Court. It ended on 27 January 1989, on which date the Conseil d'Etat delivered its judgment dismissing the appeal. It therefore lasted eight years and four months.

31. The reasonableness of the length of proceedings is to be determined with reference to the criteria laid down in the Court's case-law and in the light of the circumstances of the case, which in this instance call for an overall assessment.

32. According to the Government, the applicants contributed to delaying the case by initially instituting proceedings in a court that lacked jurisdiction. The case was furthermore a particularly complex one because it raised a difficult question of interpretation. Finally, the Conseil d'Etat could not, without breaching the principle of adversarial proceedings, set down the case for hearing until the applicants had filed their observations in reply to the Minister for Foreign Affairs' note interpreting the Protocol and the State, as the respondent in the proceedings, had filed its own submissions in reply.

33. Like the Commission, the Court accepts that the applicants prolonged the proceedings by almost nine months by erroneously bringing proceedings in the Paris Administrative Court. They also contributed to the length of the proceedings by not filing their pleadings until four months after lodging their appeal. The case was, moreover, a difficult one because of the wording of Article 1 of the Franco-Moroccan Protocol and the procedure followed to obtain an official interpretation.

The Court notes, however, that there were long periods during which the proceedings in the Conseil d'Etat stagnated, for which no explanations have been forthcoming. The respondent ministry waited twenty months after the commencement of proceedings before filing pleadings (see paragraph 14 above) and the court dealing with the case took over five years to hold its first hearing (see paragraph 15 above). It follows that the Court cannot regard as "reasonable" in this instance a lapse of time of more than eight years.

There has therefore been a violation of Article 6 para. 1 (art. 6-1) in this respect.

2. The fairness of the proceedings

34. The applicants maintained that the proceedings in the Conseil d'Etat had not been fair. In so far as it had referred to their opponent - the Minister for Foreign Affairs - for an interpretation of the applicable law, the Conseil d'Etat had abdicated its judicial duties.

35. The Commission took the view that such an interference with the Conseil d'Etat's powers by a representative of the executive, who was moreover a party to the proceedings, was incompatible with the principle of the independence of the courts laid down in Article 6 para. 1 (art. 6-1).

36. The Court considers that the minister in question did not have the status which the Commission and the applicants attributed to him. The application to have the administrative decision set aside was filed against the State, represented by the competent authority, the Minister for Foreign Affairs, who had played no role in determining the amount of the compensation. The Court will therefore examine the complaint from the point of view of the independence of the tribunal and not from that of the principle of equality of arms.

37. The Government acknowledged that the practice of referring provisions for interpretation no longer had any real equivalent in the other member States of the Council of Europe and that the Conseil d'Etat had now discontinued it. They pointed out nevertheless that the practice had been a longstanding one, to which recourse had been had very rarely owing to the liberal application of the "acte clair" doctrine. They also drew attention to the advantages of such a practice. There were advantages from the legal point of view since it ensured that international agreements were interpreted consistently, which was a guarantee of legal certainty and of equality of treatment for litigants. There were also technical advantages as the minister was the best placed authority to inform the courts of the Contracting Parties' mutual intention. Lastly, the Government considered this practice quite simply to reflect an institutional balance of powers, in particular between the judiciary, the executive and the legislature.

Relying on the *Delcourt v. Belgium* judgment (17 January 1970, Series A no. 11), it requested the Court to look beyond appearances and contended that in the instant case the reference of the preliminary question to the minister had not violated the principle of equality of arms. On being consulted by the Conseil d'Etat, he had himself sought the opinion of the French negotiator of the treaty with the result that the interpretation he gave had been completely objective and unbiased.

38. The Court does not subscribe to the Government's view. It points out that the practice under consideration meant that, when the administrative court encountered serious difficulties in interpreting an international treaty, it was obliged to request the Minister for Foreign Affairs to clarify the meaning of the impugned provision and it then had to abide by his interpretation in all circumstances. The Government conceded this.

The Court takes note of the recent change in French law in this respect. At least where the administrative courts are concerned, the power to interpret treaties is no longer vested exclusively in the Minister for Foreign Affairs (see paragraph 20 above).

It observes, however, that in the instant case the Conseil d'Etat referred to a representative of the executive for a solution to the legal problem before it. It dismissed the application filed by Mr Beaumartin and his sisters because the minister had confirmed the interpretation adopted by the compensation committee. The Court points out, in addition, that the minister's involvement, which was decisive for the outcome of the legal proceedings, was not open to challenge by the applicants, who had moreover not been afforded any possibility of giving their opinion on the use of the referral procedure and the wording of the question.

Only an institution that has full jurisdiction and satisfies a number of requirements, such as independence of the executive and also of the parties, merits the designation "tribunal" within the meaning of Article 6 para. 1 (art. 6-1) (see, *inter alia*, the *Ringeisen v. Austria* judgment of 16 July 1971, Series A no. 13, p. 39, para. 95; the *Le Compte, Van Leuven and De Meyere v. Belgium* judgment of 23 June 1981, Series A no. 43, p. 24, para. 55; and the *Belilos v. Switzerland* judgment of 29 April 1988, Series A no. 132, p. 29, para. 64). The Conseil d'Etat did not meet these requirements in the instant case.

39. In sum, the applicants' case was not heard by an independent tribunal with full jurisdiction. There has accordingly been a violation of Article 6 para. 1 (art. 6-1) in this respect also.

II. APPLICATION OF ARTICLE 50 (art. 50) OF THE CONVENTION

40. Under Article 50 (art. 50) of the Convention,

"If the Court finds that a decision or 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. Damage

41. The applicants requested the Court to award them 120,000 French francs (FRF) for the length of the proceedings and FRF 200,000 on account of their unfairness. As to the latter claim, they alleged that they had lost all opportunity of having their case tried or of obtaining an interpretation of the Protocol that would be favourable to them.

42. In the Government's opinion, although the excessive length of the proceedings could justify compensation within a limit of FRF 30,000, a finding of a violation would constitute sufficient reparation for the non-pecuniary damage resulting from any infringement of the rules on fair trial.

43. Without expressing his view on the sums claimed, the Delegate of the Commission observed that there had been a loss of opportunity.

44. The Court cannot speculate as to the conclusions which the Conseil d'Etat would have reached if it had not sought the minister's interpretation of the Protocol. It considers, however, that the applicants must have suffered non-pecuniary damage, for which the findings of violations in this judgment do not constitute sufficient reparation. Taking its decision on an equitable basis, as required by Article 50 (art. 50), it awards them FRF 100,000 under this head.

B. Costs and expenses

45. The applicants also claimed reimbursement of FRF 80,000 in respect of the costs and expenses incurred before the Conseil d'Etat (FRF 10,000) and before the Convention institutions (FRF 70,000).

The Government left this matter to the Court's discretion.

The Delegate of the Commission expressed no opinion.

46. On the basis of the criteria it applies in this field, the Court awards the applicants FRF 80,000.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Holds that Article 6 para. 1 (art. 6-1) of the Convention is applicable in the instant case;
2. Holds that there has been a breach of Article 6 para. 1 (art. 6-1) on account of the length of the proceedings;
3. Holds that there has been a breach of Article 6 para. 1 (art. 6-1) in that the applicants' case was not heard by an independent "tribunal" having full jurisdiction;
4. Holds that the respondent State is to pay the applicants, within three months, 100,000 (one hundred thousand) French francs for non-pecuniary damage and 80,000 (eighty thousand) francs for 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 24 November 1994.

Rolv RYSSDAL
President

Herbert PETZOLD
Acting Registrar