In the case of Duclos v. France (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 the relevant provisions of Rules of Court A (2), as a Chamber composed of the following judges:

Mr R. Bernhardt, President,
Mr L.-E. Pettiti,
Mr C. Russo,
Mr A. Spielmann,
Mr A.N. Loizou,
Mr M.A. Lopes Rocha,
Mr J. Makarczyk,
Mr P. Jambrek,
Mr P. Kuris,

and also of Mr H. Petzold, Registrar, and Mr P.J. Mahoney, Deputy Registrar,

Having deliberated in private on 30 August and 26 November 1996,

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

_____
Notes by the Registrar

1. The case is numbered 90/1995/595/682-684. The first number is the case's position on the list of cases referred to the Court in the relevant year (second number). The third number indicates the case's position on the list of cases referred to the Court since its creation and the last two numbers indicate its position on the list of the corresponding originating applications to the Commission.

2. Rules A apply to all cases referred to the Court before the entry into force of Protocol No. 9 (P9) (1 October 1994) 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.

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PROCEDURE

1. The case was referred to the Court by the French Government ("the Government") on 11 October 1995, within the three-month period laid down by Article 32 para. 1 and Article 47 of the Convention (art. 32-1, art. 47). It originated in three applications (nos. 20940/92, 20941/92 and 20942/92) against the French Republic lodged with the European Commission of Human Rights ("the Commission") under Article 25 (art. 25) by a French national, Mr Alain Duclos, on 17 August, 29 September and 13 October 1992 respectively. The Commission ordered that the three applications be joined.

The Government's application referred to Article 48 of the Convention (art. 48). The object of the application was to obtain a decision as to whether the facts of the case disclosed a breach by the respondent State of its obligations under Article 6 para. 1 of the Convention (art. 6-1).

2. In response to the enquiry made in accordance with Rule 33 para. 3 (d) of Rules of Court A, the applicant stated that he wished to take part in the proceedings and designated the lawyer who would represent him (Rule 30), the President of the Chamber having granted him legal aid on 7 February 1996 (Rule 4 of the Addendum to

Rules of Court A).

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. Bernhardt, the Vice-President of the Court (Rule 21 para. 4 (b)). On 3 November 1995, in the presence of the Registrar, the President of the Court, Mr R. Ryssdal, drew by lot the names of the other seven members, namely Mr B. Walsh, Mr C. Russo, Mr A. Spielmann, Mr S.K. Martens, Mr A.N. Loizou, Mr P. Jambrek and Mr P. Kuris (Article 43 in fine of the Convention and Rule 21 para. 5) (art. 43). Subsequently Mr J. Makarczyk and Mr M.A. Lopes Rocha, substitute judges, replaced Mr Martens, who had resigned, and Mr Walsh, 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. 6), Mr Bernhardt, acting through the Registrar, consulted the Agent of the Government, the applicant 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 registry received the applicant's and the Government's memorials on 3 May 1996. On 14 May the Secretary to the Commission indicated that the Delegate did not wish to reply in writing.

5. On 12 July 1996 the Commission produced the file on the proceedings before it, as requested by the Registrar on the President's instructions.

On 5 August 1996 the President sent questions to the Government and the applicant (Rule 41 para. 1). Replies were received at the registry on 20 and 22 August respectively.

6. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 28 August 1996. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

(a) for the Government

Mr B. Nedelec, magistrat, on secondment to the Legal Affairs Department, Ministry of Foreign Affairs, Agent,
Mrs M. Hourt, magistrat, on secondment to the Legal Services Department, Ministry of Justice, Counsel;

(b) for the Commission

Mr P. Lorenzen, Delegate;

(c) for the applicant

Mr M. Puechavy, of the Paris Bar, Counsel.

The Court heard addresses by Mr Lorenzen, Mr Puechavy and Mr Nedelec.

AS TO THE FACTS

I. Background to the case

7. Mr Alain Duclos was employed as company secretary by the LVI Normandie company. On 23 April 1980 he was injured in a road accident that obliged him to take sick leave and, since it counted as an "industrial accident", was covered by social security. His condition following the accident was declared stable on 29 August 1980.

On 31 July 1980, during his rehabilitation, the applicant began

to suffer again from injuries he had sustained in an industrial accident on 23 March 1976. These had been declared fully healed on 11 May of that same year. His condition following the relapse was declared stable on 15 September 1981 (social-security department decision of 10 December 1981).

8. The applicant returned to work in September 1980 but had several relapses, inter alia on 1 October 1980 (no sick leave taken), 30 September 1981 (sick leave until 4 October), 13 November 1981 (sick leave until 20 February 1982) and 2 March 1982 (sick leave until 9 July 1982).

9. In a letter of 14 December 1981 his employer gave him notice of his "dismissal on structural economic grounds" with effect from 15 March 1982.

10. He was registered as being "temporarily disabled" during the periods when he was on sick leave and from the date of his dismissal until July 1982.

11. On 24 September 1981 the Occupational Counselling and Rehabilitation Board (commission technique d'orientation et de reclassement professionnel, COTOREP) of the Employment Office for the département of Seine-Maritime had registered the applicant as a class B disabled worker for a five-year period. According to the applicant, this was equivalent to a degree of permanent partial disablement of between 67% and 85%.

On 17 August 1984 the Regional Disablement Board (commission régionale d'invalidité et d'incapacité permanente, CRIIP) for the region of Haute-Normandie assessed the degree of the applicant's disablement at 50% (on the basis of the accidents of April 1980 and 1976). It rejected his application for an allowance for disabled adults on the ground that the degree of disablement was not sufficient.

On 5 July 1985 Mr Duclos obtained a card certifying 60% disablement from the Ministry of Health and Social Security; it was valid from 26 February 1985 to 26 February 1988.

II. The proceedings instituted by the applicant

12. The applicant instituted proceedings against the Dieppe Health Insurance Office (Caisse primaire d'assurance maladie, CPAM). He contested the way in which it had calculated the daily allowance it paid him in respect of the periods during which he was temporarily disabled.

He also brought proceedings in the courts seeking to benefit under a "disablement insurance" policy which his former employer had taken out with an insurance company, the Union des assurances de Paris ("the UAP").

Lastly, he asked the courts to settle the dispute between him and the Dieppe Family Allowances Office (Caisse d'allocations familiales, CAF) as to whether or not the drop in his earnings should be taken into account for the purposes of calculating his family allowance.

A. The proceedings against the Dieppe CPAM

13. During the periods when the applicant was "temporarily disabled" (see paragraph 10 above) the Dieppe CPAM paid him daily allowances as a substitute income calculated on the basis of his salary as supplemented by the benefits in kind shown on his pay slips (a flat and a company car).

On 2 June 1982 he applied to the CPAM for a reassessment of his daily allowances as he considered that they did not accurately reflect the benefits in kind. In a letter of 8 June 1982 the head of the industrial accidents department refused his application.

1. Before the Dieppe CPAM review board and the Paris and Rouen social-security appeal tribunals

14. The Dieppe CPAM review board did not reply to an application for reassessment which Mr Duclos made to it on 21 July 1982.

15. On 29 March 1983 the applicant appealed to the Paris social-security appeal tribunal ("the Paris tribunal"). On 7 February 1984 the parties were summoned to a hearing on 2 March 1984. At the end of this hearing the Paris tribunal allowed an application by the CPAM and transferred the case to the Rouen social-security appeal tribunal ("the Rouen tribunal"), which had to determine related applications.

The case file was transferred to the Rouen tribunal on 24 July 1984. The hearing originally set down for 17 June 1986 was adjourned until 4 November 1986. The tribunal dismissed Mr Duclos's case in a judgment of 16 December - served on 30 January 1987 - on the ground that he had failed to establish that the CPAM's calculation was erroneous.

2. In the Rouen Court of Appeal

16. On 6 February 1987 Mr Duclos appealed against the judgment of 16 December 1986 to the Rouen Court of Appeal. The CPAM filed its pleadings on 2 October 1987.

A hearing was held on 13 October 1987. The Government maintained before the Court that the applicant had requested an adjournment. The applicant denied that he had done so, however, and the Government were unable to indicate the basis for their assertion.

A further hearing was held on 6 September 1988 during which Mr Duclos lodged his pleadings.

On 11 October 1988 the Court of Appeal upheld the impugned decision.

3. In the Court of Cassation

17. On 15 November 1988 the applicant filed an application with the Fees Exemption Board of the Conseil d'Etat and Court of Cassation Bar for exemption from paying fees. The application was refused on 24 October 1989, as Mr Duclos was informed in a letter of 8 November 1989, on the following ground:

> "An examination of the contested decisions shows that they were made in the proper form and that legal reasons were given for them. Accordingly, no useful purpose would appear to be served by seeking review of them by the Court of Cassation."

18. The applicant nevertheless appealed on points of law on 22 December 1989. He filed his pleadings on 21 May 1990 and the CPAM lodged its submissions on 20 August 1990. The case file was transferred to a reporting judge on 2 April 1991 and he made his report on 16 May 1991. The hearing was held on 9 January 1992, and on 20 February 1992 the Court of Cassation (Social Division) dismissed the appeal on the basis that the ground raised by Mr Duclos was inadmissible as it did no more than criticise the assessment made by the courts below of the evidence before them.

B. The proceedings against the UAP

19. The applicant's employer had taken out three successive disablement insurance policies with the UAP. The first was valid from 1 July 1973 to 31 December 1980, the second from 1 January to 30 September 1981 and the third took effect on 1 October 1981. All three provided that managers injured in industrial accidents or suffering from occupational diseases should receive a daily allowance in the event of "temporary total disablement" and an annuity in the event of "permanent total or partial disablement". These sums would be paid in addition to social-security benefits.

The first two policies provided (in clauses 26-6° and 10 respectively):

> "If, after an apparent recovery, an employee has returned to work and suffered a relapse within two months, he will continue to receive benefits under this policy as if he had been absent from work for one continuous period only, the period for which he returned to work being deemed to be a mere break in payment of benefits. Where, on the other hand, an employee has returned to work for more than two months, he is deemed to have contracted a new illness or suffered a further accident."

1. Before the urgent-applications judge of the Paris tribunal de grande instance

20. On 3 April 1982, when he was "temporarily totally disabled", Mr Duclos sent a letter to the UAP requesting payment of the "additional" daily allowances provided for in the first policy. The UAP asked him for his social-security payment advice slips to prove that he was unfit for work and informed him that it could not pay advances on benefits. The applicant did not have the advice slips as the CPAM was taking a long time to pay the "main" daily allowance.

21. On 4 June 1982 Mr Duclos sought from the urgent-applications judge an order that the UAP should pay an advance of 13,960 French francs (FRF) on the "additional" allowances for the period between 15 March and 15 April 1982 and for payment of the same amount on the 15th of each month. At the hearing on 24 June 1982 his lawyer produced the social-security advice slips in respect of the "main" daily allowances paid up to 1 June 1982. The UAP submitted that it was necessary above all to determine which of the three successive insurance policies was applicable.

On 1 July 1982 the urgent-applications judge held that he did not have jurisdiction, on the following ground:

> "It is apparent from the documents produced that the resolution of the present dispute entails construing the contracts concluded by Alain Duclos's employer with the UAP.
>
> It is not for the urgent-applications judge to determine such an issue, which should go to full trial given that, since the applicant instituted the present proceedings, he has received a social-security payment corresponding to his daily allowances until 15 June 1982 and has accordingly reduced his claim to FRF 8,146.16."

2. In the Paris tribunal de grande instance

22. Mr Duclos's registration as being temporarily totally disabled was cancelled and on 9 July 1982 the CPAM stopped paying him the "main" daily allowances. As the applicant was registered as being permanently disabled, he was entitled to an annuity from the social-security department.

23. In a letter of 15 May 1981 Mr Duclos enquired of the UAP about eligibility for the "additional" annuity payable in the event of permanent disablement (see paragraph 19 above). The insurance company replied that he had to provide proof of at least 33% permanent disablement.

24. By summons served by a bailiff on 26 August 1983 the applicant instituted proceedings against the UAP in the Paris tribunal de grande instance. He referred to the first policy and submitted that he was bound not by the policy in its entirety but only by the summary of cover given to him by his employer. His main claims were for payment of the "additional" annuity, the balance outstanding on his daily allowances as "reassessed" and continuation of the "reimbursement of expenses" cover.

25. The preparation of the case for trial was terminated by an order of 2 July 1984.

The UAP submitted that it was the third policy, valid from 1 October 1981, which was applicable as the applicant had had a relapse in November 1981.

26. Mr Duclos replied on 6 August 1984 and applied to set aside the order whereby the preparation of the case for trial had been terminated.

27. Following a hearing on 19 September 1984 the tribunal de grande instance allowed the application on 17 October 1984 as follows:

> "The need to consider the case as a whole and to observe due process are sufficient grounds for the application to set aside the order whereby the preparation of the case for trial was terminated.
>
> The facts set out in the two parties' pleadings do not appear to match those established by the documents produced in evidence either in substance or in their dates ... They completely contradict one another as regards the length of time for which the applicant returned to work in September 1980 and the dates of his relapses.
>
> Moreover, the applicant failed to produce either medical documents such as would provide evidence of the periods of work or of ill health, or the payment advice slips from the UAP company, which might specify both the dates of those periods and the relevant insurance policies.
>
> Lastly, only part of the correspondence between the UAP company and Alain Duclos was submitted.
>
> In such circumstances it is impossible to verify the submissions of the parties, especially as the UAP company did not reply to Alain Duclos's most recent letters and Mr Duclos is now relying on a decision of the Regional Disablement Board of 10 September 1984 assessing his permanent disablement at 50%, it having risen successively from 0% to 12% and then 20%;
>
> It is thus necessary to reopen the preparatory stage and to set the case down for the earliest possible procedural hearing in order to prepare the case for trial.
>
> ..."

28. At the hearing on 7 January 1985 the applicant filed pleadings and produced the documents requested. A hearing was held on 29 April 1985. On 29 May 1985 the tribunal de grande instance held

that the UAP was bound to cover Mr Duclos under and to the extent of the second insurance policy. It said:

> "...
>
> It has been established that Mr Duclos returned to work and was deemed to be in a stable condition on 29 August 1980. The degree of his permanent partial disablement was estimated at less than the 33% entitling him to cover under [the first contract].
>
> Admittedly, he denies that [the whole of the contract] applies to him, but, contrary to his assertions, ..., the `summary of cover provided under the contract' given to the insured parties, which is by definition incomplete and simplified, does not prevail over the contract itself.
>
> Under clause 26-6° [of the first contract] only a relapse obliging an insured party to take sick leave can interrupt the two-month period. Once that two-month period has elapsed, the employee is deemed to have suffered a further accident ...
>
> The relapse on which Mr Duclos relies in his application for a declaration that the first contract was still valid, a relapse which did not entail his taking such leave, is therefore of no effect as it does not satisfy that requirement.
>
> It has been established that the relapse obliging Mr Duclos to take sick leave in September 1981, when the second policy - valid from 1 January 1981 to 30 September 1981 - was in force, clause 10 of which reproduced clause 26-6° of the previous policy, was followed by several others but he never returned to work for more than two months.
>
> ..."

As regards the amount of the annuity payable by the UAP, the court held that:

> "Clause 3-2° [of the second contract] states that the insured is deemed to be permanently partially disabled if he is placed in disablement class 2 by the social-security department ...
>
> Mr Duclos produced evidence to show that the social-security department assessed his permanent partial disablement at 50%, which is equivalent to being placed in disablement class 1 under Article L. 130 of the Social Security Code;
>
> That rate is not binding on the UAP for the purpose of calculating the annuity payable under the contract and it is necessary to order a medical report ..."

The court therefore appointed an expert whose instructions were to:

> "procure and consider all the necessary medical documents;
>
> examine Mr Duclos and assess the present degree of his permanent partial disablement, distinguishing between the effects of the accidents of 23 March 1976 and 23 April 1980."

As regards Mr Duclos's application concerning the daily allowances, the court held that "the decision as to which contract applie[d] entail[ed] [its] dismissal ..." inasmuch as the application was based on the first policy. Nevertheless, as the court found that

"the principle that Mr Duclos had a claim [under this policy had not been] disputed by the UAP", it ordered the UAP to pay the applicant an advance of FRF 10,000.

Lastly, the court ordered Mr Duclos to make an interim payment of FRF 1,400 on account towards the costs of the expert's report. This was to be deposited with the registry by 15 July 1985. The court ordered that its judgment was to be enforceable immediately, notwithstanding the lodging of an appeal.

3. In the Paris Court of Appeal

(a) Judgment of 23 June 1987

29. On 3 July 1985 the applicant was granted legal aid, and on 11 July 1985 he brought the case before the Paris Court of Appeal as he considered that he was covered by the first policy. The UAP, regarding itself as bound by the third contract, had done likewise on 3 July.

On 28 August the judge in charge of preparing the case for trial asked the applicant to file his pleadings by 7 November 1985, and Mr Duclos filed them on 2 September 1985. On 10 December his lawyer sent the following letter to the president of the relevant division of the Court of Appeal:

> "...
>
> I wish to draw to your attention the fact that Mr Duclos is disabled as a result of a serious car accident and that he has four dependent children. The proceedings against the UAP represent his only hope of securing reasonable living conditions in material terms.
>
> Given the pressing nature of the case, I would be much obliged to you if you would consider allocating the case to the division that hears urgent applications. Failing this, I would be grateful if on 9 January, when the time-limit given to the respondent expires, you would set the earliest date possible for terminating the preparation of the case for trial and for the hearing.
>
> ..."

30. On 20 November 1985 the judge in charge of preparing the case for trial ordered the UAP to file its pleadings by 9 January 1986, and it did so on 12 December 1985.

On 19 December 1985 the parties were instructed that the preparation of the case for trial would be concluded on 13 May 1986 and that the hearing would be held on 28 October 1986.

The applicant filed pleadings on 13 May 1986. On an application by him, the conclusion of the preparation of the case was adjourned until 19 June.

On 16 June 1986 the UAP likewise applied for an adjournment of the closing date, which was put back to 8 July.

On 7 July, at the UAP's request, the date was further put back to 9 September. The insurance company filed pleadings on 8 September.

On 9 September the applicant secured a further adjournment until 16 September. The UAP filed pleadings on 12 September 1986.

On 16 September Mr Duclos secured an adjournment until 30 September. On the same day he lodged submissions in reply to the

UAP's submissions of 8 and 12 September 1986 to supplement his own submissions of 13 May 1986. He sought, inter alia, reimbursement of the interim payment for the expert's report which the trial judge had ordered him to make. He also applied again for an adjournment, and the closing date was set at 14 October.

On 13 October, on an application by the UAP, the closing date was put back to 21 October.

31. The hearing was held on 28 October 1986, and on 23 June 1987 the Paris Court of Appeal delivered the following judgment:

> "It is not possible to determine from the medical documents adduced in evidence whether, as maintained by the appellant, he suffered permanent partial disablement of more than 33% throughout 1980 without a break or whether, on the contrary, Mr Duclos must be regarded as having subsequently contracted a new illness or suffered a further accident.
>
> The court below ordered a medical report, which is still necessary and relevant, regardless of whether the insured is covered by the first, second or third insurance policy, and Mr Duclos is not justified in maintaining that the report is superfluous on the ground that the UAP wrote to him on 3 March 1982 that `as a general rule insurers accept the social-security department's findings and adopt its [criteria]'.
>
> On the contrary, the expert's task will have to be completed before it can be said under which policy the UAP must cover the insured.
>
> ...
>
> It is in the interests of the proper administration of justice for the case as a whole to be heard by this court in order that it may be finally disposed of.
>
> For these reasons
>
> The Court,
>
> ...
>
> Sets aside that part of the impugned judgment in which it is held that the UAP company must cover Mr Duclos under and to the extent of the [second insurance policy].
>
> Holds that a medical report is necessary before judgment can be given and, deciding to hear the case as a whole, upholds the judgment of the court below in so far as Dr ... was appointed as an expert and widens his remit by instructing him, once he has obtained the necessary documents and informed the parties of that fact, to determine whether, having regard to the origin, nature and after-effects of Mr Duclos's accidents of 23 April and 31 July 1980, there was an `apparent recovery' within the meaning of clause 26-6° of [the first insurance policy] and what could have been the degree of permanent partial disablement on 30 December 1980 as a result of the first accident or of each accident, in order to enable the Court to determine under which policy the UAP must cover him.
>
> Holds that the expert is to lodge his report with the Court registry within four months of the date on which the case is referred to him.

..."

(b) Judgment of 3 May 1989

32. On 5 November 1987 the expert reported that he was unable to carry out his instructions as Mr Duclos, despite having been summoned by ordinary letter and then by registered letter, had neither appeared nor given notice that he was unable to attend.

In pleadings submitted by Mr Duclos to the Court of Appeal on 19 May and 6 December 1988 and 6 March 1989 he claimed that, inasmuch as he had been granted legal aid, he had wrongly made to the expert the interim payment ordered by the Paris tribunal de grande instance. He had requested reimbursement from the expert several times in October and November 1985 and March 1986, and on 23 November 1987 he had brought proceedings against him in the District Court of the 18th administrative district of Paris in order to recover the money. Mr Duclos also stated that he had been turned away when, in response to the expert's invitation, he and another doctor had gone to the expert's surgery on 30 October 1980. Further, he asked the Court of Appeal to declare the medical report unnecessary inasmuch as he had proved his permanent partial disablement by producing, inter alia, the COTOREP's decision of 24 September 1981 and the CRIIP's decision and inasmuch as a medical examination nine years after the first accident would not enable them to establish the original date of his disablement. Lastly, he asked the Court of Appeal to try the "main" case against the UAP and the "subsidiary" case against the expert simultaneously.

33. On 21 February 1988 the parties were ordered to file their pleadings by 21 April 1988.

34. Mr Duclos lodged pleadings on 19 May 1988.

35. On 19 July 1988 the parties were instructed that the preparation of the case for trial would be concluded on 6 December 1988 and that the hearing had been set down for 1 February 1989. The UAP lodged its pleadings on 18 August and 30 September.

36. On 6 December Mr Duclos lodged pleadings and asked for an adjournment of the conclusion of the preparation of the case for trial, which was put back to 10 January 1989. The UAP lodged its pleadings on 2 January 1989.

On 10 January 1989 the applicant applied for an adjournment until the end of March of both the conclusion of the preparatory stage and the trial. The closing date was set at 24 January. He made similar applications on 23 January, and the closing date was set at 7 March and the hearing adjourned until 21 March.

The UAP filed its pleadings on 20 February 1989 and the applicant filed his on 6 March. On 7 March the UAP made an application identical with one made by Mr Duclos on the previous day for an adjournment of the conclusion of the preparatory stage. The order terminating the preparation of the case for trial was made on 21 March 1989.

37. Following a hearing on 21 March 1989, the Court of Appeal dismissed the applicant's appeal in a judgment of 3 May 1989 - served on the parties on 9 June - as follows:

"...

The Court has been unable, by reason of the appellant's refusal, to obtain the information which could have been provided by an expert's report, which it had held to be necessary for deciding the case. Accordingly, Mr Duclos has

failed to satisfy the burden of proof that rests on him and, as matters stand, his application must be dismissed and he must be ordered to return the sum he received by way of an advance."

4. In the Court of Cassation

38. On 2 August 1989 Mr Duclos applied to the legal aid office of the Court of Cassation for legal aid, which was granted on 11 January 1990. The applicant was notified on 7 February 1990.

39. Mr Duclos lodged an appeal on points of law on 9 March 1990. He submitted that the Court of Appeal had wrongly failed to respond to his submissions regarding the pointlessness of the medical report and those in which he had asked the court to hear the cases against the UAP and against the expert simultaneously. He filed his full pleadings on 7 August 1990 and the UAP filed its pleadings in reply on 26 September 1990. The applicant also submitted a memorandum dated 20 January 1991.

The case was allocated to a reporting judge on 3 July 1991 and he filed his report on 24 September 1991.

40. Following a hearing on 5 March 1992, the Court of Cassation (Social Division) delivered a judgment on 16 April 1992 in which it dismissed his appeal on the following grounds:

"... the Court of Appeal was not bound to rule on ineffective pleadings and as it was not seised of the case between the appellant and the expert, it was merely exercising its power to assess the evidence before it when it ordered an expert's report."

C. The proceedings against the Dieppe CAF

41. As a married man with four children, the applicant received a family allowance, the amount of which varies according to the household's income.

42. The Dieppe CAF made a deduction of 30% from the applicant's income when calculating his entitlement to the allowance from 10 July 1982, the date on which he started claiming unemployment benefit from the Association for Industrial and Business Employment (Association pour l'emploi dans l'industrie et le commerce, ASSEDIC). In a letter of 19 May 1983 it informed the applicant - who had claimed that he had been unemployed since 15 March 1982 - that it could not accede to his request for a 100% deduction to be applied in the calculation of his allowance for the period from 1 March to 30 June 1982.

1. Before the Benefit Payments Board of the Dieppe CAF and the Rouen social-security appeal tribunal

43. On 18 July 1983 Mr Duclos submitted his complaint to the Benefit Payments Board of the Dieppe CAF, which ruled against him on 3 October 1983. He was advised of this in a letter of 17 November.

44. On 13 December 1983 he appealed to the Rouen social-security appeal tribunal.

Following a hearing on 18 February 1986, the tribunal delivered a judgment on 18 March 1986 - served on the parties on 16 May - in which it dismissed his appeal on the following grounds:

"As provided in social-security circular no. 39 of 13 August 1980, a 30% abatement will be applied to the base-year income of those who are unemployed, or that income

will be disregarded, depending on the individual's circumstances.

Article 5-1 of social-security circular no. 33 of 13 August 1980 provides that `the persons concerned are those who are totally unemployed and are not in receipt of benefit or are no longer eligible for benefit as they have exhausted their right to it ... their entire means shall be disregarded'.

From 2 March to 2 July 1982 Mr Duclos received daily allowances in respect of the industrial accident and his name was removed from the ASSEDIC's register.

He was not, therefore, a totally unemployed person not in receipt of benefit and cannot seek to have his means for this period disregarded.

It has been established that from 1 July 1982 a 30% abatement was applied to his income on the ground that the ASSEDIC paid him special allowances. His appeal is unfounded."

The judgment was served on the parties on 16 May 1986.

2. In the Rouen Court of Appeal

45. On 21 May 1986 the applicant appealed to the Rouen Court of Appeal. He was awarded full legal aid on 20 March 1987.

On 23 July 1987 the parties were informed that the hearing would be held on 13 October 1987. The CAF lodged pleadings on 9 October.

The Government maintained before the Court that at the hearing the applicant had requested an adjournment. The applicant denied that he had done so, however, and the Government were unable to indicate any basis for their assertion.

A hearing was held on 6 September 1988 at which Mr Duclos made his submissions. In a judgment of 11 October 1988 the Court of Appeal upheld the appeal tribunal's judgment.

3. In the Court of Cassation

46. On 15 November 1988 the applicant filed an application with the Fees Exemption Board of the Conseil d'Etat and Court of Cassation Bar for exemption from paying counsel's fees. The Board refused his application on 24 October 1989, as Mr Duclos was informed in a letter of 13 December, on the following ground:

"An examination of the contested decision shows that it was made in the proper form and that legal reasons were given for it. Accordingly, no useful purpose would appear to be served by seeking review of it by the Court of Cassation."

47. The applicant nevertheless appealed on points of law on 4 December 1989. He filed pleadings on 3 May 1990 and the CAF replied on 4 July. On 2 April 1991 the case file was transferred to a reporting judge, who filed his report on 16 May 1991. The hearing was held on 20 February 1992, and the Court of Cassation (Social Division) dismissed the appeal on the following ground in a judgment of 2 April 1992:

"... the courts below, having found that the name of Mr Duclos, who had received daily allowances from 2 March to 9 July 1982 in respect of the recurrence of the condition originally caused by his industrial accident, had been removed

from the ASSEDIC's register for that period, justified their decisions in law."

PROCEEDINGS BEFORE THE COMMISSION

48. Mr Duclos lodged three separate applications (nos. 20940/92, 20941/92 and 20942/92) with the Commission on 17 August, 29 September and 13 October 1992. He alleged several violations of Article 5 and Article 6 para. 1 of the Convention (art. 5, art. 6-1) and of Article 1 of Protocol No. 1 (P1-1).

49. On 1 December 1993 the Commission (Second Chamber) decided to join the applications, to communicate them to the Government solely in respect of the complaint as to the length of the proceedings and to declare them inadmissible as to the remainder. On 12 October 1994 the Commission declared the application admissible as regards the complaint in question. In its report of 17 May 1995 (Article 31) (art. 31), it expressed the opinion by seven votes to six that there had been a violation of Article 6 para. 1 (art. 6-1). 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 (1).

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Note by the Registrar

1. For practical reasons this annex will appear only with the printed version of the judgment (in Reports of Judgments and Decisions 1996-VI), but a copy of the Commission's report is obtainable from the registry.

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FINAL SUBMISSIONS TO THE COURT

50. In his memorial the applicant requested the Court to "hold that there ha[d] been a violation of Article 6 para. 1 of the Convention (art. 6-1) on account of the unreasonable length of the civil proceedings in issue".

51. The Government submitted that "the Court should draw appropriate conclusions from Mr Duclos's conduct and declare his application ill-founded".

AS TO THE LAW

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

52. Mr Duclos complained of the length of the proceedings he instituted against the Dieppe Health Insurance Office (Caisse primaire d'assurance maladie, CPAM), the Union des assurances de Paris ("the UAP") and the Dieppe Family Allowances Office (Caisse d'allocations familiales, CAF). He relied on Article 6 para. 1 of the Convention (art. 6-1), which provides:

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

53. The applicability of Article 6 para. 1 (art. 6-1) to the case was not disputed. It thus suffices for the Court to find that the purpose of the proceedings in question was to settle disputes concerning payment by social-security offices and an insurance company of benefits to which the applicant maintained he was entitled following his industrial accident. The object was therefore to settle "contestations" (disputes) over civil rights within the meaning of Article 6 para. 1 (art. 6-1).

A. The periods to be taken into consideration

54. The periods to be taken into consideration were not disputed either.

The proceedings against the Dieppe CPAM began on 21 July 1982, when the applicant lodged his claim with the review board (see paragraph 14 above), and ended on 20 February 1992, when the Court of Cassation gave judgment (see paragraph 18 above); they therefore lasted nine years and seven months.

The proceedings against the UAP began on 26 August 1983, when the applicant instituted proceedings in the Paris tribunal de grande instance (see paragraph 24 above), and ended on 16 April 1992, when the Court of Cassation gave judgment (see paragraph 40 above); they therefore lasted eight years and nearly eight months.

The proceedings against the Dieppe CAF began on 18 July 1983, when Mr Duclos submitted his complaint to the Benefit Payments Board (see paragraph 43 above), and ended on 2 April 1992, when the Court of Cassation gave judgment (see paragraph 47 above); they therefore lasted eight years, eight months and two weeks.

B. The reasonableness of the length of the proceedings

55. The reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard to the criteria laid down in the Court's case-law, in particular the complexity of the case, the conduct of the applicant and of the relevant authorities and the importance of what is at stake for the applicant in the litigation (see, among other authorities, the Phocas v. France judgment of 23 April 1996, Reports of Judgments and Decisions 1996-II, p. 546, para. 71).

In civil cases, as the Government stressed, Article 2 of the New Code of Civil Procedure leaves it to the parties to take the initiative; it is incumbent on them "to carry out the steps in the proceedings in accordance with the prescribed formal requirements and time-limits". However, this does not absolve the courts from ensuring that the proceedings are conducted within a reasonable time. Moreover, under Article 3 of the same Code the court is required to ensure the proper conduct of the proceedings and is empowered "to lay down time-limits and order necessary measures" (see, inter alia, the Monnet v. France judgment of 27 October 1993, Series A no. 273-A, p. 12, para. 27).

It is also necessary to point out that Article 6 para. 1 of the Convention (art. 6-1) imposes on the Contracting States the duty to organise their legal systems in such a way that their courts can meet each of the requirements of that provision (art. 6-1) (see, among many other authorities, the Francesco Lombardo v. Italy judgment of 26 November 1992, Series A no. 249-B, p. 27, para. 23).

56. Firstly, the Government argued that the length of the proceedings in issue was due mainly to the applicant's lack of diligence.

The applicant contended in reply that at all events he had been suffering from the effects of his accident, that he was disabled and had repeatedly had to deal with the three cases in issue simultaneously without the assistance of a lawyer, and that his circumstances and situation called for special diligence on the part of the French courts and tribunals. Lastly, he said that the backlog of cases, especially in the appeal courts, gave rise to long delays which were beyond the parties' control.

1. The proceedings against the Dieppe CPAM

(a) Complexity of the case

57. The case concerned the assessment of benefits in kind (a flat and a car) received by the applicant when in employment and the weight given to them in the calculation of the daily allowances to be paid to him.

58. In the Government's submission, this question, which was difficult by nature, was further complicated by the fact that conflicting documentary evidence had been submitted to the judicial authorities.

59. The Court nevertheless considers, like the Commission and the applicant, that the case was not a particularly complex one, especially as it was examined at first instance by a specialised tribunal experienced in dealing with such matters.

(b) Conduct of the parties and of the judicial authorities

60. Firstly, the applicant stated that the reason why he did not appeal to the Paris social-security appeal tribunal until 29 March 1983 was that the CPAM review board did not reply to his application of 21 July 1982 for reassessment.

He also pointed out that on 2 March 1984, on an application by the CPAM, the tribunal had transferred the case to the Rouen tribunal, although it could have been settled immediately. The hearing before the Rouen tribunal, originally set down for 17 June 1986, had been adjourned to 4 November 1986 as the director of social-security affairs for the département had not appeared. The Government, he said, had not shown how the tribunal's delay in giving judgment was explained by the "special rules" regarding proceedings before social-security tribunals.

He maintained that the case in the Rouen Court of Appeal had likewise been adjourned as the regional director of health and social affairs had failed to appear. In any event, there had been no justification for the second hearing being set down for as late as 6 September 1988.

Lastly, the Fees Exemption Board of the Conseil d'Etat and Court of Cassation Bar had taken almost a year to dismiss his application for exemption. Moreover, the five-month gap between his appeal on points of law and the filing of his supplementary pleadings could not be regarded as excessive, seeing that he was not represented by a lawyer.

In short, most of the delay in these proceedings (six years in all), the total length of which was "clearly" excessive, could not be attributed to him.

61. The Government pointed out that in social-security cases, procedure in the tribunals of fact was oral, representation was not compulsory and there was no preparation of the case for trial. The tribunals did not have the power to give the parties directions or to make an order terminating the preliminary stage of the proceedings. The parties, especially the plaintiff, therefore had full control over the proceedings. Furthermore, it was obligatory to make an application to the review board before appealing to the social-security appeal tribunal, and that served as a conciliation stage before the judicial stage properly speaking began.

The Government maintained that they were unable to make any observations on the proceedings before the Paris and Rouen social-security appeal tribunals as no documents of earlier date than 16 December 1986 had been kept. The distinctive features of social-security proceedings suggested, however, that the delay in

giving judgment had probably not been due to shortcomings on the part of the judicial authorities and, in any event, the applicant had not shown that there were any such shortcomings.

Moreover, the proceedings in the Court of Appeal had lasted only one year and eight months, which was not excessive, considering the conduct of the applicant, who had taken a long time to file his pleadings and had had the case adjourned to a later date.

Lastly, in the proceedings before the Court of Cassation the applicant had waited until the end of the time allowed - five months after giving notice of appeal - before filing his pleading. The appeal was prepared and heard with all possible diligence in view of the conduct of the parties, who were slow to file their pleadings, and the particular characteristics of an appeal on points of law, which was a special remedy.

62. In the Commission's opinion, the applicant's conduct did not by itself account for the length of the proceedings and the Government had not provided a suitable explanation for the periods of inactivity at the Rouen social-security appeal tribunal between 29 March 1983 and 16 December 1986 and in the Court of Cassation between 20 August 1990 and 20 February 1992.

63. The Court observes first of all that according to Article R. 142-17 of the Social Security Code, proceedings before social-security appeal tribunals are governed by the provisions of Book One of the New Code of Civil Procedure, which includes Article 3 of the Code (see paragraph 55 above). The reasonableness of the length of proceedings before these tribunals must therefore be assessed in the same way as before the ordinary civil courts.

64. The Court also notes that, while the applicant's conduct was not beyond reproach, the administrative and judicial authorities were responsible for most of the delays: the review board did not reply to the application for reassessment that Mr Duclos had made to it on 21 July 1982 (see paragraph 14 above); almost five months elapsed between the hearing before the Paris social-security appeal tribunal on 2 March 1984 and the transfer of the case to the Rouen tribunal on 24 July 1984 (see paragraph 15 above); in the Rouen Court of Appeal, the case was adjourned to a second hearing that was held nearly eleven months after the first (see paragraph 16 above) although, whatever the reason for this adjournment, none of the evidence in the case file justified such a delay; the Fees Exemption Board of the Conseil d'Etat and Court of Cassation Bar took nearly a year to decide on Mr Duclos's application (see paragraph 17 above); and the Court of Cassation gave judgment on 20 February 1992, although the last pleadings had been filed by the CPAM on 20 August 1990 (see paragraph 18 above).

(c) Conclusion

65. In such circumstances, a total period of nine years and seven months cannot be regarded as reasonable. Accordingly, there has been a violation of Article 6 para. 1 (art. 6-1).

2. The proceedings against the UAP

(a) Complexity of the case

66. The case concerned performance of the "disablement insurance" policy that the applicant's former employer had taken out with the UAP and the question of which insurance policy was applicable.

67. The Government submitted that the judicial authorities had had to consider two separate issues - the legal force of the summary of cover given to the applicant and the question of which insurance policy

was applicable - and the case was therefore complex.

68. The Court nevertheless considers, like the applicant and the Commission, that the case was not by its nature a particularly complex one.

(b) Conduct of the parties and of the judicial authorities

69. Mr Duclos acknowledged that in the Paris tribunal de grande instance he did not file his pleadings until 6 August 1984, although the order whereby the preparation of the case was terminated had been issued on 2 July 1984. He also acknowledged that he had applied to set aside that order. He said, however, that he had set out his grounds in full in his summons, that his pleadings constituted a valid reply to the pleadings filed by the UAP after the order and that, in any event, the proceedings were not delayed by the setting aside of the order since the hearing was held on 19 September 1984 as originally planned.

He pointed out that in the Paris Court of Appeal he had had to wait eight months before being awarded legal aid, that he had then filed his pleadings expeditiously and that on 10 December 1985 his lawyer had alerted the president of the relevant division to the urgency of the case. The adjournments of the conclusion of the preparation of the case that had been secured by the parties had involved only procedural hearings and preparation of the case for trial and the court had therefore not had to alter its timetable, which had been fixed on 19 December 1985. In addition, eight months had elapsed, for no reason, between the hearing on 28 October 1986 and the judgment of 23 June 1987. As to his refusal to undergo the medical examination ordered on 23 June 1987, this had not been a delaying tactic but a reaction to the pointlessness of the examination and to the fact that as he and the appointed expert were on opposite sides in the dispute, it could not be impartial. Moreover, the second hearing in the Court of Appeal had been set down for 1 February 1989, fourteen months after the expert reported that he had been unable to carry out his instructions. Mr Duclos recognised that that hearing had then been adjourned to 7 March 1989 at his request, but said that this had delayed the proceedings by only a few weeks.

Lastly, he emphasised the time taken by the Court of Cassation's legal aid office to reply to his application.

In short, the length of the proceedings - eight years and nearly eight months - could not be held against him.

70. The Government referred to the "relative rapidity" of the proceedings in the Paris tribunal de grande instance, which they said was all the more remarkable as Mr Duclos had not filed his pleadings until one year after he had instituted the proceedings and until after the order had been made whereby the preparation of the case for trial was terminated, and he had thus brought about the setting aside of that order.

The length of the proceedings in the Paris Court of Appeal - three years and six months - had been entirely due to the dilatory attitude of the parties, who had filed numerous pleadings and made many applications for the conclusion of the preparation of the case to be adjourned; the judge responsible for preparing the case for trial had allowed all the applications so as to comply with the principle of adversarial proceedings. The applicant caused further delay by refusing to undergo the medical examination ordered on 23 June 1987.

A period of two years, one month and one week between the appeal on points of law and the Court of Cassation's judgment was not unreasonable before a supreme court. Moreover, Mr Duclos had waited until the end of the time allowed - five months after giving notice of

appeal - before filing his pleadings. No delay, on the other hand, could be imputed to the judicial authorities.

71. In the Commission's opinion, much of the length of the proceedings was accounted for by the applicant's conduct, but the period of inactivity in the Court of Cassation from 26 September 1990 to 16 April 1992, for which the Government had failed to provide any cogent explanation, had to be ascribed to the State.

72. The Court observes that Mr Duclos's conduct was not beyond reproach. He refused to undergo the medical examination ordered by the Paris Court of Appeal (see paragraph 32 above) and the second hearing before that court (originally set down for 1 February 1989) was, on an application by him, adjourned until 21 March 1989, and that led to a delay of approximately seven weeks (see paragraphs 35-36 above).

73. There is, however, nothing to indicate that the proceedings were delayed by the applicant's securing from the Paris tribunal de grande instance the setting aside of the order whereby the preparation of the case for trial was terminated (see paragraphs 26 and 27 above). In the Paris Court of Appeal the applicant's lawyer alerted the president of the relevant division to the urgency of the case (see paragraph 29 above). While it is true that the parties applied for adjournments of the conclusion of the preparation of the case more than ten times, no alterations to the timetable were entailed; the first hearing was held on 28 October 1986 as planned on 19 December 1985 (see paragraphs 30-31 above) and the date of the second hearing, which had been set down for 1 February 1989 on 19 July 1988, was only changed following Mr Duclos's applications for an adjournment of the case on 10 and 23 January 1989 (see paragraphs 35-36 above), which the Court has already considered (see paragraph 72 above). Lastly, the applicant's refusal to undergo the medical examination ordered by the Court of Appeal does not appear to have given rise to any substantial delay inasmuch as the expert filed his report - which admittedly stated that he had been unable to carry out his instructions - within the period laid down by the Court of Appeal (see paragraphs 31-32 above).

74. As regards the conduct of the authorities, the Court notes that the decision of the Court of Cassation's legal aid office was notified to the applicant more than six months after he filed his application (see paragraph 38 above) and that the Court of Cassation did not give judgment until 16 April 1992, although the last pleadings had been filed by the UAP on 26 September 1990 (see paragraphs 39-40 above).

(c) What was at stake for the applicant in the proceedings

75. Mr Duclos emphasised that as he was unemployed and disabled, he no longer had any income. A great deal was therefore at stake for him in the proceedings against the UAP, the main purpose of which was to secure payment of a life annuity.

76. Neither the Government nor the Commission addressed this issue.

77. The Court is of the opinion that the applicant's situation and what was at stake for him in the proceedings called for special expedition.

(d) Conclusion

78. The applicant's conduct does not on its own explain the length of the proceedings. Having regard to his situation, a period of eight years and nearly eight months cannot be regarded as reasonable. There has accordingly been a violation of Article 6 para. 1 (art. 6-1).

3. The proceedings against the Dieppe CAF

(a) Complexity of the case

79. The dispute concerned the CAF's assessment of the applicant's situation after his accident for the purpose of calculating his family allowance.

80. According to the Government, the case was complex as it raised the difficult question whether Mr Duclos was "unemployed" between 1 March and 30 June 1982.

81. The Court nevertheless considers, like the Commission and the applicant, that the case was not a particularly complex one, especially since, like the dispute between Mr Duclos and the CPAM, it was examined at first instance by a specialised tribunal experienced in dealing with such matters (see paragraph 59 above).

(b) Conduct of the parties and of the judicial authorities

82. The applicant noted, in particular, that: more than two years had elapsed between the date on which he lodged his appeal with the Rouen social-security appeal tribunal (13 December 1983) and the hearing (18 February 1986); he had had to wait a year before being granted legal aid by the Court of Appeal, during which time he had no legal assistance; the hearing before that court, originally set down for 14 October 1987, had been adjourned to 6 September 1988 - in other words, almost a year later - as the regional director of health and social affairs had failed to appear; and the Fees Exemption Board of the Conseil d'Etat and Court of Cassation Bar had taken almost a year to dismiss his application.

The Government were thus responsible for six years of the delay.

83. The Government maintained that the period of two years and eight months between the application to the Benefit Payments Board of the CAF and the social-security appeal tribunal's judgment was not unreasonable. They stated that several documents dating from before 18 March 1986 had been destroyed and that they were thus unable to make any relevant comments on this period. They referred to their previous observations regarding proceedings before social-security tribunals (see paragraph 61 above).

The period of two years, four months and two weeks in the Rouen Court of Appeal was not unreasonable either, seeing that the trial had had to be adjourned as the applicant had not filed his pleadings, and that this led to a delay of about a year.

In the Court of Cassation the applicant had not filed his pleadings until the end of the time allowed, five months after giving notice of his appeal. The case had, however, been prepared with all possible diligence.

84. In the Commission's opinion, the applicant's conduct did not by itself account for the length of the proceedings; these had included a period of inactivity in the Court of Cassation from 4 July 1990 to 2 February 1992 for which the Government had failed to provide any cogent explanation.

85. The Court reiterates that the reasonableness of the length of proceedings before social-security appeal tribunals must be assessed in the same way as before the ordinary civil courts (see paragraph 63 above). It consequently notes that the Government did not provide any definite explanation why the Rouen social-security appeal tribunal, to which the applicant appealed on 13 December 1983, did not give judgment until 18 March 1986 (see paragraph 44 above). Moreover, in the Rouen Court of Appeal, to which the applicant appealed on 21 May 1986,

the CAF did not file its pleadings until 9 October 1987 - four days before the hearing - and the case was adjourned to a second hearing, which was held nearly eleven months after the first although, whatever the reason for that adjournment, there was nothing in the case file to justify such a delay (see paragraph 45 above). In addition, the Fees Exemption Board of the Conseil d'Etat and Court of Cassation Bar took almost a year to rule on Mr Duclos's application (see paragraph 46 above). Lastly, the Court of Cassation gave judgment on 2 April 1992, although the last pleadings had been filed by the CAF on 4 July 1990 (see paragraph 47 above).

(c) Conclusion

86. It thus appears that, while the applicant's conduct was not beyond reproach, most of the delays were due to the conduct of the administrative and judicial authorities. A total period of eight years, eight months and two weeks cannot be regarded as reasonable. There has accordingly been a violation of Article 6 para. 1 (art. 6-1).

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

87. By Article 50 of the Convention (art. 50),

> "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. Damage

88. Mr Duclos sought, firstly, compensation for pecuniary damage; owing to the unreasonable length of the proceedings in issue, he had been unsure whether he would receive a life annuity for disablement and thus had not immediately sought an alternative such as the minimum welfare benefit for those with no income (revenu minimum d'insertion, RMI). Likewise owing to the length of the proceedings, the applicant had suffered from a "lasting, profound state of anxiety" which constituted non-pecuniary damage.

The applicant assessed the damage he had sustained at FRF 500,000 in total.

89. The Government opposed the claim for pecuniary damage. As to non-pecuniary damage, they suggested that, if a violation was found, the Court should award Mr Duclos compensation in an amount corresponding to what it usually awarded in similar cases.

90. As the Court is of the opinion that no causal link between the length of the proceedings and the alleged pecuniary damage has been established, it dismisses the applicant's claim. As to non-pecuniary damage, making its assessment on an equitable basis, it awards the applicant FRF 100,000.

B. Recommendation sought by the applicant

91. Mr Duclos also asked the Court to make a "recommendation" to the Government "... to undertake to recognise the extent of his permanent disablement by issuing him with a disablement card, by paying him a life annuity indexed to his salary and by accepting that his periods of unemployment shall count for the purposes of calculating his rights when he becomes of pensionable age and extending his medical cover up to 100% of real cost".

92. 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 Allenet de Ribemont v. France judgment of 10 February 1995, Series A no. 308, p. 23, para. 65).

C. Costs and expenses

93. Lastly, Mr Duclos sought FRF 20,000 for costs and expenses incurred in the domestic courts and tribunals.

94. The Court allows the claim and consequently awards the applicant FRF 20,000.

D. Default interest

95. According to the information available to the Court, the statutory rate of interest applicable in France at the date of adoption of the present judgment is 6.65% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Holds that there has been a violation of Article 6 para. 1 of the Convention (art. 6-1) in relation to the proceedings instituted by the applicant against the Dieppe Health Insurance Office, the Union des Assurances de Paris and the Dieppe Family Allowances Office;

2. Holds that the respondent State is to pay the applicant, within three months, 100,000 (one hundred thousand) French francs for non-pecuniary damage and 20,000 (twenty thousand) francs for costs and expenses, on which sums simple interest at an annual rate of 6.65% shall be payable from the expiry of the above-mentioned three months until settlement;

3. 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 17 December 1996.

Signed: Rudolf BERNHARDT
President

Signed: Herbert PETZOLD
Registrar