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

COURT (CHAMBER)

CASE OF GUILLEMIN v. FRANCE

(Application no. 19632/92)

JUDGMENT

STRASBOURG

21 February 1997

In the case of Guillemin 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. RYSSDAL, *President*,
Mr F. MATSCHER,
Mr L.-E. PETTITI,
Mr J. De MEYER,
Mr A.N. LOIZOU,
Mr M.A. LOPES ROCHA,
Mr B. REPIK,
Mr P. KURIS,
Mr E. LEVITS,

and also of Mr H. PETZOLD, *Registrar*, and Mr P.J. MAHONEY, *Deputy Registrar*,

Having deliberated in private on 27 September 1996 and 22 January 1997,

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 8 December 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 an application (no. 19632/92) against the French lodged with the Commission under Article 25 (art. 25) by a French national, Mrs Adrienne Guillemin, on 28 November 1991.

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 application was to obtain a decision as to whether the facts of the case disclosed a

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[1] The case is numbered 105/1995/611/699. 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.

[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.

breach by the respondent State of its obligations under Article 6 para. 1 of the Convention (art. 6-1) and Article 1 of Protocol No. 1 (P1-1).

2. In response to the enquiry made in accordance with Rule 33 para. 3 (d) of Rules of Court A, the applicant stated that she wished to take part in the proceedings and designated the lawyer who would represent her (Rule 30). Having originally been designated by the initials A.G., the applicant subsequently agreed to the disclosure of her identity.

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. 4 (b)). On 8 February 1996, in the presence of the Registrar, the President drew by lot the names of the other seven members, namely Mr J. De Meyer, Mr S.K. Martens, Mr F. Bigi, Mr M.A. Lopes Rocha, Mr B. Repik, Mr P. Kuris and Mr E. Levits (Article 43 in fine of the Convention and Rule 21 para. 5) (art. 43). Subsequently Mr F. Matscher and Mr A.N. Loizou, substitute judges, replaced Mr Bigi, who had died, and Mr Martens, who had resigned before the hearing (Rules 2 para. 3, 22 para. 1 and 24 para. 1).

4. As President of the Chamber (Rule 21 para. 6), Mr Ryssdal, acting through the Registrar, consulted the Agent of the French Government ("the Government"), the applicant's 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 Government's memorial on 29 May 1996 and the applicant's memorial on 3 June 1996.

On 30 August 1996 the Commission 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 25 September 1996. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

(a) for the Government

Mr J.-F. DOBELLE, Deputy Director of Legal Affairs,
Ministry of Foreign Affairs, *Agent,*

Ms C. MARCHI-UHEL, magistrat, on secondment to the Legal Affairs Department, Ministry of Foreign Affairs,

Mr E. SÉVÈRE-JOLIVET, magistrat, on secondment to the Human Rights Office, European and International Affairs Department, Ministry of Justice, *Counsel;*

(b) for the Commission

Mr F. MARTÍNEZ, *Delegate;*

(c) for the applicant

Mr M. MEYER, of the Strasbourg Bar, *Counsel.*

The Court heard addresses by Mr Martínez, Mr Meyer and Mr Dobelle and also replies to questions put by one of its members.

AS TO THE FACTS

I. CIRCUMSTANCES OF THE CASE

6. In a decision of 7 October 1982 the Prefect of the département of Essonne made a declaration that it was in the public interest to acquire by compulsory purchase land needed for the development of a residential area in the town of Saint-Michel-sur-Orge, known as the Fontaine de l'Orme project. The land included a plot belonging to the applicant on which stood a building used as a secondary residence by a member of her family.

A. The expropriation proceedings

7. On 10 September 1982 the mayor of Saint-Michel-sur-Orge had applied to the Essonne expropriations judge, who on 6 December 1982 made an expropriation order transferring the applicant's land to the municipality and setting the amount of compensation to be paid to her. On 28 March 1983 the applicant appealed against the order.

8. On 28 July 1983 the Evry New Town Development Corporation (EPEVRY), which was responsible for carrying out the scheme, informed Mrs Guillemin that she should have vacated the land by 14 July 1983. In the same month the town council demolished the fence, the buildings, the infrastructure for the supply of services, the vegetable garden and the orchard on the land.

9. On 14 October 1983, on the appeal by the expropriated applicant, the Expropriations Division of the Paris Court of Appeal increased the amount of the expropriation compensation to 221,858 French francs (FRF), which is currently held in deposit at the Bank for Official Deposits (Essonne Treasury).

B. Setting aside of the public-interest declaration

10. On 19 November 1982 Mrs Guillemin had brought proceedings in the Versailles Administrative Court. On 24 October 1985 the court set aside the public-interest declaration on the grounds that it was ultra vires. It held that the declaration should have been made in a decree after consultation of the Conseil d'Etat and not in a prefectoral decision (see paragraph 23 below). The inspector appointed to conduct the inquiry prior to the declaration in question had recommended that the scheme should not include existing houses that had sufficient land to make a garden for family use, as was the case with the applicant's property.

11. The town council appealed on 26 December 1985 and lodged a pleading on 28 April 1986.

In a judgment of 13 March 1989 the Conseil d'Etat upheld the Administrative Court's judgment. It refused Mrs Guillemin's application for formal note to be taken that the town council had automatically abandoned the proceedings as it had failed to file a supplementary pleading in time, and also refused her claim for compensation, which had been submitted for the first time on appeal.

C. Setting aside of the expropriation measures

12. The applicant lodged two appeals on points of law with the Court of Cassation, the first against the expropriation order of 6 December 1982 and the second against the judgment of the Paris Court of Appeal of 14 October 1983.

In two judgments of 4 January 1990 the Court of Cassation (Third Civil Division) set aside the expropriation order providing for the transfer of ownership and "in consequence" set aside the judgment of the Paris Court of Appeal, which had ruled on the expropriation compensation. These judgments were served on the town council on 22 May 1990.

D. The applications for compensation

1. The application to the expropriating town council

13. On 20 June 1990 Mrs Guillemin applied unsuccessfully to the town council, seeking either restoration of her rights or compensation in the amount of FRF 4,194,655.65.

2. In the courts

14. On 10 November and 17 December 1990 Mrs Guillemin applied to Evry State Counsel. On 11 March 1991 he decided to take no action.

15. On 23 December 1991 the applicant challenged the town council's implied decision to refuse her application in the Versailles Administrative Court. Her claim for restoration of her rights was accompanied by an application for compensation for non-pecuniary damage and loss of enjoyment of her property, which she assessed at FRF 1,971,795.

16. On 13 January 1992 she brought proceedings in the Evry tribunal de grande instance against the mayor of Saint-Michel-sur-Orge and EPEVRY, seeking an order for demolition of the buildings erected on her land by the town council, with periodic penalties in the event of failure to comply, and damages.

In joint submissions the defendants argued that it was not possible to return the property. It had been sold to EPEVRY with a view to a housing development and the individual building plots had in turn been sold to various different purchasers and had now been built on and were occupied.

17. On 1 February 1993 the Evry tribunal de grande instance deferred judgment until the Versailles Administrative Court ruled and listed the case for the hearing that was to be held on 10 June 1993 by the judge in charge of preparing the case for trial.

18. The Administrative Court held a hearing on 10 May 1994 and gave judgment on 24 May 1994.

It held that the claim for return of the land was inadmissible on the ground that "it [was] not for the administrative courts to issue orders to the authorities" and ruled as follows on the claim for compensation:

> "It is clear from the preparation of the case for trial that the expropriation ... in the public interest [on] 7 October 1982 was carried out unlawfully. The dispossession of [Mrs Guillemin] was accordingly an illegal expropriation of private property. It is for the ordinary courts alone, which protect private property, to deal with [her] claim for compensation for the loss [she allegedly] sustained as a result of the dispossession or of any direct consequences of it."

19. In the meantime, on 3 March 1994, Mrs Guillemin's application had been struck off the list of the Evry tribunal de grande instance. It was entered in the list again on 25 November 1994. On 5 January 1995 the applicant filed fresh submissions seeking compensation.

20. In a judgment of 23 October 1995 the Evry tribunal de grande instance noted that Mrs Guillemin had implicitly abandoned her application for the buildings on her land to be demolished and held that she was entitled to compensation from the expropriating town council. It deferred judgment on the compensation claim, ordered an expert report on the value of the expropriated plot of land as at December 1982 and on the loss arising from her being deprived of her land and the price of it since then, and ruled that the town council should pay an advance on the costs of the expert report.

21. The expert received the file on 27 November 1995. He summoned the parties to an inspection of the site on 12 March 1996 and filed his report on 29 July 1996. He assessed the total value at FRF 1,602,805, which he broke down as follows: FRF 462,139 for the value of the property, covering the sum needed to purchase a similar property, FRF 746,338 for the interest on the principal sum from 14 July 1983 to 30 September 1996 and FRF 394,328 compensation for loss of the enjoyment of the property over the same period. For this last item he adopted a rate of return of 6.50% on the value of the property, excluding the sum needed to purchase a similar property.

22. The proceedings are at present pending in the Evry tribunal de grande instance.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Stages of the expropriation procedure

23. Expropriation proceedings in the public interest comprise two separate stages.

The first stage is administrative. It begins with a preliminary inquiry - opened by a prefectoral decision - to gather information on the grounds for the expropriation. The inspector appointed to conduct the inquiry has one month from the date on which it ends to consider observations from the public, to draw up his findings and then to forward the file to the administrative authority. If his opinion is unfavourable, or is favourable subject to conditions that the expropriating authority is not minded to satisfy, the public-interest declaration must be made in a decree adopted after consultation of the Conseil d'Etat rather than in a prefectoral decision. This declaration establishes that the scheme is in the public interest. The expropriation liability order subsequently made by the Prefect identifies the property to be expropriated and ends the administrative stage of the expropriation.

The next step in the procedure is for the expropriating authority to forward the expropriation liability order, within six months of its publication, to the judicial authority for expropriation matters, a judge of the ordinary court, failing which it will lapse.

24. The second stage takes place before the expropriations judge. He alone has the power to order expropriation and assess compensation. He does not, however, have competence to assess the lawfulness of the steps taken by the administrative authority. On receipt of the expropriation liability order that has been forwarded to him, he will issue an expropriation order transferring ownership to the expropriating authority and depriving the former owner of the right to dispose of his property. The former owner, however, retains the use of it as a provisional occupier until compensation for the loss of possession is paid or, in the event of a dispute, deposited.

The proceedings for issuing the expropriation order are separate from those leading to the judicial assessment of the expropriation compensation; they are generally conducted entirely by the expropriating administrative authority. This second set of proceedings may commence as soon as the prefectoral decision to open the public inquiry has been taken.

The calculation of the expropriation compensation takes into account the value of the expropriated property, all the costs necessarily incurred in purchasing a replacement and, as subsidiary compensation, the depreciation in value of the remaining property where only part of it has been expropriated. The compensation amount may always be fixed by agreement, even after the expropriation order has been issued.

B. Appeals

1. To the administrative courts

25. Anyone affected by an expropriation that enables a scheme in the public interest to be carried out may challenge the validity of the public-interest declaration in the administrative court within two months of its publication. Appeals against expropriation liability orders must be brought within the same time. As a prefectoral decision to open a public-interest inquiry is seen as a purely preliminary measure, its lawfulness may only be challenged in conjunction with one of those two remedies. Any application on the merits may be accompanied by an application for a stay of execution, but appeals to the administrative courts do not in any event have a suspensive effect and do not prevent the expropriation proceedings continuing in the ordinary courts.

2. To the ordinary courts

26. The only means of challenging an expropriation order is by lodging an appeal on points of law within two weeks of the order being served. An appeal against a judgment in which compensation has been assessed may be brought within two weeks of the decision being served and any appeal on points of law must then be brought within two months of the Court of Appeal's judgment being served. These appeals do not have a suspensive effect and do not prevent possession being taken of the expropriated property.

Lastly, if the compensation has not been either paid or deposited by the expropriating authority within a year of the decision whereby it was assessed, the person expropriated may seek review of it by the expropriations judge.

C. The consequences of the setting aside of an administrative act

27. Once a public-interest declaration has been set aside, there is no legal basis for the expropriation order. If, however, the declaration is set aside after the order has become final, the expropriation cannot be legally challenged. It is accepted that a further public inquiry may be held to rectify the situation. In any event, the adage "public buildings that have been erected unlawfully are not demolished" applies.

PROCEEDINGS BEFORE THE COMMISSION

28. Mrs Guillemin lodged an application with the Commission on 28 November 1991. Relying on Articles 6 para. 1 and 8 of the Convention (art. 6-1, art. 8) and Article 1 of Protocol No. 1 (P1-1), she complained of the length of the proceedings to challenge the expropriation, the subsequent failure to enforce the judicial decisions in her favour, the loss of her property and the late notice given that she had to vacate the land.

29. On 12 October 1994 the Commission (Second Chamber) declared the application (no. 19632/92) admissible as to the complaints under Article 6 para. 1 of the Convention (art. 6-1) and Article 1 of Protocol No. 1 (P1-1) and declared the remainder of the application inadmissible. In its report of 18 October 1995 (Article 31) (art. 31), it expressed the unanimous opinion that there had been a violation of Article 6 para. 1 of the Convention (art. 6-1) and of Article 1 of Protocol No. 1 (P1-1). The full text of the Commission's opinion is reproduced as an annex to this judgment[3].

FINAL SUBMISSIONS TO THE COURT

30. In their memorial the Government asked the Court to:

> "Find that the applicant cannot claim to be a victim and has in any event not exhausted domestic remedies as regards the complaint of a violation of Article 1 of Protocol No. 1 (P1-1).
>
> Hold that the two complaints of a violation of Article 1 of Protocol No. 1 (P1-1) and Article 6 para. 1 of the Convention (art. 6-1) are ill-founded."

31. The applicant asked the Court to "hold that there has been a violation of Article 1 of Protocol No. 1 (P1-1) and Article 6 para. 1 of the Convention (art. 6-1)".

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[3] Note by the Registrar: for practical reasons this annex will appear only with the printed version of the judgment (in Reports of Judgments and Decisions 1997-I), but a copy of the Commission's report is obtainable from the registry.

AS TO THE LAW

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

32. Mrs Guillemin complained of the length of the entirety of the proceedings she had had to institute on account of the unlawful expropriation of her property. She alleged a violation of 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 ..."

33. The Government disputed that submission, whereas the Commission accepted it.

A. Period to be taken into consideration

34. The Court observes that the decision whereby the Prefect declared the acquisition of land including the applicant's to be in the public interest was taken on 7 October 1982. On 19 November 1982 Mrs Guillemin applied to the administrative court to have that decision set aside. In civil cases the "reasonable time" for the purposes of Article 6 para. 1 (art. 6-1) usually begins to run when the application is made to the court. In the present case the period to be taken into consideration began on 19 November 1982 at the latest.

35. As to the end of the proceedings, the Government maintained that the compensation proceedings, which were instituted by Mrs Guillemin after she had lodged her application with the Commission (see paragraphs 15 and 16 above), should fall outside the scope of the Court's consideration of the case. The total length of the proceedings was therefore eight years and two months.

36. Like the Commission, the Court does not accept this argument. It has consistently held in relation to the application of Article 6 para. 1 (art. 6-1) that the period whose reasonableness falls to be reviewed takes in the entirety of the proceedings, right up to the decision which disposes of the dispute ("contestation") (see, mutatis mutandis, the Guincho v. Portugal judgment of 10 July 1984, Series A no. 81, p. 13, para. 29, and the Erkner and Hofauer v. Austria judgment of 23 April 1987, Series A no. 117, p. 62, para. 65). In the instant case, resolving the dispute, which could have been amicably settled, entailed bringing two sets of proceedings: the first in the administrative courts, which alone have jurisdiction to assess whether the public interest of an expropriation is lawful, and the second, conducted in both the administrative and the ordinary courts simultaneously, to secure

compensation for the applicant for the illegal expropriation of her property by the public authorities. The latter proceedings are still pending. The length of time to be considered accordingly exceeds fourteen years already (19 November 1982 - 22 January 1997).

37. Such a lapse of time would at first sight seem unreasonable and therefore calls for close examination under Article 6 para. 1 (art. 6-1) (see the Guincho judgment cited above, p. 14, para. 30).

B. Reasonableness of the length of the proceedings

38. The reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case, which here call for an overall assessment, and having regard to the criteria laid down in the Court's case-law, in particular the complexity of the case and the conduct of the applicant and of the relevant authorities (see, as the most recent authority, the Katikaridis and Others v. Greece judgment of 15 November 1996, Reports of Judgments and Decisions 1996-V, p. 1687, para. 41).

39. The applicant pointed out that while the expropriation of her property had been carried out swiftly, she had still not managed to obtain compensation in the domestic courts for her loss, even though those courts had held that the expropriation had been unlawful and that she was in principle entitled to compensation. She complained of the organisational complexity of expropriation law and in particular of the lack of any effective means of securing fair and swift compensation where an expropriation had been held to be unlawful in its entirety but restoration of the status quo ante was no longer possible.

40. The Commission considered that most of the delays it had noted in the proceedings were attributable to the State.

41. The Government relied on the inherent complexity of expropriation proceedings. It was first necessary to have the public-interest declaration set aside by the administrative courts before seeking to have the expropriation order set aside by the ordinary courts. Only once the courts of both sets had given a final decision could compensation be sought in the ordinary courts for the loss arising from the illegal expropriation. They also said that the applicant could not hold the national authorities responsible for the delay in the proceedings pertaining to the application for compensation which she had erroneously made to the administrative court.

42. The Court recognises that expropriation proceedings are relatively complex, in particular in that they come under the jurisdiction of both sets of courts - the administrative courts in respect of the lawfulness of expropriation measures and the ordinary courts in respect of the transfer of the property in question, the assessing of compensation and, in general, interferences with private property. Furthermore, as in the present case, an administrative court may have to rule on the lawfulness of the initial stage

of the proceedings at the same time as an ordinary court has to deal with the consequences of an expropriation order whose lawfulness has been challenged in the other court. Such a situation may give rise to conflicting decisions, and this is a risk which prompt consideration of claims might help to diminish. The Court notes that the division of jurisdiction between the courts was not obvious to the Evry tribunal de grande instance; on 1 February 1993 it deferred judgment until the Versailles Administrative Court, to which a compensation claim had likewise been made but which theoretically had no jurisdiction in the matter, ruled on 24 May 1994 (see paragraphs 16 and 17 above). The applicant consequently cannot be criticised for not bringing her action for compensation before the right court.

43. Like the Commission, the Court notes that, in addition to the delays due to organisational difficulties (see paragraph 42 above), Mrs Guillemin cannot be held responsible for other delays either. The proceedings to challenge the lawfulness of the public-interest declaration continued for nearly three years in the Versailles Administrative Court (see paragraph 10 above) and then three years and nearly three months in the Conseil d'Etat (see paragraph 11 above), and the expropriating town council of Saint-Michel-sur-Orge was late in filing its pleadings (ibid.). Once the expropriation measures had been set aside, the town council did not respond to the applicant's claims, and this further delayed the end of the proceedings (see paragraph 13 above). Lastly, the compensation proceedings which were instituted in the Evry tribunal de grande instance on 13 January 1992 and entered in the court's list again on 25 November 1994, two years and eleven months later, are still pending (see paragraphs 16 and 19-22 above); moreover, an appeal will lie against the judgment to be delivered.

44. Like the Commission, the Court considers that the total delay noted above already exceeds what could be regarded as "reasonable" within the meaning of Article 6 para. 1 of the Convention (art. 6-1).

45. There has accordingly been a violation of that provision (art. 6-1).

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 (P1-1)

46. Mrs Guillemin submitted that the unlawful expropriation of her property had infringed Article 1 of Protocol No. 1 (P1-1), which provides:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions (P1-1) shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Government's preliminary objections

47. The Government maintained, firstly, that Mrs Guillemin could not claim to be a "victim" within the meaning of Article 25 of the Convention (art. 25) as the domestic courts had recognised the principle of compensation and therefore made good the consequences of the violation of her right to the peaceful enjoyment of her possessions. Secondly, the applicant had not exhausted domestic remedies as her action for compensation was still pending in the Evry tribunal de grande instance, which on 23 October 1995 had upheld the principle of her entitlement to compensation and would give her full compensation for the loss sustained.

48. The applicant replied that the satisfaction in principle that had been obtained from the Conseil d'Etat, the Court of Cassation and the Evry tribunal de grande instance had not led to the payment of any compensation, even partial, and that she was still the victim of a breach. It was clear from the length of the proceedings she had already instituted that domestic remedies were not effective. The objection that she was not a victim had not been raised before the Commission and was therefore out of time.

49. The Delegate of the Commission agreed with the applicant. Fourteen years after the irreparable loss of her property Mrs Guillemin could not be satisfied with promises, and there was nothing to show that the proceedings still pending in a court of first instance would not lead to an appeal to the Court of Appeal and even, on points of law, to the Court of Cassation.

50. The Court does not share the Government's opinion.

As to the objection that the applicant is not a victim, the Court is of the view, firstly, that the Government were not out of time in raising this objection for the first time before the Court. The judgment in which the Evry tribunal de grande instance held that the applicant was entitled to compensation from the expropriating town council was delivered on 23 October 1995 (see paragraph 20 above), that is to say after the end of the proceedings before the Commission. The Court considers, however, that the domestic courts' acknowledgment of the applicant's right to compensation does not mean that she ceases to be a victim. The position might have been different if, for instance, the national authorities had afforded effective redress for the alleged violation (see, mutatis mutandis, the Eckle v. Germany judgment of 15 July 1982, Series A no. 51, pp. 30-31, para. 66, and the Inze v. Austria judgment of 28 October 1987, Series A no. 126, p. 16, para. 32). This is not so in the case of Mrs Guillemin, who remains dispossessed of her property without any compensation after its unlawful expropriation by the administrative authorities. The applicant has consequently not ceased to be a "victim" within the meaning of Article 25 of the Convention (art. 25).

Secondly, the Court notes that the applicant has had recourse to all the domestic remedies available to her. It accepts the Commission's opinion in its decision on admissibility, namely that as the proceedings to which she was a party had been so slow, it was unnecessary at that time for Mrs Guillemin to institute further proceedings in order to comply with the requirements of Article 26 of the Convention (art. 26). Nor, in the particular circumstances of the case, can she be criticised for not awaiting the outcome of the proceedings pending in the Evry tribunal de grande instance. In conclusion, the requirement of Article 26 (art. 26) that domestic remedies must be exhausted has been satisfied.

51. The Government's objections must consequently be dismissed.

B. Merits of the complaint

52. It was common ground that Mrs Guillemin had been deprived of her possessions within the meaning of the second sentence of Article 1 of Protocol No. 1 (P1-1) and that the expropriation of her property had not been carried out in the manner laid down in domestic law.

53. The Government maintained that the actions to have public-interest declarations and expropriation orders set aside and to secure compensation for unlawful expropriation constituted sufficient, adequate remedies within the meaning of the Court's case-law to guarantee the protection of the applicant's right to the peaceful enjoyment of her possessions. Moreover, she had won her three actions and would receive compensation once the expert had filed his report. She could not therefore rely on any violation.

54. The Court notes that in 1982 the French authorities unlawfully expropriated the applicant's property to develop an extensive residential area. By erecting new buildings, later sold individually, the expropriating town council and the corporation in charge of the scheme permanently deprived the applicant of the chance of regaining possession of her land. Her only course was to seek compensation. Compensation for the loss sustained by the applicant can only constitute adequate reparation where it also takes into account the damage arising from the length of the deprivation. It must moreover be paid within a reasonable time.

55. On 20 June 1990 Mrs Guillemin made an initial application to the town council for compensation, but it was implicitly refused (see paragraph 13 above). No proposal for a friendly settlement was made to her subsequently. The court proceedings for compensation have lasted five years so far (see paragraphs 15-22 above), have already exceeded a reasonable time (see paragraphs 43-45 above) and are continuing (see paragraph 22 above). Compensation has not to date begun to be paid, although it could have been agreed on even after the expropriation order had been issued (see paragraph 24 above).

56. The Court considers that the potentially large sum that may be awarded at the end of the pending proceedings does not offset the previously noted failure to pay compensation and cannot be decisive in view of the length of all the proceedings already instituted by the applicant (see, mutatis mutandis, the Zubani v. Italy judgment of 7 August 1996, Reports 1996-IV, p. 1078, para. 49).

57. Having regard to all these considerations, the Court finds that there has been a violation of Article 1 of Protocol No. 1 (P1-1).

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

58. Under 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

59. Mrs Guillemin sought FRF 3,737,000 in respect of the violation of Article 1 of Protocol No. 1 (P1-1) and FRF 500,000 compensation for the damage arising from the violation of Article 6 para. 1 of the Convention (art. 6-1).

60. The Government submitted that it would be premature at the present stage to rule on the claim in respect of a violation of Article 1 of Protocol No. 1 (P1-1) and considered that the sum sought for the length of the proceedings was exorbitant as the compensation to be awarded by the domestic courts would reflect the length of time for which she had been deprived of her property.

61. The Delegate of the Commission pointed out that although Mrs Guillemin had been litigating for fourteen years, she had still not been paid anything.

62. In the circumstances of the case the Court considers that the question of the application of Article 50 (art. 50) is not ready for decision as regards pecuniary damage and must therefore be reserved, due regard being had to the possibility of an agreement between the respondent State and the applicant (Rule 54 paras. 1 and 4).

63. On the other hand, it is of the view that Mrs Guillemin has already sustained indisputable non-pecuniary damage as she has been and still is living in a state of uncertainty and anxiety about the outcome of the proceedings in issue. Making an overall assessment on an equitable basis of

the various items of damage found, the Court awards the applicant compensation in the amount of FRF 250,000.

B. Costs and expenses

64. Mrs Guillemin also sought FRF 100,000 for the proceedings before the national authorities and the Convention institutions.

65. The Government submitted that the costs were justified only in part.

66. The Delegate of the Commission made no submissions.

67. Having regard to the finding of a violation of Article 1 of Protocol No. 1 (P1-1) and Article 6 para. 1 of the Convention (art. 6-1) and making its assessment on an equitable basis, the Court awards the applicant FRF 60,000 in respect of costs and expenses.

C. Default interest

68. 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 (P1-1);

2. Dismisses the Government's preliminary objections concerning Article 1 of Protocol No. 1 (P1-1);

3. Holds that there has been a violation of Article 1 of Protocol No. 1 (P1-1);

4. Holds that the respondent State is to pay the applicant, within three months, 250,000 (two hundred and fifty thousand) French francs for non-pecuniary damage and 60,000 (sixty 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;

5. Holds that the question of the application of Article 50 of the Convention (art. 50) is not ready for decision as regards pecuniary damage;
   accordingly,
   (a) reserves the said question in that respect;

(b) invites the Government and the applicant to notify it, within three months, of any agreement they may reach;
(c) reserves the further procedure and delegates to the President of the Chamber the power to fix the same if need be.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 21 February 1997.

Rolv RYSSDAL
President

Herbert PETZOLD
Registrar