

In the case of Paskhalidis and Others v. Greece (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 Thór Vilhjálmsson,

Mr L.-E. Pettiti,

Mr C. Russo,

Mr N. Valticos,

Mr G. Mifsud Bonnici,

Mr D. Gotchev,

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 28 October 1996 and 24 February 1997,

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

Notes by the Registrar

1. The case is numbered 1/1996/620/710-803. 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.

PROCEDURE

1. The case was referred to the Court by the Greek Government ("the Government") on 8 January 1996, 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 ninety-three applications against the Hellenic Republic (the first of which was no. 20416/92 and the last no. 22857/93) lodged with the European Commission of Human Rights ("the Commission") under Article 25 (art. 25) by ninety-three Turkish or Egyptian nationals of Greek origin on various dates between 28 July 1992 and 30 September 1993. The applicants, who were designated by their initials during the proceedings before the Commission, subsequently consented to the disclosure of their identities. Their names are as follows: Mr Leonidas Paskhalidis, Mrs Hariklia Mitakosta, Mrs Martha Agalianou, Mrs Maria Iliadi, Mrs Styliani Vitsara, Mr Markos Voudris, Mr Nikolaos Noussis, Mrs Vassiliki Galitsi, Mrs Vassiliki Buyuk-Apostolidou, Mrs Smaro Voudri, Mrs Despina Ozer, Mrs Euridiki Christidou, Mrs Souzana Dilopoulou, Mrs Marika Soyantzoglou, Mr Theofanis Tziberaltis, Mr Loukianos Theodoridis, Mrs Sofia Ondatzi, Mrs Alik Akzograpoulou, Mr Ioannis Kontos, Mr Sotirios Pertesis-Perteris, Mrs Konstantina Laka, Mrs Maria Efraimoglou, Mrs Fotini Privilovits, Mrs Ourania Ioannidou, Mr Panayiotis Papadopoulos, Mr Lamprinos Savvaidis, Mr Vassilios Dales, Mr Konstantinos Delakouridis, Mrs Georgia Bali, Mr Nicolaos Kalpaktsoglou, Mr Ilias Biberoglou, Mrs Valessia Theodoridou, Mrs Amalia Ioannidou,

Mrs Aristi-Heleni Athanaseskou, Mrs Maria Voudri,
Mrs Evanthia Akkordonidou, Mrs Maria Chryssi, Mr Ioannis Kaiktsoglou,
Mr Onoufrios Tsoukouroglou, Mr Athanassios Evgenidis,
Mr Serafim Kommatas, Mr Goulielmos Miskalas, Mrs Heleni Kontou,
Mrs Olympia Stavridou, Mrs Heleni Giouli, Mrs Alikì Okoumousoglou,
Mrs Maria Argalìotou, Mrs Poulcheria Platonidou-Pilotonidi,
Mr Dimitrios Koulas, Mr Georgios Gagaliðis, Mr Dimosthenis Kaloumenos,
Mrs Marika Frantzelopoulou, Mr Stavros Mandelioglou,
Mr Panayiotis Kantzañiros, Mrs Elissavet Nastradinidou,
Mrs Angeliki Zouboulouglou, Mr Michalis Gioltsoukoglou,
Mrs Vlacheria Glava-Tseliou, Mrs Maria Kelentinou,
Mrs Anastassia Daponte, Mrs Aikaterini Kostari, Mrs Argyro Gyzi,
Mrs Mersini Patruga, Mrs Maria Kanaki, Mr Socratis Vertoudakis,
Mr Zaharias Seimiris, Mr Ioannis Patounas, Mr Ioakim Christidis,
Mrs Ploumi Darentsou, Mr Antonios Alibertis, Mr Christos Leontaridis,
Mrs Maria Delasouda, Mr Dionysios Flabouriaris,
Mrs Angeliki Tektonidou, Mr Pantelis Angelidis, Mrs Margarita Doldouri,
Mrs Elissavet Meggisoglou, Mr Anastassios Novakos,
Mr Konstantinos Koutelas, Mrs Sofia Markopoulou, Mrs Marianthi Klidi,
Mrs Elissavet Theodoridou, Mrs Fotini Vaporidou,
Mrs Eleni Hamamtzioglou, Mrs Angeliki Kakkou, Mrs Antigoni Arapoglou,
Mr Andreas Kanakis, Mrs Loukia Pavlidou, Mr Avraam Doriadis,
Mrs Maria Sivaslioglou, Mr Dimitrios Naoum, Mr Georgios Karatzalidis
and Mr Alexandros Vaporidis.

The Government's application referred to Articles 44 and 48 (b) of the Convention (art. 44, art. 48-b) and Rule 32 of Rules of Court A. 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 lawyer who had represented the applicants before the Commission pointed out that he was having difficulty contacting them and asserted that the powers of attorney

produced before the Commission also covered the proceedings before the Court. On 26 April 1996 the President of the Chamber informed him that it was not necessary to produce further powers of attorney. The Turkish Government, having been notified by the Registrar of their right to intervene (Article 48 (b) of the Convention and Rule 33 para. 3 (b)) (art. 48-b), did not indicate any intention of so doing.

3. The Chamber to be constituted included ex officio Mr N. Valticos, the elected judge of Greek nationality (Article 43 of the Convention) (art. 43), and Mr R. Bernhardt, the Vice-President of the Court (Rule 21 para. 4 (b)). On 8 February 1996, 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 Thór Vilhjálmsson, Mr L.-E. Pettiti, Mr B. Walsh, Mr C. Russo, Mr G. Mifsud Bonnici, Mr D. Gotchev and Mr P. Kuris (Article 43 in fine of the Convention and Rule 21 para. 5) (art. 43). Subsequently, Mr P. Jambrek, substitute judge, replaced 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 applicants' lawyer and the Delegate of the Commission on the organisation of the proceedings (Rules 37 para. 1 and 38). Pursuant to the order made in consequence, the Registrar received the Government's memorial on 24 June 1996 and the applicants' memorial on 28 June.

On 26 April 1996 the President had given the applicants' lawyer leave to use the Greek language at the hearing (Rule 27 para. 3).

5. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 24 October 1996. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

(a) for the Government

Mr P. Georgakopoulos, Adviser,
Legal Council of State, Delegate of the Agent,
Mrs K. Grigoriou, Legal Assistant,
Legal Council of State, Counsel;

(b) for the Commission

Mr K. Herndl, Delegate;

(c) for the applicants

Mr S. Spetsakis, dikigoros (lawyer)
of the Athens Bar, Counsel.

The Court heard addresses by Mr Herndl, Mr Spetsakis and Mr Georgakopoulos.

The applicants and the Government filed a number of documents at the hearing.

AS TO THE FACTS

I. The circumstances of the case

6. The applicants, or in some cases their spouses, were born between 1902 and 1938 and worked as private-sector employees in Istanbul, Alexandria or Cairo between 1927 at the earliest and 1965 at the latest. Having been obliged to leave Turkey or Egypt, they settled permanently in Athens between 1960 and 1980.

A. The proceedings before the social-security bodies and the administrative courts

7. On various dates between 10 April 1973 and 13 September 1985 the applicants applied or renewed applications to the various social-security bodies in Athens or Piraeus (mostly to the Idryma Kinonikon Asfalisseon - "the IKA") for recognition of their entitlement to an old-age, invalidity or survivor's pension and for the reckonable period earned by insurance contributions paid by them and their employers in Turkey or Egypt to be recognised in Greece after they had bought back the appropriate years (Article 5 of Legislative Decree no. 4377/1964 - see paragraph 19 below).

These applications were refused by the relevant social-security bodies on the ground that they were out of time. In particular, they had been lodged after expiry of the mandatory time-limit of one year from the date of the applicants' permanent settlement in Greece, as laid down by Legislative Decrees nos. 4377/1964 and 4378/1964.

8. Between 7 July 1978 and 16 March 1986 the applicants appealed against the above decisions to the relevant appellate administrative authorities, namely either the local administrative committee (Topiki Diikitiki Epitropi) of the IKA office concerned or the board of governors of the appropriate social-security body.

These appeals to higher authority were dismissed between 25 July 1979 and 19 February 1987.

9. Between 13 May 1981 and 24 April 1987 the applicants applied to the Athens or Piraeus Administrative Courts (Trimeles Diikitiko Protodikeio) for judicial review of the decisions refusing their applications, but these courts gave judgment against them between 21 January 1983 and 22 November 1988.

10. Between 10 June 1983 and 6 April 1989 the applicants applied to the Supreme Administrative Court for judicial review of these judgments.

B. The proceedings in the Special Supreme Court

1. The application of 12 December 1988

11. On 12 December 1988, following two conflicting judgments given in 1988 by the Supreme Administrative Court (judgment no. 339/1988 - see paragraph 20 below) and the Court of Cassation (judgment no. 1731/1988 - see paragraph 21 below) on interpretation of section 31 of Law no. 1027/1980, which had made entitlement to a pension indefeasible, the applicants' lawyer applied to the Special Supreme Court (Anotato Idiko Dikastirio) asking it to settle the divergence of opinion between the two courts mentioned. The lodging of this application caused the stay of all the proceedings pending in the Supreme Administrative Court with the same object (section 50 (2) of Law no. 345/1976 - see paragraph 22 below), including the ninety-three applications lodged by the applicants.

12. On 30 June 1989 the Special Supreme Court endorsed the position adopted by the Supreme Administrative Court, ruling that the one-year time-limit laid down by Legislative Decree no. 4377/1964 was binding on the applicants (judgment no. 11/1989). It held, *inter alia*:

"It is clear from the wording of section 31 of Law no. 1027/1980, which provides that entitlement to a pension and retirement gratuity shall be indefeasible, and from the legislature's intention, as expressed in the preamble to the law in question, that indefeasibility covers only sums owed to an insured person in respect of a retirement pension which has already fallen due in accordance with the law, and does not abolish the mandatory time-limits laid down by various special enactments either for joining the social-security scheme, retrospectively or otherwise, or for recognition of the qualifying period of gainful employment necessary for entitlement to a pension to be conferred, as the Supreme Administrative Court held in its

judgment no. 339/1988. Consequently, with a view to settling the above-mentioned divergence of opinion, this Court endorses the position adopted by the Supreme Administrative Court in its judgment."

2. The applications relating to the judgment of 30 June 1989

13. In 1990 the applicants' lawyer lodged with the Special Supreme Court, on behalf of three of them, three applications for interpretation and rectification of the judgment of 30 June 1989.

14. In the first application, of 26 April 1990, he submitted, firstly, that the Special Supreme Court's decision settled the divergence of opinion not with regard to the meaning of section 31 (1) of Law no. 1027/1980 but with regard to the whole section, whereas each of its paragraphs contemplated a specific legal question, and secondly that the decision contained errors.

The Special Supreme Court held a hearing on 23 January 1991, deliberated on 8 June 1991 and gave judgment (no. 46/1991) on 1 July 1991. It dismissed the application on the ground that its judgment no. 11/1989 concerned the scope of section 31(1) and had become final.

15. On 7 June 1990 the applicants' lawyer lodged a second application in which he argued that the reasons for judgment no. 11/1989 gave rise to doubts about its meaning and that its operative provisions contained clerical errors and should be formulated more precisely. In the alternative, he argued that the judgments of the Supreme Administrative Court and the Court of Cassation had not interpreted the same provisions of Law no. 1027/1980.

On 1 July 1991 the Special Supreme Court declared the application inadmissible on the ground that the applicant had not produced before the hearing - which, moreover, neither he nor his lawyer had attended - a power of attorney empowering the latter to

represent him before it (judgment no. 47/1991).

16. The third application, of 21 September 1990, was based on the same arguments as the previous two.

The Special Supreme Court dismissed this application on 9 June 1991 (judgment no. 43/1991). It held that through his allegations the applicant was in fact claiming that judgment no. 11/1989 contained errors of substance in order to have it substantially amended. It noted that the errors mentioned by the applicant that allegedly distorted the meaning of the reasons were clerical errors which had occurred when the final text of the judgment was being prepared.

17. Between 3 February 1992 and 29 June 1993 the Supreme Administrative Court dismissed the applications for judicial review lodged by the applicants between 10 June 1983 and 6 April 1989 (see paragraph 10 above).

II. Relevant domestic law

A. The Code of Civil Procedure

18. Article 316 of the Code of Civil Procedure, which also applies to proceedings in the Special Supreme Court, provides:

"Where the judgment is worded in such a way that it creates doubts, or where it is imprecise, the court which has given judgment may, on an application by one of the parties, interpret it in a fresh judgment so that the meaning becomes unambiguous. However, interpretation may never entail amendment of the operative provisions of the interpreted judgment."

Article 575, which applies by analogy to the proceedings in the Supreme Administrative Court, provides:

"Adjournments

The Court of Cassation may, at the request of State Counsel, the reporting judge or one of the parties, or even of its own motion, adjourn the trial once only to a later date, which shall be fixed immediately and recorded on its list. A further adjournment may be ordered only at the request of the reporting judge."

B. Legislative Decrees nos. 4377/1964 and 4378/1964

19. Article 5 para. 1 of Legislative Decree no. 4377/1964 provides:

"The persons referred to in the first paragraph of the first Article of the present decree shall have the right to be insured by the social-security bodies as regards primary and secondary social-security benefits in Greece, in accordance with the rules of those bodies currently in force, on account of their gainful employment in the southern province of the United Arab Republic [Egypt] on the basis of an application which must be lodged with the relevant body within one year from publication of the present decree or from the date of their arrival in Greece, if the latter follows publication of the present decree.

The persons insured under paragraph 1 of the present Article shall have the right, notwithstanding existing provisions, to recognise or buy back, in whole or in part, the aggregate period of their gainful employment in the same occupation in the southern province of the United Arab Republic, even where such recognition or buying back is not provided for in the provisions in force.

An application to recognise or buy back must be submitted

within the time-limit laid down in the first paragraph of the present Article, buying back consisting in payment by the person concerned of the relevant insured person's contributions, and the employer's contributions where these are also compulsory, at the rate in force at the time when the application is lodged."

The time-limit laid down in this provision was extended by one year by Article 2 para. 3 of Legislative Decree no. 4377/1964, then by two further years by Article 2 para. 6, that is until 30 June 1967.

Under Legislative Decree no. 4378/1964 the provisions of Legislative Decree no. 4377/1964 were extended to Greek nationals and persons of Greek origin who had already been expelled from Turkey or were on the point of being expelled or were obliged to leave Turkey because they could not obtain work permits or because their residence permits had not been renewed.

C. The Supreme Administrative Court's judgment of
16 February 1988

20. In a judgment (no. 339/1988) of 16 February 1988 the Supreme Administrative Court decided that section 31(1) of Law no. 1027/1980 had not abolished the one-year time-limit laid down by Legislative Decree no. 4377/1964. It held:

"Section 31 (1) of Law no. 1027/1980, which provides that entitlement to a pension shall be indefeasible, does not affect the above-mentioned mandatory time-limit, since it concerns cases in which the conditions for entitlement are already satisfied. It does not, therefore, concern cases where the question arises whether a right to social security exists or whether years of gainful employment should be recognised with a view to establishing that right. Nor does this Court consider that there is an acquired right based on the fact that the number of days of employment of

Greek nationals is evidenced directly by a consular certificate, since the IKA is under a statutory duty to take such a certificate into consideration as proof of recognition of the period of employment concerned, but recognition itself takes effect on the date of the relevant decision of the IKA ..."

D. The Court of Cassation's judgment of 29 November 1988

21. On the other hand, in a case that did not concern the applicants but raised the problem of the compatibility of section 31 of Law no. 1027/1980 with two other legislative decrees which had laid down for contributors to the miners' insurance fund the same type of time-limit as Legislative Decrees nos. 4377/1964 and 4378/1964, the Court of Cassation gave judgment (no. 1731/1988) to the opposite effect.

E. Law no. 345/1976 approving the Code relating to Article 100 of the Constitution establishing the Special Supreme Court

22. The relevant sections of Law no. 345/1976 are worded as follows:

Section 50 (2)

"Every court in which a case is pending to which are applicable the provisions of a law concerning which there is a divergence of interpretation that has been submitted to the Special Supreme Court ... shall, as soon as it becomes aware of such a divergence of interpretation, defer judgment until such time as the Special Supreme Court has ruled."

Section 51

"1. A judgment in which the Special Supreme Court rules on a question concerning the constitutionality or interpretation

of a law shall be binding erga omnes from the time when it is delivered at a public hearing ...

2. An appeal in accordance with the prescribed judicial procedures shall lie against judicial and administrative decisions taken after publication of the above-mentioned judgment of the Special Supreme Court which are incompatible with it. In particular, if such a decision has been taken by the Court of Cassation, the Supreme Administrative Court or the Court of Audit, all interested parties may lodge an application for retrial within ninety days of the judgment concerned, in accordance with the procedure in force in each of those courts.

3. The provisions of the preceding paragraph shall also apply to judicial decisions given before the Special Supreme Court's judgment which are in breach of sections 48 (2) and 50 (3). In such cases applications for a retrial shall be lodged within ninety days of the Special Supreme Court's judgment."

PROCEEDINGS BEFORE THE COMMISSION

23. The applicants applied to the Commission on various dates between 28 July 1992 and 30 September 1993. They alleged breaches of Article 6 para. 1 of the Convention (art. 6-1) and Article 1 of Protocol No. 1 (P1-1); in addition, some of them alleged a breach of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 (art. 14+P1-1).

24. Between 30 June 1993 and 17 May 1994 and then between 29 June and 12 October 1994 the Commission declared the applications (the first of which was no. 20416/92 and the last no. 22857/93) admissible as regards the complaint relating to the unreasonable length of the proceedings and inadmissible as to the remainder. In its report of 6 September 1995 (Article 31) (art. 31) it expressed the opinion by

twelve votes to one that there had been a violation of Article 6 para. 1 of the Convention (art. 6-1). The full text of the Commission's opinion is reproduced as an annex to this judgment (1).

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 1997-II), but a copy of the Commission's report is obtainable from the registry.

FINAL SUBMISSIONS TO THE COURT BY THE GOVERNMENT

25. In their memorial the Government argued in conclusion:

"... taking into consideration the nature of the dispute brought before the courts, the particular features of the case and the judicial results in combination with the conduct of the applicants ... their applications must be rejected, since neither can their claims fall within the notion of civil rights in the meaning of Article 6 para. 1 of the Convention (art. 6-1), nor did the length of relevant judicial proceedings before domestic courts exceed [a] reasonable time ..."

AS TO THE LAW

I. THE SITUATION OF Mr KARATZALIDIS AND Mr VAPORIDIS

26. It appears from the file that Mr Karatzalidis and Mr Vaporidis died in 1983 and 1990 respectively, while the proceedings concerning them in the Greek courts were still pending. Moreover, the applicants' lawyer himself omitted them from the list of applicants he submitted in his memorial to the Court.

As regards the former, the Court notes that although the deceased applicant's heirs instructed his lawyer to continue the proceedings in the Supreme Administrative Court, they did not authorise him to refer the case to the Commission.

As regards the latter, his widow, who is also one of the applicants, produced a power of attorney covering the proceedings before the Convention institutions.

The Court therefore considers that Mr Karatzalidis's case only should be severed from those of the other applicants and that it should be struck out of its list.

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

27. The applicants alleged that their case had not been heard within the "reasonable time" required by 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 ..."

A. Applicability of Article 6 para. 1 (art. 6-1)

28. The Commission considered that this provision (art. 6-1) was applicable in the case, whereas the Government argued to the contrary.

29. According to the Government, the dispute submitted to the Greek courts did not concern the applicants' entitlement, as insured persons, to the benefits provided by a social-security scheme, but the possibility of joining such a scheme under certain specific conditions, regarding in particular the time-limit within which they should have submitted their applications. That feature distinguished the present case from all those the Court had previously had to deal with

concerning the payment of allowances under various social-security schemes on account of the fact that the contingency insured against had occurred. The provisions of Legislative Decrees nos. 4377/1964 and 4378/1964 could not be equated with those governing ordinary social-security schemes or private insurance schemes, and the rights set forth therein were not social-welfare benefits. Furthermore, the applicants were not entitled to a pension on the basis of either a bilateral agreement between States or previous employment within Greek territory. The provisions concerned pursued an objective in the general interest, namely providing protection and assistance to Greek nationals and persons of Greek origin who had fled the countries in which they were once settled and to whom the State wished to extend special help. That being the case, the relations between the applicants and the State were an exclusively public-law matter. Accordingly, in the present case there was no dispute over a civil right such that Article 6 para. 1 (art. 6-1) was brought into play.

30. The Court can see no reason to depart from its established case-law on this question. It notes that the applicants were private-sector employees who had been affiliated, while they worked in Turkey or Egypt, to those countries' social-security schemes. After settling in Greece they were given the opportunity by Legislative Decrees nos. 4377/1964 and 4378/1964 to secure recognition of their reckonable years of employment in Turkey and Egypt and to receive - after buying back employee's and employer's contributions - a pension to be paid to them by the Greek social-security bodies (see paragraph 19 above).

Despite the public-law features pointed out by the Government, the applicants were not only affected in their relations with the administrative authorities as such but also suffered an interference with their means of subsistence. They were claiming an individual, economic right derived from specific rules laid down in the above-mentioned Greek legislation (see, *mutatis mutandis*, the *Schuler-Zgraggen v. Switzerland* judgment of 24 June 1993, Series A

no. 263, p. 17, para. 46).

As regards the object of the proceedings in the Greek courts, to which the Government referred, the Court notes that these proceedings concerned the question whether the one-year time-limit within which the applicants had to submit their applications in order to have the benefit of the provisions of the above-mentioned legislative decrees (see paragraphs 7 and 19 above) was binding on them. The outcome of these proceedings was therefore directly "decisive for civil rights and obligations".

It follows that Article 6 para. 1 (art. 6-1) is applicable in the case.

B. Compliance with Article 6 para. 1 (art. 6-1)

31. It remains to be determined whether a "reasonable time" was exceeded.

32. The Commission answered this question in the affirmative, the Government in the negative.

33. The period to be taken into consideration began on 20 November 1985, when the Greek declaration recognising the right of individual petition took effect. Depending on the applicant concerned, it ended on various dates between 3 February 1992 and 29 June 1993, that is to say when the Supreme Administrative Court delivered the judgments dismissing the applications for judicial review lodged by the applicants between 10 June 1983 and 6 April 1989 (see paragraphs 10 and 17 above). The period in question therefore lasted six years, two months and thirteen days at the shortest (cases of Mrs Mitakosta, Mr Voudris, Mr Noussis, Mrs Dilopoulou, Mrs Soyantzoglou, Mr Tziberaltis, Mr Theodoridis and Mrs Ondatzi) and seven years, seven months and nine days at the longest (case of Mr Naoum).

However, in order to determine whether the time which elapsed

was reasonable, it is also necessary to take into account the state of the proceedings on the critical date. In that connection, the Court notes that the appeals to the appellate administrative authorities in social-security matters - a step which the applicants had to take before they could submit their cases to the Athens or Piraeus Administrative Courts - were made between 7 July 1978 and 16 March 1986 (see paragraph 8 above). On the critical date, therefore, the longest proceedings - those concerning Mr Seimiris - had already lasted more than seven years.

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

35. The Government argued that the applicants' lawyer had contributed through his conduct to the length of the proceedings in issue by presenting the applicants' cases to the Supreme Administrative Court as separate cases, whereas they all had the same factual and legal basis. Moreover, the Supreme Administrative Court, in its judgment no. 339/1988, had made a final determination of the issue for all the applicants (see paragraphs 11 and 20 above). The Court of Cassation's judgment no. 1731/1988, which gave a different interpretation of section 31 of Law no. 1027/1980 (see paragraphs 11 and 20 above), concerned a completely different case from the one decided by the Supreme Administrative Court. By lodging, in addition, three applications for rectification or interpretation of the Special Supreme Court's judgment no. 11/1989, the applicants' lawyer was in fact attempting to delay proceedings whose unfavourable outcome for his clients was not in any doubt, although he knew perfectly well that it was impossible to obtain rectification of that judgment. Lastly, not only had he not withdrawn the applications for judicial review pending in the Supreme Administrative Court - whose rejection was certain after the Special Supreme Court's judgment - but he had even caused the adjournment of certain cases due to be heard by

the Supreme Administrative Court on 21 October 1991. According to the Government, the applicants' lawyer stated that he did not know whether his clients were still alive and that he did not have authority to act for them in that court.

36. The Court notes in the first place that the cases in issue were not at all complex; they concerned determination of the time-limit within which the applicants had to submit their applications in order to be allowed the benefit of the provisions of Legislative Decrees nos. 4377/1964 and 4378/1964.

37. The Government's arguments to the effect that the applicants were responsible for the length of the proceedings in issue do not convince the Court.

When the applicants' lawyer applied to the Special Supreme Court asking it to settle the divergence of opinion between the Supreme Administrative Court and the Court of Cassation concerning the meaning of section 31 of Law no. 1027/1980 (see paragraph 11 above) this caused the stay of all the proceedings pending in the Supreme Administrative Court with the same object, pursuant to section 50 (2) of Law no. 345/1976 (see paragraph 22 above). However, such a stay should have lasted only for the time the Special Supreme Court needed to give judgment, that is from 12 December 1988 to 30 June 1989 (see paragraphs 11-12 above); the three subsequent applications for interpretation of the judgment of 30 June 1989 (see paragraphs 13-16 above) could not in any circumstances have led to amendment of the operative provisions of the interpreted judgment (Article 316 of the Code of Civil Procedure - see paragraph 18 above). However, the Supreme Administrative Court, with which the applicants' applications for judicial review had been lodged on various dates between 10 June 1983 and 6 April 1989 (see paragraph 10 above), did not begin to deliver its judgments against them until 3 February 1992 (see paragraph 17 above). Moreover, like the Commission, the Court notes that when the proceedings were stayed pursuant to statute, on 12 December 1988, the time already taken

to consider each case, from the date when it was referred to the appellate administrative authority in social-security matters, varied between two years, nine months and four days at the shortest (case of Mrs Darentsou) and ten years, five months and five days at the longest (case of Mrs Glava).

Furthermore, the applicants' lawyer could not have joined all their cases in order to submit just one application for judicial review to the Supreme Administrative Court, as the Government appeared to argue. If he had done so, the Supreme Administrative Court would have rejected the application as being out of time since the decisions of the social-security bodies and the relevant appellate administrative authorities, and the judgments of the Athens and Piraeus Administrative Courts, had been given on different dates.

Lastly, the Court notes that Article 575 of the Code of Civil Procedure (see paragraph 18 above) authorises a maximum of two adjournments, only one of which may be at counsel's request. But the verbatim transcript of the hearing on 21 October 1991 before the Supreme Administrative Court, produced by the applicants' lawyer, reveals that in most of their cases there had been an average of five to six adjournments, and sometimes even nine (case of Mrs Tektonidou) or eleven (case of Mr Tziberaltis).

38. Having regard to all the circumstances of the case and what was at stake in the proceedings for the applicants - whose conduct was not above reproach - the Court cannot regard as "reasonable" the length of time which elapsed in the present case. It follows that there has been a breach of Article 6 para. 1 (art. 6-1).

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

39. 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. Non-pecuniary damage

40. The applicants claimed 3,000,000 drachmas (GRD) each for non-pecuniary damage resulting from the long period of uncertainty during which they had lived without financial and medical assistance.

41. The Government submitted that the Supreme Administrative Court's case-law in similar cases left the applicants in no doubt whatsoever as to the outcome of the proceedings in issue. Their only hope, while waiting for a favourable solution to appear *ex machina*, lay in delay. That was why they had tried to keep the proceedings going for as long as they could. In view of their conduct, a finding that there had been a breach of the Convention would give them sufficient just satisfaction. If, however, the Court were to consider the payment of compensation justified, such compensation should not exceed GRD 100,000 for each applicant.

42. The Delegate of the Commission made no observation.

43. The Court considers that the applicants should be paid compensation for non-pecuniary damage and awards each of them GRD 500,000 under this head.

B. Costs and expenses

44. The applicants also claimed GRD 3,000,000 each for the costs and expenses relating to the proceedings in Greece and in Strasbourg.

45. The Government drew attention to the vagueness of the

applicants' claims under this head and asked the Court to dismiss those relating to the costs incurred before the social-security bodies and the administrative courts since these had absolutely nothing to do with the question of "reasonable time". As regards the proceedings before the Convention institutions, they emphasised that, notwithstanding the large number of cases, the applications were all similar.

46. The Delegate of the Commission made no observation.

47. Making an assessment on an equitable basis and having regard to the criteria it applies on this question, the Court awards the applicants jointly GRD 2,000,000.

C. Default interest

48. According to the information available to the Court, the statutory rate of interest applicable in Greece at the date of adoption of the present judgment is 6% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Severs the case of Mr Karatzalidis from those of the other applicants and strikes it out of its list;
2. Holds that Article 6 para. 1 of the Convention (art. 6-1) is applicable in the case and has been breached;
3. Holds that the respondent State is to pay, within three months, each of the applicants 500,000 (five hundred thousand) drachmas for non-pecuniary damage and all applicants jointly 2,000,000 (two million) drachmas for costs and expenses, and that simple interest at an annual rate of 6% shall be payable from the expiry of the above-mentioned three months until settlement.

Done in English and in French, and delivered at a public
hearing in the Human Rights Building, Strasbourg, on 19 March 1997.

Signed: Rudolf BERNHARDT

President

Signed: Herbert PETZOLD

Registrar