



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

COURT (CHAMBER)

CASE OF PHILIS v. GREECE (No. 2)

(Application no. 19773/92)

JUDGMENT

STRASBOURG

27 June 1997

In the case of Philis v. Greece (no. 2)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 A², as a Chamber composed of the following judges:

Mr R. BERNHARDT, *President*,

Mr B. WALSH,

Mr N. VALTICOS,

Mrs E. PALM,

Mr L. WILDHABER,

Mr P. JAMBREK,

Mr K. JUNGWIERT,

Mr E. LEVITS,

Mr J. CASADEVALL,

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

Having deliberated in private on 22 February and 29 May 1997,

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

PROCEDURE

1. The case was referred to the Court by the Greek Government ("the Government") on 6 May 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 an application (no. 19773/92) against the Hellenic Republic lodged with the European Commission of Human Rights ("the Commission") under Article 25 (art. 25) by a Greek national, Mr Nicolas Philis, on 15 January 1992.

The Government's application referred to Articles 44 and 48 of the Convention (art. 44, art. 48). Its object 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).

¹ The case is numbered 65/1996/684/874. 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.

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 lawyers who would represent him (Rule 30).

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 10 June 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 F. Gölcüklü, Mr B. Walsh, Mrs E. Palm, Mr L. Wildhaber, Mr K. Jungwiert, Mr E. Levits and Mr J. Casadevall, (Article 43 in fine of the Convention and Rule 21 para. 5) (art. 43). Subsequently Mr P. Jambrek, substitute judge, replaced Mr Gölcüklü, 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's lawyers 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 and the applicant's memorials on 16 December 1996.

5. On 30 January 1997 the applicant was granted legal aid (Rule 4 of the Addendum to Rules of Court A). On 13 February 1997 he lodged an additional claim for costs and expenses in respect of his representation at the hearing before the Court.

6. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 18 February 1997. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

(a) for the Government

Mr G. KANELLOPOULOS, Senior Adviser,

Legal Council of State,

Delegate of the Agent,

Mr V. KYRIAZOPOULOS, Legal Assistant,

Legal Council of State,

Counsel;

(b) for the Commission

Mr C.L. ROZAKIS,

Delegate;

(c) for the applicant

Mr P. DUFFY, Barrister-at-Law,

Miss M. DEMETRIOU, Barrister-at-Law,

Counsel,

Mr S. GROSZ, Solicitor,

Miss J. SOHRAB,

Advisers,

Mr N. PHILIS, Applicant.

The Court heard addresses by Mr Rozakis, Mr Duffy, Mr Philis and Mr Kanellopoulos.

AS TO THE FACTS

I. CIRCUMSTANCES OF THE CASE

7. Mr Philis, a Greek citizen born in 1937, lives in Athens, where, at the material time, he was working as an engineer.

In 1987 Mr Philis had already filed a different application that led the Court to find that the applicant's right of access to a court had been violated (judgment of 27 August 1991, Series A no. 209).

A. The criminal proceedings

8. On 14 April 1986, during proceedings he had brought against officials of the Autonomous Organisation for Labour Housing (Aftonomos Organismos Ergatikis Katikias - "the AOEK"), the applicant sent the Indictment Division of the Athens Court of Appeal (Symvoulío Efeton) a pleading in which he argued that the procedure followed by the relevant authorities in connection with the various legal proceedings he had brought left no doubt that there was bias in favour of the AOEK's officials, and that the delays in the proceedings were plainly intended to ensure that the limitation period for the offences would run out.

9. On 25 April 1986 the public prosecutor at the Athens Court of Appeal (Isageleas Efeton) forwarded the pleading to the public prosecutor at the Athens Criminal Court (Isageleas Plimmielodikon) and recommended that the applicant should be charged with insulting the judiciary. On 30 April 1986 the prosecutor at the Criminal Court ordered a preliminary investigation (see paragraph 23 below).

10. On 9 October 1986 Mr Philis appeared before the investigating judge. He denied the charges and informed the judge that he intended to file a pleading by 15 October 1986. In the pleading, which he filed on 14 October 1986, he applied for several witnesses to be heard. Four witnesses were examined between 10 November and 20 November 1986. On 20 January 1987 the investigating judge sent the file to the prosecutor.

11. On 20 March 1987 the prosecutor asked the investigating judge to complete the file by ordering the applicant to send him a number of court decisions mentioned in the pleading of 14 October 1986. On 11 June 1987 Mr Philis submitted those decisions, together with another pleading. On 12 June 1987 the investigating judge forwarded these to the prosecutor.

12. On 5 October 1987 the prosecutor charged the applicant with insulting the judiciary and set the case down for trial on 12 October 1988 by the Athens Criminal Court sitting with three judges (Trimeles Plimmielodikio). On 13 September 1988 the applicant was summoned to appear before that court on 12 October 1988. On 22 September 1988 he

made an application under Article 322 of the Code of Criminal Procedure to be examined by an indictment division, but this was refused by the prosecutor at the Court of Appeal on 30 September 1988.

13. On 12 October 1988 the Athens Criminal Court convicted Mr Philis and sentenced him to five months' imprisonment, a penalty which was converted into a fine of 400 drachmas per day. The applicant immediately appealed, thereby causing execution of his sentence to be stayed (see paragraph 24 below).

14. On 5 November 1990 the Athens Court of Appeal adjourned the case, but on 25 October 1991 it allowed the appeal and quashed Mr Philis's conviction.

15. The Court of Appeal's judgment and the record of the hearing were finalised (*katharographi*) on 19 November 1991 and served on the applicant on 28 November 1991. On 9 December 1991 the applicant applied to the Court of Appeal to have them rectified and supplemented. On 15 April 1992 the court ruled that the application was inadmissible on the ground that it had not been made within twenty days of delivery of the judgment on 25 October 1991.

16. Under Articles 473 and 506 of the Code of Criminal Procedure, the prosecutor had a right of appeal on points of law against the Court of Appeal's judgment, to be exercised within ten days of the finalisation of that judgment. He did not, however, avail himself of that right, with the result that the Court of Appeal's judgment became final on 29 November 1991.

B. The disciplinary proceedings

17. On 2 August 1982 the AOEK complained to the Greek Chamber of Technology (*Techniko Epimelitirio Ellados* - "the TEE") of the various proceedings brought by Mr Philis against the AOEK and some of its engineers. The chairman of the TEE's disciplinary board then initiated disciplinary proceedings against the applicant for improper conduct. On 14 November 1983 the charges were drawn and a rapporteur appointed. On 9 March 1984 the disciplinary board decided to adjourn the case as the chairman of the AOEK, who had been called to give evidence, had not appeared. On 20 November 1984 the disciplinary board suspended the applicant from practising his profession for ten months.

18. Mr Philis was notified of that decision on 7 June 1985. On 21 June 1985 he appealed to the TEE's Supreme Disciplinary Council within the prescribed two weeks, thereby causing his suspension to be stayed (see paragraph 28 below). On 14 April and 18 May 1992 he wrote to the TEE requesting it to inform him of the outcome of his appeal. On 22 May 1992 the TEE replied that the case was being considered by one of the members of the Supreme Disciplinary Council acting as rapporteur and that a hearing would be held when he had submitted his report.

19. By a letter of 17 February 1993 the applicant was invited to attend the Supreme Disciplinary Council hearing on 10 March 1993. On 5 March 1993 he challenged all the Council's members and asked for the guarantees in Article 6 of the Convention (art. 6) to be respected at the hearing.

20. On 10 March 1993 the Supreme Disciplinary Council rejected that request. It allowed the appeal, however, and completely exonerated the applicant.

21. On 2 April 1993 Mr Philis sought rectification of the decision of 10 March 1993. On 26 April 1993 the Supreme Disciplinary Council answered the points raised by the applicant in his request but did not rectify its decision.

II. RELEVANT DOMESTIC LAW

A. The Code of Criminal Procedure

22. Under Article 36 of the Code of Criminal Procedure, criminal proceedings may be initiated of the authorities' own motion following a report, a complaint or any other information indicating that an offence may have been committed.

23. The public prosecutor is then required to order a preliminary investigation or to commit the accused for trial directly, where this is possible. If the complaint or report in question is without foundation, the public prosecutor takes no further action (Article 43).

24. Where an appeal is lodged in accordance with the law and within the prescribed time-limit, execution of the judgment against which it has been brought is stayed (Articles 471 and 497).

25. Under Article 370, criminal proceedings end when the accused has been found guilty or innocent.

B. Provisions governing disciplinary proceedings

26. Disciplinary proceedings in the Greek Chamber of Technology are governed by the presidential decree of 27 November and 14 December 1926, as amended by Article 1 of Legislative Decree no. 783/1970, and by Law no. 1486/1984.

27. Article 28 of the above-mentioned presidential decree provides that, at first instance, disciplinary offences by members of the TEE come under the jurisdiction of disciplinary boards.

28. Under Article 32 para. 1, an appeal lies against disciplinary board decisions. Appeals must be lodged with the Supreme Disciplinary Council within two weeks of notification of the decision in question. The appeal has a suspensive effect.

29. Article 34 provides that disciplinary proceedings are separate from other proceedings and are not stayed on account of criminal proceedings. However, in exceptional circumstances, a disciplinary board may stay disciplinary proceedings until criminal proceedings have ended, while remaining free to give a decision that differs from the criminal court's judgment. Where there is a conviction in criminal proceedings, disciplinary proceedings that have led to an acquittal or a reprimand will be reopened.

PROCEEDINGS BEFORE THE COMMISSION

30. In his application to the Commission of 15 January 1992 (no. 19773/92) Mr Philis complained of five different sets of civil, criminal or disciplinary proceedings. He submitted that these proceedings - some of which had been brought against him, others by him - had entailed violations of Articles 6, 8 and 14 of the Convention (art. 6, art. 8, art. 14) and Article 1 of Protocol No. 1 (P1-1).

31. In decisions of 13 August 1994 and 24 May 1995 the Commission declared admissible the complaints of a violation of Article 6 (art. 6) in that a reasonable time had been exceeded in two of the sets of proceedings complained of, and declared the remainder of the application inadmissible. In its report of 16 January 1996 (Article 31) (art. 31), it expressed the unanimous opinion that there had been a violation of that provision (art. 6) in both sets of proceedings. The full text of the Commission's opinion is reproduced as an annex to this judgment³.

FINAL SUBMISSIONS TO THE COURT

32. In their memorial the Government requested the Court to "reject the entire appeal lodged by Mr Nicolas Philis".

33. The applicant in his memorial requested the Court to

"hold:

(1) that, in the criminal proceedings instituted against the AOEK's officials, there has been a violation of Article 6 para. 1 (art. 6-1) as regards the applicant's right to a court or to a fair hearing by an independent and impartial tribunal;

³ For practical reasons this annex will appear only with the printed version of the judgment (in Reports of Judgments and Decisions 1997-IV), but a copy of the Commission's report is obtainable from the registry.

(2) that, in the criminal proceedings instituted against the AOEK's officials, there has been a violation of Article 6 para. 1 (art. 6-1) [for failure to comply with] the 'reasonable time' requirement;

(3) that, in the criminal proceedings instituted against the applicant, there has been a violation of Article 6 para. 1 (art. 6-1) [for failure to comply with] the 'reasonable time' requirement;

(4) that, in the criminal proceedings instituted against the applicant, there has been a violation of Article 6 para. 1 (art. 6-1) [for failure to comply with] the 'rule of law' and [on account of a] 'denial of justice';

(5) that, in the disciplinary proceedings, there has been a violation of Article 6 para. 1 (art. 6-1) [for failure to comply with] the 'reasonable time' requirement;

(6) that, in the disciplinary proceedings, there has been a violation of Article 6 para. 1 (art. 6-1) [on account of a] 'denial of justice';

(7) that there has been a violation of Article 8 and of Article 1 of Protocol No. 1 taken together and in conjunction with Article 6 para. 1 (art. 8+P1-1+6-1);

(8) that there has been a violation of Article 13 (art. 13)".

AS TO THE LAW

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

34. The applicant complained of the excessive length of the criminal proceedings (see paragraphs 8-16 above) and the disciplinary proceedings (see paragraphs 17-21 above) instituted against him. He 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 or of any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

The Government disputed that submission, while the Commission accepted it.

35. The Court reiterates at the outset that 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 its case-law, in particular the complexity of the case and the conduct of the applicant and of the relevant authorities (see, among many other authorities, the *Kemmache v. France* (nos. 1 and 2) judgment of 27 November 1991, Series A no. 218, p. 27, para. 60). It is necessary among other things to take

account of the importance of what is at stake for the applicant in the litigation (see, for instance, the *Phocas v. France* judgment of 23 April 1996, Reports of Judgments and Decisions 1996-II, p. 546, para. 71).

A. The reasonableness of the length of the criminal proceedings

36. As the Court has been unable to ascertain when notice of the investigation was first served on the applicant or when he was first affected by it, it shares the Commission's view that the period to be taken into consideration began on 9 October 1986, when Mr Philis first appeared before the investigating judge (see paragraph 10 above); it ended on 29 November 1991, when the Court of Appeal's decision quashing his conviction became final (see paragraphs 15 and 16 above). As the latter date marked the end of the criminal proceedings (see paragraph 25 above), the Court cannot accept the applicant's submission that there had not yet been a ruling on the merits of the charge because of the Court of Appeal's allegedly unlawful refusal to rectify its judgment of 25 October 1991.

Consequently, the period to be taken into consideration under this head lasted more than five years.

37. The applicant argued that his right to address a court freely had been in issue, that the case had been simple and that his conduct had not delayed the proceedings. The judicial authorities had been wholly responsible for the excessive length of the proceedings.

38. The Commission pointed out that there had been a period of inactivity imputable to the State from 12 October 1988, when the applicant appealed against his conviction at first instance (see paragraph 13 above), until 25 October 1991, when his conviction was quashed by the Athens Court of Appeal (see paragraph 14 above). It considered that the Government had not provided any satisfactory explanation for the delay, since the Athens Court of Appeal's excessive caseload was not a convincing argument.

39. The Government submitted that there had been no long adjournments or delays at any of the three stages in the proceedings (during the preliminary investigation, at first instance and on appeal). The first two stages had each lasted approximately one year. With regard to the third stage, the Government maintained that the Athens Court of Appeal had had a backlog of cases and that there had been no special feature of the case which justified giving it priority as the applicant had not been in custody. Lastly, the adjournment on 5 November 1990 (see paragraph 14 above) had been due to organisational difficulties for which the judicial authorities had not been responsible.

40. The Court notes that the case was not particularly complex and that the applicant was not in any way responsible for the length of the proceedings. It also observes that Mr Philis was convicted at first instance

(see paragraph 13 above) and agrees with the Commission that there was a period of inactivity of approximately three years between the date of his appeal and the date on which his conviction was quashed. Such a period may be considered reasonable only in exceptional circumstances which the respondent State must account for. In this connection, the Government pleaded the excessive caseload of the Court of Appeal and organisational difficulties it had encountered. However, as the Court has repeatedly held, Article 6 para. 1 (art. 6-1) imposes on Contracting States the duty to organise their judicial systems in such a way that their courts can meet each of its requirements, including the obligation to hear cases within a reasonable time (see, as the most recent authority, the *Süßmann v. Germany* judgment of 16 September 1996, Reports 1996-IV, p. 1174, para. 55).

41. Accordingly, and taking into account what was at stake for Mr Philis in the proceedings, the Court cannot regard the period of time that elapsed in the instant case as reasonable.

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

B. The reasonableness of the length of the disciplinary proceedings

42. The applicant also maintained that the excessive length of the disciplinary proceedings instituted against him had contravened Article 6 para. 1 (art. 6-1). He argued that the case had concerned only one simple point of law and that he had not in any way contributed to the delays.

43. The Commission noted that there had been a period of inactivity of more than seven years between the lodging of the appeal against the penalty imposed at first instance (see paragraph 18 above) and the date on which the Supreme Disciplinary Council ruled on the appeal (see paragraph 20 above). It considered that Mr Philis could not be held responsible for the delay and that the Government had not provided any convincing explanation for it.

44. The Government argued that Article 6 para. 1 (art. 6-1) did not apply in the instant case as the outcome of the proceedings was not directly decisive for the applicant's civil right to practise his profession. As the suspension from practising his profession for ten months imposed by the disciplinary board (see paragraph 17 above) had been stayed throughout the appeal proceedings and had then been quashed by the Supreme Disciplinary Council (see paragraph 20 above), Mr Philis had never been deprived of his rights.

In the alternative, the Government contended that in any event the proceedings before 20 November 1985, when Greece's recognition of the right of individual petition had taken effect, were outside the Court's jurisdiction *ratione temporis*. Moreover, in the applicant's interests, the Supreme Disciplinary Council had deferred its decision until judgment had been given in the various civil and criminal proceedings between him and

the AOEK. As Mr Philis had never tried to expedite the proceedings, he had tacitly agreed to the deferment.

45. The Court does not accept the Government's submission. Concerning the argument that Article 6 para. 1 (art. 6-1) does not apply in the present case, the Court reiterates that it is clear from its settled case-law that disciplinary proceedings in which, as in the instant case, the right to continue to practise a profession is at stake give rise to "contestations (disputes) over civil rights" within the meaning of Article 6 para. 1 (art. 6-1) (see, among other authorities, the following judgments: *König v. Germany*, 28 June 1978, Series A no. 27, pp. 29-32, paras. 87-95; *Le Compte, Van Leuven and De Meyere v. Belgium*, 23 June 1981, Series A no. 43, pp. 19-23, paras. 41-51; *Albert and Le Compte v. Belgium*, 10 February 1983, Series A no. 58, pp. 14-16, paras. 25-29; and *Diennet v. France*, 26 September 1995, Series A no. 325-A, p. 13, para. 27). It goes without saying that the procedural guarantees of Article 6 para. 1 (art. 6-1) apply to all litigants, not just those who have not won their case in the national courts.

46. The Court agrees with the Commission that the period to be taken into consideration began at the latest on 14 November 1983, when the disciplinary charges against the applicant were drawn (see paragraph 17 above). Like the Commission, the Court acquired jurisdiction *ratione temporis* when Greece's recognition of the right of individual petition took effect on 20 November 1985. However, in order to assess the reasonableness of the length of time which elapsed after that date, regard must be had to the state of the case at the time (see, among other authorities, the *Foti and Others v. Italy* judgment of 10 December 1982, Series A no. 56, pp. 18-19, para. 53, and the *Zappia v. Italy* judgment of 26 September 1996, Reports 1996-IV, p. 1412, para. 22). The proceedings ended on 10 March 1993, when the Supreme Disciplinary Council completely exonerated Mr Philis (see paragraph 20 above). While the applicant argued that the proceedings had not yet ended as the Supreme Disciplinary Council had refused to rectify its decision (see paragraph 21 above), he failed to show how the outcome of such a rectification could affect his right to practise his profession.

The Court must accordingly rule on the reasonableness of disciplinary proceedings which lasted more than nine years, seven of which were within the jurisdiction *ratione temporis* of the Convention institutions.

47. In that connection the Court notes, as did the Commission, that there was a long period of inactivity between the lodging of Mr Philis's appeal with the Supreme Disciplinary Council in June 1985 and the hearing in March 1993 (see paragraphs 18 and 20 above).

48. The Court observes that the Government did not dispute the applicant's argument, which the Commission accepted, that the case was not complex. As to the Government's submission that consideration of the

appeal had been deferred pending the outcome of other court proceedings, the Court notes that the Supreme Disciplinary Council never expressly ordered that deferment. Moreover, there was no binding statutory obligation on it to defer its decision as disciplinary bodies are free under Article 34 of the presidential decree of 27 November and 14 December 1926 (see paragraph 29 above) to give a decision that differs from a conviction in criminal proceedings. Nor does it appear from the case file before the Court that Mr Philis knew of the deferment, still less that he agreed to it.

49. The Government maintained that the applicant had never tried to expedite the appeal proceedings. But the duty to administer justice expeditiously is incumbent in the first place on the relevant authorities, especially in proceedings in which they have the power of initiative and the power to ensure that progress is made. Besides, the Government did not specify how Mr Philis, who strictly observed the only time-limit imposed on him (see paragraph 18 above), could have expedited consideration of his appeal.

50. As the Government did not provide any other explanation for the Supreme Disciplinary Council's delay, the Court finds that a period of more than seven years to consider a case acknowledged to be simple fails to satisfy the "reasonable time" requirement in the Convention.

There has therefore been a breach of Article 6 para. 1 of the Convention (art. 6-1) in this respect too.

C. The other complaints raised by the applicant

51. In his memorial Mr Philis requested the Court to consider some additional complaints based on Articles 6 para. 1, 8 and 13 of the Convention (art. 6-1, art. 8, art. 13) and on Article 1 of Protocol No. 1 (P1-1) (see paragraph 33 above). As those complaints were declared inadmissible by the Commission (see paragraph 31 above), the Court has no jurisdiction to entertain them (see, among many other authorities, the *Masson and Van Zon v. the Netherlands* judgment of 28 September 1995, Series A no. 327-A, p. 13, paras. 39-40).

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

52. 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."

The applicant sought compensation for pecuniary and non-pecuniary damage and reimbursement of legal costs incurred in the domestic proceedings and before the Convention institutions.

A. Damage

53. Mr Philis claimed, firstly, one thousand million drachmas (GRD) for his loss of earnings between 1986 and 1995. He accepted that the proceedings in issue had not led to the suspension of his professional activities, but maintained that while they lasted he had been deprived of the legal protection necessary to practise his profession unimpeded.

54. The applicant further claimed GRD 4,679,553,400 for the loss arising from the fact that actions to recover fees and for compensation which he had instituted against the AOEK, the TEE and the Government had remained in abeyance. The risk that further criminal and disciplinary proceedings might be instituted against him had, he alleged, deterred him from taking any steps to have a date set for these actions.

55. Lastly, Mr Philis claimed GRD 20,000,000 for non-pecuniary damage in respect of the long period during which he had lived in a state of uncertainty.

56. The Government stated that judgments of the European Court of Human Rights were binding in the Greek legal system and that redress could be obtained in Greece for any injury imputable to the public authorities. In any event, the applicant had not proved the alleged damage or established any causal link with the alleged breach of the Convention.

57. The Delegate of the Commission submitted that although Mr Philis had perhaps sustained non-pecuniary damage, it was hard to establish a link between the alleged pecuniary damage and the delays leading to the finding of a violation.

58. The Court points out that in the present case the only issue to be decided is whether there was a failure to comply with the "reasonable time" requirement in two sets of proceedings, criminal and disciplinary. Those were the only complaints declared admissible by the Commission (see paragraph 31 above). Consequently, the applicant cannot argue that he did not have the legal protection to which he was entitled, and a fortiori cannot claim just satisfaction on that account. As there is no causal link between the violations found and the alleged damage, the Court cannot allow the claims in respect of that damage.

It is therefore unnecessary to consider either whether the damage alleged by Mr Philis was actually sustained or whether, as submitted by the Government, he could obtain redress in the domestic courts.

59. As to non-pecuniary damage, the Court, making its assessment on an equitable basis, awards the applicant GRD 1,500,000. In view of the

particular facts of the case, Mr Philis cannot now be expected to bring new proceedings for compensation against the State.

B. Costs and expenses

60. The applicant sought reimbursement of the costs and fees incurred in the domestic courts and before the Convention institutions, which he assessed, in respect of his own work, at GRD 1,880,000 and GRD 3,420,000 respectively. He also sought 14,245.50 pounds sterling for fees and costs for the lawyers who represented him before the Court, to which sum the applicable rate of value-added tax (VAT) was to be added.

61. In the Government's submission, only necessary, reasonable costs which Mr Philis could prove he had incurred could be considered. The additional claim lodged on 13 February 1997 (see paragraph 5 above) should be dismissed as being out of time.

62. The Court notes that it has considered the proceedings in issue only in relation to the reasonableness of their length. Any compensation must consequently reflect that fact.

With regard to the costs in respect of the domestic proceedings for which the applicant is seeking reimbursement, the Court cannot see how those were incurred to prevent the violations established by the Court or to seek redress for them. It consequently dismisses this claim in its entirety.

As to the amounts claimed in respect of the proceedings before the Convention institutions, the Court finds, like the Delegate of the Commission, that Mr Philis was assisted by lawyers only during the hearing before the Court. Making its assessment on an equitable basis, it awards him GRD 2,000,000 for costs and expenses, together with any VAT that may be chargeable, less 17,750 French francs already paid by way of legal aid.

C. Default interest

63. 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. Holds that there has been a violation of Article 6 para. 1 of the Convention (art. 6-1) as regards the length of the criminal proceedings brought against the applicant;

2. Holds that there has been a violation of Article 6 para. 1 (art. 6-1) as regards the length of the disciplinary proceedings brought against the applicant by the Greek Chamber of Technology;
3. Holds
 - (a) that the respondent State is to pay the applicant, within three months, 1,500,000 (one million five hundred thousand) drachmas for non-pecuniary damage and 2,000,000 (two million) drachmas for costs and expenses, together with any VAT that may be chargeable, less 17,750 (seventeen thousand seven hundred and fifty) French francs already paid in legal aid, to be converted into drachmas at the rate in force on the date on which the present judgment is delivered;
 - (b) that simple interest at an annual rate of 6% shall be payable on those sums from the expiry of the above-mentioned three months until settlement;
4. 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 27 June 1997.

Rudolf BERNHARDT
President

Herbert PETZOLD
Registrar