



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

AFFAIRE MEHEMI c. FRANCE

CASE OF MEHEMI v. FRANCE

(85/1996/704/896)

ARRET/JUDGMENT

STRASBOURG

26 septembre 1997

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SUMMARY¹

Judgment delivered by a Chamber

France – enforcement of order for permanent exclusion from French territory of convicted Algerian national whose parents and four brothers and sisters were lawfully resident in France and who was the father of three minor children having French nationality

I. ARTICLE 8 OF THE CONVENTION

A. Paragraph 1

Applicant had been born in France, had lived there more than thirty years prior to enforcement of permanent exclusion order, and his parents and four brothers and sisters lived there – he was the father of three minor children of French nationality whose mother he had married.

Measure in issue amounted to interference with exercise of applicant's right to respect for his private and family life.

B. Paragraph 21. "In accordance with the law"

Not contested.

2. Legitimate aim

Prevention of disorder or crime.

3. "Necessary in a democratic society"

Reference to Court's case-law: obligation for Contracting States to maintain public order, in particular by exercising right to control the entry and residence of aliens – included power to order expulsion of aliens convicted of criminal offences.

Applicant had been born in France, had received all his schooling there and had lived there until age of 33 – his parents and his four brothers and sisters lived there, as did his wife and three minor children, who had been born there and had French nationality – not established that he had links with Algeria other than his nationality.

On the other hand, fact that in 1989 applicant had participated in conspiracy to import a large quantity of hashish counted heavily against him – nevertheless, above all in view of fact that permanent exclusion order had separated him from his minor children and his wife, measure in question was disproportionate to aims pursued.

Conclusion: violation (unanimously).

1. This summary by the registry does not bind the Court.

II. ARTICLE 50 OF THE CONVENTION

A. Non-pecuniary damage: judgment constituted sufficient compensation.

B. Order requested by applicant: Court lacked jurisdiction.

C. Costs and expenses: assessed on equitable basis.

Conclusion: respondent State to pay applicant specified sum for costs and expenses (unanimously).

COURT'S CASE-LAW REFERRED TO

20.9.1993, Saïdi v. France; 29.1.1997, Bouchelkia v. France

In the case of Mehemi v. France¹,

The European Court of Human Rights, sitting, in accordance with Article 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 L.-E. PETTITI,

Mr R. MACDONALD,

Mr C. RUSSO,

Mr I. FOIGHEL,

Sir John FREELAND,

Mr M.A. LOPES ROCHA,

Mr L. WILDHABER,

Mr E. LEVITS,

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

Having deliberated in private on 28 April and 25 August 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 4 July 1996 and by the French Government (“the Government”) on 17 September 1996, within the three-month period laid down by Article 32 § 1 and Article 47 of the Convention. It originated in an application (no. 25017/94) against the French Republic lodged with the Commission under Article 25 by an Algerian national, Mr Ali Mehemi, on 25 August 1994.

The Commission’s request referred to Articles 44 and 48 and to the declaration whereby France recognised the compulsory jurisdiction of the Court (Article 46); the Government’s application referred to Article 48. The object of the request and of the application was to obtain a decision as to

Notes by the Registrar

1. The case is numbered 85/1996/704/896. 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 of Court A apply to all cases referred to the Court before the entry into force of Protocol No. 9 (1 October 1994) and thereafter only to cases concerning States not bound by that Protocol. They correspond to the Rules that came into force on 1 January 1983, as amended several times subsequently.

whether the facts of the case disclosed a breach by the respondent State of its obligations under Article 8 of the Convention.

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

3. The Chamber to be constituted included *ex officio* Mr L.-E. Pettiti, the elected judge of French nationality (Article 43 of the Convention), and Mr R. Bernhardt, the Vice-President of the Court (Rule 21 § 4 (b)). On 7 August 1996, in the presence of the Registrar, Mr R. Ryssdal, the President of the Court, drew by lot the names of the other seven members, namely Mr R. Macdonald, Mr C. Russo, Mr I. Foighel, Sir John Freeland, Mr M.A. Lopes Rocha, Mr L. Wildhaber and Mr E. Levits (Article 43 *in fine* of the Convention and Rule 21 § 5). On 17 September 1996 Mr Ryssdal decided to allocate the case of *El Boujaïdi v. France* (no. 123/1996/742/941) to this same Chamber (Rule 21 § 7).

4. As President of the Chamber (Rule 21 § 6), Mr Bernhardt, acting through the Registrar, consulted the Agent of the Government, the applicant's lawyer and the Delegate of the Commission on the organisation of the proceedings (Rules 37 § 1 and 38). Pursuant to the order made in consequence, the Registrar received the Government's memorial on 28 November 1996. On 19 December 1996 the Secretary to the Commission informed the Registrar that the Delegate did not intend to submit any observations in writing. On 24 March 1997 the applicant filed claims under Article 50 of the Convention.

5. On 4 February 1997 the Commission had produced various documents requested by the Registrar on the President's instructions.

6. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 23 April 1997. 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,	<i>Agent,</i>
Mr J. LAPOUZADE, Administrative Court Judge, on secondment to the Legal Affairs Department, Ministry of Foreign Affairs,	
Mr G. BITTI, Human Rights Office, European and International Affairs Department, Ministry of Justice,	<i>Advisers;</i>

(b) *for the Commission*

Mr H. DANELIUS,

Delegate;

(c) *for the applicant*

Mr J. DEBRAY, *avocat*, of the Lyons Bar,

Counsel.

The Court heard addresses by Mr Danelius, Mr Debray and Mr Dobelle.

AS TO THE FACTS

I. CIRCUMSTANCES OF THE CASE

7. Mr Ali Mehemi, who was born in Lyons in 1962, is an Algerian national and is currently living in Algeria. Until 28 February 1995, when he was deported, he lived in France, where his parents – who have lived there for about forty years – still reside, as do his two brothers (one of whom is French and the other the father of two French children) and his two sisters (one of whom is French and the other the wife of a French national).

8. The applicant went to school in France until the age of 17. He apparently worked in the construction industry for three years and thereafter as a self-employed taxi-driver.

9. He is the father of three children of French nationality, born in 1982, 1983 and 1984. On 14 May 1986, in Villeurbanne, he married their mother, an Italian national who has been lawfully resident in France since 1978.

A. The criminal proceedings

10. On 5 November 1989 officers of the Regional Criminal Investigation Department, assisted by customs officers, seized 142 kilograms of hashish imported from Morocco in a van adapted for the purpose. Nine people, including the applicant, at whose parents' home seven kilograms of hashish were found, were committed for trial at the Lyons Criminal Court accused of drug offences and illegal importation of prohibited goods.

On 22 January 1991 the Criminal Court sentenced Mr Mehemi to six years' imprisonment, with ineligibility for parole during the first three years, and two customs fines, for possession and illegal importation of dangerous drugs.

11. In a judgment of 4 July 1991 the Lyons Court of Appeal upheld the judgment of 22 January 1991 and ordered Mr Mehemi's permanent exclusion from French territory on the ground that "public-policy considerations preclude the presence within French territory of an alien engaged as a principal in the offence of drug trafficking".

B. The application to have the permanent exclusion order rescinded

12. On 19 March 1993 Mr Mehemi filed with the Lyons Court of Appeal an application to have the permanent exclusion order rescinded. He relied in particular on Article 8 of the Convention.

On 1 June 1993 the Court of Appeal refused the above application on the following grounds:

"The defendant has not adduced any new evidence not examined by the Court of Appeal when it decided to uphold Ali Mehemi's permanent exclusion from French territory.

It should be observed that the Court of Appeal expressly mentioned in the reasons for its decision that French public-policy considerations precluded the presence within French territory of an alien engaged as a principal in the offence of drug trafficking.

It is untrue that the defendant has maintained no link with his nationality of origin, since he voluntarily opted for that nationality on reaching his majority, despite the fact that the circumstances of his birth would have allowed him, in the absence of any criminal conviction, to acquire French nationality as of right if he had not expressly declined it.

His various trips to North Africa over the years preceding his arrest show that he has not severed all physical links with his nationality of origin.

Lastly, the order permanently excluding him from French territory is justified by the offence of importing drugs in the manner described in his conviction, now final, and by no means constitutes a disproportionate response to the seriousness of that offence, given that he had remained on French territory in order to facilitate the importation and subsequent distribution among desperate young people – with all the consequences which this type of offence involves – of very substantial quantities of hashish, the first drug turned to by addicts on their downhill slide, more than 140 kilograms of it in this case, purely for financial gain.

It cannot seriously be maintained that there has been any violation of the provisions of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

..."

13. On 7 June 1993 the applicant appealed on points of law. In his statement of the grounds of appeal, dated 2 July 1993, his lawyer argued as follows:

“... ”

... Contrary to what is said in the impugned judgment, Mr Ali Mehemi, an Algerian national, was never entitled to claim French nationality as of right ... Contrary to what is asserted there, he did not at any time decline French nationality ... Pursuant to the legislation governing the consequences of Algerian independence as regards nationality (Ordinance no. 62-825 of 21 July 1962, Decree no. 62-1475 of 27 November 1962 and Law no. 66-945 of 20 December 1966), Mr Ali Mehemi, who was born before 1 January 1963, was subject to the same rules as his parents, who, not having made the declaration of recognition of French nationality provided for in Article 1 of the Law of 20 December 1966, became, as a result, Algerian.

... Contrary to what the Court of Appeal judges said, there was indeed disproportionality in the instant case between the isolated offence Mr Ali Mehemi was found guilty of and his interests as defined and protected in Article 8 of the Convention ... Mr Ali Mehemi was born in France, is married to a national of a European Community member State and is the father of three French children ... His whole family lives in France and ..., contrary to what is stated in the judgment, he has not maintained links with his country of origin, his nationality – which he did not choose – not reflecting his actual position.

...

... Mr Ali Mehemi's three French children were born in France and have always lived there ... They cannot be uprooted and sent to a country they do not know with the sole aim of being allowed to remain with their father ... In any event, their mother could not follow them if they were, ... nor can Mr Mehemi go to Italy, on account of his exclusion from French territory.

...”

14. In a judgment of 23 February 1994 the Court of Cassation dismissed the appeal in the following terms:

“... ”

The Court finds in this case that the measure concerned, which was imposed on the defendant following adversarial proceedings, was by no means a disproportionate response to the seriousness of the crime, and the grounds of appeal therefore contain no new evidence of a kind to warrant rescinding the measure.

In the light of the above findings and considerations, the Court of Appeal justified its decision and did not infringe the principles or legislation relied on in the grounds of appeal.

It follows that the appeal cannot be allowed.

...”

C. Enforcement of the permanent exclusion order

15. While Mr Mehemi was in prison, on a date which has not been determined, his wife wrote to the French President in the following terms:

“... ”

I would not ask you to plead in my favour for a reduction of my husband's sentence, as I know full well that that is impossible, but I beseech you to help me have his expulsion from French territory quashed. He was sentenced to six years' imprisonment – so be it. That must be the way of it because he committed a crime and I know perfectly well that he must pay for it ... But I cannot bring myself to accept his expulsion, and for good reason. Please understand me, Mr President, or at least try to: since my husband went to prison my children have not been themselves; they are suffering terribly and are constantly having to be examined by psychologists. But it is not just my children and I who are suffering: there is also the whole of my husband's family, particularly his mother, who is 67 years of age and a diabetic. She sees her grandchildren all the time and whenever they ask her where “Dad” is and when he will be coming back she cannot help bursting into tears. This situation is having a terrible effect on her physical and mental health.

Things cannot go on like this. I do not want my family and the future of my children to be destroyed, because what future can I give them without their father at their side? ...”

16. The permanent exclusion order was enforced on 28 February 1995.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The Public Health Code

17. Article L. 630-1 of the Public Health Code formerly provided:

“... the courts ... may order an alien convicted of an offence under Article L. 627 to be permanently excluded from French territory.

Exclusion from French territory shall of itself entail the deportation of the convicted person at the end of his sentence.

...

Where a person, on conviction, is permanently excluded from French territory, he may not request the benefit of the provisions of Article 55-1 of the Criminal Code.”

Law no. 91-1383 of 31 December 1991 replaced the last three paragraphs by the following provisions:

“However, exclusion from French territory shall not be imposed on:

...

2. a convicted alien who is the father or mother of a French child resident in France, provided that he or she is vested with or shares parental authority over that child or provides for its needs;

...

Nor shall exclusion from French territory be imposed on a convicted alien who can prove either:

1. that he has been normally resident in France since reaching the age of 10 at the most or for more than fifteen years; or

2. that he has been lawfully resident in France for more than ten years.

The provisions of the eight preceding paragraphs shall not be applicable in the event of a conviction for ... importing or exporting [toxic plants classified as drugs] or for conspiracy to commit those offences.

...

Exclusion from French territory shall of itself entail the convicted person's deportation, where necessary after the end of his prison sentence."

Article L. 630-1 was repealed by Law no. 92-1336 of 16 December 1992.

B. The Criminal Code

18. Article 55-1 of the Criminal Code provides:

"...

Any person who has incurred a disability ... as an automatic consequence of a criminal conviction or on whom such disability ... has been imposed by the convicting court in its judgment ... may request the court which convicted him ... to rescind the disability ..., in whole or in part, or vary its duration.

..."

PROCEEDINGS BEFORE THE COMMISSION

19. Mr Mehemi applied to the Commission on 25 August 1994. He submitted that his permanent exclusion from French territory was in breach of Articles 8 and 14 of the Convention.

20. On 28 February 1995 the Commission (Second Chamber) refused the application for a provisional measure lodged by Mr Mehemi under Rule 36 of the Commission's Rules of Procedure on 27 February seeking a stay of execution of the impugned measure by the Government.

21. On 18 October 1995 the Commission declared the application (no. 25017/94) admissible as regards the complaint relating to Article 8 and declared the remainder of the application inadmissible. In its report of 15 May 1996 (Article 31) it expressed the opinion by ten votes to three that there had been a violation of that provision. The full text of the Commission's opinion is reproduced as an annex to this judgment¹.

FINAL SUBMISSIONS TO THE COURT BY THE GOVERNMENT

22. In their memorial the Government submitted "that the Court should reject the application".

AS TO THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

23. Mr Mehemi submitted that his permanent exclusion from French territory interfered in his private and family life, in breach of Article 8 of the Convention, which provides:

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Whereas the Government rejected this argument, the Commission accepted it.

1. *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), but a copy of the Commission's report is available from the registry.

A. Paragraph 1 of Article 8

24. The Court must first determine whether the applicant is entitled to claim that he has a “private and family life” in France within the meaning of Article 8 § 1 and whether the measure in issue amounted to an interference therein.

25. Mr Mehemi emphasised that he had been born in France, had lived there until 28 February 1995 (the date on which the exclusion order was enforced) and had received all his schooling there. His four brothers and sisters – two of whom had French nationality – and his parents lived there. He was the father of three French children and had married their mother, an Italian national lawfully resident in France since 1978. In spite of the difficulties caused by the separation from his family he had always done what he could in the circumstances to keep in touch with them.

26. The Government submitted that the applicant’s links with his parents and his brothers and sisters should not be taken into account for the purpose of assessing whether he had a firmly established family life in France, given that the applicant had attained the age of majority by the time when his permanent exclusion from French territory was ordered. Nor could Mr Mehemi validly plead his marriage, since it appeared from the evidence in the file that he did not live with his wife. Consequently, if there had been any interference at all in the applicant’s private and family life, too much should not be made of it.

27. Like the Commission, the Court notes that Mr Mehemi was born in France, lived there for more than thirty years until the permanent exclusion order was enforced and received all his schooling there. His parents, his two brothers (one of whom is French and the other the father of two French children) and his two sisters (one of whom is French and the other the wife of a French national) live there. He is the father of three minor children born in France in 1982, 1983 and 1984, who have French nationality, and has kept in touch with them since he was deported. On 14 May 1986 he married their mother and it does not appear from the file that any separation or divorce proceedings have subsequently been brought (see paragraphs 7–9 above). Consequently, the Court is in no doubt that the permanent exclusion order amounted to interference with the applicant’s right to respect for his private and family life.

B. Paragraph 2 of Article 8

28. The Court must accordingly determine whether the order in issue satisfied the conditions of paragraph 2, namely whether it was “in accordance with the law”, whether it pursued one or more of the legitimate

aims listed therein and whether it was “necessary in a democratic society” in order to achieve the aim or aims concerned.

1. “In accordance with the law”

29. It has not been contested that the order permanently excluding Mr Mehemi from French territory was based on Article L. 630-1 of the Public Health Code.

2. Legitimate aim

30. Nor has it been disputed that the interference in question sought to achieve aims which are wholly compatible with the Convention, namely “the prevention of disorder or crime”.

3. “Necessary in a democratic society”

31. Mr Mehemi emphasised the fact that his permanent exclusion from French territory had separated him from his wife and children, because it was inconceivable for them to join him in Algeria or for the family to settle in Italy, the country of which his wife was a national.

He was completely integrated into French society and had no link whatsoever with Algeria other than his nationality, which was a particularly artificial link in his case because, having been born in France before 1 January 1963 to parents of special civil status of Algerian origin, he had French nationality until that date. He was deemed to have lost French nationality because his father had not made the declaration of recognition of French nationality provided for in the legislation governing the effects on nationality of Algerian independence. That special status also made it impossible for him to acquire French nationality automatically on attaining his majority by virtue of the ordinary-law rules applicable at that time to persons born in France to non-French parents.

Lastly, the applicant asked the Court not to make too much of the seriousness of his conduct. He had no previous convictions and had been punished only for taking part in a hashish importing operation and for possession of a few kilos of the drug. Moreover, the sentences imposed by different courts for identical offences varied considerably, so that the length of a term of imprisonment could not be a reliable guide to the “dangerousness” of the accused. Accordingly, no decisive conclusion could be drawn from the fact that he had been sentenced to six years’ imprisonment.

In short, the interference with the exercise of his right to respect for his private and family life was markedly disproportionate to the aims pursued.

32. The Commission accepted this argument in substance.

33. The Government, however, observed that the applicant had taken part in a conspiracy to import 142 kilograms of hashish and had been in possession of seven kilos of the drug. They emphasised the seriousness of the offence and asserted that the applicant was in fact part of an organised network trafficking in drugs brought from Morocco. Furthermore, not having any occupation or regular income, Mr Mehemi had been involved in the trafficking operation as one of the principals. The “necessity” of the order permanently excluding him from French territory could not therefore be seriously challenged.

In any event, Mr Mehemi had maintained with his country of origin links other than his nationality alone, since he had made a number of trips to North Africa in the years preceding his arrest (as shown by the Lyons Court of Appeal’s judgment of 1 June 1993) and had been a member of a network of traffickers mainly composed of Algerians and Tunisians. Furthermore, as the applicant’s wife was an Italian national, living in France was not the only possibility for the couple to resume cohabitation.

34. The Court reiterates that it is for the Contracting States to maintain public order, in particular by exercising their right, as a matter of well-established international law and subject to their treaty obligations, to control the entry and residence of aliens and notably to order the expulsion of aliens convicted of criminal offences.

However, their decisions in this field must, in so far as they may interfere with a right protected under paragraph 1 of Article 8, be necessary in a democratic society, that is to say, justified by a pressing social need and, in particular, proportionate to the legitimate aim pursued (see, as the most recent authority, the *Bouchelkia v. France* judgment of 29 January 1997, *Reports of Judgments and Decisions* 1997-I, p. 65, § 48).

35. The Court’s task therefore consists in ascertaining whether the measure in issue struck a fair balance between the relevant interests, namely the applicant’s right to respect for his private and family life, on the one hand, and the prevention of disorder or crime, on the other.

36. The Court notes that the applicant was born in France, received all his schooling there and lived there until the age of 33, before the permanent exclusion order was enforced. His parents and his four brothers and sisters live there, as do his wife and his three minor children, who were born in France and have French nationality (see paragraphs 7–9 above).

Moreover, it has not been established that the applicant had links with Algeria other than his nationality. It appears from the file that he did indeed make a number of trips to North Africa before he was deported, but to Morocco not, with the exception of a brief visit, to Algeria. Furthermore, the

Government's assertion that Mr Mehemi was a member of a trafficking network "mainly composed of Algerians and Tunisians" is not based on any real evidence; on the contrary, it appears from the file on the domestic proceedings that the applicant's eight co-defendants included four French nationals, one Portuguese, one Franco-Tunisian, one Tunisian and one person born in Algeria of unspecified nationality.

As regards establishing the household in Italy, while that is not inconceivable, given that Mrs Mehemi is an Italian national, it would mean a radical upheaval for the couple's children. Moreover, on account of the applicant's criminal record in particular, there would no doubt be legal obstacles to his entry into and establishment in Italian territory which the Government have not shown to be surmountable.

37. On the other hand, in view of the destructive effect of drugs on people's lives, the Court understands why the authorities show great firmness with regard to those who actively contribute to the spread of this scourge. The fact that in 1989 the applicant participated in a conspiracy to import a large quantity of hashish counts heavily against him.

Nevertheless, in view of the applicant's lack of links with Algeria, the strength of his links with France and above all the fact that the order for his permanent exclusion from French territory separated him from his minor children and his wife, the Court considers that the measure in question was disproportionate to the aims pursued. There has accordingly been a breach of Article 8.

II. APPLICATION OF ARTICLE 50 OF THE CONVENTION

38. Under Article 50 of the Convention,

"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

39. The applicant claimed 100,000 French francs (FRF) in compensation for the non-pecuniary damage he had allegedly suffered on account of the infringement of his right to respect for his private and family life.

40. The Delegate of the Commission did not make any observation.

41. Like the Government, the Court considers that the present judgment in itself constitutes sufficient just satisfaction with regard to the non-pecuniary damage alleged.

B. Order to the respondent State

42. Mr Mehemi also asked the Court to order the French Government “to allow him to return to French territory” and to issue him with a ten-year residence permit.

43. The Court reiterates that under Article 50 it does not have jurisdiction to issue such an order to a Contracting State (see, among other authorities, the Saïdi v. France judgment of 20 September 1993, Series A no. 261-C, p. 57, § 47).

C. Costs and expenses

44. The applicant claimed FRF 27,278 for the costs and expenses he had incurred in the French courts and FRF 42,210 for those he had incurred before the Strasbourg institutions, making a total of FRF 69,488.

45. The Government requested the Court to dismiss the first of these claims and with regard to the second to award the applicant only FRF 10,000.

46. Making an assessment on an equitable basis, the Court awards Mr Mehemi FRF 50,000.

D. Default interest

47. 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 3.87% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a breach of Article 8 of the Convention;
2. *Holds* that the present judgment in itself constitutes sufficient just satisfaction with regard to the non-pecuniary damage alleged;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months, 50,000 (fifty thousand) French francs for costs and expenses;

(b) that simple interest at an annual rate of 3.87% shall be payable on this amount 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 26 September 1997.

Signed: Rudolf BERNHARDT
President

Signed: Herbert PETZOLD
Registrar