



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

CASE OF CAZENAVE DE LA ROCHE v. FRANCE

(39/1997/823/1029)

JUDGMENT

STRASBOURG

9 June 1998

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SUMMARY¹

Judgment delivered by a Chamber

France – length of compensation proceedings brought against the State by a contract civil servant after her name had been removed from list of staff serving overseas

I. ARTICLE 6 § 1 OF THE CONVENTION

A. Applicability

The compensation proceedings brought by the applicant had not concerned the refusal to establish her as a State civil servant – only purpose of her action had been to obtain reparation for damage caused by removal of her name from list of staff serving overseas, a dismissal held to have been unlawful by the *Conseil d'Etat* – right to compensation had arisen after termination of her service – culpable act of the State had given rise to an obligation to the applicant – right purely economic and therefore a civil one.

Conclusion: Article 6 § 1 applicable (unanimously).

B. Compliance

1. Period to be taken into consideration

Starting-point: submission of preliminary claim to Minister for Foreign Affairs.

End: judgment of Paris Administrative Court of Appeal.

Total: eight years, nine months and two weeks.

2. Reasonableness of length of proceedings

Complexity of case: none.

Conduct of applicant: had not caused any delay.

Conduct of national authorities: two years and ten months for ruling by Administrative Court, one year and three months for service of a judgment and nearly two years in the Administrative Court of Appeal exceeded a reasonable time.

Conclusion: violation (unanimously).

II. ARTICLE 50 OF THE CONVENTION

A. Non-pecuniary damage

Anxiety caused by excessive length of proceedings: compensation awarded.

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

B. Costs and expenses

Claim allowed.

Conclusion: respondent State to pay applicant specified sums (unanimously).

COURT'S CASE-LAW REFERRED TO

31.3.1992, X v. France; 26.11.1992, Francesco Lombardo v. Italy; 24.8.1993, Massa v. Italy; 17.12.1996, Duclos v. France; 17.3.1997, Neigel v. France; 2.9.1997, De Santa v. Italy; 19.2.1998, Huber v. France; 24.4.1998, Mavronichis v. Cyprus

In the case of Cazenave de la Roche 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 C. RUSSO,

Sir John FREELAND,

Mr L. WILDHABER,

Mr G. MIFSUD BONNICI,

Mr K. JUNGWIERT,

Mr U. LÖHMUS,

Mr V. BUTKEVYCH,

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

Having deliberated in private on 27 March and 21 May 1998,

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

PROCEDURE

1. The case was referred to the Court by the French Government (“the Government”) on 14 April 1997, within the three-month period laid down by Article 32 § 1 and Article 47 of the Convention. It originated in an application (no. 25549/94) against the French Republic lodged with the European Commission of Human Rights (“the Commission”) under Article 25 by a French national, Mrs Hélène Cazenave de la Roche, on 28 September 1994.

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

Notes by the Registrar

1. The case is numbered 39/1997/823/1029. 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.

to whether the facts of the case disclosed a breach by the respondent State of its obligations under Article 6 § 1 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 she wished to take part in the proceedings and designated the lawyer who would represent her (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. Ryssdal, the President of the Court (Rule 21 § 4 (b)). On 28 April 1997, in the presence of the Registrar, the President drew by lot the names of the other seven members, namely Mr C. Russo, Sir John Freeland, Mr L. Wildhaber, Mr G. Mifsud Bonnici, Mr K. Jungwiert, Mr U. Löhmus and Mr V. Butkevych (Article 43 *in fine* of the Convention and Rule 21 § 5). Subsequently Mr R. Bernhardt, the Vice-President of the Court, replaced Mr Ryssdal, who had died on 18 February 1998.

4. As President of the Chamber (Rule 21 § 6), Mr Ryssdal, acting through the Registrar, had 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 and the applicant's memorials on 6 January and 13 February 1998 respectively.

5. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 23 March 1998. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

(a) *for the Government*

Mr Y. CHARPENTIER, Head of the Human Rights Section, Legal Affairs Department, Ministry of Foreign Affairs,	<i>Agent;</i>
Mr H. ASCENSIO, member of the Human Rights Section, Legal Affairs Department, Ministry of Foreign Affairs,	<i>Counsel;</i>

(b) *for the Commission*

Mr L. LOUCAIDES,	<i>Delegate;</i>
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(c) *for the applicant*

Mr F. DELIBES, of the Paris Bar,	<i>Counsel.</i>
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The Court heard addresses by Mr Loucaides, Mr Delibes and Mr Charpentier.

AS TO THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. Under the technical and cultural convention concluded between France and Morocco on 13 January 1972, the Moroccan Government recruited Mrs Cazenave de la Roche on 4 January 1982 as a senior lecturer at the Rabat National School of Architecture.

A. Termination of employment and refusal of tenure

7. On 22 September 1983 the French embassy in Morocco sent the applicant a certificate of termination of payment, the date of expiry of her contract having been set at 4 January 1984 by the Moroccan authorities. The certificate stated:

“... ”

Certifies that Mrs Cazenave de la Roche ... Senior Lecturer without tenure ... will have her name removed from the list of staff serving overseas on 4 January 1984 and will be paid by the Ministry of Foreign Affairs until 3 January 1984.

...”

8. On 3 December 1984 Mrs Cazenave de la Roche applied to the Minister for Foreign Affairs, seeking to have the decision of 22 September 1983 revoked and to be appointed to the town-planning teaching staff on the basis of the provisions of section 9 of the Law of 11 June 1983 (see paragraph 28 below).

9. On 22 February 1985 the Minister for Foreign Affairs refused the applicant's requests on the ground, in particular, that the application of the Law in question was conditional on the publication of implementing decrees, which did not exist when the impugned decision was taken.

B. The judicial review proceedings

1. *In the Paris Administrative Court*

10. On 4 April 1985 Mrs Cazenave de la Roche applied to the Paris Administrative Court to quash the decision of 22 February 1985; she also sought a declaration that she was entitled to be established as a civil servant with effect from 3 January 1984.

11. The Minister of State at the Ministry of Foreign Affairs filed his pleading on 13 July 1985 and the applicant did likewise on 9 December 1985.

12. On 24 January 1986, having held a hearing on 10 January, the court delivered the following judgment:

“... ”

As to the submissions concerning the refusal to establish the applicant as a civil servant

As to the ground based on infringement of sections 9 et seq. of the Law of 11 June 1983 and sections 80 et seq. of the Law of 11 January 1984

...

By section 9 of Law no. 83-481 of 11 June 1983, ‘Civilian cultural, scientific and technical cooperation staff’ have ‘the right to become established if they so request’.

The application of that Law and, in particular, of the ... provisions of section 8 was, however, conditional on the enactment of decrees adopted after consultation of the *Conseil d’Etat*, which had not been published by the date on which the provisions in question were in turn taken over in sections 74 et seq. of Law no. 84-16 of 11 January 1984, and the decrees to be adopted after consultation of the *Conseil d’Etat* which were also necessary for the application of these had likewise not been enacted by the date of the impugned decision.

While it is established that the authority empowered to make regulations is under a legal obligation to take, within a reasonable time, those measures which are within its powers and are necessary for the implementation of a legislative enactment, it does not appear that the time which has elapsed since the publication of the legislative enactment can be regarded as excessive. Mrs Cazenave de la Roche consequently cannot rely on that circumstance to challenge the lawfulness of the decision whereby the Minister of State at the Ministry of Foreign Affairs refused her application.

...”

2. *In the Conseil d’Etat*

13. On 13 May 1986 Mrs Cazenave de la Roche appealed to the *Conseil d’Etat* against the Paris Administrative Court’s judgment. She filed a supplementary pleading on 11 September 1986.

14. The *Conseil d’Etat* held a hearing on 10 September 1990 and delivered its judgment on 24 September. It quashed the Administrative Court’s judgment of 24 January 1986 and the Minister for Foreign Affairs’ decision of 22 February 1985 and dismissed the remainder of the appeal as follows:

“ ...

As to the lawfulness of the decision under appeal

By the provisions of section 8 and sub-paragraph 1 of section 9 of the Law of 11 June 1983, which was taken over in sub-paragraph 1 of section 74 of the Law of 11 January 1984, State employees not on the establishment who are civilian cultural, scientific or technical cooperation staff in post in foreign States have the right to become established...

By the first sub-paragraph of section 17 of the same Law, ‘Employees not on the establishment who may rely on the provisions of this Law cannot be dismissed other than for professional shortcomings or on disciplinary grounds until expiry of the periods of time allowed to them in the decrees provided for in section 15 for making their choice’...

Although Mrs Cazenave de la Roche, at the end of her contract, was placed at the disposal of the French Government by the Moroccan Government and although she was recruited to fill a specific post in Morocco, the Minister could not lawfully dismiss her other than for professional shortcomings or for a disciplinary offence. It is established that in refusing to renew Mrs Cazenave de la Roche’s contract by sending her notice of termination of payment ... a decision which may be regarded as a dismissal in the light of the aforementioned provisions of section 17 ... the authorities relied exclusively on the fact that Mrs Cazenave de la Roche had been placed at their disposal by the Moroccan Government. That being so, the decision was taken in breach of section 17 of the Law of 11 June 1983 and Mrs Cazenave de la Roche is consequently justified in maintaining that the Administrative Court in its impugned judgment of 24 January 1986 was wrong to dismiss her application in so far as she was seeking to have the decision ... [of] 22 February 1985 quashed.

As to the submissions concerning the applicant’s being placed on the establishment

While under sections 73 and 74 of the Law of 11 January 1984 certain employees who are not established and civilian cultural ... cooperation staff have the right to become established, if they so request, in vacant posts or ones that are to be created in the Budget Acts, it is apparent from sections 79 and 80 of the same Law that the legislature provided that the arrangements for implementing the principle should be laid down in decrees adopted after consultation of the *Conseil d’Etat*. Consequently, in any event, since the decree to be adopted after consultation of the *Conseil d’Etat* providing for appointment to a body of State teaching staff as an established civil servant had not been published, the Minister could not do other than dismiss the application for establishment submitted on the basis solely of sections 73 and 74 of the Law of 11 January 1984.”

C. The compensation proceedings

1. *In the Paris Administrative Court*

15. On 29 January 1988 Mrs Cazenave de la Roche submitted a preliminary claim to the Minister for Foreign Affairs for compensation for the loss sustained on account of her not having become an established member of the State's architect teaching staff.

16. On 15 June 1988 she lodged an application with the Paris Administrative Court, seeking to have the implicit refusal of her compensation claim quashed.

17. On 9 April 1990 the applicant submitted a fresh compensation claim to the Ministry and, in consequence, updated her court claim on 11 September 1990. She filed a supplementary pleading on 10 June 1991.

18. Concurrently with the proceedings on the merits, Mrs Cazenave de la Roche made an application to the court on 2 November 1990 for an interim award.

19. In an interim order of 5 April 1991 the court directed the Minister for Foreign Affairs to pay the applicant the sum of 600,000 French francs (FRF) as an advance representing the amount of loss of remuneration over the period from 22 September 1983 to 31 December 1989. The order read as follows:

“ ...

In her application Mrs Cazenave de la Roche sought an order that the State, represented by the Minister for Foreign Affairs, should pay her the sum of 600,000 francs as an advance on the sums sought in her substantive application by way of salary which, pursuant to the *Conseil d'Etat's* judgment of 24 September 1990, was due to her... Although the application was communicated to the Minister for Foreign Affairs ..., he did not dispute the existence of the obligation on which the applicant relied against the State. The existence of that obligation is not refuted by any of the evidence and cannot be seriously challenged.

...”

20. On 18 December 1992, on a second application for an interim order on 27 October 1992, followed by a defence filed on 12 December, the court ordered the State to make a further interim payment of FRF 150,000.

21. Having held a hearing on 29 April 1993, the Paris Administrative Court delivered its judgment on 15 July 1993. It joined the applications of 15 June 1988 (see paragraph 16 above) and 11 September 1990 (see paragraph 17 above), held that the loss allegedly caused by the refusal of the application to become established did not sound in damages and that the unlawfulness of the decision to terminate employment, as found by the *Conseil d'Etat*, amounted to a culpable act capable of rendering the State liable. The State was ordered to pay the applicant the sum of FRF 850,000, including the interim awards. The court gave the following reasons for its decision:

“As to the State’s liability

... while it is true that the Government was under an obligation to adopt the decrees in issue within a reasonable time, the provisions of the Law of 11 January 1984 conferred on the applicant, not a present right [*droit*] but only a contingent right [*vocation*] to become established, such a measure being also conditional on the creation of the corresponding posts and, where appropriate, professional recruitment...

The Minister, however, could not lawfully decide that Mrs Cazenave de la Roche’s name would be removed from the list of staff serving overseas or refrain from acting on the application made by the applicant on 3 December 1984 seeking to be appointed to a post of non-established employee equivalent to the one from which she had been dismissed. That unlawfulness amounts to a culpable act capable of rendering the State liable to the applicant.

...”

22. On 7 March 1994 the applicant asked to be notified of the judgment and it was served on her on 28 October 1994.

2. In the Paris Administrative Court of Appeal

23. On 21 December 1994 Mrs Cazenave de la Roche appealed against the Administrative Court’s judgment to the Paris Administrative Court of Appeal, seeking an order that the State should pay her an additional sum of FRF 1,523,405.

24. On 15 February 1995 the Minister for Cooperation filed a pleading in which he argued that it was for the Minister for Foreign Affairs to reply to the applicant’s submissions. The applicant argued the same in a pleading of 2 June 1995, pointing out that the Minister for Foreign Affairs had ignored the court’s formal notice that he should submit his defence.

25. The Minister for Foreign Affairs filed a pleading on 11 July 1995, that is to say after the time-limit laid down in the formal notice sent by the registry of the Administrative Court of Appeal, and Mrs Cazenave de la Roche replied on 31 July 1995. She filed a further pleading on 10 July 1996.

26. Having held a hearing on 25 October 1996, the Paris Administrative Court of Appeal dismissed the applicant's appeal in a judgment of 12 November 1996 and varied the Administrative Court's judgment by reducing the amount of the sum payable by the State to FRF 711,494. The judgment was served on the applicant on 13 November 1996.

II. RELEVANT DOMESTIC LAW

A. The position of civilian cultural, scientific and technical cooperation staff in post in foreign States

27. Section 8 of Law no. 72-659 of 13 July 1972 on the position of civilian cultural, scientific and technical cooperation staff in post in foreign States provides:

“Staff other than those mentioned in section 2, second sub-paragraph, shall, at the end of their cooperation assignment and on the terms laid down by decree, enjoy the guarantees provided for non-established public employees who lose their jobs.

Cooperation service by those same staff shall be treated as service carried out in France by staff who are not established or not permanent, in particular as regards the appointment or establishment as national civil servants of established employees of local authorities and public bodies or permanent staff of public services, bodies or undertakings of an industrial or commercial nature.”

28. When the applicant's contract expired, her position was governed by Law no. 83-481 of 11 June 1983 laying down the procedure for filling permanent civilian posts in the service of the State and its public bodies and authorising the establishment of non-established employees occupying such posts, and more particularly by the following provisions:

Section 8

“Employees not on the establishment who occupy a post with the characteristics laid down in section 1 above shall have the right to become established, if they so request, in posts that are vacant or that are to be created in the Budget Acts, provided that they

(1) either are in post at the date of publication of the present Law, or are on leave at that date pursuant to Decree no. 80-552 of 15 July 1980 on the social welfare of non-established State employees, or are on leave at that date pursuant to Decree no. 82-665 of 22 July 1982 on the social welfare of non-established employees of the State and of State public administrative or cultural and scientific bodies, of French nationality and in service abroad;

(2) have, at the date of making their application, carried out actual service of a duration equivalent to at least two years of full-time service in one of the above-mentioned posts; and

(3) satisfy the conditions laid down in section 16 of the above-mentioned Ordinance no. 59-244 of 4 February 1959.”

Section 9

“The following shall also have the right to become established, if they so request, on the terms laid down in section 8 above:

(1) civilian cultural, scientific and technical cooperation staff in post in foreign States or in the institution to which they have been assigned who satisfy the conditions laid down in the second sub-paragraph of section 8 of Law no. 72-659 of 13 July 1972 on the position of civilian cultural, scientific and technical cooperation staff in service in foreign States;

...”

Section 14

“... access to the various corps of civil servants may be provided for the non-established employees mentioned in sections 8 and 9 ... by means of decrees adopted after consultation of the *Conseil d’Etat*...”

Section 17

“Employees not on the establishment who may rely on the provisions of this Law cannot be dismissed other than for professional shortcomings or on disciplinary grounds until expiry of the periods of time allowed to them in the decrees provided for in section 15 for making their choice.

...”

29. Sections 8, 9, 14 and 17 of the Law of 11 June 1983 were taken over in sections 73, 74, 79 and 82 of Law no. 84-16 of 11 January 1984 making provisions governing the civil service.

B. The Administrative Courts and Administrative Courts of Appeal Code

30. Article R. 129 of the Administrative Courts and Administrative Courts of Appeal Code provides:

“The President of the Administrative Court or of the Administrative Court of Appeal or a judge delegated by one of them may make an interim award to a creditor who has made a substantive application to the Administrative Court or Administrative Court of Appeal where the existence of the obligation is not seriously disputable. He may, even of his own motion, make the payment of such an award conditional on the provision of security.”

PROCEEDINGS BEFORE THE COMMISSION

31. Mrs Cazenave de la Roche applied to the Commission on 28 September 1994. She alleged a violation of Article 6 § 1 of the Convention on account of the length of the proceedings she had brought in the administrative courts in 1985 and 1988.

32. On 27 June 1996 the Commission (Second Chamber) declared admissible the complaint relating to the proceedings brought in 1988 and declared the remainder of the application (no. 25549/94) inadmissible. In its report of 27 November 1996 (Article 31), it expressed the unanimous opinion that there had been a violation of Article 6 § 1. The full text of the Commission’s opinion is reproduced as an annex to this judgment¹.

FINAL SUBMISSIONS TO THE COURT

33. In their memorial the Government asked the Court to dismiss the application as being incompatible *ratione materiae* with Article 6 § 1 of the Convention or, in the alternative, as being ill-founded.

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* 1998), but a copy of the Commission’s report is obtainable from the registry.

34. The applicant asked the Court to hold that there had been a violation of Article 6 § 1 in that her civil rights had not been determined within a reasonable time as required by that provision.

AS TO THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

35. Mrs Cazenave de la Roche complained of the length of the compensation proceedings she had brought against the State on 29 January 1988. She relied on Article 6 § 1 of the Convention, the relevant part of which provides:

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

36. The Commission accepted the applicant’s contentions, but the Government considered Article 6 § 1 inapplicable to the proceedings in question.

A. Applicability of Article 6 § 1

37. In Mrs Cazenave de la Roche’s submission, the purpose of the proceedings in the Paris Administrative Court and Administrative Court of Appeal had not been to seek a review of the status of and the rules governing the State’s contract staff. Their aim had been to obtain compensation – in the form of damages – for loss caused through a culpable act of the administrative authorities, in this instance her unlawful dismissal. They were accordingly of an economic nature, and their outcome was decisive for a “civil” right.

38. The Government disputed the applicability of Article 6 § 1 to the compensation proceedings. Although the applicant had the status of a contract employee, she was subject to rules similar to those governing the State’s established employees and accordingly the constraints of the public service fully applied to her. The action for damages could not be dissociated from the decision to dismiss her and was merely a corollary of the previous determination of her status under the rules, an issue on which all the subsequent stages of the proceedings depended. The pecuniary consequences flowed from the judgment of 24 September 1990 in which the *Conseil d’Etat*, in the administrative proceedings proper, gave its ruling on

the lawfulness of the decision terminating the applicant's employment. Relying on the Neigel v. France judgment of 17 March 1997 (*Reports of Judgments and Decisions* 1997-II), in which the Court had held that Article 6 § 1 did not apply in circumstances the Government maintained were similar to those of the instant case, the Government argued that Mrs Cazenave de la Roche's application was incompatible *ratione materiae* with that provision.

39. The Commission submitted that Article 6 § 1 was applicable without there being any need to inquire into the applicant's status as a civil servant, given the purely economic nature of her action for damages for a culpable act of the administrative authorities.

40. The Court notes that the Government did not contest that the applicant had a right to compensation after the *Conseil d'Etat* had recognised the unlawfulness of the decision to dismiss her. On the other hand, the characterisation of that right in regard to Article 6 § 1 was disputed.

41. The Court reiterates that "disputes relating to the recruitment, careers and termination of service of civil servants are as a general rule outside the scope of Article 6 § 1" (see, among other authorities, the Huber v. France judgment of 19 February 1998, *Reports* 1998-I, p. 115, § 36). Matters are nevertheless different where the claims in issue relate to a "purely economic" right (see, in particular, the De Santa v. Italy judgment of 2 September 1997, *Reports* 1997-V, p. 1663, § 18) and, more especially, where the right accrues in law after a civil servant's service has ended (see the following judgments: Francesco Lombardo v. Italy, 26 November 1992, Series A no. 249-B; Massa v. Italy, 24 August 1993, Series A no. 265-B; and the Neigel judgment cited above, p. 411, § 43).

42. In the instant case the question of the refusal to establish Mrs Cazenave de la Roche as a State civil servant was not, or was no longer, at the heart of the compensation proceedings she brought (see, *mutatis mutandis*, the Mavronichis v. Cyprus judgment of 24 April 1998, *Reports* 1998-II, p. 954, § 32). At all events, it has to be noted that the establishment she had sought was not a right, since it was dependent on the creation of a post by means of decrees adopted after consultation of the *Conseil d'Etat*, decrees which did not in this instance exist. Consequently, the Court considers, like the Commission, that it does not, in relation to Article 6 § 1, have to take into account the issue of the applicant's status as a civil servant and the compatibility of her dismissal with her possible right to become an established civil servant.

43. On the other hand, the applicant only brought the compensation proceedings in order to obtain reparation for the damage caused by an administrative act that she had successfully challenged by means of an application for judicial review. That action, purely for damages, was indeed open to her following the acknowledgment of her right to compensation,

which arose from the finding that her dismissal had been unlawful, that is to say after the termination of her service. That being so, the culpable act of the State gave rise to an obligation to the applicant. That obligation, which was not contested by the Minister for Foreign Affairs and could not be “seriously challenged” according to the court to which she had applied for an interim award (see paragraph 19 above), must be regarded as an obligation on the part of the State whose performance does not in any way require it to exercise its discretionary powers.

44. In conclusion, the issue of the award of damages to Mrs Cazenave de la Roche and of their quantum concerned a purely economic right. The applicant’s action concerned a *contestation* (dispute) over a “civil right”, and Article 6 § 1 accordingly applies to the case.

B. Compliance with Article 6 § 1

45. It remains to be determined whether a “reasonable time” was exceeded. The applicant and the Commission said that it had been, and the Government submitted that it had not.

46. The period to be taken into consideration did not begin, as the Government stated, with the application of 15 June 1988 to the Administrative Court, but on 29 January 1988 with the submission of the preliminary claim to the Minister for Foreign Affairs (see, among other authorities and *mutatis mutandis*, the *X v. France* judgment of 31 March 1992, Series A no. 234-C, p. 90, § 31). That being so, the proceedings lasted eight years, nine months and two weeks in all.

47. The reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard to the criteria laid down in the Court’s case-law, in particular the complexity of the case and the conduct of the applicant and of the relevant authorities (see, among many other authorities, the *Duclos v. France* judgment of 17 December 1996, *Reports* 1996-VI, p. 2180, § 55).

48. In the Government’s submission, the length of the proceedings before the court of first instance had been due solely to the fact that the applicant had chosen not to accompany her initial application for judicial review of the dismissal decision with submissions seeking compensation. Furthermore, Mrs Cazenave de la Roche had waited three years before bringing her action for damages. At all events, the delay complained of was not sufficiently long to infringe the Convention.

49. The Court notes that the instant case essentially raised the issue of the amount of compensation to be awarded to the applicant. The length of the proceedings therefore cannot be accounted for by the complexity of the case; besides, the court which made interim awards did so rapidly (see paragraphs 18, 19 and 20 above).

50. Further, the fact that Mrs Cazenave de la Roche did not accompany her application for judicial review with a compensation claim cannot be taken into consideration, since the only issue before the Court is the length of the compensation proceedings. Nor can the applicant be reproached with any lack of diligence after she brought the proceedings.

As to the authorities, they were responsible for several periods of inactivity and the Government did not provide any explanations for these lapses of time. The Paris Administrative Court, before which the applicant updated her application on 11 September 1990 (see paragraph 17 above), did not deliver its judgment until 15 July 1993 (see paragraph 21 above), two years and ten months later, although in a judgment of 24 September 1990 (see paragraph 14 above) the *Conseil d'Etat* had held that the State had committed a culpable act which sounded in damages. Furthermore, the Paris Administrative Court's judgment was not served on the applicant until 28 October 1994 (see paragraph 22 above), a little over one year and three months later. Lastly, the proceedings before the Court of Appeal lasted one year, ten months and twenty-two days (see paragraphs 23 and 26 above), during which period only the parties' pleadings were exchanged, those of the Minister for Foreign Affairs having moreover been filed after the time-limit laid down in the formal notice to submit a defence issued by the registry of that court.

51. A "reasonable time" was consequently exceeded and there has therefore been a violation of Article 6 § 1.

II. APPLICATION OF ARTICLE 50 OF THE CONVENTION

52. Article 50 of the Convention provides:

"If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the ... Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

53. Mrs Cazenave de la Roche sought the sum of one million French francs (FRF) as total compensation, without giving any particulars.

54. In the Government's view, that claim had no link with any possible damage resulting from the length of the proceedings, especially as the applicant had obtained substantial sums by way of interim awards. At all events, a finding of a violation would provide in itself sufficient compensation for any non-pecuniary damage that might have been sustained.

55. The Delegate of the Commission did not express a view.

56. Having regard to the excessive length of the proceedings, which may reasonably be supposed to have caused the applicant some anxiety and thus non-pecuniary damage, the Court, making its assessment on an equitable basis, awards the applicant FRF 30,000.

B. Costs and expenses

57. The applicant sought FRF 9,568 for costs and expenses incurred before the Convention institutions.

58. No view was expressed by the Delegate or the Government.

59. The Court considers the amount sought reasonable and awards it in full.

C. Default interest

60. 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 3.36% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that Article 6 § 1 of the Convention applies to the case and that there has been a violation of it;
2. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months, 30,000 (thirty thousand) French francs for non-pecuniary damage and 9,568 (nine thousand five hundred and sixty-eight) French francs in respect of costs and expenses;
 - (b) that simple interest at an annual rate of 3.36% shall be payable on those sums from the expiry of the above-mentioned three months until settlement;
3. *Dismisses* the remainder of the claim for just satisfaction.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 9 June 1998.

Signed: Rudolf BERNHARDT
President

Signed: Herbert PETZOLD
Registrar