



UNIVERSITA' DEGLI STUDI DI PERUGIA
DIPARTIMENTO DI DIRITTO PUBBLICO

*"L'effettività dei diritti alla luce della giurisprudenza della Corte europea
dei diritti dell'uomo di Strasburgo"*



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

COURT (CHAMBER)

CASE OF EDITIONS PERISCOPE v. FRANCE

(Application no. 11760/85)

JUDGMENT

STRASBOURG

26 March 1992

In the case of Editions Périscopé v. France*,

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 the Rules of Court, as a Chamber composed of the following judges:

Mr R. RYSSDAL, *President*,

Mr J. CREMONA,

Mr F. MATSCHER,

Mr L.-E. PETTITI,

Mr B. WALSH,

Mr I. FOIGHEL,

Mr R. PEKKANEN,

Mr J.M. MORENILLA,

Mr F. BIGI,

and also of Mr M.-A. EISSEN, *Registrar*, and Mr H. PETZOLD, *Deputy Registrar*,

Having deliberated in private on 26 October 1991 and 26 February 1992,

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 14 December 1990, within the three-month period laid down by Article 32 para. 1 and Article 47 (art. 32-1, art. 47) of the Convention. It originated in an application (no. 11760/85) against the French Republic lodged with the Commission under Article 25 (art. 25) by a French limited company, Editions Périscopé, on 20 September 1985.

The Commission's request referred to Articles 44 and 48 (art. 44, art. 48) and to the declaration whereby France recognised the compulsory jurisdiction of the Court (Article 46) (art. 46). The object of the request 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 (art. 6-1) as regards the requirement of "reasonable time".

* The case is numbered 58/1990/249/380. 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.

** As amended by Article 11 of Protocol No. 8 (P8-11), which came into force on 1 January 1990.

2. In response to the enquiry made in accordance with Rule 33 para. 3 (d) of the Rules of Court, the applicant company stated that it wished to take part in the proceedings and designated the lawyer who would represent it (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) (art. 43), and Mr R. Ryssdal, the President of the Court (Rule 21 para. 3 (b)). On 21 February 1991, in the presence of the Registrar, the President drew by lot the names of the other seven members, namely Mr J. Cremona, Mr F. Matscher, Mr J. Pinheiro Farinha, Mr R. Macdonald, Mr I. Foighel, Mr R. Pekkanen and Mr J.M. Morenilla (Article 43 in fine of the Convention and Rule 21 para. 4) (art. 43). Subsequently, Mr F. Bigi and Mr B. Walsh, substitute judges, replaced Mr Pinheiro Farinha, who had resigned and whose successor at the Court had taken up his duties before the hearing, and Mr Macdonald, who was unable to take part in the further consideration of the case (Rules 2 para. 3, 22 para. 1 and 24 para. 1).

4. Mr Ryssdal assumed the office of President of the Chamber (Rule 21 para. 5) and, through the Registrar, consulted the Agent of the French Government ("the Government"), the Delegate of the Commission and the lawyer for the applicant company on the organisation of the proceedings (Rules 37 para. 1 and 38). Pursuant to the orders made in consequence, the Registrar received the memorial of Editions Périscope on 2 May 1991 and the Government's memorial on 3 May; the applicant company's claims under Article 50 (art. 50) of the Convention reached the Registrar on 21 May. On 17 July the Secretary to the Commission informed the Registrar that the Delegate would submit oral observations.

5. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 21 October 1991. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

- for the Government

Mr J.-P. PUISSOCHET, Director of Legal Affairs,

Ministry of Foreign Affairs,

Agent,

Mr P. CHAMBU, Legal Affairs Department,

Ministry of Foreign Affairs,

Counsel;

- for the Commission

Mr C.L. ROZAKIS,

Delegate;

- for the applicant company

Mr P. COLIN, avocat,

Counsel.

The Court heard addresses by Mr Puissochet for the Government, by Mr Rozakis for the Commission and by Mr Colin for the applicant company, as well as their answers to its questions.

6. The Agent of the Government and the representative of the applicant company produced several documents on the occasion of the hearing.

7. On 15 January 1992 the applicant company's representative communicated to the Registrar a note concerning the application of Article 50 (art. 50) of the Convention, but, having regard to Rule 50 para. 1 of the Rules of Court, the Court decided not to take cognisance of this document.

AS TO THE FACTS

8. Editions Périscope is a limited company, incorporated under French law, whose registered office is in Paris. It was founded in April 1960 for the purpose of creating a review entitled "Périscope de l'usine et du bureau", which was to analyse new industrial products and provide an "integrated readers' service". At the time periodicals of this type were unknown in France.

A. The background to the case

9. On 21 October 1960 the applicant company applied to the Joint Committee on Press Publications and Press Agencies ("the Joint Committee") for a certificate of registration for its review in order to secure the tax concessions and preferential postal charges accorded to the press.

10. The Joint Committee rejected the application on 8 December 1960 and refused two further applications on 9 February 1961 and 17 January 1964. It did not reply to a fourth, lodged on 30 June 1970. Although these decisions were equivalent to decisions having an adverse effect because they were binding on the administrative authorities, they were not challenged in the Conseil d'État as being ultra vires.

The reason given was always the same: the review was classified as an advertising organ because it represented a link between its subscribers and manufacturers for the purposes of a commercial transaction. It published the technical data furnished by the manufacturer himself for the articles presented; a reader interested in a model returned to the head office of Périscope de l'usine et du bureau a form with the reference of the model in question; the manufacturer then received this form and sent the relevant documentation. In fact, in order to obtain the advantages which it claimed, the review would have had to have devoted at least a third of its surface to information of general interest or to provide its readers' service with critical editorial comment.

11. Editions Périscope also submitted two informal requests which were rejected by the Secretaries General of the Ministry of Posts and Telecommunications (8 April 1961) and of the Joint Committee (27 October 1966).

It also made various representations to the public authorities up until 1974, but without success.

12. "Périscope de l'usine et du bureau" ceased to appear in October 1974 and the company which published it became the subject of composition proceedings and then went into liquidation. However, the Paris Commercial Court rescinded its order after the managing director had agreed to meet the liabilities of the company out of his personal funds.

13. On 15 March 1976 Editions Périscope submitted a preliminary application to the Minister for Finance, the Junior Minister for Posts and Telecommunications and the Junior Minister of the Prime Minister's office, Spokesman for the Government. It sought compensation of 200,000,000 francs for the damage which it claimed to have sustained since 1962 through the fault (faute) of the public authorities. No reply to the application was forthcoming.

B. Proceedings in the Paris Administrative Court

1. The application

14. On 12 November 1976 Editions Périscope instituted proceedings in the Paris Administrative Court. It asked the court:

"to allow the ... application and, for the reasons set out ..., order the State to pay it the sum of two hundred million francs as compensation for the damage which it has sustained through the faults committed by the public authorities;

in the alternative, to call for an expert opinion in order to determine the extent of the damage sustained by Editions Périscope."

2. The investigation

15. The defendant, the Prime Minister, filed a memorial on 25 February 1977 contending that the application should be dismissed. The Minister for the Economy and Finance and the Junior Minister for Posts and Telecommunications did likewise on 4 March and 18 April.

16. On 17 June 1977 Editions Périscope submitted a memorial (mémoire ampliatif) which it supplemented on 15 November; it had requested extensions of the time-limit on 27 April and 1 June in order to obtain new documents.

17. On 18 November 1977 the Deputy Minister for the Economy and Finance confirmed his earlier submissions.

18. In a further memorial registered on 16 March 1978, the applicant company stated inter alia as follows:

"Hitherto, only the Minister for Finance has replied to the memorial of 15 June 1977 by a memorial of 18 November 1977.

It is clear that the administrative authorities in question are abusing their privileged position to delay for as long as possible the conclusion of the trial

This abuse is all the more patent because these authorities possess resources in material and staff which enable them to comply with reasonable time-limits for replying."

Consequently, it asked the court "[to] take formal note of its protests against the dilatory lack of response from the defendant authorities and [to] order them to reply within a very short period to the company's memorials of 15 June and 15 November 1977".

19. On 28 March 1978 the Prime Minister declared that he did not wish to alter his submissions of 25 February 1977 and endorsed the observations of the Deputy Minister for the Economy and Finance and those of the Secretary of State for Posts and Telecommunications.

20. Editions P riscope then submitted yet another memorial, the fourth, lodged on 22 May 1978:

"The failure of the Minister for Finance and the Junior Minister for Posts and Telecommunications to reply shows that they have no additional arguments to put forward in respect of the explanations and documents produced on 15 June and 15 November by the applicant company.

In these circumstances, [the said company] asks the Administrative Court to regard the written investigation proceedings as concluded and to fix a date for a hearing to examine the dispute ..."

It submitted two further memorials on 25 October 1978 and 29 May 1979.

The first contained the following conclusion:

"The silence on the part of the Minister for Posts following the last three of the company's memorials, the Prime Minister's letter of 21 March 1978 endorsing the memorials of the other ministers, the reiteration by the Minister for the Budget of the arguments put forward by the Minister for Finance, the total absence of discussion by the defendants of the damage, the time-limits which have expired, all show that the State has concluded its defence submissions.

In these circumstances the applicant company requests the Administrative Court to fix as soon as possible the date for the examination of the application which was lodged two years ago."

The second ended as follows:

"P riscope notes that the defendants have all stated that they wished to reiterate their previous arguments. They have thus concluded their submissions.

The company ... therefore again requests the Paris Administrative Court to hold a hearing in the near future to examine the case, while reserving the right to make oral submissions through its counsel."

In addition, on 13 January 1979, the lawyer for Editions P riscope wrote to the President of the Administrative Court to ask him to set the date for the

hearing. It was, he stated, "unacceptable ... that the authorities [should be able] to delay indefinitely the conclusion of the proceedings, to the plaintiff's detriment".

21. The Minister for the Budget filed a supplementary memorial on 10 June 1978, as did the Junior Minister for Posts and Telecommunications on 23 January 1979. Furthermore, on 22 October, the latter indicated that he wished to abide by his previous submissions "in every respect".

3. The judgment of 27 April 1981

22. After a public hearing held on 6 April 1981, the Administrative Court dismissed the application on 27 April on the following grounds:

"The application by the company, Editions Périscope, requests the court to find that the State is liable for the damage caused to the applicant by the discrimination operated by the relevant authorities in favour of competing undertakings in respect both of the postal charges and of the tax concessions, without also according them to the applicant, despite its repeated requests, to order the State to pay on these grounds compensation of 200,000,000 francs and, in the alternative, to call for an expert opinion to determine the extent of the damage sustained;

If the applicant company wished to rely on the unlawfulness of the refusal to register it on the list of publications qualifying for the above-mentioned advantages [tax concessions], it should have challenged, in good time, the tax demands which it considered to have been made in disregard of the exemption laid down in Article 261-8-1° of the General Tax Code; it can no longer call in question such demands by means of an action for damages brought against the Minister for the Budget since it has not established the unlawfulness of the refusals;

For their part, the postal authorities did not commit a fault capable of giving rise to liability on the part of the State by not according to the applicant special postal rates inasmuch as it follows from Article D 18 of the Posts and Telecommunications Code that the application of such rates is conditional on the production of a registration certificate issued by the Joint Committee ...; the applicant should, if it believed that it was entitled to, have challenged within the prescribed period of two months the lawfulness of the refusal; the investigation has shown that the attention of the company's directors was drawn in vain on various occasions to the difference in the structure of its review in relation to the competing reviews and to the changes which it would have to make in order to qualify for the fiscal status accorded to the press;

The allegation that various competing undertakings had unduly benefited from the advantages in question, even supposing that it were established, which the investigation has not shown, is not such as to constitute an infringement of the principle of equal treatment by the public authorities;

..."

C. The proceedings in the Conseil d'État

1. The appeal

23. By an appeal filed on 15 July 1981, Editions Périscope requested the Conseil d'État to "set aside the contested judgment [of the Administrative Court], order the State to pay it a sum of 200,000,000 francs in damages and, in the alternative, order an expert examination for the purposes of determining the extent of the damage which had been caused to it by the discriminatory measures of which it had been victim".

2. The investigation

24. The case, whose file the Administrative Court had forwarded to the Conseil d'État on 11 August 1981, was assigned to the tenth section of the judicial division on 15 August.

25. Editions Périscope filed a memorial on 13 November 1981. On 18 December it drew attention to a typing error in its text.

26. The file was communicated in turn to three members of the Government: the Minister for the Economy and Finance, from 24 November 1981 to 2 March 1982; the Deputy Minister to the Minister for Industry and Research, with responsibility for Posts and Telecommunications, from 16 March 1982 to 16 May 1983, the Conseil d'État having requested its return on 5 May 1983; the Junior Minister attached to the Prime Minister's office, with responsibility for Communication Techniques, from 14 June to 3 October 1983.

On 27 January 1982 the first of the above officers requested an additional time-limit to submit his memorial, which he did on 2 March 1982.

The second filed his memorial on 14 November 1983, after having indicated on 16 May of the same year that he intended to "reply very shortly".

The third had lodged his memorial on 3 October 1983.

27. The applicant company filed a further memorial on 28 October 1983 and produced documents on 10 and 24 February 1984.

28. On 10 January 1984 the file was entrusted to a junior member of the section, who gave his report on 16 April.

The investigation session was held on 21 November and the case was entered on the list of the tenth and seventh sections combined, for hearing on 6 March 1985.

3. The judgment of 22 March 1985

29. The Conseil d'État dismissed the appeal by a judgment of 22 March 1985 on the following grounds:

"...

By virtue of the provisions of Article 1 of the Decree of 25 March 1950, as amended by the Decree of 2 August 1960, the Joint Committee ... is responsible for giving an opinion on the application of statutory instruments and regulations providing for concessions accorded to the press with regard to taxes, postal charges and customs duties; pursuant to Article 3 of the Decree, the [Joint] Committee is to examine whether the publication appears to satisfy the conditions laid down in these provisions and, if it does, to issue to the publication a registration certificate, which must be produced in support of any application for tax concessions and postal charge reductions; the refusal to grant a registration certificate constitutes an opinion to this effect which precludes the relevant administrative authority from granting the concessions sought;

By decisions dated 8 December 1960, 9 February 1961 and 17 January 1964, the Joint Committee ... refused to issue the registration certificate to the review 'Périscopie de l'usine et du bureau', relying on the provisions of Article 72, 6°, of Annex III to the General Tax Code, which, in the version applicable at the material time, excluded from the exemption provided for in the provisions of 1° of [paragraph] 8 of Article 261 of the same Code newspapers or periodical publications regarded as equivalent to 'publications whose principal purpose is to promote or to develop transactions of commercial, industrial, banking, insurance or other undertakings for which they are in reality vehicles for publicity or advertising';

Firstly, it appears from the investigation, and it is moreover not in dispute, that the monthly review 'Périscopie de l'usine et du bureau' was a publication of the type referred to in the above-mentioned provision of Article 72 of Annex III to the General Tax Code, having regard in particular to its contents and to the proportion of its surface which it devoted to advertising or articles equivalent to advertisements; the decision not to issue a registration certificate was accordingly well-founded;

Secondly, although the advantages refused to the 'Périscopie de l'usine et du bureau' were accorded to publications which it claims were its competitors, it has not been established in any way, contrary to what the applicant company alleges, that these publications could, in terms of their editorial characteristics and the proportion of advertising carried, be classified as 'vehicles for publicity or advertising', within the meaning of the above-mentioned provision of the General Tax Code, thereby justifying a refusal to accord to them the benefit of the concessions to the press; it follows that the applicant company is in any event not entitled to claim that the [Joint] Committee committed a fault capable of giving rise to liability on the part of the State by unlawfully granting other reviews comparable, in the appellant company's opinion, to that which it publishes, the certificate which was refused to it;

It follows from the foregoing that there is no basis for the limited company Editions Périscopie's complaint against the contested judgment by which the Paris Administrative Court dismissed its claim for compensation."

PROCEEDINGS BEFORE THE COMMISSION

30. In its application of 20 September 1985 to the Commission (no. 11760/85), Editions Périscopie alleged several violations of Article 6 para. 1

(art. 6-1) of the Convention: the administrative courts had not heard its case within a reasonable time; the Conseil d'État had not constituted an impartial tribunal, because two of its members had been involved in the case previously and its judgment did not mention the names of the judges who had participated in the ruling or reproduce, in the text notified, the summary of the arguments of the parties, which had appeared in the handwritten version.

31. On 12 April 1989 the Commission declared the application admissible as regards the length of the proceedings, but inadmissible for the other complaints. In its report of 11 October 1990 (Article 31) (art. 31), it expressed the opinion that there had been a violation of Article 6 para. 1 (art. 6-1) (seventeen votes to two). The full text of the Commission's opinion and of the dissenting opinion contained in the report is reproduced as an annex to this judgment*.

FINAL SUBMISSIONS TO THE COURT

32. In their memorial the Government requested the Court to "dismiss the present application as ill-founded".

Counsel for the applicant company asked the Court to

"declare well-founded its application based on the violation of Article 6 para. 1 (art. 6-1) of the Convention by the French State,

so ruling, ... declare that the French State has violated Article 6 para. 1 (art. 6-1) of the Convention and ... order it to pay to the applicant company compensation to make good the damage sustained on the basis of the claims submitted in this respect by the company in question".

AS TO THE LAW

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

33. Editions Périscope complained of the time taken to examine the action which it had brought against the State in the Paris Administrative Court, and then in the Conseil d'État. It alleged a violation of Article 6 para. 1 (art. 6-1) of the Convention, according to which:

* Note by the Registrar: for practical reasons this annex will appear only with the printed version of the judgment (volume 234-B of Series A of the Publications of the Court), but a copy of the Commission's report is available from the registry.

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

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

34. The applicant company and the Commission considered that this provision was applicable in the instant case. The Government took the contrary view.

1. Existence of a dispute over a right

35. Article 6 para. 1 (art. 6-1) extends to "contestations" (disputes) over (civil) "rights" which can be said, at least on arguable grounds, to be recognised under domestic law, irrespective of whether they are also protected under the Convention (see, inter alia, the *Neves e Silva v. Portugal* judgment of 27 April 1989, Series A no. 153-A, p. 14, para. 37).

36. It is common ground that a dispute existed; the participants in the proceedings disagree, however, as to its subject-matter. According to the Government, the dispute concerned exclusively the application of the rules relating to the granting of tax concessions and postal charge reductions, in other words the right to be accorded the advantages reserved for certain publications. The applicant company argued, on the contrary, that its application was for a full review (contentieux de pleine juridiction) and raised the question of the liability of the public authorities.

37. The Court agrees with the Commission that the trial concerned compensation for the damage which the State had allegedly caused Editions Périscope by refusing to accord to it the reductions granted by it to competing undertakings. In its application of 12 November 1976 to the Paris Administrative Court, the applicant company complained of the "faults committed by the public authorities" (see paragraph 14 above) which had, it claimed, led it to cease publishing "Périscope de l'usine et du bureau" and to discontinue its activities. At the centre of the dispute therefore lay a right, the right to compensation for a fault on the part of the authorities capable of giving rise to the State's liability.

38. It is unnecessary to consider whether, as the Government maintained, Editions Périscope ought, as early as 1964, to have appealed against the Joint Committee's decision, rather than having recourse belatedly to an application for compensation. For the purposes of Article 6 para. 1 (art. 6-1), it is enough to determine whether the applicant company's arguments were sufficiently tenable; the Court does not have to decide whether they were well- founded in terms of the French legislation or whether another legal basis would have afforded better prospects of success. In fact the two courts before which the case came found the application admissible inasmuch as, in assessing whether there had been a fault attributable to the

public authorities, they ruled on the merits of the case (see, *mutatis mutandis*, the Neves e Silva judgment, cited above, Series A no. 153-A, p. 14, para. 37).

2. Was the disputed right a civil right?

39. The Government also contended that no "civil right" was in issue. If the contrary view were to be accepted in this instance, that would, in their opinion, mean that Article 6 para. 1 (art. 6- 1) would be applicable in any proceedings aimed at securing compensation for damage, irrespective of the nature of the right invoked. The present case fell within a class of activities in which the State intervened as the holder of the public authority; there was no analogy with the Baraona v. Portugal and Neves e Silva cases (judgments of 8 July 1987 and 27 April 1989). The Commission's case-law clearly excluded taxation and the related area of tax concessions from the field of private law; the granting of preferential postal rates concerned the relationship between consumers and a public administrative service - and not an industrial and commercial one -, which was a public law matter. Finally, the State's liability in relation to private individuals for the application of rules in the spheres of taxes and postal charges fell outside the scope of civil law principles in France and could not be classified as "civil". There was a two-way link between jurisdiction and the merits; the fact that the rules in force derogated from the ordinary law determined the administrative courts' jurisdiction to examine the disputes thereby generated.

The Commission and its Delegate essentially relied on the above-mentioned Neves e Silva judgment. They discerned in that decision clear criteria on the basis of which it was possible to conclude that the right in question was a civil right. The applicant company's lawyer agreed.

40. The Court notes that the subject-matter of the applicant company's action was "pecuniary" in nature and that the action was founded on an alleged infringement of rights which were likewise pecuniary rights. The right in question was therefore a "civil right", notwithstanding the origin of the dispute and the fact that the administrative courts had jurisdiction (see, *inter alia*, the Ringeisen v. Austria judgment of 16 July 1971, Series A no. 13, p. 39, para. 94, and the König v. Germany judgment of 28 June 1978, Series A no. 27, p. 30, para. 90).

3. Conclusion

41. Accordingly Article 6 para. 1 (art. 6-1) applies in this case.

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

42. It remains to determine whether or not a "reasonable time" was exceeded.

The applicant company and the Commission considered that it had been; the Government disputed this assertion.

43. The period to be taken into consideration began on 12 November 1976, when the proceedings were instituted in the Paris Administrative Court. It ended on 22 March 1985 when the Conseil d'État delivered its judgment.

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

Examination of the two decisions of the administrative courts shows that the case was not a particularly complex one. In addition, the applicant company did nothing to delay the conclusion of the proceedings; on the contrary, it made repeated attempts to compel the ministries concerned to submit their memorials more rapidly (see paragraphs 18 and 20 above). It follows that the Court cannot regard as reasonable in this instance a lapse of time of more than eight years.

There has accordingly been a violation of Article 6 para. 1 (art. 6-1).

II. APPLICATION OF ARTICLE 50 (art. 50)

45. Under Article 50 (art. 50):

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

A. Pecuniary damage

46. Editions Périscope claimed in the first place 2,000,000 francs for the pecuniary damage which it had allegedly sustained. It was not however in a position to give details of such damage and to produce evidence to prove its existence. In particular it conceded that it was unable to distinguish between the damage ensuing from the decisions of the administrative courts and that deriving from the length of the proceedings.

In the Government's contention, there was no damage to be made good because the French administrative courts had definitively rejected the

applicant company's claim for tax concessions and reduced postal charges. The Delegate of the Commission subscribed to this view.

47. For its part too, the Court can discern no causal connection between the violation of Article 6 para. 1 (art. 6-1) and the dismissal of the company's action by the national courts. The claim must therefore fail.

B. Costs and expenses

48. Editions Périscope also sought 100,000 francs for costs and expenses.

The Government considered the claim excessive and pointed out that no supporting documents had been submitted. The Delegate of the Commission did not express a view on this matter.

49. The applicant company did not distinguish between the costs and expenses which it had incurred in the French courts and those referable to the proceedings before the Convention organs, nor, with regard to the former, according to whether they had been incurred in attempting to speed up the progress of the proceedings or for other purposes. Making an assessment on an equitable basis in accordance with Article 50 (art. 50) and having regard to the criteria which it applies in this field, the Court awards the applicant company 50,000 francs under this head.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Holds that Article 6 para. 1 (art. 6-1) applies in this instance and has been violated;
2. Holds that the respondent State is to pay to the applicant company, within three months, 50,000 (fifty thousand) French francs for costs and expenses;
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 26 March 1992.

Rolv RYSSDAL
President

Marc-André EISSEN
Registrar