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**ANALYSIS OF THE
CASE OF ALLENET DE RIBEMONT V. FRANCE**

**JUDGMENT OF THE EUROPEAN COURT OF
HUMAN RIGHTS**

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Introduction

This Analysis considers the judgment of 23 January 1995 of the European Court of Human Rights (hereinafter referred to as the “European Court”) on the case of *Allenet de Ribemont v. France*. The case concerns defamatory comments made to the applicant at a press conference given by a Government Minister and high-ranking police officers during a murder investigation, and the length of subsequent proceedings brought by the applicant aimed at obtaining compensation for the alleged harm to his reputation. The applicant submitted in his Application to the European Court that the remarks made during the press conference had infringed his right to the presumption of innocence guaranteed by Article 6(2) of the European Convention on Human Rights (hereinafter referred to as “European Convention” or “ECHR”). The applicant also claimed about the length of the compensation proceedings by referring to Article 6 (1) of ECHR.

This Analysis aims to study the facts of the case, including a thorough examination of the applicant’s complaints and the French Government’s arguments. The Analysis will also provide an overview of the specific approaches of the European Commission on Human Rights (hereinafter referred to as “European Commission” or “Commission”) and the European Court regarding the interpretation of the rights and freedoms in question. However, the Analysis will not specifically address the issue of just satisfaction. The analysis will be carried out by applying a checklist which the Court uses when examining violations of each ECHR right and freedom. The Analysis will also highlight the significant features of the case which played an important role and became the principal guide to the interpretation of the rights and freedoms guaranteed by the European Convention.

This Analysis is educational in character and is primarily designed to enable legal professionals, including judges, lawyers, advocates, legal service providers and others involved in the protection of human rights - including law students - to identify the criteria and the standards that the European Court follows when interpreting the rights and freedoms guaranteed by the European Convention.

PART I – CASE OF ALLENET DE RIBEMONT V. FRANCE

A. Short summary of the facts of the case

The applicant, Mr. Patrick Allenet de Ribemont was a company secretary at the time when the circumstances of the case occurred. He had been living in Lamontjoie. On 24 December 1976 Mr Jean de Broglie, a Member of Parliament and former minister, was murdered in front of the applicant's home. He had just been visiting his financial adviser, Mr Pierre De Varga, living in the same building, with whom Mr. Allenet de Ribemont was planning to become the joint owner of a Paris restaurant, "La Rôtisserie de la Reine Pédauque". The scheme was financed by means of a loan taken out by the victim and he had passed on the borrowed sum to the applicant, who was responsible for repaying the loan.

A judicial investigation was begun into the commission by an unknown person or persons of the offence of intentional homicide. On 27 and 28 December 1976 the crime squad at Paris police headquarters arrested a number of people, including the victim's financial adviser. On the 29th the applicant was also arrested. On 29 December 1976, at a press conference on the subject of the French police budget for the coming years, the Minister of the Interior, Mr Michel Poniatowski, the Director of the Paris Criminal Investigation Department, Mr Jean Ducret, and the Head of the Crime Squad, Superintendent Pierre Ottavioli, referred to the inquiry that was under way. Two French television channels reported this press conference in their news programmes. The transcript of the relevant extracts reads as follows:

"TF1 NEWS

Mr. Roger Giquel, newsreader: ... Be that as it may, here is how all the aspects of the de Broglie case were explained to the public at a press conference given by Mr Michel Poniatowski yesterday evening.

Mr. Poniatowski: The haul is complete. All the people involved are now under arrest after the arrest of Mr De Varga-Hirsch. It is a very simple story. A bank loan guaranteed by Mr. de Broglie was to be repaid by Mr Varga-Hirsch and Mr de Ribemont.

A journalist: Superintendent, who was the key figure in this case? De Varga?

Mr. Ottavioli: I think it must have been Mr De Varga.

Mr. Ducret: The instigator, Mr De Varga, and his acolyte, Mr. de Ribemont, were the instigators of the murder. The organiser was Detective Sergeant Simoné and the murderer was Mr. Frèche.

Mr. Giquel: As you can see, those statements include a number of assertions. That is why the police are now being criticised by Ministry of Justice officials. Although Superintendent Ottavioli and Mr. Ducret were careful to... (end of the recording).

ANTENNE 2 NEWS

Mr. Daniel Bilalian, newsreader: ... This evening the case has been cleared up. The motives and the murderer's name are known.

Mr. Ducret: The organiser was Detective Sergeant Simoné and the murderer was Mr Frèche.

Mr. Ottavioli: That is correct. I can ... [unintelligible] the facts for you by saying that the case arose from a financial agreement between the victim, Mr de Broglie, and Mr. Allenet de Ribemont and Mr Varga.

Mr. Poniatowski: It is a very simple story. A bank loan guaranteed by Mr de Broglie was to be repaid by Mr Varga-Hirsch and Mr de Ribemont.

A journalist: Superintendent, who was the key figure in this case? De Varga?

Mr. Ottavioli: I think it must have been Mr De Varga.

Mr Jean-François Luciani, journalist: The loan was guaranteed by a life insurance policy for four hundred million old francs taken out by Jean de Broglie. In the event of his death, the sum insured was to be paid to Pierre De Varga-Hirsch and Allenet de Ribemont. The turning-point came last night when Guy Simoné, a police officer, was the first to crack. He admitted that he had organised the murder and had lent a gun to have the MP killed. He also hired the contract killer, Gérard Frèche, who was promised three million old francs and who in turn found two people to accompany him. The reasons for their downfall were, first, that Simoné's name appeared in Jean de Broglie's diary and, second, that they killed him in front of no. 2 rue des Dardanelles. That was not planned....

On 14 January 1977 Mr. Allenet de Ribemont was charged with aiding and abetting intentional homicide and taken into custody. He was released on 1 March 1977 and a discharge order was issued on 21 March 1980.

The compensation claims

On 23 March 1977 Mr. Allenet de Ribemont submitted a claim to the Prime Minister based on Article 6 para. 2 (art. 6-2) of the Convention, inter alia. He sought compensation of ten million French francs (FRF) for the non-pecuniary and pecuniary damage he maintained he had sustained on account of the above-mentioned statements by the Minister of the Interior and senior police officials.

The chronology of events and legal proceedings of the case of Ezelin are described in Table No. 1 below.

Table No.1

THE DOMESTIC JUDICIAL INVESTIGATION	
20 September 1977	On 23 March 1977 Mr. Allenet de Ribemont submitted a claim to the Prime Minister based on Article 6 para. 2 of the Convention. He sought compensation of ten million French francs (FRF) for the non-pecuniary and pecuniary damage he maintained he had sustained on account of the statements by the Minister of the Interior and senior police officials. □
20 September 1977	On 20 September 1977 the applicant applied to the Paris Administrative Court for review of the Prime Minister's implicit refusal of his claim and renewed his claim for compensation. He filed pleadings on 12 October 1977.
21 February 1978	On 21 February 1978 the Minister of Justice did likewise. After notice had been served on them by the Administrative Court on 14 March 1978, the Minister of the Interior and the Prime Minister filed pleadings on 21 and 27

	April 1978 respectively. Mr. Allenet de Ribemont filed more pleadings on 29 March and 24 May 1978.□
29 March 1979	Further pleadings still were filed on 29 March 1979 by the Minister of Culture, to whom the case file had been sent on 23 January 1979; on 6 June 1979 and 12 August 1980 by the Minister of the Interior; and on 14 May 1980 by the applicant.□
29 September 1980	After a hearing on 29 September 1980, the Paris Administrative Court delivered a judgment on 13 October 1980 in which the following reasons were given: "Mr Allenet, known as Allenet de Ribemont, has applied for an order that the State should pay compensation for the damage that the Minister of the Interior of the time allegedly caused him by naming him in statements made on 29 December 1976 during a press conference on the murder of Mr Jean de Broglie. Although the State may be liable in damages for the administrative acts of a member of the Government, statements that he makes in the course of his governmental duties are not susceptible to review by the administrative courts. It follows that the application is inadmissible. ..."
15 December 1980	On 15 December 1980 the Conseil d'Etat registered a summary notice of appeal by Mr Allenet de Ribemont. After a warning on 19 May 1981, he filed his full pleadings on 1 July 1981. On 7 July these pleadings were sent to the Minister of the Interior, who submitted his observations on 13 April 1982. The applicant replied on 7 July 1982.□
11 May 1983	After a hearing on 11 May 1983 the Conseil d'Etat dismissed the appeal on 27 May 1983, on the following grounds: "... Statements made by the Minister of the Interior at the time of a police operation cannot be dissociated from that operation. Accordingly, it is not for the administrative courts to rule on any prejudicial consequences of such statements. It follows from the foregoing that, although the Paris Administrative Court was wrong to rule in the impugned judgment that the applicant's claim related to an act performed 'in the course of governmental duties' and thus not susceptible to review by the administrative courts, Mr Allenet's appeal against the dismissal of his claim in that judgment is unfounded."□
THE PROCEEDINGS IN THE ORDINARY COURTS	
29 February 1984	Mr. Allenet de Ribemont brought proceedings in the Paris tribunal de Grande instance against the Prime Minister on 29 February 1984 and the Government Law Officer (agent judiciaire du Trésor) on 5 March 1984.□
25 September 1984	On 25 September 1984 the Prime Minister submitted that the tribunal de Grande instance had no jurisdiction as such an action could only, in his view, be brought in the administrative courts. After requesting the applicant to produce the full text of the statements attributed to the Minister and raising an objection that an action for defamation was time-barred, the Government Law Officer replied on 21 September 1984 and on 28 May 1985.□
14 November 1984 and 5 April 1985	The applicant filed his submissions on 14 November 1984 and 5 April 1985. He requested the court to order two French television companies to hand over video recordings of the press conference of 29 December 1976 and produced press cuttings relating to it.□
8 January 1986	The Court gave judgment on 8 January 1986 as follows: ... It follows that Patrick Allenet de Ribemont's claim for reparation from the State for damage sustained on account of the statements attributed to the

	<p>Minister of the Interior should have been lodged only against the Government Law Officer, who is the State's sole representative before the courts, and not against the Prime Minister, who accordingly must not remain a party to the proceedings.</p> <p><u>Jurisdiction:</u></p> <p>The Paris tribunal de Grande instance must be held to have jurisdiction in so far as the statements attributed to the Minister of the Interior can be linked with a police operation and are not dissociable from that operation. ... It is not for the court to make good any omissions by the parties or to supplement evidence they have adduced.... Patrick Allenet de Ribemont has produced press cuttings describing the press conference of 29 December 1976, some of which are dated the day after the conference or the days following ... The newspapers did not, however, report the statements allegedly made by the Minister of the Interior, as set out in the writ. However, in publications several years after the event, journalists attributed to the Minister of the Interior remarks about Patrick Allenet de Ribemont's alleged role, and in Le Point of 6 August 1979... however... the press articles relied on by Patrick Allenet de Ribemont cannot be accepted as the sole evidence in view of the objection raised by the defendant on this point.</p> <p>It may further be observed, ... that the publications at the time of the press conference in issue merely reported the remarks about Patrick Allenet de Ribemont's involvement in Jean de Broglie's murder allegedly made by Superintendent Ottavioli after the Minister of the Interior had spoken.</p> <p>Accordingly, since the plaintiff has brought proceedings against the State solely on account of the remarks attributed to the Minister of the Interior, the action must be dismissed without there being any need to examine the submission that an action either for defamation - although the plaintiff has disputed that his action was for defamation - or for a breach of the secrecy of judicial investigations provided for in Article 11 of the Code of Criminal Procedure, is time-barred. ..."</p>
PROCEEDINGS BEFORE PARIS COURT OF APPEAL	
19 February 1986	Mr. Allenet de Ribemont appealed to the Paris Court of Appeal on 19 February 1986.
19 March 1986	The Government Law Officer cross-appealed on 19 March 1986. The applicant again requested that Mr. Allenet de Ribemont appealed to the videotapes should be handed over for showing.
7 May 1986	On 7 May 1986 the judge in charge of preparing the case for hearing served notice on Mr. Allenet de Ribemont to file his submissions, but without success. On 14 October 1986 he requested him to produce his documents by 30 October and to file any submissions by 14 November. On 19 November he sent a final notice before terminating the preparation of the case for trial. The Government Law Officer filed submissions on 28 November and the applicant on 9 December. On 21 December the parties were informed that the order certifying that the case was ready for hearing would be issued on 28 April 1987.
17 June 1987	At the hearing of 17 June 1987 Mr. Allenet de Ribemont requested an adjournment and, having duly been given leave by the court, filed further submissions on 8 July.□
21 October 1987	The Court of Appeal held another hearing on 16 September 1987 and gave judgment on 21 October 1987. It found against the applicant for the following

	<p>reasons:</p> <p>“...According to the applicant, Mr Poniatowski had made the following statement: 'Mr De Varga and Mr de Ribemont were the instigators of the murder. The organiser was Detective Sergeant Simoné and the murderer was Mr Frèche'. It was allegedly apparent from the series of statements made by Mr Poniatowski, or by Mr Ducret and Mr Ottavioli under his authority, that all those guilty had been arrested, the haul was complete and the case was solved. These three had allegedly maintained that the motive for the crime was a bank loan obtained by Mr de Broglie to enable Mr de Ribemont to acquire a controlling interest in the Rôtisserie de la Reine Pédauque company. However, as the court below rightly held, the press cuttings produced by Mr Allenet de Ribemont do not suffice to prove his allegations.</p> <p>... It has not been shown that the statements complained of, which were made during the judicial investigation, in themselves caused the alleged damage. ...In the absence of any causal link between the impugned statements - should their exact terms be established - and the damage claimed, it is unnecessary to consider the subsidiary application to have the recording produced....”</p>
PROCEEDINGS BEFORE THE COURT OF CASSATION	
4 November 1988	<p>Mr. Allenet de Ribemont lodged an appeal on points of law, which the Court of Cassation Second Civil Division heard on 4 November 1988 and dismissed on 30 November 1988 on the following grounds:</p> <p>"The judgment [of the Paris Court of Appeal] has been challenged because it dismissed Mr Patrick Tancrède Allenet de Ribemont's appeal on the ground that the press cuttings he had produced did not suffice to prove his allegations. It is argued, however, firstly, that the Court of Appeal distorted the meaning of those press cuttings, which proved conclusively that statements had been made by the Minister of the Interior and indicated their exact terms; secondly, that it infringed Article 1382 of the Civil Code by refusing to take into consideration the non-pecuniary damage sustained by Mr Patrick Tancrède Allenet de Ribemont; and, lastly, that it breached Article 13 of the European Convention on Human Rights by denying fair reparation to a man whose reputation had been injured in statements heard by millions of television viewers.</p> <p>However, the Court of Appeal held in that judgment, ... that the cuttings from the newspapers published on the day after the conference and on the following days did not report the statements allegedly made by the Minister of the Interior, ... but merely gave an account of remarks said to have been made by a police superintendent after the Minister had spoken, and that the remarks attributed to Mr Poniatowski, relating to Mr Patrick Tancrède Allenet de Ribemont's alleged role as instigator, had been reported in a publication that appeared only several years after the event...</p> <p>In giving this reason alone - leaving aside the reasons criticised in the ground of appeal on points of law, which were subsidiary considerations - the Court of Appeal justified its decision in law. ..."</p>

B. The applicant's complaints under the European Convention

Mr. Allenet De Ribemont lodged his application with the European Commission on 24 May 1989. The applicant complained under Article 6 paragraph 2, Article 13 and Article 6 paragraph 1 of the Convention. On 28 February 1993 the Commission declared the Application (No.

15175/89) admissible as to the complaints based on disregard of the presumption of innocence and the length of the proceedings and the remainder of it inadmissible.

It its Report of 12 October 1993 (Article 31), the Commission expressed the unanimous opinion that there had been a violation of paragraphs 1 and 2 of Article 6 of the Convention.

Table No. 2 highlights the complaints of the applicant under the European Convention and the arguments of the Government of France brought against alleged violations raised by the applicant before the European Court during its hearings held in private on 27 October 1994 and 23 January 1995:

Table No. 2

<i>Articles allegedly violated</i>	<i>The applicant's complaints</i>	<i>The arguments of the Government of France</i>
<p>The applicant requested the Court to “endorse the Commission’s Opinion of 12 October 1993” and “hold that there had been a violation of Article 6 paras. 1 and 2 of the Convention”.</p> <p>Article 6 (2) reads as follows: Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.</p>	<p>The applicant alleged that the statement made by Minister of the Interior at the press conference held on 29 December 1976 amounted to an infringement of his rights to benefit from the presumption of innocence guaranteed by Article 6 paragraph 2 of the Convention.</p>	<p>The Government asked the Court to “rule that there [had] been no violation of Article 6 para. 2 of the Convention”.</p>
<p>Article 6 (1) reads as follows: In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.</p>	<p>The applicant alleged that the domestic courts had not been independent and that the domestic proceedings had taken too long, which amounted an infringement with the rights guaranteed by Article 6 paragraph 1 of the Convention.</p>	<p>The Government asked the Court to “rule that there [had] been no violation of Article 6 para. 1 of the Convention”.</p>

C. The Judgment of the European Court

Table No. 3 below underlines the applicant's complaints made before the European Commission and the European Court and the objections of the Government of France made orally and presented in written memorials. The table also provides insights into the Commission's position regarding the complaints of alleged violations raised by the applicant and the judgment of the European Court, highlighting the reasoning set out in the judgment with respect to the complaints of the applicant and the alleged violations of his rights guaranteed by paragraph 1 and 2 of Article 6 of ECHR.

Table No. 3

AS TO THE LAW			
ALLEGED VIOLATION OF ARTICLE 6 PARA. 2 OF THE CONVENTION			
<i>The applicant's complaints</i>	<i>Objections of the Government of France</i>	<i>Standing of the European Commission</i>	<i>Judgment of the European Court</i>
<p>The applicant complained of the remarks made by the Minister of the Interior and the senior police officers accompanying him at the press conference of 29 December 1976. The applicant relied on Article 6 para. 2 of the Convention</p>	<p>The Government of France contested, in substance, the applicability of Article 6 para. 2, relying on the Minelli v. Switzerland judgment of 25 March 1983 (Series A no. 62). They maintained that the presumption of innocence could be infringed only by a judicial authority, and could be shown to have been infringed only where, at the conclusion of proceedings ending in a conviction, the court's reasoning suggested that it regarded the defendant as guilty in advance.</p>	<p>The Commission acknowledged that the principle of presumption of innocence was above all a procedural safeguard in criminal proceedings, but took the view that its scope was more extensive, in that it imposed obligations not only on criminal courts determining criminal charges but also on other Authorities.</p>	<p>The Court finds that the scope of Article 6 (2) is not limited to the eventuality mentioned by the Government. The Court held that there had been violations of this provision in the Minelli and Sekanina cases ... Moreover, the Court reiterates that the Convention must be interpreted in such a way as to guarantee rights which <u>are practical and effective as opposed to theoretical and illusory....</u> That also applies to the right enshrined in Article 6 (2). The Court considers that the presumption of innocence <u>may be infringed not only by a judge or court but also by other public authorities.</u></p>
Compliance with Article 6 para. 2			
<p>The applicant submitted that</p>	<p>The Government maintained that such</p>	<p>The Commission considered that the</p>	<p>Freedom of expression includes the freedom to</p>

<p>statement made by the Minister of the Interior and, in his presence and under his authority, by the police superintendent in charge of the inquiry and the Director of the Criminal Investigation Department, were incompatible with the presumption of innocence guaranteed by the Convention.</p>	<p>remarks came under the head of information about criminal proceedings in progress and were not such as to infringe the presumption of innocence, since they did not bind the courts and could be proved false by subsequent investigations. The facts of the case bore this out, as the applicant had not been formally charged until two weeks after the press conference and the investigating judge had eventually decided that there was no case to answer.</p>	<p>remarks made by the Minister of the Interior and, in his presence and under his authority, by the police superintendent in charge of the inquiry and the Director of the Criminal Investigation Department, were incompatible with the presumption of innocence. It noted that in them that the applicant was held up as one of the instigators of Mr de Broglie's murder.</p>	<p>receive and impart information. Article 6 para. 2 cannot therefore prevent the authorities from informing the public about criminal investigations in progress, but it requires that they do so with all the discretion and circumspection necessary if the presumption of innocence is to be respected. The Court notes that in the instant case some of the highest-ranking officers in the French police referred to Mr Allenet de Ribemont, without any qualification or reservation, as one of the instigators of a murder and thus an accomplice in that murder. This was clearly a declaration of the applicant's guilt which, firstly, encouraged the public to believe him guilty and, secondly, prejudged the assessment of the facts by the competent judicial authority. There has therefore been a breach of Article 6 para. 2.</p>
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ALLEGED VIOLATION OF ARTICLE 6 PARA. 1 OF THE CONVENTION

A. Period to be taken into consideration

<p>The applicant complained of the length of the compensation proceedings he brought in the administrative and then in the ordinary courts. He relied</p>	<p>In the Government's submission the proceedings in the administrative courts were not to be taken into account. Those courts had given no decision on the merits and had relinquished jurisdiction</p>	<p>The Commission accepted the arguments of the applicant with respect to the end of the period to be taken into consideration. The Commission noticed that the proceedings ended on 30 November 1988, when</p>	<p>The applicability of Article 6 para. 1 was not contested. Like the Commission, the Court notes that the proceedings in question concerned claims for compensation for the injury to his reputation</p>
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<p>on Article 6 para. 1 of the Convention. The applicant, on the other hand, maintained that the proceedings began with the application to the Paris Administrative Court, and that because of the dispute over jurisdiction the proceedings in the ordinary courts were a necessary continuation of the action in the administrative courts. In addition, it seemed so natural that the administrative courts should have jurisdiction in the case that the Prime Minister challenged the ordinary courts' jurisdiction in the Paris <i>tribunal de grande instance</i>.</p>	<p>pursuant to the principle of the separation of administrative and judicial authorities, which obliged the administrative courts to reject arguments which they could not entertain without interfering in the working of the ordinary courts. Mr Allenet de Ribemont's lawyers could not have been unaware of this principle.</p>	<p>the Court of Cassation dismissed the applicant's appeal on points of law against the Paris Court of Appeal's judgment of 21 October 1987.</p>	<p>which the applicant asserted he had sustained as a result of the statements complained of.... Like the Commission, the Court accepts the applicant's argument [re the end of the period to be taken into consideration]. The Court notes that the issue of how jurisdiction is split between the administrative and the ordinary courts appears to be a very complex and difficult one in compensation proceedings, particularly those brought on account of remarks made by a member of the Government... The period to be taken into consideration in order to determine whether the length of the proceedings was reasonable, therefore began on 23 March 1977, when the claim was lodged with the Prime Minister, and amounted to <u>eleven years and approximately eight months.</u></p>
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B. Reasonableness of the length of the proceedings

<p>Mr. Allenet de Ribemont agreed that the proceedings he had initiated were of some complexity, seeing that they concerned the State's liability.</p>	<p>In the Government's submission, the case had also raised the difficult question of the proof that the remarks made were negligent and that they had caused the damage alleged. In addition, there had been procedural complications, to which</p>	<p>The Commission, to whose opinion Mr. Allenet de Ribemont referred, accepted that the proceedings he had brought were of some complexity, seeing that they concerned the State's liability.</p>	<p>The Court considers that even though the case was complex for the foregoing reasons, its complexity cannot entirely justify the length of the proceedings complained of.</p>
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	the applicant had contributed.		
Mr. Allenet de Ribemont contended that he could not be held responsible for the slowness of the proceedings.	<p>The Government maintained that, on the contrary, [the applicant] had lengthened the proceedings by nearly six years. The applicant waited for eleven months before replying to the pleadings of the Minister of Culture and the Minister of the Interior in the Administrative Court proceedings, seven months after the registration of his appeal to the Conseil d'Etat before filing his full pleadings, nine months after the Conseil d'Etat's judgment dismissing his appeal before applying to the ordinary courts, and ten months, punctuated by several interventions by the judge preparing the case for hearing, before filing his submissions to the Court of Appeal. He also caused a three-month delay by requesting an adjournment of the case in the Court of Appeal.</p> <p>Moreover, by not applying to the civil courts immediately after the Paris Administrative Court's ruling that it had no jurisdiction, as he was entitled to do in French law, the applicant had prolonged the proceedings by approximately <u>two years and seven months</u>, that is to say the time which elapsed between that ruling and the judgment of the Conseil d'Etat.</p>	The Commission finds that Mr Allenet de Ribemont's conduct delayed the proceedings to a certain extent.	<p>The Court agreed with the Commission that the applicant's conduct delayed the proceeding to a certain extent. The Court has already stated that, owing to the difficulty of determining exactly which hierarchy of courts had jurisdiction in the case, the applicant cannot be criticised for first applying to the administrative courts. That is true ... that responsibility for the lapse of <u>two years and seven months</u> between the Paris Administrative Court's judgment (13 October 1980) and the Conseil d'Etat's judgment (27 May 1983) cannot be ascribed to Mr. Allenet de Ribemont alone.</p> <p>Accordingly, even supposing that the applicant could be held responsible for a delay of approximately <u>three years and four months</u>, <u>there would still remain approximately eight years</u>.</p>

<p>Mr. Allenet de Ribemont referred to the Commission's Opinion regarding the conduct of the national authorities. The applicant submitted, however, that those authorities' refusal to grant his application for production of the video recording that would have enabled him to substantiate his allegations had contributed to the delay complained of.</p>	<p>The Government maintained that the national authorities had conducted themselves in such a way as to expedite the proceedings. In the Paris Court of Appeal in particular, the judge in charge of preparing the case for hearing had issued frequent reminders to the applicant in order to obtain the submissions he had been slow to produce. In addition, the only periods of inactivity imputed by the Commission to the authorities occurred during the proceedings in the administrative courts, which, it was submitted, were not to be taken into account in this case.</p>	<p>The Commission notes that there were several periods of inactivity for which the national authorities were responsible.</p>	<p>The Court agrees that for certain inactivity the French authorities were responsible... The proceedings in Paris Administrative Court lasted <u>eight months</u>.... A second period, <u>of nine months and two weeks</u>, elapsed during the proceedings in the Conseil d'Etat... In addition ... the Prime Minister and the Government Law Officer did not file their submissions until <u>seven and six months</u> respectively after the proceedings had been brought against them. Moreover,... the administrative authorities took certain steps that delayed the proceedings,... <u>The Court is in no doubt that this was the main cause of the slow progress of the proceedings.</u> ...Court notes that it took no <u>less than five years and eight months</u> for the administrative courts to rule that they had no jurisdiction... <u>The complexity of the case and the applicant's conduct are not in themselves sufficient to explain the length of the proceedings.</u> ... Even though the proceedings in the Court of Appeal and the Court of Cassation, taken separately, do not appear excessively long, a total lapse of time of about <u>eleven</u></p>
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			<u>years and eight months</u> cannot be regarded as <u>reasonable</u> . There has accordingly been a breach of Article 6 para. 1.
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ARTICLES ALLEGEDLY VIOLATED	COMMISSIONS OPINION	COURT'S JUDGMENT
Article 6 (1) of ECHR	Violation (unanimous)	Violation (unanimous)
Article 6 (2) of ECHR	Violation (unanimous)	Violation (by eight votes to one)
Article 13 of ECHR	Declared inadmissible	Not considered

Partly Dissenting Opinion of Judge Mifsud Bonnici: Judge Mifsud Bonnici disagreed with the Court in terms of finding a breach of Article 6 para. 2. Judge Bonnici underlined the fact that the European Court affirmed for the first time with its judgment that the fundamental right that “everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law” – “may be infringed not only by a judge or a court but also by other public authorities”. The Judge further stated that “... when the violation is committed by the public authorities before the trial of the person charged with a criminal offence, no practical and effective remedy for that violation is afforded if that remedy is sought as soon as the violation takes place... This is clearly not a practical and effective remedy...”

PART II -- STUDY OF THE JUDGEMENT OF THE EUROPEAN COURT ON THE CASE

A. Presumption of Innocence

The presumption of innocence is one of the key guarantees of a fair trial: it is better for 5, 10, 20 or 100 guilty men to go free than for one innocent man to be imprisoned¹. This principle has been developed over many years by England, Ancient Greece and Ancient Rome and is considered as an inalienable part of the presumption of innocence. *Blackstone*² ratio provides: “Better than ten guilty persons escape than that one innocent man suffers”.

The presumption of innocence is an essential right that the accused enjoys in criminal trials in all countries respecting human rights and fundamental freedoms. This fundamental principle is guaranteed by International and European human rights protection mechanisms as well as by the

¹ See “Law Review Article on the Presumption of Innocence: n Guilty Men” by Alexander Volokh; 146 University of Pennsylvania Law Review 173 (1997), volokh@fas.harvard.edu.

² English Jurist William Blackstone.

constitutions and legislative frameworks of different countries³. Article 11.1 of the *Universal Declaration of Human Rights*⁴ states:

Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

Article 14 of *International Covenant on Civil and Political Rights*⁵ states:

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (...)
- b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (...)
- d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; (...).⁶

Article 6 (2) of the European Convention states: “Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law”⁷.

According to the principle of the presumption of innocence, no guilt can be presumed until the charge has been proved beyond reasonable doubt. It is, therefore, a duty for all public authorities to refrain from prejudging the outcome of a trial⁸. Meanwhile, the case law of the European Court shows that Article 6 para. 2 of ECHR does not exclude the application of rules which transfer the burden of proof to the accused to establish his/her defense⁹. The presumption of innocence applies to individuals who are suspected of or accused of having committed a criminal crime. However according to the case law of the European Court the principle of “presumption

3 The principle of “presumption of innocence” is prescribed in the legislative framework of France: “Every man is presumed innocent until declared guilty”. This principle laid down by the Declaration of the Rights of Man and the Citizen and reiterated in article 9 of the Civil Code, which is one of the fundamental rules of French law.

4 Universal Declaration on Human Rights (hereinafter referred to as “UDHR”), adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948.

5 International Covenant on Civil and Political Rights (hereinafter referred to as “ICCPR”), adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49.

6 Article 14 (2), (3) of ICCPR.

7 ECHR, Article 6 (2).

8 See ICCPR General Comment 13 (Twenty-first session, 1984): Article 14: Equality Before the Courts and the Right to a Fair and Public Hearing by an Independent Court Established by Law, A/39/40 (1984) 143 at para. 7.

9 See for example the Opinion on the European Commission on the case of *Lingens v. Austria*, 1981.

of innocence” also applies in relation to some types of civil cases, such as cases on professional discipline¹⁰. In the case of *Albert and Le Compte v. Belgium* the European Court held:

...In the opinion of the Court, the principles set out in paragraph 2 and in the provisions of paragraph 3 invoked by Dr. Albert (that is to say, only sub-paragraphs (a), (b) and (d)) are applicable, mutatis mutandis, to disciplinary proceedings subject to paragraph 1 in the same way as in the case of a person charged with a criminal offence¹¹.

The presumption of innocence has procedural implications, as well as covers a number of specific rights and questions, which, among other things, include: pre trial publicity¹², the burden of proof¹³, the standard of proof¹⁴, right to silence¹⁵, costs in criminal cases¹⁶.

According to the case law of the European Court the presumption of innocence might be infringed in the following instances:

- By Judicial Authorities (a judge or a court)¹⁷,
- By mass media -- The Council of Europe developed and adopted documents stressing the importance of the presumption of innocence and the role of media reporting in informing the public on criminal proceedings and ensuring public scrutiny of the functioning of the criminal justice system. The Council of Europe developed Principles concerning the provision of information through the media in relation to criminal proceedings which are set in Recommendation Rec(2003)13 of the Committee of Ministers of the Council of Europe¹⁸. The recent developments show that the International and Regional Authorities and organizations are repeatedly recalling the importance of the principles of freedom of expression and information as a basic element of democratic and pluralist society and a prerequisite for the progress of society and for the development of human beings, and meantime recommending states to provide appropriate information to the media with due respect for the principle of the presumption of innocence. The Committee of Minister’s Declaration on Freedom of Expression and Information in the Media in the Context of the Fights against Terrorism expressly calls on public authorities in member states:

“...to provide appropriate information to the media with due respect for the principle of the presumption of innocence and the right to respect for private life....” The Declaration also

10 See the judgment of the European Court in the case of *Albert and Le Compte v. Belgium* (10 February 1983).

11 Ibid. at para. 39.

12 See the judgment of the European Court on the Case of *Alenet De Ribemont v. France* (10 February 1995).

13 See the para. above.

14 According to the Case Law of the Court the standard of proof required under the Convention is 'proof beyond reasonable doubt'. See for example the judgment of the European Court in the case of *ANGUELOVA v. BULGARIA* (13 June 2002), para. 167.

15 See for example judgment of the European Court on the case of *Heaney and McGuinness v. Ireland* (21 December 2000).

16 See for example the judgment of the European Court on the case of *Minelli v. Switzerland* (1983).

17 Ibid.

18 Council of Europe Committee of Ministers Recommendation Rec(2003)13 of the Committee of Ministers to member states on the provision of information through the media in relation to Criminal Proceedings (Adopted by the Committee of Ministers on 10 July 2003 at the 848th meeting of the Ministers' Deputies).

invites the media and journalists to “... respect the right to the presumption of innocence of persons who are prosecuted in the context of the fight against terrorism”.¹⁹

Currently the legislative frameworks of France establish guarantees for those whose “presumption of innocence” was infringed by the means of mass media²⁰.

- State Authorities (officials) -- With its judgment on the case of *Alenet de Ribemont v. France* the European Court first time held that not only the courts, but also the State Authorities are bound by the principle of “presumption of innocence”. In the case of *Alenet De Ribemont* the Court indicated that the right to presumption of innocence of the applicant was infringed as a result of references made to the applicant at a press conference given by a Government Minister and high-ranking police officers during a murder investigation, and the length of subsequent proceedings brought by the applicant with a view to obtaining compensation for the alleged damage to his reputation. The applicant's arrest and detention in police custody had formed a part of a judicial investigation which began a few days earlier by a Paris investigating judge and had made him a person 'charged with a criminal offence'. The police officers had been conducting the inquiries in the case.

The study of the judgment shows that the European Court, while passing a decision, places most emphasis on the general aim of the presumption of innocence i.e. to protect the accused against any judicial decisions or other statements made by state officials amounting to an assessment of the guilt without him/her having previously been proved guilty according to law. This provision was further reaffirmed in other judgments of the Court²¹. From the other hand the Court also underlined the importance of Article 10 and the right of public to be informed about the criminal investigations in process and indicated in the case of *Alenet De Ribemont*, that:

Freedom of expression, guaranteed by Article 10 (art. 10) of the Convention, includes the freedom to receive and impart information. Article 6 para. 2 (art. 6-2) cannot therefore prevent the authorities from informing the public about criminal investigations in progress, but it requires that they do so with all the discretion and circumspection necessary if the presumption of innocence is to be respected²².

19 Declaration on Freedom of Expression and Information in the media in the Context of the Fight Against Terrorism (Adopted by the Committee of Ministers on 2 March 2005 at the 917th meeting of the Ministers' Deputies.

20 A newspaper which improperly presents someone as guilty may be compelled to publish a statement drawn up by the court restating the presumption of innocence of defendants and admitting to a breach of the law. In cases of discharge or acquittal by the investigating magistrate or courts the person whose innocence was unjustly impugned now enjoys new forms of protection inserted into the Code of Criminal Procedure (new articles 177-1 and 212-1) and the Act of 1881 on the press (amended articles 13 and 65, new articles 65-1 and 65-2). The Act of 4 January 1993 reopens or extends for people "named or referred to...at the time of criminal proceedings" the time-limits laid down in the Act of 29 July 1881 for exercising the right of reply and taking legal action for defamation in cases of discharge or acquittal.

21 See for example the judgment of the European Court on the case of *Rushiti v. Austria* (21.03.2000), para. 31. See also the judgment of the European Court in the Case of *Weixelbraun v. Austria* (20.03.2002), para. 25.

22 See the judgment of the European Court on the Case of *Alenet De Ribemont v. France* the (10 February 1995), para. 38.

As Judge Bonnici indicated in his Partly Dissenting Opinion, in the case of *Alenet De Ribemont* the Court for the first time affirmed that the right to “presumption of innocence” may be infringed not only by a court or a judge, but also by public authorities.

The Court did apply in its judgment the tests on a) examining the level of the influence of the announcement made by some high ranking officers in the French Police with respect to Mr. Ribemont’s guilt and b) the instance of the prejudgment of the assessment of the facts by the competent judicial authority. Article 6 of ECHR may require states to interfere with the right of freedom of expression is the right of an accused to a fair trial may be prejudiced. By applying the mentioned tests the European Court found that in the light of the facts of the case there has been a breach of the right of the Application on “presumption of innocence” guaranteed by Article 6 para. 2. The Court indicated that the arrest and detention of the applicant in police custody formed part of the judicial investigation begun a few days earlier by a Paris investigating judge and made him a person "charged with a criminal offence" within the meaning of Article 6 para. 2. The two senior police officers present were conducting the inquiries in the case. Their remarks, made in parallel with the judicial investigation and supported by the Minister of the Interior, were explained by the existence of that investigation and had a direct link with it.

The disagreement that was raised in the partly dissenting opinion of Judge Bonnici focused on the question that although the European Court in paragraph 35 of the judgment indicated that “... European Convention must be interpreted in such a way as to guarantee rights which are practical and effective as opposed to theoretical and illusory”²³ the interpretation made by the Court cannot be guaranteed in a practical and effective way, given the fact that the violation is committed by the public authorities before the trial of the person charged with a criminal offence, if that remedy is sought as soon as the violation takes place²⁴.

According to Articles 1 and 13 of ECHR states are required to ensure Convention rights and freedoms to everyone in their jurisdiction. This brings to a conclusion that the member states are obliged to ensure practical and effective ways for the exercise of the Convention rights and freedoms at the domestic levels. The member states undertake different measures to ensure the direct application of ECHR rights and freedoms and the case-law of the European Court in their respective Countries. These activities include reforms in the legislative, judicial and other relevant fields as well as other necessary activities. Some Countries, such as the United Kingdom, have established legal acts that require courts and tribunals to take the case law of the European Court and the Commission into consideration while determining any question which arises in connection with Convention rights and freedoms²⁵. Given the requirements of the European Convention and the judgment in the case of *Alenet de Ribemont v. France* would require states to establish effective and practical remedy for the people under their jurisdiction whenever necessary to argue the alleged breach of the right to “presumption of innocence”.

In addition to the relevant provisions of ECHR and the case law of the European Court, the Strasbourg organs as well as other international and regional human rights protection

23 Ibid. at para. 35.

24 Ibid. at Partly Dissenting Opinion of Judge Mifsud Bonnici, paras. 3 & 4.

25 The Human Rights Act 1998, Section 2(1)

mechanisms give great importance to fair trials, including the principle of “presumption of innocence” and develop certain documents which set forth relevant requirements that state shall follow to ensure the proper administration of justice. The Council of Europe reaffirmed the principle of the presumption of innocence in a number of other documents, in particular in Recommendation of the Committee of Ministers of the Council of Europe to Member States Concerning Mediation in Penal Matters²⁶ and Recommendation Concerning Intimidation of Witnesses and the Rights of the Defence²⁷.

The study of the judgments of the European Court dealing with journalists as well as state officials reporting (by TV, radio and newspapers) on the judiciary, pre trial investigation and the pending judgments shows that the European Court applies the test on ensuring balance between the rights of the public to be informed about the criminal investigations in progress, pending criminal cases and the interests of the administration of justice, the right of accused, judges as well as other participants of the trial²⁸. In this case the European Court also highlighted the importance of Article 10 and the right of the population to be informed about the criminal investigations. At the same time, the European Court also underlined a very important principle which recommends that state authorities, while informing the public about criminal investigations in progress, apply *all the discretion and circumspections necessary* if the presumption of innocence is to be respected. Although the European Court did not go further in terms of interpreting the phrases “*discretion and necessary circumspections*”, given the character of and the instances of possible infringement of the principle of “presumption of innocence”, it becomes obvious that the court will apply this test in the light of each case given the facts and the circumstances of the case.

It is noticeable that some countries have adopted certain legislative frameworks and enforcement guides with respect to reporting and publicising proceedings. For example in the Enforcement Guide (England and Wales) Court Reporting and Publicising Proceedings—ECHR Considerations²⁹ it is indicated:

- “1. Prejudicial publicity may give rise to contravention of the ECHR, in particular the right to a fair trial under Article 6.
2. It is unlawful for a public authority... to act in a way which is incompatible with a “Convention Rights”. A person who claims that a public authority has acted (or

26 Council of Europe, Committee of Ministers, Recommendation no. R(99)19 of the Committee of Ministers to Member States (hereinafter referred to as “R (99) 19,”) Concerning Mediation in Penal Matters (Adopted by the Committee of Ministers on 15 September 1999 at the 679th meeting of the Ministers’ Deputies).

27 Council of Europe, Committee of Ministers, Recommendation No. R (97) 13 of The Committee of Ministers to Member States (hereinafter referred to as “R(97) 13”)Concerning Intimidation of Witnesses And The Rights of the Defence (Adopted By The Committee of Ministers on 10 September 1997, At the 600th Meeting of The Ministers’ Deputies).

28 See for example the judgment of the European Court on the case of Worm v. Austria (29 August 1997).

29 See the Enforcement Guide (England and Wales), Court Reporting and Publicising Proceedings-ECHR Considerations, URL: <http://www.hse.gov.uk/enforce/enforcementguide/court/reporting/echr.htm>

proposes to act) in a way which is unlawful under the Human Rights Act 1998 (“HRA 1998”) may, if s/he is (or would be) a victim of the unlawful act either³⁰”.

As for the Act of 2 July 1931 (Section 2) of France which prohibited dissemination of any information on the pending criminal cases where a civil party application was present was not considered in compliance with the European Convention. In the case of *Du Roy and Malaurie v. France* the European Court found that:

...Although the domestic courts have, as in the instant case, held the prohibition to be justified as a means of protecting the reputation of others and maintaining the authority of the judiciary, that justification does not appear sufficient, seeing that the ban applies only to criminal proceedings instituted on a complaint accompanied by a civil-party application...

... Such a difference in the treatment of the right to inform does not seem to be based on any objective grounds, yet wholly impedes the right of the press to inform the public about matters...³¹.

It is noticeable that member states as well as international and regional human rights protection mechanisms attach considerable importance to ensuring that relevant mechanisms exist for the protection of the principle of “presumption of innocence”, which is likely to be infringed not only by judges but also by other authorities.

B. Length of the Proceedings

Promotion of impartial, effective administration of justice is a goal of all democratic legal systems adhering to rule of law precepts³². The European Court provides special importance to the fair trial in a democratic society and indicates:

...By rendering the administration of justice visible, publicity contributes to the achievement of the aim of Article 6 para. 1 (art. 6-1) namely a fair trial, the guarantee of which is one of the fundamental principles of any democratic society, within the meaning of the Convention (see the Golder judgment of 21 February 1975, Series A no. 18, p. 18, para. 36, and also the Lawless judgment of 14 November 1960, Series A no. 1, p. 13)...³³.

The right to fair trial for civil and criminal court proceedings is guaranteed by International and European human rights protection mechanisms. Article 6 of ECHR guarantees the right to fair trial, which includes a number of principles and rights, such as:

- The principle of presumption of innocence (until guilt has been proven in accordance with the law),
- The right of an accused to have adequate time and facilities to prepare a defence,
- The right to defend oneself in person or through legal assistance,

30 See Section 7 (1) (c) and (b) of Human Rights Act 1998.

31 See the judgment of the European Court on the case of *Du Roy and Malaurie v. France* (12 September 2000), para. 35.

32 Monroe E. Price & Peter Krug, *The Enabling Environment for free and independent media: (Para 4.3.3.5. Protection of Judicial Administration, page 36)*; Wolfson College. OXFORD OX2 6UD, December 1, 2000.

33 See the judgment of the European Court on the case of *Axen v. Germany* (25 October 1986), para. 25.

- The right to call witnesses,
- The right to have the free assistance of an interpreter where necessary³⁴.

The ECHR and its Protocols also provide other rights and freedoms which guarantee safeguards for effective exercise of the right to a fair trial. Such rights include the right to effective remedy³⁵, freedom from retroactive criminal legislation³⁶, right of appeal in criminal matters³⁷, compensation for wrongful conviction³⁸ and the right not to be punished twice for the same offence³⁹.

The right to hearing *within a reasonable time* is one of the core rights that ensures the effective and exercise of the fair trial. Subparagraph 3 (c) of Article 14 of ICCPR provides that the accused shall be tried without undue delay. This guarantee relates not only to the time by which a trial should commence, but also the time by which it should end and judgment be rendered; all stages must take place "without undue delay". To make this right effective, a procedure must be available in order to ensure that the trial will proceed "without undue delay", both in first instance and on appeal⁴⁰.

ECHR also provides guarantees to trial within a reasonable time. Article 5 para. 3 of ECHR provides such guarantees for those who are held in pre trial detention whereas Article 6 para. 1 ensures fair trial within a reasonable time while determining any criminal charge. According to the case-law of the European Court the reasonable time under Article 6(1) of ECHR starts from the moment when a person is charged⁴¹ in criminal cases and when the action is being brought in civil cases within the meaning of ECHR⁴² and includes all proceedings of the case, including appeals and execution of judgments⁴³.

The length of court proceedings (civil and criminal) has been considered in many decisions and judgments by the Commission and the European Court. The study of the practices of the member

34 See Article 6 of ECHR.

35 See Article 13 of ECHR.

36 See Article 7 of ECHR.

37 See Protocol No. 7, Article 2 to ECHR.

38 See Protocol No. 7, Article 3 to ECHR.

39 See Protocol No. 7, Article 4 to ECHR.

40 ICCPR General Comment 13 (Twenty-first session, 1984): Article 14: Equality Before the Courts and the Right to a Fair and Public Hearing by an Independent Court Established by Law, A/39/40 (1984) 143 at para. 10.

41 "Charge" is an autonomous concept under the Convention which applies irrespective of the definition of "Charge" in domestic law. The Right to Fair Trial, A Guide to the Implementation of Article 6 of the European Convention of Human Rights, Nuala Mole and Catharina Harby; Council of Europe, First impression, October 2001. Printed in Germany. See also judgments of the European Court on the case of Corigliano v. Italy (1 December 1982); on the Case of Imbriosca v. Switzerland (24 November 1993).

42 See e.g. the judgments of the European Court on the case of Eckle v. Germany (1983), Hokkanen v. Finland (23 September 1994), Katte Klitsche de la Grange v. Italy (27 October 1994).

43 According to the case law of the European Court the execution of a judgment given by any court must therefore be regarded as an integral part of the "trial" for the purposes of Article 6. See e.g. the judgment of the European Court on the case of Hornsby v. Greece (19 March 1997). See also the judgment of the European Court on the case of Burdov v. Russia (4 September 2002).

states of the Council of Europe show that many countries, such as Italy, made amendments in their legislative frameworks with respect to the length of court proceedings.

When examining the length of the proceedings, the European Court applies an individual approach to each case in issue and considers the below mentioned criteria that were developed in its case law⁴⁴:

- The complicity of the case⁴⁵,
- The conduct of the applicant⁴⁶,
- The conduct of the relevant national authorities (including investigative authorities, judiciary as well as other relevant domestic authorities involved in a trial, such as administrative authorities and etc.)⁴⁷,
- What is at stake for the applicant (the effect of the delay of a trial on the applicant)⁴⁸.

The European Court examined the case of *Allet de Ribemont* applying the above criteria and given the facts and circumstances of the case, a total lapse of time of approximately eleven years and eight months could not be regarded as reasonable within the meaning of Article 6 (1). Table No. 3 above provides the chronology of the proceedings, complaints of the applicant, arguments of the Government as well as the questions raised and discussed by the Commission and the European Court on the issue of the reasonableness of the length of proceedings.

The Court agreed that the case had been complex, since it concerned the State's liability and, according to the submissions of the Government, also raised the difficult question of the proof that the remarks made were negligent and there had been procedural complications, to which the applicant had contributed by delaying the proceedings with nearly six years. However, the Court stated that this could not entirely justify the length of the proceedings complained of. Both the Commission and the Court did find that Mr Allet de Ribemont's conduct delayed the proceedings to a certain extent. Accordingly, even supposing that the applicant could be held responsible for a delay of approximately three years and four months, there would still remain approximately eight years. According to the case law of the Court, a delay in the proceedings which is caused by the applicant usually weakens his/her position, however in this case the European Court did consider that even supposing that the applicant could be held responsible for a delay of approximately three years and four months, there would still remain approximately eight years, meaning that the relevant state authorities of France should be responsible for the remaining length of proceedings.

44 See for example the judgment of the European Court on the case of *Buchholz v. the Federal Republic of Germany* (6 May 1981), para. 49.

45 According to the case law of the European Court the complexity of the case may include questions related to the facts of the case and the legal regulatory issues as well as the number of accused and witnesses to be examined, the nature of the facts and other questions which the European Court examines while assessing the reasonableness of the length of the proceedings.

46 The European Court examines under this criterion whether the Applicant did cause any delay with his/her actions or omission.

47 According to the rights and freedoms set forth in Article 6 of ECHR states are responsible for ensuring guarantees for fair trial and any delays of a trial caused by state judicial and other relevant authorities (administrative, disciplinary) shall be justified in the meaning of ECHR. This important provision on the duty of states to organize their legal systems so, as to allow the courts to comply with the requirements of Article 6(1) was explicitly stated by the European Court in the Case of *Zimmerman and Steiner v. Switzerland*.

48 This is taken into consideration mainly in the criminal cases, when an accused is under the pre trial detention and cases where speed of a trial is essential i.e. health injury cases, cases involving children, employment disputes and etc.

With respect to the actions of the state authorities, the Court noted that there were a number of periods of inactivity during the proceedings for which the national authorities had been responsible. Moreover, both the administrative and judicial authorities had constantly blocked production of the video recording which would have enabled the applicant to prove what had been said at the press conference. The Court indicated that there was in no doubt that this had been the main cause of the slow progress of the domestic proceedings.

The Court also examined the way in which the courts of France dealt with the case in issue. *Table No. 3* provides a detailed description of the applicant's complaints on this question, arguments brought by the Government of France and the findings of the Commission and the Court on this issue. The Court noted that it had taken no less than five years and eight months for the administrative courts to rule that they had no jurisdiction. It was evident that the judge responsible for preparing the case for hearing before the Court of Appeal had indeed made an effort to speed up the proceedings, however it did not appear from the file that any judge had done so in the ordinary courts. The European Court, in a number of its judgments, underlined the importance of the activities of judicial authorities to speed up the proceedings which would ensure that the applicants receive guarantees provided by Article 6 of ECHR⁴⁹.

The European Court therefore found that there had been a breach of Article 6-1 of ECHR. The Court decided that France should pay the applicant 2,000,000⁵⁰ (two million) French francs for damages, 100,000 (One hundred thousand) French francs, plus value added tax for costs and expenses, within three months. The Court made this decision taking into account the various relevant factors making its assessment on an equitable basis, as required by Article 50 of ECHR.

PART III. SIGNIFICANT FEATURES OF THE CASE

There are two significant features in the judgment which became vital for further interpretation in cases regarding the alleged violation on the right to “presumption of innocence” which became benchmarks for legal acts and mechanisms regulating the right to “presumption of innocence” and fair trial under Article 6 of ECHR.

1. The Court found that the presumption of innocence may be infringed not only by a judge or court, but also by other public authorities⁵¹.

From this provision of the judgment it is evident that not only the courts, but also other state organs are bound by the principle of “presumption of innocence”.

2. The Court also highlighted the importance of Article 10 of the Convention and the need of the public to be informed on the criminal investigations and indicated:

49 See e.g. the judgment of the European Court on the case of Vernillo v. France (20 February 1991).

50 Mr. Allenet De Ribemont has sought compensation for pecuniary and non-pecuniary damage, which he assessed at 10, 000, 000 French francs. He also has sought 270,384.28 French francs for costs and damages. The Court did justify the claims for compensation in respect of pecuniary damage in part.

51 See the judgment of the European Court on the case of Allenet De Ribemont v. France (23 January 1995) para. 36.

Freedom of Expression guaranteed by Article 10 of the Convention includes the freedom to receive and impart information. Article 6 para. 2 cannot therefore prevent the authorities from informing the public about criminal investigations in progress, but it requires that they do so with *all the discretion and circumspection* necessary if the presumption of innocence is to be respected⁵².

⁵² Ibid. at para. 38.