

CONSEIL DE L'EUROPE—— ——COUNCIL OF EUROPE

TRIBUNAL ADMINISTRATIF ADMINISTRATIVE TRIBUNAL

**Appeals Nos. 211/1995, 213-214/1995, 220/1996, 222-223/1996, 227-228/1997, 229-230/1997
and 242-243/1998 (Taner and Claire BEYGO v. Secretary General)**

(Taner BEYGO (II), Taner BEYGO (III) and Claire BEYGO (I), Taner BEYGO (IV), Taner BEYGO (V) and Claire BEYGO (II), Taner BEYGO (VI) and Claire BEYGO (III), Taner BEYGO (VII) and Claire BEYGO (IV), Taner BEYGO (VIII) and Claire BEYGO (V) v. Secretary General)

The Administrative Tribunal, composed of:

Mr Carlo RUSSO, Chairman,
Mr Kåre HAUGE,
Mr Alan GREY, Judges,

assisted by:

Mr Sergio SANSOTTA, Registrar, and
Mrs Claudia WESTERDIEK, Deputy Registrar,

has delivered the following decision after due deliberation.

PROCEEDINGS

1. The Tribunal has to determine appeals by:

- Mr Taner BEYGO Appeal No. 211/1995, lodged on 4 September 1995
and registered on 11 September 1995,

Appeal No. 220/1996, lodged on 12 April 1996
and registered on 6 May 1996;

- Mr Taner BEYGO and Mrs Appeals Nos. 213-214/1995, lodged on 10 October
Claire BEYGO, born 1995 and registered on 20 October 1995,
LEGENDRE COLBERT,

Appeals Nos. 222-223/1996, lodged on 10 July 1996 and registered on 30 July 1996,

Appeals Nos. 227-228/1997, lodged on 27 December 1996 and registered on 31 January 1997,

Appeals Nos. 229-230/1997, lodged on 20 March 1997 and registered on 27 March 1997,

Appeals Nos. 242-243/1998, lodged on 24 September 1997 and registered on 7 January 1998.

2. Mrs Beygo, as appellant on her own behalf and as representative of Mr Beygo, submitted supplementary memorials on 13 and 14 November 1995, 14 and 20 September 1996, 15 February and 15 May 1997 and 8 January 1998.

The Secretary General submitted observations on the appeals on 18 and 19 December 1995, 8 November and 16 December 1996, 2 July 1997 and 9 February 1998.

Mrs Beygo deposited observations in reply on 5 and 8 February 1996 concerning Appeals Nos. 211/1995 and 213-214/1995, on 15 May 1997 concerning Appeals Nos. 220/1996 and 222-223/1996, on 3 and 4 August 1997 concerning Appeals Nos. 227-228/1997 and 229-230/1997, and on 15 April 1998 concerning Appeals Nos. 242-243/1998.

The Secretary General forwarded comments on those observations on 21 March 1996 concerning Appeal No. 211/1995 and on 2 April 1996 concerning Appeals Nos. 213-214/1996. The appellants replied on 21 and 22 May 1996.

3. On 18 January 1996, in connection with the administrative complaint prior to Appeal No. 220/1996, Mr Beygo laid before the Chairman of the Administrative Tribunal an application for stay of execution of the dismissal decision of 12 January 1996. By order of 2 February 1996, the Chairman of the Tribunal refused this application.

On 24 January 1996, Mr Beygo filed an application under Rule 42 of the Administrative Tribunal's Rules of Procedure to set aside the contested decision. By letter of 30 January 1996, the Registrar informed the appellant of the Chairman decision to refuse his application.

In addition to the application of 24 January 1996, the Administrative Tribunal received several other applications under Rule 42 of its Rules of Procedure.

The first and second of these, filed by Mr Beygo on 16 January 1996 and 14 February 1996 respectively, concerned the continued payment of his salary during the proceedings.

The third, dated 10 July 1996, sought payment of an invalidity pension for Mr Beygo.

The fourth, filed by both appellants on 16 July 1996, sought the award of an emergency payment of money, a finding of a situation of precariousness and the determination of damages.

All were refused by the Chairman, who found no reason to apply Rule 42 to the effect requested by the appellants. The Chairman's decisions were notified to the appellants by letters dated 5 March 1996 and 7 August 1996.

Subsequently, a fifth application under Rule 42 made on 6 September 1996, seeking to obtain an advance or appropriate assistance, was refused by the Tribunal in a decision dated 23 September 1996.

The appellants repeated their application for appropriate assistance on 13 December 1996, but the Chairman ruled that, as in the previous instances, there was no need to apply Rule 42. His decision was notified to the appellants by letter of 14 January 1997.

4. On 27 February 1997, Mr and Mrs Beygo filed a request for withdrawal against the Registrar on the grounds of his professional duties in the Secretariat of the European Commission of Human Rights and his handling of the above-mentioned appeals. On 24 March 1997, the Chairman of the Tribunal rejected this application.

On 8 September 1997, the appellants filed a request for withdrawal against the Chairman of the Tribunal and renewed their complaints against the Registrar. Against the Chairman, they alleged "lack of impartiality and neutrality by reason of personal prejudice", "lack of sufficient appearance of impartiality" and "lack of independence". This application was rejected by the Tribunal, chaired by the Deputy Chairman, Mr N. VALTICOS, in a decision of 22 September 1997.

5. The appellants subsequently mounted repeated challenges against the Tribunal (see paragraph 67 below). They also asserted that they had instituted judicial proceedings against the Chairman and the Registrar, but produced no evidence. They also said they had instituted proceedings against the Director of Administration of the Council of Europe.

6. With regard to oral proceedings, the Chairman of the Tribunal set down a hearing for 22 September 1997, but this hearing was postponed because of the request for withdrawal of 8 September 1997 against the Chairman and the Registrar.

The Tribunal then scheduled a hearing for 23 and 24 March 1998. In a letter of 18 February 1998, the appellants replied that, for private reasons, they could not make themselves available before June 1998. The Chairman decided to postpone the hearing until June 1998.

On 18 May 1998, Mrs Beygo informed the Tribunal that the appellants did not wish the hearing to take place in June because a hearing "in the case of Mr Beygo's invalidity pension" had been scheduled by the Strasbourg Social Affairs Tribunal for the month of June 1998.

The Chairman then scheduled the hearing for 21 and 22 September 1998, but the appellants indicated by faxes of 17 August and 15 September 1998, that they would not agree to any date before judgment was given by the Strasbourg Social Affairs Tribunal.

Considering that there was no connection between the cases pending before it and before the Strasbourg Social Affairs Tribunal, the Administrative Tribunal informed the applicants on 10 November 1998 that the hearing would be held on 15 December 1998. After the Tribunal had sent a reminder by recorded delivery on 1 December 1998, on 8 December 1998, the appellants again refused to attend the hearing on the grounds that, owing to the "late" notification and to facts that had emerged from proceedings before the Strasbourg Social Affairs Tribunal, the case files were not ready. The Tribunal then decided to postpone the hearing until 20 and 21 January 1999 and to allow the appellants until 23 December 1998 to submit further arguments.

On 15 December 1998, Mrs Beygo informed the Tribunal that, owing to the short time allowed it would not be possible to submit a memorial by 23 December 1998. She added that no hearing could be envisaged in the first quarter of 1999 owing to the complexity of the case. On 16 December 1998, the Registrar informed the appellants that the Chairman had decided not to grant their request for more time to submit further arguments and for a postponement of the hearing. The appellants did not file further submissions, but the Secretary General did so on 18 December 1998.

Subsequently, several telegrams were sent to the appellants confirming the hearings.

7. The public hearing took place at the Human Rights Building in Strasbourg on 20 January 1999. The Secretary General was represented by Mr R. LAMPONI, Head of the Legal Adviser's Department of the Directorate of Legal Affairs, assisted by Mr P. GARRONE, an Administrative Officer in the same directorate. The appellants did not attend.

THE FACTS

8. When he lodged the first of his appeals, Mr Taner Beygo was a grade-A3 permanent member of staff working in the Directorate of Information (Publishing and Documentation Service). Regarding his career in the Council of Europe, the Tribunal refers to its decision of 26 June 1992 (see ABCE Appeal No. 166/1990, *Beygo v. Secretary General*). Mrs Beygo lodged her appeals as Mr Beygo's spouse.

9. Mr Beygo has lodged seven appeals. Two appeals concern two decisions to refuse him two days' special leave on the grounds of his wife's serious illness (No. 211/1995) and a period of home leave (No. 213/1995). The third (No. 220/1996) concerns the Secretary General's decision to dismiss Mr Beygo after disciplinary proceedings. The fourth (No. 222/1996) concerns the opinion of the Advisory Committee on Disputes in connection with an administrative complaint concerning the examination of an application to retire on invalidity grounds. The last three (Nos. 227/1997, 229/1997 and 242/1998) seek to have set aside the decision not to grant him an invalidity pension.

10. Mrs Beygo has lodged five appeals. The first (No. 214/1995) concerns the decision not to grant Mr Beygo home leave. The others (Nos. 223/1996, 228/1997, 230/1997 and 243/1998) concern the examination of the application to retire on invalidity grounds.

Appeals lodged by Mr Beygo

Appeal No. 211/1995

11. On 16 and 17 March 1995, Mr Beygo was not at work. On 16 March 1995, he telephoned his Head of Department's secretary to say that he would be absent because his wife was seriously ill. On 17 March 1995, he applied for two days' special leave on the grounds of his wife's serious illness.

12. In a note dated 20 March 1995, the Director of Administration told Mr Beygo that he could not be granted special leave for the stated dates and that he must take ordinary leave instead.

13. On 30 May 1995, Mr Beygo filed an administrative complaint against the refusal of his application for special leave. He attached a medical certificate, dated 16 May 1995, to the effect that his wife had been "very ill" on 16 March 1995 and that he had had to stay at home to look after her.

On 2 June 1995, the Head of Human Resources Division (now Department) sent him a letter dated 31 May 1995 by confidential internal mail acknowledging receipt of the administrative complaint.

14. In a decision of 30 June 1995, notified to the appellant at his home on 4 July 1995, the Director of Administration rejected the appellant's administrative complaint, holding that there were insufficient grounds for his application for special leave.

15. On 4 September 1995, the appellant lodged the present appeal against the rejection of his administrative complaint.

Appeal No. 213/1995

16. On 16 May 1995, Mr Beygo sent to the Human Resources Department an application for home leave from 26 June to 5 July 1995. His application was countersigned by his superior.

17. On 15 June 1995, he called the Human Resources Department to inquire about his home leave application and was told that examination of his application had been suspended.

18. In a note of 21 June 1995, the Director of Administration confirmed the information given to the appellant by telephone, adding that he might wish to discuss with him whether, in view of his repeated absences, he could be granted home leave for the requested dates.

19. On 18 July 1995, the appellant filed an administrative complaint against the note of 21 June 1995, also claiming compensation for material and non-material damages.

20. In a decision dated 10 August 1995, sent to Turkey on 16 August 1995 and received on 21 August 1995, the Secretary General rejected the administrative complaint as being inadmissible in that it did not relate to a decision, pointing out that the Director of Administration had not taken a final decision. On the contrary, he had told the appellant that he would consider his application later, when he (the appellant) returned from sick leave.

21. On 10 October 1995, the appellant lodged the present appeal against the rejection of his administrative complaint.

Appeal No. 220/1996

22. This appeal concerns the decision taken by the Secretary General on 12 January 1996, after disciplinary proceedings, to dismiss the appellant.

A. The facts giving rise to the disciplinary proceedings

23. The facts which gave rise to the Secretary General's decision to inflict this disciplinary penalty relate to three main points:

1) comments he had made about the Secretary and a Member of the European Commission of Human Rights;

2) invocation of Council of Europe privileges and immunities in connection with proceedings for withdrawal of his driving licence;

3) invocation of Council of Europe staff-member status, if not Council of Europe privileges and immunities, in proceedings relating to an uninsured motor vehicle.

The facts may be summarised as follows:

1) Comments made about the Secretary and a Member of the European Commission of Human Rights

24. On 24 January 1994, Mr Beygo applied for a vacant grade-A4 post in the European Commission of Human Rights. Appended to his application form was a handwritten note challenging the Secretary of the European Commission of Human Rights in the event that he should be called upon to make a judgment on Mr Beygo's application. He wrote:

“... [the Secretary] does not appear to me to be competent to pronounce on the merits of a human rights matter: it is well known that he has constantly shown complicity with the Turkish dictatorship, in particular through the intermediary of Professor [G], who was for many years adviser to the dictator, General Evren.

I shall naturally be pleased to furnish evidence of the foregoing. I believe that, as a staff member of the Council of Europe, the human rights organisation *par excellence*, I am entitled to have my application considered in full compliance with human rights by someone who has not forfeited all qualification in human rights terms.”

25. On 28 February 1994, the Head of Human Resources Division replied to this note as follows:

“... As regards, in particular, the Secretary of the European Commission of Human Rights, whom you seek to challenge, you make accusations without foundation, based on pure conjecture. They are defamatory.

(...) The Secretary General considers, moreover, that making such defamatory remarks about the Commission and its Secretary is incompatible with the status of Council of Europe staff member and warrants the opening of disciplinary proceedings. [The Secretary General] will shortly fix an appointment for you to attend the hearing provided for in Article 56, paragraph 1, of the Staff Regulations.”

2) *Driving licence withdrawal proceedings*

26. On 27 February 1989, while on leave, the appellant committed a speeding offence. When asked to submit to a blood-alcohol test, he refused, invoking his status as an international civil servant and claiming the privileges and immunities attaching thereto.

27. In a note of 16 June 1989, the French Minister of Foreign Affairs asked the Secretary General whether Mr Beygo was on official business at the time of the incident. The Secretary General replied that he was on leave.

28. On 14 November 1989, the Prefect of Côte d’Or made an order suspending Mr Beygo’s driving licence. By letter of 1 January 1990, the commanding officer of Molsheim Company of the Gendarmerie Nationale informed the Secretary General of the difficulty he was having in executing this order because the appellant refused to hand over his driving licence, and asked whether Mr Beygo was entitled to diplomatic immunity.

29. On 4 September 1990, the appellant was sentenced to ten months’ suspension of his driving licence. In a letter of 7 January 1993, the State Prosecutor at Besançon Court of Appeal informed the Secretary General that Mr Beygo had been evading execution of this sentence by refusing to hand over his driving licence and claiming diplomatic immunity. The State Prosecutor sought the Secretary General’s assistance in persuading Mr Beygo to submit to the penalty.

30. On 22 February 1993, the Head of the Human Resources Division sent the appellant a note, stating:

“Refusal to comply with an order for an offence against the Highway Code is a serious failure to meet your private obligations which is likely to bring the Council of Europe and its Secretariat into disrepute and which could, therefore, justify the opening of disciplinary proceedings.”

31. In a note of 2 March 1993 to the Head of Human Resources, Mr Beygo asserted that he had started cassation proceedings against the Besançon Court of Appeal judgment, but produced no evidence either to the Tribunal or to the Secretary General.

3) *Uninsured motor vehicle proceedings*

32. A police report was drawn up against Mr Beygo concerning an uninsured motor vehicle, the latter being an offence under French law. In the course of proceedings, Mr Beygo denied being the owner of the vehicle, which belonged to his wife. When asked to report to the Gendarmerie, he refused to do so. The Gendarmerie then sent a report to the Saverne State Prosecutor.

33. In a letter of 14 March 1995, the Saverne State Prosecutor informed the Secretary General that Mr Beygo, who had failed to report to the Gendarmerie despite repeated summonses, had written to contest the charge against him on Council of Europe headed notepaper. He (the State Prosecutor) accordingly requested clarification of Mr Beygo's legal status.

34. In a note of 12 April 1995, the Director of Administration invited Mr Beygo to make an appointment to provide an explanation of this further incident and his use of Council of Europe headed paper in his correspondence with the Gendarmerie.

The appellant replied by fax on 30 May 1995. He asserted that he could not be prosecuted in respect of an uninsured motor vehicle, since the vehicle did not belong to him, and he had no recollection of the type of notepaper he had used.

35. In a note of 29 June 1995, the Director of Administration wrote to the appellant:

“It is incumbent upon you to respond to invitations received from the authorities of the Organisation's host country in connection with an offence you are alleged to have committed, without those authorities being obliged to approach the Organisation in order to secure compliance.

The assertion in the letter from the Saverne State Prosecutor that you contested the offence on Council of Europe headed paper will be assumed to be true until such time as you refute it.”

36. On 13 July 1995, the appellant sent a note in reply. He said that he had been “falsely accused” by the State Prosecutor and certain members of the Gendarmerie, that he was under no obligation to comply with improper summonses by any administrative body or any official of the host country, that this was an instance of “professional misconduct by a French official acting maliciously and deviously” and that he was the “victim” of “manipulation”.

B. The disciplinary proceedings

37. After the note of 28 February 1994 from the Head of Human Resources (see paragraph 25 above), an interview with the Director of Administration to hear the appellant in accordance with

Article 56, paragraph 1, of the Staff Regulations should have taken place on 16 March 1995. However, on that day Mr Beygo informed the Director of Administration's secretariat that he had to absent himself to take care of his wife.

38. In a note of 20 March 1995, the Director of Administration informed the appellant that a new appointment would be made. From 20 March until 12 May 1995, Mr Beygo was on sick leave. He returned to work on 15 May 1995. An appointment to hear the appellant in accordance with Article 56, paragraph 1, was made for 19 May 1995, but was postponed at the appellant's request until 30 May 1995.

39. In a note of 18 May 1995 informing the appellant of this postponement, the Director of Administration indicated that the interview of 30 May would deal with the note appended to the application of 24 January 1994 for a grade-A4 post in the European Commission of Human Rights, the withdrawal of driving licence proceedings and the allegations made in the letter from the Saverne State Prosecutor.

The Director of Administration also indicated that, failing unforeseen or unavoidable circumstances, if he failed to keep the 30 May appointment, it would be assumed that he wished to waive his entitlement to the interview.

40. In reply, by note of 18 May 1995 to the Head of Human Resources, Mr Beygo explained that he would not, without having first been informed of the precise points at issue, attend "an interview not statutorily provided for".

In turn, the Head of Human Resources, in a note dated 22 May 1995, sent by recorded delivery and not claimed at the post office by the appellant, called upon him to comply with any summons received from the Director of Administration.

41. The interview did not take place on 30 May 1995, as the appellant was on sick leave from 22 May until 21 June 1995. But his sick leave certificate did allow him to go out between 10 a.m. and noon, and between 2 p.m. and 6 p.m.

By mail sent by Chronopost on 21 June 1995, the Director of Administration invited Mr Beygo to report on 26 June 1995 for an interview with the Deputy Director of Administration to be heard in pursuance of Article 56 of the Staff Regulations. This letter also explained that if the appellant preferred to express himself in writing, he must send in his observations by 28 June 1995. After that date, failing any reply on his part, he would be assumed to have waived the opportunity to be heard at this stage of the case.

On 26 June 1995, the appellant, who had obtained a further extension of his sick leave from 22 June until 7 August 1995, sent a fax informing the Administration that his state of health did not enable him to keep the appointment and that he would indicate as soon as he returned to the Council of Europe whether he chose to reply.

Having been authorised by the *Caisse Primaire d'Assurance Maladie* to go to Turkey, Mr Beygo sent the Human Resources Department two medical certificates extending his sick leave until 8 September 1995 and from 11 September until 26 September 1995.

42. Considering that the appellant had been given the opportunity to state his case, the Secretary General referred the matter to the Disciplinary Board on 15 September 1995.

In the referral report, the Secretary General alleged:

- defamatory remarks about the Secretary and a Member of the European Commission of Human Rights;

- failure to co-operate with the French authorities in connection with proceedings relating to suspension of his driving licence and to an uninsured motor vehicle, thereby bringing the Council of Europe into disrepute by prompting the French authorities to complain to the Organisation.

The report was first sent to the Chair of the Disciplinary Board, who happened to be the Secretary of the European Commission of Human Rights, about whom the defamatory remarks had been made. The Chair claimed legitimate grounds to be excused from serving (Article 55, paragraph 7, of the Staff Regulations) in relation to the disciplinary proceedings. On 10 October 1995, the Secretary General appointed an *ad hoc* Chair of the Disciplinary Board.

The referral report reached the Chair of the Disciplinary Board on 13 October 1995.

The file was forwarded to the appellant on 17 October 1995, one copy being deposited in his office and another being sent by recorded delivery to his home, though he did not claim it from the post office.

43. On 17 October 1995, the Chair of the Disciplinary Board called Mr Beygo at his office. He informed him of the disciplinary proceedings opened against him and invited him to attend the drawing by lot of the four members of the Disciplinary Board.

Mr Beygo said that, not having had an interview beforehand with the Secretary General, he regarded the procedure as improper and refused to attend. At the appellant's request, the Chair of the Board allowed him until 3 p.m. that day to confirm his refusal or to report to the Chair's office. He was told that, if he failed to attend he would be assumed to have waived his right to be present at the drawing of lots.

At 3.30 p.m. on 17 October 1995, the Chair proceeded to draw lots in the appellant's absence.

By letter of 8 November 1995, sent by Council of Europe internal mail and by recorded delivery, the appellant was called to appear before the Disciplinary Board on 8 December 1995.

Mr Beygo, who was on sick leave from 7 November until 7 December 1995, replied to the Chair of the Disciplinary Board on 6 December 1995 by fax from Turkey. He contested the date of 8 December 1995 "fixed with uncommon haste and during a strike". He complained of

not having received the referral notice or the file, of not having been able to study the file, of having no knowledge of the allegations against him and of not being able to contact his counsel.

He did not attend the hearing on 8 December 1995 and the Board delivered its opinion on 13 December 1995. It found that the three accusations against Mr Beygo were disciplinary offences, some of them particularly serious, which warranted dismissal (Article 54, paragraph 2, of the Staff Regulations).

44. On 12 January 1996, the Secretary General heard the appellant in accordance with Article 8, paragraph 2, of Appendix X to the Staff Regulations. On the same day, he ordered the appellant's dismissal with effect from 15 January 1996. Although the appellant was relieved of his duties as of 15 January 1996, his contract was terminated only as of 31 January 1996 and he received his salary until that date.

C. The contentious proceedings

45. On 3 January 1996, the appellant sent the Secretary General an administrative complaint in accordance with Article 59 of the Staff Regulations, asking for the disciplinary proceedings to be annulled. Mr Beygo contested the opening of these proceedings, which he claimed were improper, unlawful, arbitrary and discriminatory on several grounds, including non-notification of the report referring the case to the Disciplinary Board, non-communication of his file in the disciplinary proceedings, violation of the rights of the defence, the membership of the Disciplinary Board and violation of Article 56, paragraph 1, of the Staff Regulations.

46. On 18 January 1996, the appellant sent the Secretary General a second administrative complaint asking for his dismissal to be set aside on the grounds that it was null and void by reason of various procedural irregularities. He asked for his administrative complaint to be referred to the Advisory Committee on Disputes. On the same day, he applied to the Administrative Tribunal for a stay of execution, which was refused by order of the Chairman on 30 January 1996 (see paragraph 3 above).

47. On 24 January 1996, the appellant filed an application under Rule 42 of the Rules of Procedure of the Administrative Tribunal, asking the Tribunal to annul the Secretary General's decision to dismiss him. This application was refused by the Chairman on 30 January 1996 (see paragraph 3 above).

48. The appellant sent the Secretary General a third and a fourth administrative complaint, on 12 and 15 February 1996 respectively, again seeking the annulment of his dismissal. His complaint of 12 February 1996 was based on the argument that his dismissal with effect from 15 January 1996 was contrary to the provisions of Article 23, paragraph 3, of the Staff Regulations. In his complaint of 15 February 1996, he alleged abuse of power and absence of grounds and sought reinstatement as from the date on which the dismissal decision was taken.

49. These complaints were also referred to the Advisory Committee on Disputes. In its opinion of 26 March 1996, the Advisory Committee held that they were all unfounded.

It considered that the disciplinary proceedings had been properly conducted and that the appellant was responsible both for the absence of an interview, having consistently failed to respond to the Administration's repeated efforts, and for the non-notification of the referral report in the disciplinary proceedings. Furthermore, the rights of the defence had been respected. The membership of the Disciplinary Board met the requirements of impartiality in the consideration of his case; had the appellant thought otherwise, he could have challenged its members, but he had not done so. Further, the measure of dismissal was neither arbitrary nor disproportionate, "bearing in mind the particularly serious nature and repetition of certain of the appellant's actions". Lastly, the decision to dismiss the appellant had not violated the provisions of Article 23, paragraph 3, of the Staff Regulations, since his contract had not been terminated until the end of the calendar month, namely 31 January 1996.

50. By decision of 25 April 1996, the Secretary General declared inadmissible the administrative complaints of 3 January and 15 February 1996. For the remainder, endorsing the grounds stated in the opinion of the Advisory Committee on Disputes, he held that the appellant's complaints were unfounded inasmuch as they were inadmissible.

51. The appellant lodged the present appeal against the decision to reject his administrative complaints on 12 April 1996.

Appeal No. 222/1996

52. This appeal seeks to have set aside the Secretary General's decision not to pay Mr Beygo an invalidity pension.

53. While the disciplinary proceedings were in progress, by registered letter dated 10 November 1995, Wasselonne *Caisse Primaire d'Assurance Maladie* declared Mr Beygo fit to resume work as from 20 November 1995 and warned him that "No extension of this sick leave will be countenanced". The appellant contested this decision by applying to Sélestat *Caisse Primaire d'Assurance Maladie* and filed an application for an expert opinion.

At the same time, on 24 November 1995, Mr Beygo sent the Council of Europe's Medical Adviser an application to retire on invalidity grounds. He attached medical certificates made out by Dr S, a general practitioner, and Dr M, a psychiatrist, dated 17 and 21 November 1995, certifying that the appellant was suffering from "reactive depression" and advising cessation of work on grounds of "substantial cardiac risk".

54. On 28 November 1995, the Medical Adviser sent the Head of Human Resources a note advising him of Mr Beygo's application.

55. On 7 December 1995 the Head of Human Resources wrote the appellant a letter acknowledging receipt of his application and informing him that the Secretary General had decided to have an expert assessment made of his state of health, the conclusions of which would be submitted to the Invalidity Board provided for in Article 13, paragraph 2, of the Council of Europe Pension Scheme Rules (Appendix V to the Staff Regulations).

56. On 30 January 1996, Mr Beygo was examined by the expert appointed by the Administration. The expert's findings were filed on 16 February 1996.

Some days earlier, on 8 February 1996, the appellant had been examined by a consultant psychiatrist to the French *Caisse Primaire d'Assurance Maladie*, who found that, as far as the Social Security was concerned, Mr Beygo was recognised as a Category II invalid with effect from 20 November 1995.

57. By letter of 22 February 1996, the Director of Administration informed Mr Beygo that his invalidity application had become inapplicable, as he had no longer been a Council of Europe staff member since the end of his contract.

58. On 20 March 1996, Mr Beygo filed an administrative complaint against the Director of Administration's decision.

This complaint was referred to the Advisory Committee on Disputes, which, in its opinion of 19 June 1996, declared it unfounded. The Committee found that the complaint was admissible, that the appellant's argument that he was entitled to an invalidity pension was unfounded and that there was nothing to support his argument that the Administration had deliberately delayed examining his invalidity application.

59. On 10 July 1996, Mr Beygo filed an application in accordance with Rule 42 of the Administrative Tribunal's Rules of Procedure seeking payment of an invalidity pension (see paragraph 3 above).

60. On 10 July 1996, Mr Beygo lodged Appeal No. 222/1996 against the rejection of his "administrative complaint". However, at that time, the Secretary General had not yet taken a decision on Mr Beygo's administrative complaint, which was still being considered by the Advisory Committee on Disputes (see paragraph 62 below).

Application No. 227/1996

61. The facts giving rise to this appeal are similar to those of Appeal No. 222/1995, to which the Tribunal refers (see paragraphs 52-60 above).

62. After the Advisory Committee on Disputes had expressed the opinion, on 19 June 1996, that the complaint of 20 March 1996 was unfounded (see paragraph 58 above), Mr Beygo complained to the committee that it had adopted an opinion without affording him an opportunity to reply to the Secretary General's observations. The Advisory Committee on Disputes then decided that its opinion of 19 June was not final and authorised Mr Beygo to submit comments on the Administration's observations concerning his administrative complaint. On 7 October 1996, as Mr Beygo had not submitted any comments, despite two reminders dated 12 July and 3 September 1996, the Advisory Committee on Disputes decided that its opinion of 19 June 1996 was final.

63. On 28 October 1996, the Secretary General rejected the administrative complaint which Mr Beygo had filed on 20 March 1996 against the decision of 22 February 1996 not to grant him an invalidity pension, endorsing the grounds stated in the Advisory Committee's opinion.

The Secretary General held that Mr Beygo's argument that he was entitled to an invalidity pension was unfounded and there was nothing to support his argument that the Administration had deliberately delayed examination of his invalidity application.

On 27 December 1996, Mr Beygo lodged Appeal No. 227/1996 against the rejection of his administrative complaint.

Appeal No. 229/1996

64. On 12 November 1996, Mr Beygo had written to the Deputy Director of Administration asking him to give instructions for his invalidity file to be forwarded urgently to the insurance bodies.

65. On 12 January 1997, Mr Beygo filed an administrative complaint against the implicit rejection of his request for "immediate forwarding of the invalidity file to the bodies specified in the Pension Scheme Rules and to the Assurances Générales de France for payment of the capital sum".

The administrative complaint was rejected by the Secretary General on 24 January 1997. The Secretary General held that the complaint was inapplicable since the questions raised by Mr Beygo were being examined as part of Appeal No. 222/1996, which was pending before the Administrative Tribunal.

66. On 19 March 1997, Mr Beygo lodged Appeal No. 229/1996.

Appeal No. 242/1996

67. By letter of 30 April 1997, Mr Beygo asked the Secretary General to arrange without delay for the payment, under the Council of Europe Pension Scheme, of the invalidity pension with effect from 20 November 1995 and the lump-sum disability benefit provided for in the Council of Europe's collective insurance contract with the *Assurances Générales de France*.

68. By letter of 26 May 1997, the Deputy Director of Administration refused to grant Mr Beygo's request. He said that, as Mr Beygo's application for invalidity benefit was the subject of several appeals pending before the Council of Europe's Administrative Tribunal, the matter was one for the Tribunal to decide.

69. On 23 June 1997, Mr Beygo filed an administrative complaint seeking review of the decision of 22 February 1996 (see paragraph 57 above) to refuse him an invalidity pension.

70. On 24 September 1997, Mr Beygo lodged Appeal No. 242/1996.

Appeals lodged by Mrs Beygo

71. Appeals Nos. 214/1995, 223/1996, 228/1997, 230/1997 and 243/1998 are identical in content to Appeals Nos. 213/1995, 222/1996, 227/1997, 229/1997 and 242/1998 introduced in parallel by Mr Beygo and to which the Tribunal refers.

72. Mrs Beygo did not file any administrative complaints in relation to her appeals.

THE LAW

73. The appellants have lodged appeals against decisions by the Secretary General rejecting administrative complaints concerning refusal to Mr Beygo of two days' special leave on grounds of his spouse's serious illness and of home leave, Mr Beygo's dismissal after disciplinary proceedings and refusal to grant him an invalidity pension. They ask the Administrative Tribunal to annul the decisions in question, to recognise Mr Beygo as an invalid with effect from 20 November 1995, to order payment of a sum representing the amount of invalidity pension due since 1 December 1995 and of the lump-sum disability benefit, compensation for material and non-material damages and reimbursement of costs.

74. The appellants have repeatedly challenged the competence of the Administrative Tribunal, the Chairman, the Registrar and Deputy Registrar of the Administrative Tribunal.

On 8 September 1997, the appellants filed a request for withdrawal against the Chairman and the Registrar of the Administrative Tribunal. Against the Chairman they alleged "lack of impartiality and neutrality by reason of personal prejudice", "lack of sufficient appearance of impartiality" and "lack of independence". They challenged the Registrar on grounds of the performance of his ordinary professional duties in the secretariat of the European Commission of Human Rights and his handling of the present appeals.

By decision of 22 September 1997, the Administrative Tribunal, chaired by Professor N. Valticos, Deputy Chairman of the Administrative Tribunal, rejected the request for withdrawal.

The Tribunal held that there were no grounds to challenge the Chairman and that no appearance of bias could be found in the manner of organising the Tribunal's work. It also held that neither the fact that the Registrar normally worked in the secretariat of the European Commission of Human Rights, nor his manner of performing his duties as Registrar of the Administrative Tribunal afforded any basis for an accusation of bias.

The Tribunal now rejects the successive challenges against the Tribunal itself, the Chairman, the Registrar and Deputy Registrar, filed on 31 December 1997, 18 May 1998, and 7 and 15 December 1998, because they contain nothing new in relation to what was decided on 22 September 1997.

75. Furthermore, the Tribunal cannot but deplore the violent tone adopted by the appellants. In view of the virulent terms employed with regard to the Tribunal and, during the proceedings,

certain Council of Europe staff, the Tribunal considered whether such conduct was not criminal. However, it decided to confine itself to the administrative context of the present proceedings.

76. As the appeals are closely connected, the Administrative Tribunal hereby orders their joinder, in accordance with Rule 14 of its Rules of Procedure.

On the motion to have the appeals struck out off the list

77. Relying on the attitude of the appellants, who have repeatedly delayed the proceedings, the Secretary General moves that all the appeals be struck out off the list.

78. The Tribunal points out that Rule 20 of its Rules of Procedure provides for two instances in which it may strike out an appeal, namely when an appellant states that he wishes to withdraw his appeal, and “where the circumstances, in particular the appellant’s failure to provide information requested or to observe time-limits set, lead to the conclusion that he does not intend to pursue his appeal”. In the present case, there is no doubt that the appellants have caused unreasonable delay in the organisation of oral proceedings and in the conduct of hearings. They have put forward irrelevant arguments, which the Tribunal, nevertheless, countenanced up to a point for the sole purpose of creating favourable conditions in order to secure the appellants’ presence at the hearings. However, it cannot be concluded that the appellants do not wish to pursue their appeals. Consequently, the Secretary General’s motion to strike the appeals off the list must be refused.

The appeals lodged by Mrs Beygo

79. Mrs Beygo has lodged five appeals: Nos. 214/1995, 223/1996, 228/1997, 230/1997 and 243/1998.

80. The Secretary General contends that these appeals are inadmissible inasmuch as Mrs Beygo has no standing. He points out that proceedings may be brought by a staff member’s dependants only if the staff member cannot do so himself, which is not so in Mr Beygo’s case.

81. Mrs Beygo contests this and observes that there is no provision of the Staff Regulations restricting the right to file an administrative complaint to cases where the staff member is unable to do so himself.

82. The Tribunal points out that an appeal may be lodged only by a person who has previously filed an administrative complaint. Article 60, paragraph 1, of the Staff Regulations stipulates that “in the event of either explicit rejection, in whole or in part, or implicit rejection of a complaint lodged under Article 50, the appellant may appeal to the Administrative Tribunal...”.

Mrs Beygo has not filed any administrative complaint. The fact that her husband has done so does not entitle her to lodge an appeal in her own name.

It follows that Mrs Beygo’s appeals are inadmissible.

The appeals lodged by Mr Beygo

Appeal No. 211/1995

83. The appellant contests the Secretary General's decision to refuse him special leave on the grounds of his spouse's serious illness. He argues that if the Secretary General had any doubt about his wife's state of health, he should have arranged for a medical examination, failing which he was bound to accept the findings recorded on the medical certificate.

He further argues that the Secretary General cannot in any circumstances be the judge of the illness of a staff member or his spouse, since such assessment does not fall within the Secretary General's discretion but rests with the medical supervisory bodies.

Lastly, he alleges that the refusal was "vexatious and as such constitutes a disguised disciplinary measure, which is unlawful by reason of the abuse of authority on which it is based, since the measure taken is not among the penalties which may lawfully be inflicted".

84. The Secretary General, for his part, first asserts that the appeal is inadmissible, having been lodged outside the time-limit provided for in Article 60, paragraph 3, of the Staff Regulations. This clause provides that an appeal must be lodged within sixty days from the notification of the contested decision. In this instance, the decision of 30 June 1995 to reject the administrative complaint was notified on 4 July 1995. The time-limit expired on 2 September 1995; as this date fell on a Saturday, the appeal should have been lodged not later than Monday 4 September 1995. Having been filed on 6 September 1995, the appeal is therefore out of time.

85. As to the merits, the Secretary General argues that he did not make improper use of his discretion. Firstly, the appellant's absence on 16 March 1995 was contrary to the interests of the service, either because the appellant had been summoned to an interview by the Director of Administration, or by reason of his repeated absences. Secondly, according to common practice, special leave is granted only exceptionally in the absence of hospitalisation and only on the basis of "detailed explanations". In the instant case, the appellant offered no explanation, within a reasonable time, of the special circumstances requiring him to stay with his wife. He also refers to the late production of the medical certificate, which was only appended later to the administrative complaint.

The Secretary General does not accept Mr Beygo's argument that if he had any doubt about his wife's state of health he should have arranged for a medical examination. It is up to the member of staff to prove the grounds on which he applies for special leave; any verification by medical examination could only come later.

Concerning the allegation that the contested decision was discriminatory and vexatious, the Secretary General merely observes that the appellant offers no evidence whatever of any discrimination against him.

86. Concerning the argument – contested by the appellant – that the appeal was out of time, the Tribunal notes that it was posted on 4 September 1995 and reached the Registry on 6

September. Consequently, it was lodged within the sixty-day time-limit and is therefore admissible.

87. As to the merits, the Tribunal finds that the appellant, when his leave application was being considered, did not supply the Secretary General with information to show that the circumstances were such, according to normal practice, that he should be granted the leave requested. It appears, moreover, from an analysis of the information supplied by the appellant during the examination of his administrative complaint, that the Secretary General did not, in dealing with the appellant's application, depart from such normal practice or use his discretion arbitrarily.

No unlawfulness having been found, it follows that the appeal must be dismissed.

Appeal No. 213/1995

88. The appellant contests the Secretary General's decision to "refuse" his application for home leave. He argues that home leave is a "mandatory right" which must be granted to staff every two years. Consequently, it does not fall within the Administration's discretion but must be granted "automatically". He alleges that the Administration harmed his private and family life by advising him of the decision to suspend examination of his application too late to enable him to cancel his plane tickets within the thirty-day time-limit. He alleges personal negligence on the part of the staff dealing with the application and by the Administration, which did not inform him that examination of his application had been suspended and replied to his inquiries only by letter received one day before his departure. He claims that his contract of employment was breached because his home leave was refused on the grounds of his repeated sick leave. He claims that he is the victim of abuse of authority and a disguised disciplinary measure.

89. The Secretary General notes that there has been no final decision on the application for home leave, since he has merely suspended examination of it.

Furthermore, the appellant has no interest in proceeding. Once he found himself on sick leave on the dates for which he had applied for home leave, his application for home leave no longer served any purpose. The Secretary General contends that sick leave and home leave cannot be taken simultaneously, as "it would be illogical and contrary to sound administrative practice for a staff member to be absent in two ways at the same time".

The Secretary General also contests the supposed "automatic" nature of home leave. Relying on Article 8 of Rule No. 60, whereby "the staff member's absence on home leave is always subject to prior authorisation by the Secretary General", he argues that he does have discretion as to whether to grant the leave on the requested dates.

As to the material and non-material damage the appellant claims to have suffered, this was due to negligence on the part of the appellant, who purchased plane tickets before any decision on his application, whereas he had been expressly warned in writing that home leave was subject to authorisation by the Secretary General. Furthermore, according to Article 4, paragraph 1, of Rule No. 647, "the staff member is required to book his travel tickets through the

Conference Office”. This office would certainly not have issued plane tickets without the Administration’s approval of the leave application. If the appellant had complied with these provisions, any problem with the airline would have been avoided.

Concerning the allegation of abuse of power and of a disguised disciplinary measure, the Secretary General observes that the appellant has produced no evidence.

Lastly, the Secretary General argues that Appeal No. 213/1995 is an abuse of proceedings: the appellant has no interest in its outcome since, having been on sick leave during the period of leave requested, he could not at the same time take home leave. Consequently, referring to Article 11, paragraph 1, of the Statute of the Administrative Tribunal, he asks that the appellant be ordered to pay the Administration’s costs.

90. The Tribunal notes first of all that the Secretary General has not mentioned any Council of Europe regulation prohibiting staff from taking home leave while on sick leave. Secondly, having been authorised by the Social Security authorities to leave the district, a staff member might legitimately wish to take home leave to return to his home country. Accordingly, it cannot be concluded that the appellant has no interest or that the appeal is an abuse of proceedings, nor can he be ordered to pay the costs of examining the present appeal.

91. As to the other arguments put forward by the parties, the Tribunal finds that the Secretary General had not taken a final decision on the appellant’s application for home leave and that he could not therefore complain of a refusal. In so far as the appellant may complain that the postponement of a decision amounts to a refusal of the application for home leave on the dates requested, the Tribunal observes that at the time the appellant was absent from the office on sick leave, which did not facilitate contacts with the Administration. Furthermore, and above all, during this time the Director of Administration was trying in vain to hold the interview provided for in Article 2 of the Disciplinary Regulations. Consequently, it was appropriate that the Administration should be cautious in taking a decision. The Tribunal notes further that the appellant was required to order his tickets through the Conference Office, which he did not do. Having regard to the circumstances of the case, the Secretary General did not commit any unlawful act.

It follows that this appeal must be dismissed.

Appeal No. 220/1996

92. The appellant challenges the decision to dismiss him on the conclusion of disciplinary proceedings. He claims to be the victim of a misuse of procedure “whose sole purpose was to rob him of his entitlement to an invalidity pension”. He argues that the disciplinary proceedings were null and void by reason of their failure to comply with rules contained in the Staff Regulations and with general principles of law.

93. The Secretary General advances several counter arguments.

94. The Tribunal finds that there is a close connection between the appellant's dismissal and the examination of his application to be recognised as an invalid. The Tribunal accordingly takes the view that it must first consider the appeal on the latter question.

Appeal No. 222/1996

95. The appellant complains that the Secretary General has not arranged for payment of an invalidity pension.

96. As stated by the Secretary General, the appellant could not lodge this appeal because the Secretary General had not yet reached a decision on the complaint. The Secretary General did not take a decision on the appellant's application until 28 October 1996, whereas the present appeal was lodged on 10 July 1996. On that date, only the Advisory Committee on Disputes had given its opinion, hastening, moreover, to declare that it was not definitive because of the appellant's allegations concerning failure to abide by the adversarial principle. Secondly, the Staff Regulations do not afford a staff member the possibility of challenging an opinion of the Advisory Committee on Disputes before the Administrative Tribunal.

97. Accordingly, it must be concluded that the present appeal is inadmissible on the grounds that it is premature.

Appeal No. 227/1997

98. Mr Beygo complains that his application to be recognised as an invalid was declared inapplicable on the grounds that he had ceased to be a member of the Council of Europe staff as a result of the disciplinary proceedings.

He points out that on 20 November 1995, the date on which his invalidity was recognised by a French Social Security expert, he was still in post at the Council of Europe.

He claims he is the victim of an abuse of power by the Administration in relation to the "refusal to pay the invalidity pension of a serving permanent staff member of the Council of Europe upon the occurrence of the invalidity", because disciplinary proceedings had been instituted for the sole purpose of depriving him of his entitlement to the invalidity pension and of satisfying the Director of Administration's "desire for revenge" because he had been "personally implicated" by the appellant in the previous appeals.

99. Secondly, he alleges violation of Article 17 of Appendix V (Pension Scheme Rules) to the Staff Regulations. He argues that, as his invalidity was recognised by a French Social Security expert on 20 November 1995, his unfitness to work was medically recognised as from that date. Consequently, his entitlement to the pension should have taken effect as from 1 December 1995.

He argues that the decision to suspend the procedure for recognition as an invalid did not apply to him because it had no legal existence. Referring to the Administrative Tribunal's judgment of 2 July 1996 in Appeal No. 215/1996, "annulling the contract of the Director of

Administration”, he observes that “by reason of the absolute *res judicata* authority of the annulment decision, which has retroactive effect, the annulled measure (the Director’s employment contract) is deemed never to have existed”. Consequently, measures taken by the Director of Administration have no existence.

100. In conclusion, the appellant seeks the annulment of the Secretary General’s decision to refuse him the invalidity pension and payment of damages estimated at one million French francs.

101. The Secretary General for his part argues that the present appeal is inadmissible because it is out of time, having been lodged on 31 January 1997, more than three months after notification of the contested decision.

102. On the merits, the Secretary General first draws attention to the legal context of the present dispute, which is governed by Articles 13 *et seq* of the Pension Scheme Rules (Appendix V to the Staff Regulations). According to the agreement signed with France in 1959, the Council of Europe does not pay Social Security contributions for the invalidity contingency: this contingency is covered by the Council of Europe’s own pension scheme, in accordance with the provisions of the Pension Scheme Rules. Staff are also covered by supplementary insurance taken out with *Assurances Générales de France*, whereby a staff member granted an invalidity pension is also paid a lump-sum disability benefit in accordance with the provisions of the Pension Scheme Rules. Consequently, “whether it be the pension or the lump sum, payment is governed exclusively by the Council of Europe’s Pension Scheme Rules and any conclusion arrived at by the French Social Security in parallel proceedings can have no effect in relation to the Council of Europe or its insurers”.

103. Secondly, the Secretary General describes the scope of Article 13 of the Pension Scheme Rules, whereby “... an invalidity pension shall be payable to a staff member who is under the age limit laid down in the Staff Regulations and who, at any time during the period in which pension rights are accruing to him, is recognised by the Invalidity Board... to be suffering from permanent invalidity which totally prevents him from performing the duties attached to his employment in the Organisation”. In his view, this provision rules out the payment of an invalidity pension to a person who has ceased to be a member of the Council of Europe staff before a ruling is made by the Invalidity Board, since the board can do so only during the period in which pension rights are accruing to the staff member, namely during periods of actual service in the Organisation.

104. The Secretary General also refutes the appellant’s argument that the contested decision has no existence by reason of the fact that the Administrative Tribunal, in Appeal No. 215/1996, annulled the Secretary General’s decision to renew the contract of the Director of Administration. If decisions taken by a person whose appointment or promotion was subsequently annulled were to be subject to annulment, legal certainty and the proper functioning of the Organisation would be seriously jeopardised.

105. Regarding the supposed violation of Article 17 of Appendix V to the Staff Regulations, the Secretary General considers the appellant’s allegations unfounded, because the finding of a

staff member's permanent unfitness to perform his duties relates solely to such a finding by the Invalidity Board and not by the French Social Security.

106. Lastly, the Secretary General considers that the claim for one million francs in damages is devoid of any legal basis, since the appellant's complaints are unfounded.

107. In conclusion, the Secretary General asks the Tribunal to declare the present appeal unfounded and to dismiss it.

108. Regarding the Secretary General's argument that the appeal was out of time, the Tribunal finds that the appeal was lodged within the sixty days stipulated by the Staff Regulations.

It appears from the documents deposited with the Registry that the rejection of the administrative complaint is dated 28 October 1996 and that the appellant posted his appeal by recorded delivery on 26 December 1996, whereas 31 January 1997, the date mentioned by the Secretary General, was in fact the date on which the appeal was registered.

109. Consequently, the inadmissibility motion must be rejected.

110. The Tribunal notes that the appellant contests the cessation of the procedure for examining his invalidity application and asks the Tribunal to grant an invalidity pension. However, at the present time it is not for the Administrative Tribunal to say whether or not the appellant is entitled to an invalidity pension, because it is not among its functions to rule on such a matter in the absence of a decision by the bodies competent to decide thereon. But it is for the Tribunal to say whether or not the decision to halt examination of the appellant's invalidity application was lawful.

On this question, the Tribunal notes that on 10 November 1995, when he filed his invalidity application, the appellant was still a member of the Council of Europe staff and that no decision to dismiss him had yet been taken. Consequently, in the absence of any rules to the contrary, he was entitled to have his application considered and to have the Invalidity Board decide.

The Tribunal rejects the Secretary General's argument that the appellant was no longer entitled to a decision because he had ceased to be a member of the Council of Europe staff on 31 January 1996. The Tribunal holds that there must be no confusion between the right to have an application considered and the right to have a pension granted. It should be remembered that the Invalidity Board has not only to determine whether a person is unfit, but also to determine the date of establishment of the invalidity, that is to say the date from which the person concerned is recognised as an invalid.

In conclusion, the Tribunal finds that the appeal is well founded in so far as it seeks a ruling that the decision to discontinue examination of the invalidity application was unlawful, but is unfounded for the remainder.

Appeals Nos. 229/1996 and 242/1996

111. These appeals, lodged while Appeals Nos. 222/1996 and 227/1996 were pending before the Tribunal, complain that the Secretary General has not paid the appellant his invalidity pension nor made the necessary arrangements for payment of the invalidity pension and the lump-sum disability benefit.

112. The Secretary General asserts that he was unable to do so because the dispute with the appellant over the payment of an invalidity pension was pending before the Tribunal.

113. In addition to the Secretary General's argument, the Tribunal notes that as no decision to grant an invalidity pension has been taken by the Invalidity Board, the Secretary General could not on any account grant the appellant's request.

In conclusion, both these appeals are unfounded and must be dismissed.

Reverting to Appeal No. 220/1996

114. Having regard to the conclusions which it has reached concerning Appeal No. 227/1997 (see paragraph 110 above), the Tribunal holds that it cannot decide on Appeal No. 220/1996 until there has been a final decision on the application for recognition as an invalid.

On material and non-material damages and the reimbursement of costs and expenses

115. The appellant seeks compensation for material and non-material damages and the reimbursement of the cost of proceedings, finally putting forward a total sum of two million dollars.

116. Regarding the first request, the Tribunal notes that the appellant has not proved any damage resulting from the part of Appeal No. 227/1996 declared founded and finds that there is no need to award compensation for non-material harm. As regards the reimbursement of the cost of proceedings, the Tribunal points out that the appellant has produced no supporting documentation. That being so, his request must be refused (see ATCE, Appeal No. 246/1998, Vangeenberghe III v. Secretary General, decision of 26 August 1998).

For these reasons, the Administrative Tribunal:

Rejects the challenges;

Orders the joinder of all the appeals;

Rejects the Secretary General's motion to strike all the appeals off the list;

Declares inadmissible Appeals Nos. 214/1995, 223/1996, 228/1997, 230/1998 and 243/1998 lodged by Mrs Beygo;

Declares Appeal No. 211/1995 admissible and dismisses it as unfounded;

Dismisses Appeal No. 213/1995;

Suspends examination of Appeal No. 220/1996;

Declares Appeal No. 222/1996 inadmissible;

Allows Appeal No. 227/1997 in so far as it seeks to secure the continued examination of the application for recognition as an invalid and declares it inadmissible for the remainder;

Dismisses Appeals Nos. 229/1997 and 242/1998;

Refuses the request for compensation for material and non-material damages, and for reimbursement of costs;

Delivered at Strasbourg on 28 April 1999, the French text being authentic.

The Registrar of the
Administrative Tribunal

The Chairman of the
Administrative Tribunal

S. SANSOTTA

C. RUSSO