



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

Information Note on the Court's case-law 98

June 2007

***Collectif national d'information et d'opposition à l'usine Melox -
Collectif stop Melox and Mox v. France - 75218/01***

Judgment 12.6.2007 [Section II]

Article 6

Civil proceedings

Article 6-1

Access to court

Association with limited resources ordered to pay a multinational's costs in environmental-protection proceedings: *no violation*

Fair hearing

Equality of arms

Anti-nuclear association faced with two opponents – the State and a multinational – when attempting to have authorisation to enlarge a nuclear site set aside: *no violation*

Facts – The applicant association's aim is to oppose the manufacture, use and transport of the nuclear fuel MOX. When a decree authorised the enlargement of the Melox nuclear plant, which manufactures nuclear fuels using MOX, to enable it to increase its output, the applicant took legal action. With an environmental group it applied to the *Conseil d'Etat* to annul the decree. The COGEMA company (*Compagnie générale des matières nucléaires*), which runs the nuclear plant, took part in the proceedings, submitting that the applicants lacked any legitimate interest or *locus standi* and relying on Article L. 761-1 of the Administrative Courts Code. The *Conseil d'Etat* found against the applicant association and the environmental group and, under Article L. 761-1 of the Administrative Courts Code, ordered them to pay COGEMA FRF 5,000 for expenses incurred and not included in the costs.

Law – Article 6 § 1: The applicant association complained that whereas it had taken action against an administrative decision, COGEMA, a private firm, had been allowed to take part in the proceedings, which meant that the applicant association had been faced with two adversaries. This imbalance had, it claimed, been accentuated by the fact that it had had to pay a sum to COGEMA. The fact that a similar point of view was defended by more than one party did not necessarily put the opposing party “at a substantial disadvantage in presenting its case”. The proceedings had concerned an administrative decision providing a legal basis for one aspect of COGEMA's economic activity, so Article 6 § 1 applied to it and required that it should have access to the proceedings; the applicant association had been accompanied in the proceedings by the environmental group. The fact that they had been faced with two giants – the state and a multinational

corporation – was not sufficient for it to be said that they had found themselves “at a substantial disadvantage” when presenting their joint case.

It remained that the *Conseil d'Etat* had ordered the applicant association, whose resources were limited, to pay expenses incurred by a prosperous multinational corporation. It had penalised the weaker party and taken a measure that was likely to deter the applicant association from taking legal action in the future to pursue its mission in accordance with its Articles of Association. However, defending causes such as the protection of the environment in the domestic courts was part of the important role non-governmental organisations played in a democratic society. When Article 6 § 1 was found to apply, the Court did not exclude the possibility that circumstances of this type might be at variance with the right to access to a court. However, the applicant association had had the possibility of appealing against the order to pay expenses under Article L. 761-1 of the Administrative Courts Code. The amount it was ultimately ordered to pay was half that recommended by the Government Commissioner, which tended to show that the *Conseil d'Etat* had taken the applicant's limited financial resources into account; the sum at issue was a moderate one and the applicant association was sharing the cost.

Conclusion: non-violation (unanimously).

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