

Compensation for descendants of victims of slavery: clarification of the statute of limitations and the losses that can be compensated (Ruling n° 466- 22-13.457)

05/07/2023



Ruling No. 466

Dismissal

FRENCH REPUBLIC

ON BEHALF OF THE FRENCH PEOPLE

RULING OF THE *COUR DE CASSATION* (COURT OF CASSATION), FIRST CIVIL CHAMBER, 5 JULY 2023

- (1) The *Mouvement International pour les Réparations* (International Movement for Reparations Martinique) (MIR), with registered office at Volga Beach, [Address 26],
- (2) the association *Comité d'Organisation du 10 Mai* (10 May Organisation Committee), with registered office at [Address 4],
- (3) the *Comité International des Peuples Noirs* (International Committee of Black Peoples - CIPN), with registered office at Lot. [Address 18],
- (4) Mr [VD] [GL], of address at [Address 22],
- (5) Mr [IB] [LG], of address at [Address 5],
- (6) Mr [R] [KC], of address at [Address 11],
- (7) Mr [V] [CA], of address at [Address 1],
- (8) Ms [YU] [L], of address at [Address 7],
- (9) Mr [EK] [O],
- (10) Ms [X] [K], spouse [O],
- both of address at [Address 3],
- (11) Ms [NH] [N], of address at [Address 24],
- (12) Mr [YI] [JR],
- (13) Ms [MD] [D],
- both of address at [Address 15],
- (14) Mr [C] [TZ], of address at [Address 9],
- (15) Ms [I] [NT], of address at [Address 14],
- (16) Ms [TN] [US], of address at [Address 6],
- (17) Mr [LS] [F], of address at [Address 25],
- (18) Mr [PI] [ZY], of address at [Address 2],
- (19) Mr [Y] [G], of address at [Address 20],
- (20) Mr [B] [M], of address at [Address 19],
- (21) Ms [EW] [BG], of address at [Address 23],
- (22) Mr [S] [U], of address at [Address 21],

(23) Ms [P] [OL], spouse [H], of address at [Locality 12],

(24) Mr [W] [DG], of address at [Locality 13],

(25) Ms [A] [J], spouse [T], of address at [Address 10],

(26) Mr [E] [Z], of address at [Address 16],

lodged appeal No. H 22-13.457 against the ruling delivered by the *cour d'appel* (Court of Appeal) of Fort-de-France (Civil Chamber) in the dispute between them on 18 January 2022:

(1) the State Clerk, of address at [Address 17],

(2) the Prosecutor-General to the *cour d'appel* (Court of Appeal) of Fort-de-France, of address at the office of the Prosecutor-General, [Address 8],

respondents at the quashing.

In support of their appeal, the appellants rely on three grounds of quashing.

The case file was sent to the Prosecutor-General.

On the report of Ms de Cabarrus, judge referee, the observations of SCP Spinosi, lawyer of the International Movement for Reparations Martinique, the association *Comité d'Organisation du 10 Mai*, the *Comité International des Peuples Noirs*, Messrs [GL], [LG], [KC], [CA], [JR], [TZ], [F], [ZY], [G], [M], [U], [DG], [Z], Ms [L], Ms [N], Ms [D], Ms [NT], [US], [BG], [H], [T] and Mr and Ms [O], SCP Bauer-Violas, Feschotte-Desbois and Sebagh, lawyers of the State Clerk, and the advisory opinion of Ms Mallet-Bricout, advocate-general, after debate in the public hearing of 31 May 2023 in the presence of Mr Chauvin, President, Ms de Cabarrus, judge referee-rapporteur, Ms Duval-Arnould, elder judge, Messrs Jessel, Mornet, Chevalier, Ms Kerner-Menay, Ms Bacache-Gibeili, judges, Ms Le Gall, judge referee, Ms Mallet-Bricout, advocate-general, and Ms Layemar, Chamber Registrar,

the First Civil Chamber of the *Cour de cassation* (Court of Cassation), composed, pursuant to Article R. 431-5 of the Judicial Code, of the abovementioned president and judges, after debate in accordance with the law, has delivered the present ruling.

Account of the dispute

Facts and procedure

1. According to the ruling under appeal (Fort-de-France, 18 January 2022), on 20 March 2014, considering that the French State was liable for the crimes against humanity committed by the slave trade and slavery, forty-eight natural persons, the association International Movement for Reparations (MIR), the association *Comité d'Organisation du 10 Mai*, and the *Comité International des Peuples Noirs* (CIPN), brought proceedings against the State Clerk for compensation for damages suffered by said natural persons on a personal level and in their capacity as successors in title. The State Clerk asserted their actions time-barred by the statute of limitations.

Reviewing pleas

Examination of the pleas Concerning the second plea

Statement of reasons

2. Pursuant to Article 1014(2) of the Code of Civil Procedure, having a specially reasoned decision on this plea is not necessary as it is clearly not of such nature as to entail quashing.

Reviewing pleas

Concerning the first plea Statement of plea

3. The associations MIR and *Comité d'Organisation du 10 Mai*, the CIPN and twenty-three natural persons object to the ruling declaring the claims for compensation filed by said persons in their capacity as successors in title of victims of acts of slavery inadmissible on the grounds that they are time-barred, whereas:

"(1) in the first place, in accordance with Article 2224 of the Civil Code, the statute of limitations for personal actions or actions for recovery of movable property is set at five years from the day when the holder of a right knew or should have known the facts allowing him to exercise said right; in this case, by holding the claims filed by the successors in title of victims of acts of slavery inadmissible on the grounds that they are time-barred, as defined in the above-mentioned text, without verifying, as it was required to do, the date on which such an action began, the *cour d'appel* (Court of Appeal) deprived its decision of a legal basis in the light of Article 2224 of the Civil Code;

(2) in second place, in accordance with Article 1 of the Law of 31 December 1968, there is a statute of limitations for the State applicable to all claims not paid within four years of the first day of the year following that in which the rights were acquired; in this case, by holding the claims filed by the successors in title of victims of acts of slavery inadmissible on the grounds that they are time-barred, as defined in the above-mentioned text, without verifying, as it was required to do, the date on which such an action began, the *cour d'appel* (Court of Appeal) deprived its decision of a legal basis in the light of Article 2224 of the Civil Code;

(3) in third place, alternatively, by holding the claims filed against the State by the successors in title of victims of acts of slavery inadmissible, as defined in the above-mentioned text, on the grounds that their action is "in all cases time-barred" after the entry-into-force of the "Taubira Law", all in the light "of Articles 2224 of the Civil Code, 26 of Law 2008-561 of 17 June 2008 and 1 of the Law of 31 December 1968", when, by classifying acts of slavery and the slave trade as crimes against humanity, the law of 21 May 2001 could not be the starting point for any statute of limitations, the *cour d'appel* (Court of Appeal) infringed the above-mentioned texts and Law 2008-561 of 21 May 2001."

Statement of reasons

Court's response

4. The Court of Appeal held that, although slavery was definitively abolished by the provisional executive order of the French Republic of 27 April 1848, freed slaves could not have immediately had the capacity to act or be aware of their right to act.

5. The Court concluded that the statute of limitations had begun only from the date on which civilised nations recognised the concept of crime against humanity with the adoption of the Universal Declaration of Human Rights of 10 December 1948, the Convention on the Prevention and Punishment of the Crime of Genocide passed by the United Nations General Assembly of 9 December 1948 and the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950.

6. It considered that the successors in title of the victims had then been able to assess the consequences of the violations resulting from slavery and the slave trade, without it being demonstrated that they had been prevented from acting beyond that period.

7. Thus, it carried out the verifications whose omission had been alleged.

8. Setting aside the superfluous grounds criticised in the third basis of the claim, it lawfully justified its decision.

Reviewing pleas

Concerning the third plea Statement of plea

9. The associations MIR and *Comité d'Organisation du 10 Mai*, the CIPN and twenty-three natural persons object to the ruling rejecting their claims for personal damage, where, "defined as a phenomenon of transmission of social violence from forebears to descendants, provoking traumatic consequences for the descendants, the transgenerational damage, as highlighted by scientific work on epi-genetics, can be inferred only from the status of descendant of a traumatic event; in this case, by holding that unless there is "sufficient evidence to establish individual damage", the appellants' claims for compensation must be rejected, when it found that the latter were descendants of "victims of slavery and the slave trade", such that it had no choice but to compensate their transgenerational damage, as it was asked to do, the *cour d'appel* (Court of Appeal) did not apply the legal consequences of its findings, thus infringing Article 1240 of the Civil Code, together with Articles 4 and 14, then 6 and 13 of the European Convention on Human Rights and Article 1 of Supplementary Protocol No. 1 of the European Convention on Human Rights."

Statement of reasons

Court's response

10. After confirming that none of the natural persons produced documents establishing that they individually suffered damage of their own that could be directly and unequivocally linked to the crimes suffered by their forebears, who were victims of slavery and the slave trade, the *cour d'appel* (Court of Appeal) rightly held that the references, on the one hand, to academic work highlighting transgenerational damages linked to the impact of the human environment on genetics and to the existence of phenomena of transmission of dehumanising historic collective trauma, and on the other hand, to the material and moral damages suffered by all descendants of slaves, did not constitute the existence of unequivocal, direct and personal damage in connection with the slave trade and slavery.

11. The plea is therefore unfounded.

Operative part of the ruling

FOR THESE REASONS, the Court:

DISMISSES the appeal;

Orders the associations International Movement for Reparations, *Comité d'Organisation du 10 Mai* and *Comité International des Peuples Noirs* to pay the costs;

Pursuant to Article 700 of the Code of Civil Procedure, dismisses the claims;

Thus decided by the First Civil Chamber of the *Cour de cassation* (Court of Cassation) and pronounced by the president at the public hearing on the fifth day of the month of July of the year two thousand and twenty-three.

President : Mr Chauvin

Advocate-general : Ms Mallet-Bricout

Judge refereee : Ms de Cabarrus

Lawyer(s) : SCP Spinosi – SCP Bauer-Violas, Feschotte-Desbois and Sebagh

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Institution judiciaire

Translated rulings