



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

FIFTH SECTION

CASE OF DIALLO v. THE CZECH REPUBLIC

(Application no. 20493/07)

JUDGMENT

(just satisfaction – friendly settlement)

STRASBOURG

26 April 2012

This judgment is final but it may be subject to editorial revision.

In the case of Diallo v. the Czech Republic,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Dean Spielmann, *President*,

Karel Jungwiert,

Boštjan M. Zupančič,

Mark Villiger,

Ann Power-Forde,

Angelika Nußberger,

André Potocki, *judges*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 3 April 2012,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 20493/07) against the Czech Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Guinean nationals, Mr Ibrahima Diallo (“the first applicant”) and Mr Mamadou Dian Diallo (“the second applicant”), on 15 May 2007.

2. The applicants were represented by Mr J. Větrovský, a lawyer with Asociace pro právní otázky migrace, a non-governmental organisation based in Prague. The Czech Government (“the Government”) were represented by their Agent, Mr V. A. Schorm, of the Ministry of Justice.

3. The Court gave judgment on 23 June 2011. In that judgment it found a violation of Article 13 of the Convention in conjunction with Article 3 of the Convention as none of the domestic authorities involved in the applicants’ asylum and expulsion proceedings examined the merits of their claim that there was a real risk of ill-treatment in their country of origin and because there were no remedies with automatic suspensive effect available to them. The Court awarded the first applicant EUR 5,000 in respect of non-pecuniary damage. Regarding the second applicant it held that the question of the application of Article 41 was not ready for decision, and accordingly reserved it. It invited the Government and the applicants to submit their written observations on the matter within three months and, in particular, to notify it of any agreement that they might reach (see *Diallo v. the Czech Republic*, no. 20493/07, § 94 and point 5 of the operative provisions, 23 June 2011).

4. In a letter of 21 February 2012, the Government informed the Court that the parties had reached an agreement on the question of just satisfaction.

THE LAW

5. On 21 February 2012 the Court received a friendly settlement declaration signed by the parties under which the second applicant agreed to waive any further claims against the Czech Republic in respect of the facts giving rise to this application against an undertaking by the Government to pay him 5,000 euros, which will be free of any taxes that may be applicable, to cover any pecuniary and non-pecuniary damage as well as costs and expenses. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertook to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

6. The Court takes formal note of the above agreement. It observes that its purpose is to put an end to the dispute. It further observes that under the terms of the settlement thus reached the second applicant will be paid compensation for the prejudice he has suffered, which is in line with the Court's case-law.

7. Having examined the terms of the agreement reached, the Court considers that it is equitable within the meaning of Rule 75 § 4 of the Rules of Court and that it is based on respect for human rights as defined in the Convention and its Protocols (Article 37 § 1 in fine of the Convention and Rule 62 § 3 of the Rules of Court).

8. Accordingly, the remainder of the case should be struck out of the Court's list (Article 37 § 1 (b) of the Convention and Rule 43 § 3).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Takes formal note* of the agreement between the parties and the arrangements made to ensure compliance with the undertakings given therein (Rule 43 § 3 of the Rules of Court);

2. *Decides* to strike the remainder of the case out of the list.

Done in English, and notified in writing on 26 April 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Dean Spielmann
President