



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

AFFAIRE TSOMTSOS ET AUTRES c. GRÈCE

CASE OF TSOMTSOS AND OTHERS v. GREECE

(ARTICLE 50)

(106/1995/612/700)

ARRÊT/JUDGMENT

STRASBOURG

31 mars/March 1998

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SUMMARY¹

Judgment delivered by a Chamber

Greece – application for just satisfaction by applicants found in an earlier judgment to have been victims of a violation of Article 1 of Protocol No. 1

RULE 54 § 4 OF RULES OF COURT A

Friendly settlement reached between Greece and applicants – found to be equitable.

Conclusion: case struck out of the list (unanimously).

COURT'S CASE-LAW REFERRED TO

15.11.1996, Tsomtsos and Others v. Greece

1. This summary by the registry does not bind the Court.

In the case of Tsomtsos and Others v. Greece¹,

The European Court of Human Rights, sitting, in accordance with Article 43 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) and the relevant provisions of Rules of Court A², as a Chamber composed of the following judges:

Mr F. GÖLCÜKLÜ, *President*,
Mr L.-E. PETTITI,
Mr C. RUSSO,
Mr N. VALTICOS,
Mrs E. PALM,
Mr I. FOIGHEL,
Mr A.B. BAKA,
Mr B. REPIK,
Mr P. KÜRIS,

and also of Mr H. PETZOLD, *Registrar*, and Mr P.J. MAHONEY, *Deputy Registrar*,

Having deliberated in private on 26 March 1998,

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

PROCEDURE

1. The case was referred to the Court by the European Commission of Human Rights (“the Commission”) on 8 December 1995, within the three-month period laid down by Article 32 § 1 and Article 47 of the Convention. It originated in an application (no. 20680/92) against the Hellenic Republic lodged with the Commission under Article 25 by 101 Greek nationals on 3 August 1992. The applicants are as follows: Mr Nikolaos Tsomtsos, Mr Ioannis Velissaropoulos, Mr Asterios Katranis, Mr Vasiliki Katrani, Mrs Athina Sanopoulou, Mrs Konstantina Kagka, Mrs Ekaterini Stylianidou, Mr Georgios Koutsos, Mrs Magdalini Georgiadou, Mrs Despoina Gontsia, Mr Ioannis Tsekmes, Mrs Alexandra Marinou, Mr Christos Tsilas, Mr Dimitrios Karatsovalis, Mrs Fani Kotakou,

Notes by the Registrar

1. The case is numbered 106/1995/612/700. The first number is the case's position on the list of cases referred to the Court in the relevant year (second number). The last two numbers indicate the case's position on the list of cases referred to the Court since its creation and on the list of the corresponding originating applications to the Commission.

2. Rules of Court A apply to all cases referred to the Court before the entry into force of Protocol No. 9 (1 October 1994) and thereafter only to cases concerning States not bound by that Protocol. They correspond to the Rules that came into force on 1 January 1983, as amended several times subsequently.

Mr Konstantinos Kotakos, Mrs Angeliki Mike, Mrs Ekaterini Tsilopoulou, Mr Panagiotis Tsakilis, Mrs Fani Samaroudi, Mr Theodoros Zaralis, Mrs Efthimia Amerani, Mr Thomas Kanakoglou, Mr Polichronis Alpanis, Mr Stergios Thomaidis, Mr Dimitrios Kefalas, Mr Konstantinos Tsekouras, Mrs Vaya Giannakoudaki, Mrs Anastassia Milioni, Mr Panagiotis Moraitis, Mr Konstantinos Papadakis, Mr Theologos Zafiriou, Mrs Ioanna Koufou, Mrs Venetia Patsalaki, Mrs Fani Iliadou, Mrs Evdokia Samara, Mr Dimitrios Papadopoulos, Mr Ioannis Abatzoglou, Mrs Maria Kazaki, Mrs Anastassia Polizou, Mr Vassilios Kazakis, Mrs Vasiliki Tahtsidi, Mr Iraklis Hilis, Mr Sotirios Hilis, Mrs Diamanto Koboyianni, Mrs Maria Hatzi, Mrs Damaskini Panou, Mrs Chrissi Hatziloxandra, Mrs Olympia Mylonaki, Mrs Evgenia Tsimpinou, Mrs Alexandra Maristathi, Mr Dimitrios Fotiou, Mr Dimitrios Mikes, Mrs Thekla Konstantaridi, Mrs Eleni Gouli, Mr Haridimos Tsilopoulos, Mrs Maria Tigiri, Mr Dimitrios Parnavelis, Mrs Zoe Gavezou, Mrs Polymnia Parnaveli, Mrs Anna Parnaveli (acting on her own behalf and on that of her two under-age daughters Varvara Parnaveli and Angela Parnaveli), Mrs Foteini Karagali, Mrs Ekaterini Pessou, Mr Vlassios Karagalis, Mr Grigorios Karagalis, Mr Dimitrios Mamoglou, Mr Konstantinos Psaras, Mr Petros Hatziyovanakis, Mr Ioannis Hatziyovanakis, Mrs Paraskevoula Gani, Mrs Sevasti Pananou, Mr Theodoros Giannelis, Mr Dimitrios Papailias (acting on behalf of his three under-age daughters Eleftheria Papailia, Theodora Papailia and Theopoula Papailia), Mrs Roda Mouraki, Mrs Elissavet Boziou, Mrs Evgenia Mouraki, Mrs Efrossini Vlahou, Mrs Zoe Kassapidi, Mrs Sofia Hyrmpou, Mr Diamantis Hyrmpous, Mrs Angeliki Milia, Mrs Maria Kliatsou, Mr Georgios Arampatzis, Mrs Evdokia Panayiotopoulou, Mr Christos Kraniotis, Mr Iossif Perdikopoulos, Mr Nissim Taramboulous, Mrs Sofia Orfanou, Mr Christodoulos Tsilopoulos, Mr Diamandis Tsakmakas, Mr Emmanouil Stoukos, Mrs LEMONIA Liakou, Mr Nikolaos Kyvernitis, Mr Nikolaos A. Kyvernitis, Mr Evgenios Kyvernitis, Mrs Chrissoula Petroulia, Mr Athanassios Drakopoulos, Mrs Stilian Triaridi, Mrs Chrissoula Barbayannidi, Mrs Dimitra Papadimitriou and Mr Dimitris Fotiou.

2. In a judgment delivered on 15 November 1996 (“the principal judgment” – *Reports of Judgments and Decisions* 1996-V), the Court held that the fact that it had been impossible for the applicants to obtain full compensation for expropriation of part of their properties fronting a road (because of an irrebuttable presumption that the benefit derived from road improvements amounted to sufficient compensation) meant that they had had to bear an individual and excessive burden contrary to Article 1 of Protocol No. 1 (*ibid.*, p. 1716, § 42, and point 2 of the operative provisions). It awarded the applicants a specified sum for costs and expenses (*ibid.*, p. 1717, § 51, and point 3 of the operative provisions).

3. Since the question of the application of Article 50 of the Convention was not ready for decision as regards pecuniary damage, the Court reserved it and invited the Government and the applicants to submit, within six months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (*ibid.*, p. 1717, § 47, and point 4 of the operative provisions).

4. On 20 May 1997, the Government sought a five-month extension of time in order to reach a friendly settlement. The applicants' representative said that he did not oppose that application. The President, Mr R. Ryssdal, granted the extension in a letter of 3 June 1997, but added that if it appeared that a settlement would not be possible he wished to receive the parties' observations under Article 50 within that five-month period.

5. On 6 October 1997, the Agent of the Government sent the Registrar an official record of deliberations of the State Legal Council in which that body had recommended that the Government award the applicants "as satisfaction under Article 50 of the Convention the final unit amounts of compensation for the expropriated properties as assessed by the Salonika Court of Appeal in its judgment no. 15/1991, increased by 80% to the extent that the applicants have not been indemnified for the properties". The record had been approved by the Minister of the Economy and the Minister for Foreign Affairs.

In a letter to the President, which was received by the registry on 8 October 1997, the applicants' lawyer advised:

"We would inform you that as noted in the State Legal Council's official record no. 4144 of 16 July 1997, a friendly settlement has been reached in principle with the Government as regards Article 50 of the Convention, as the Government have accepted our proposed terms of settlement.

The record referred to above has been signed by the relevant ministers – the Minister of the Economy and the Minister for Foreign Affairs. There remain outstanding the technical process of calculation of the amount by the Government departments concerned and its payment, for which the Government should be set a time-limit."

6. In reply to those letters the Registrar wrote to the applicants and the Government on 23 October 1997 in the following terms:

"I am to inform you that the President, Mr Ryssdal, is pleased that an agreement has been reached in principle between the Government and the applicants in the case referred to above.

However, as you are aware, a case cannot be struck out of the list until an effective friendly settlement has been reached and its terms agreed between the parties to the dispute.

The President has noted the reserves mentioned [in your letter]¹ [by the applicants' lawyer in his letter]² of 14 October 1997 and trusts that the technical details of payment will be resolved rapidly.

In that connection, he extends the time-limit for final conclusion of a friendly settlement to 30 January 1998."

7. In a letter of 12 February 1998 the applicants' lawyer informed the Court of the following:

"...

By this letter, I wish to inform the Court that subsequent to the [Registrar's] letter of 23 November 1997 the case of *Tsomtsos and Others v. Greece* (106/1995/612/700) has been settled. The Government have deposited the agreed sum with the Bank for Official Deposits.

We thank the Court for its help and hope that Greek case-law will henceforth be consistent with Article 1 of Protocol No. 1.

..."

8. On 24 February 1998 the Agent of the Government indicated that the applicants had already received the sums agreed under the terms of the friendly settlement and invited the Court to strike the case out of the list.

9. The Delegate of the Commission was consulted and raised no objection.

10. In the meantime, Mr F. Gölcüklü had replaced Mr Ryssdal, who had died on 18 February 1998, as President of the Chamber (Rule 21 § 6) and Mr C. Russo, substitute judge, had become a full member of the Chamber (Rule 22 § 1).

AS TO THE LAW

11. Following its principal judgment of 15 November 1996 the Court has been informed that a friendly settlement has been reached between the Government and the applicants with respect to the latter's claims under Article 50 of the Convention.

Having regard to the agreed terms and to the fact that no objection has been raised by the Delegate of the Commission, the Court finds that the agreement is equitable within the meaning of Rule 54 § 4 of Rules of Court A. Consequently, the Court takes formal note of the agreement and considers it appropriate to strike the case out of the list pursuant to that provision.

1. Text of the letter to the applicants.
2. Text of the letter to the Government.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English and in French, and notified in writing on 31 March 1998
pursuant to Rule 55 § 2, second sub-paragraph, of Rules of Court A.

Signed: Feyyaz GÖLCÜKLÜ
President

Signed: Herbert PETZOLD
Registrar