



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

SECOND SECTION

CASE OF G.S. v. Italy

(Application no. 34204/96)

JUDGMENT

STRASBOURG

19 October 1999

In the case of G.S. v. Italy,

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

Mr C. L. ROZAKIS, *President*,
Mr M. FISCHBACH,
Mr B. CONFORTI,
Mr G. BONELLO,
Mrs M. TSATSA-NIKOLOVSKA,
Mr A. BAKA,
Mr E. LEVITS, *Judges*,
and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 7 October 1999,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 34204/96) against Italy lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Italian national, Mr G. S. (“the applicant”), on 22 October 1996. The Italian Government is represented by their Agent, Mr U. Leanza.

2. The applicant complained under Article 6 § 1 of the Convention about the length of two sets of criminal proceedings. On 22 October 1998 the Commission (First Chamber) decided to give notice of the application to the respondent Government and invited them to submit their observations on its admissibility and merits. The Government submitted their observations on 18 February 1999 to which the applicant replied on 1 March 1999.

3. Following the entry into force of Protocol No. 11 to the Convention on 1 November 1998 and in accordance with the provisions of Article 5 § 2 thereof, the application was transferred to the Court.

4. In accordance with Rule 52 § 1 of the Rules of Court, the President of the Court, Mr L. Wildhaber, assigned the case to the Second Section. The Chamber constituted within the Section included *ex officio* Mr B. Conforti, the judge elected in respect of Italy (Article 27 § 2 of the Convention and Rule 26 § 1 (a) of the Rules of Court), and Mr C. L. Rozakis, the President of the Section (Rule 26 § 1 (a)). The other members designated by the latter to complete the Chamber were Mr M. Fischbach, Mr G. Bonello, Mrs M. Tsatsa-Nikolovska, Mr A. Baka and Mr E. Levits (Rule 26 § 1 (b)).

5. On 27 April 1999 the Court declared the application admissible.

6. On 29 July 1999, after an exchange of correspondence, the Section Registrar proposed to the parties to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 2 August 1999 and on 3 September 1999 respectively the applicant and the Government submitted formal declarations accepting a friendly settlement of the case.

AS TO THE FACTS

7. The applicant, interrogated by the Public Prosecutor attached to the Venice District Court on 28 June 1982, was committed for trial for extortion before the Venice District Court on 8 March 1985. The first hearing was fixed at 10 December 1991 but subsequently postponed to 24 June 1992. The proceedings were then adjourned until 4 December 1992 and joined with another set of proceedings pending against the applicant, in which he had been committed for trial on 27 May 1983 for extortion. On 4 December 1992, the applicant was convicted. Upon his appeal, on 18 October 1996, the Venice Court of Appeal ruled that the proceedings be discontinued.

AS TO THE LAW

8. On 7 September 1999 the Court received the following declaration by the Italian Government:

“I declare that the Government of Italy offer to pay 37,000,000 ITL to Mr Gennaro Scardillo with a view to securing a friendly settlement of the application registered under No. 34204/96 This sum shall cover any pecuniary and non-pecuniary damage as well as any legal costs. It will be payable immediately after the notification of the judgment delivered by the Court pursuant to Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

This declaration does not entail any acknowledgement by the Government of a violation of the European Convention on Human Rights in the present case.

The Government further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention.”

9. On 10 August 1999, the Court received the following declaration, signed by the applicant:

“I note that the Government of Italy are prepared to pay to me 37,000,000 ITL covering both pecuniary and non-pecuniary damage and legal costs with a view to securing a friendly settlement of application No. 34204/96 pending before the Court.

I accept the proposal and waive any further claims in respect of Italy relating to the facts of this application. I declare that the case is definitely settled.

This declaration is made in the context of a friendly settlement which the Government and I have reached.

I further undertake not to request the reference of the case to the Grand Chamber pursuant to Article 43 § 1 of the Convention after the delivery of the Court's judgment."

10. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

11. Accordingly, the case should be struck out of the list.

FOR THESE REASONS THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list.
2. *Takes note* of the parties' undertaking not to request a re-hearing of the case before the Grand Chamber.

Done in English, then sent as a certified copy on 19 October 1999, according to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President