



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

SECOND SECTION

CASE OF J.K. v. SLOVAKIA

(Application no. 29021/95)

JUDGMENT

STRASBOURG

21 March 2000

In the case of J.K. v. Slovakia,

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

Mr C. ROZAKIS, *President*,

Mr M. FISCHBACH,

Mr G. BONELLO,

Mrs V. STRÁŽNICKÁ,

Mr P. LORENZEN,

Mr A.B. BAKA,

Mr E. LEVITS, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 9 March 2000,

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

PROCEDURE

1. The case originated in an application (29021/95) against the Slovak Republic lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 by J.K. (“the applicant”), a Slovak national, on 8 March 1994. The applicant is represented by Mr P. Belluš, a lawyer practising in Dolný Kubín. The Government are represented by their Agent, Mr R. Fico. The President granted the applicant’s request that his identity should not be revealed.

2. The application concerned the alleged interference with the applicant’s right to run a business and the absence of a judicial review of decisions by which the applicant was fined under the Minor Offences Act. The applicant invoked Article 1 of Protocol No. 1 and Article 6 of the Convention. On 15 May 1996 the Commission 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 19 July 1996, to which the applicant replied on 19 September 1996.

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* Mrs V. Strážnická, the judge elected in respect of Slovakia (Article 27 § 2 of the Convention and Rule 26 § 1 (a) of the Rules of Court) and Mr C.L. Rozakis, President of the Section (Rules 12 and 26 § 1 (a)). The other members designated by the latter to complete the Chamber were

Mr M. Fischbach, Mr G. Bonello, Mr. P. Lorenzen, Mr. A. Baka and Mr E. Levits.

5. On 25 May 1999 the Court declared admissible the complaint under Article 6 § 1 of the Convention. It declared inadmissible the remainder of the application.

6. After an exchange of correspondence with the Section Registrar, the parties agreed to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 28 January 2000 both the Agent of the Government and the applicant's representative submitted formal declarations to this effect.

AS TO THE FACTS

7. On 31 August 1993 the Žilina Local Office (*Obvodný úrad*) found the applicant guilty of a minor offence (*priestupok*) under the Minor Offences Act on the ground that he ran his business contrary to the Žilina Municipal Council's Regulation No. 12/1992, as amended. The applicant was fined 1,000 Slovak korunas (SKK) and ordered to pay the costs of the proceedings of SKK 150. On 26 November 1993 the Žilina District Office (*Okresný úrad*) upheld the decision.

8. On 13 February 1995 the Žilina Local Office found that the applicant had committed minor offences under the Minor Offences Act in that, between 1 January 1992 and 8 November 1994, he had continued his business in Žilina in disrespect of Regulation No. 12/1992. The applicant was fined SKK 1,800 and ordered to pay the costs of the proceedings of SKK 150. On 21 April 1995 the Žilina District Office upheld the decision.

9. At the relevant time Section 83 (1) of Minor Offences Act No. 372/1990 (*Zákon o priestupkoch*) provided that only decisions on minor offences by which a fine exceeding SKK 2,000 was imposed, by which exercise of a certain activity for a period exceeding six months was prohibited or an object of a value exceeding SKK 2,000 was confiscated, could be reviewed by courts (for further details, see the Lauko v. Slovakia judgment of 2 September 1998, *Reports of Judgments and Decisions* 1998-VI, pp. 2498-2501, §§ 18-43 and the Kadubec v. Slovakia judgment of 2 September 1998, *Reports* 1998-VI, pp. 2523-2527, §§ 14-40).

10. On 15 October 1998 the Constitutional Court found, in proceedings brought by the General Prosecutor, that Section 83 (1) of the Minor Offences Act was unconstitutional and contrary to Article 6 § 1 of the Convention to the extent that it limited the judicial review of decisions on minor offences to, *inter alia*, fines exceeding SKK 2,000. The Constitutional Court's finding was published in the Collection of Laws on

23 October 1998. As from this date, the relevant provisions of Section 83 (1) of the Minor Offences Act became ineffective.

AS TO THE LAW

11. On 28 January 2000 the Court received the following declaration from the Agent of the Slovak Government:

“I declare that the Government of the Slovak Republic offer to pay 5,000 SKK to [the applicant] with a view to securing a friendly settlement of his application registered under no. 29021/95. This sum shall cover any damage and costs and it shall 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.

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

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

12. On 28 January 2000 the Court received the following declaration signed by the applicant’s representative:

“I note that the Government of the Slovak Republic are prepared to pay 5,000 SKK (covering both damage and costs) to [the applicant] with a view to securing a friendly settlement of his application no. 29021/95 pending before the Court.

I accept the above proposal and waive any further claims in respect of the Slovak Republic related to the facts of the aforesaid application until the delivery by the Court of a judgment pursuant to Article 32 of the European Convention on Human Rights. I declare that the case is definitely settled.

The present declaration is made in the context of a friendly settlement which the Government and the applicant have reached.

I further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court’s judgment.”

13. 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).

14. 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 rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 21 March 2000 pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

Christos ROZAKIS
President