



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

CASE OF PAPACHELAS v. GREECE
AFFAIRE PAPACHELAS c. GRÈCE
(Application no./Requête n° 31423/96)

JUDGMENT/ARRET
(Article 41)

STRASBOURG

4 April/avril 2000

This judgment is subject to editorial revision before its reproduction in final form in the official reports of selected judgments and decisions of the Court./Cet arrêt peut subir des retouches de forme avant la parution de sa version définitive dans le recueil officiel contenant un choix d'arrêts et de décisions de la Cour.

In the case of Papachelas v. Greece,

The European Court of Human Rights, sitting, in accordance with Article 27 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”), as amended by Protocol No. 11¹, and the relevant provisions of the Rules of Court², as a Grand Chamber composed of the following judges:

Mr L. WILDHABER, *President*,

Mrs E. PALM,

Mr L. FERRARI BRAVO,

Mr GAUKUR JÖRUNDSSON,

Mr L. CAFLISCH,

Mr I. CABRAL BARRETO,

Mrs F. TULKENS,

Mr W. FUHRMANN,

Mr M. FISCHBACH,

Mr B. ZUPANČIČ,

Mr J. HEDIGAN,

Mrs W. THOMASSEN,

Mrs M. TSATSA-NIKOLOVSKA,

Mr T. PANTIRU,

Mr E. LEVITS,

Mr K. TRAJA,

Mr N. VALTICOS, *ad hoc judge*,

and also of Mr M. DE SALVIA, *Registrar*,

Having deliberated in private,

Delivers the following judgment, which was adopted on 31 March 2000:

PROCEDURE

1. The case was referred to the Court, as established under former Article 19 of the Convention³, by the Greek Government (“the Government”) on 18 May 1998, within the three-month period laid down by former Articles 32 § 1 and 47 of the Convention. It originated in an application (no. 31423/96) against Greece lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 by two nationals of that State, Mr Aristomenis Papachelas and Mr Eugène Papachelas on 6 February 1996.

1.-2. Protocol No. 11 and the Rules of Court came into force on 1 November 1998.

3. Since the entry into force of Protocol No. 11, which amended that provision, the Court has functioned on a permanent basis.

2. In a judgment delivered on 25 March 1999 (“the principal judgment” – to be published in *Reports of Judgments and Decisions* 1999), the Court held that the fact that it had been impossible for the applicants to obtain full compensation for expropriation of their land (because of an irrebuttable presumption that the owners of adjoining land derived benefit from road improvements and were accordingly required to contribute towards the costs of expropriation) meant that they had had to bear an individual and excessive burden contrary to Article 1 of Protocol No. 1 (ibid. § 55 and point 4 of the operative provisions). It also held that there had been no violation of Article 6 § 1 of the Convention with regard to the reasonableness of the length of the proceedings (ibid. § 42 and point 2 of the operative provisions) or of Article 1 of Protocol No 1 as regards the amount of compensation fixed in the instant case per square metre of land expropriated (ibid. § 50 and point 3 of the operative provisions). Lastly, it awarded the applicants a specified sum for costs and expenses (ibid. § 62 and point 5 of the operative provisions).

3. Since the question of the application of Article 41 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. § 59 and point 6 of the operative provisions).

4. On 22 September 1999 the Government sought a one-month’s extension of time in order to reach a friendly settlement. The applicants’ lawyers said that they did not oppose that application. The President, Mr L. Wildhaber, granted the extension in a letter of 27 September 1999.

5. On 26 October 1999, 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 41 of the Convention” the sum of 74,880,000 drachmas together with interest of 6% per annum from September 1992 until payment was made in full. The record had been approved by the Minister of the Economy and the Minister of Foreign Affairs. The Agent of the Government confirmed that the friendly settlement had been made on that basis.

6. On 1 March 2000 the Court received the following declaration signed by the applicants’ representatives:

“We would inform you that following the Court’s judgment of 25 March 1999 a friendly settlement has been reached between the applicants and the Government. The applicants are satisfied with the terms of that settlement and waive their rights to apply to the Court for just satisfaction in this case.”

AS TO THE LAW

7. Following its principal judgment of 25 March 1999 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 41 of the Convention.

Having regard to its terms, the Court finds the agreement equitable within the meaning of Rule 75 § 4 of the Rules of Court. Consequently, it takes formal note of the agreement and considers it appropriate to strike the case out of the list pursuant to that provision.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list;

Done in English and French, and notified in writing on 4 April 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michele DE SALVIA
Registrar

Luzius WILDHABER
President