



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

FIRST SECTION

CASE OF AKIN v. THE NETHERLANDS

(Application no. 34986/97)

JUDGMENT

STRASBOURG

4 July 2000

In the case of Akın v. the Netherlands,

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

MRS E. PALM, PRESIDENT,
MRS W. THOMASSEN,
MR GAUKUR JÖRUNDSSON,
MR R. TÜRMEŒEN,
MR C. BİRSAN,
MR J. CASADEVALL,
MR R. MARUSTE, JUDGES,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 27 June 2000,

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

PROCEDURE

1. The case originated in an application (no. 34986/97) against the Netherlands 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 a Turkish national, Ayşe Akın ("the applicant"), on 30 October 1996.

2. The applicant was initially represented by Ms M.D. van Aller and, as from May 1999, by Mr R.M. Berendsen, both lawyers practising in Amsterdam. The Netherlands Government ("the Government") were represented by their Agent, Mr R. Böcker, of the Netherlands Ministry of Foreign Affairs.

3. The applicant complained, *inter alia*, under Article 6 § 1 of the Convention about the length of a set of administrative proceedings concerning social security benefits. On 1 July 1998 the Commission (Second Chamber) declared the application partially inadmissible and, as to the remainder of the application, decided to give notice of the remainder of the application to the Government inviting them to submit their observations on its admissibility and merits. The Government submitted their observations on 15 October 1998, to which the applicant replied on 30 December 1998.

4. On 22 June 1999 the Court declared the application admissible.

5. The Section Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 25 February 2000 the Agent of the Government submitted a proposal for a friendly settlement. On 18 May 2000, the applicant's representative informed the Court that the application could be settled on the terms proposed by the Government.

THE FACTS

6. By letters of 17 July 1991, 24 September 1991 and 11 February 1992, the Social Insurance Bank (*Sociale Verzekeringsbank*) informed the applicant that her respective requests for child care benefits for a child whom she had adopted under Turkish law had been rejected.

7. In order to be able to file an administrative appeal, the applicant's lawyer requested the Social Insurance Bank, by letter of 27 February 1992, to issue a formal confirmation (*voor beroep vatbare beschikking*) of the decisions of 17 July 1991 and 11 February 1992.

8. This formal confirmation was issued on 11 May 1992 and, on 4 June 1992, the applicant filed an administrative appeal with the Appeals Tribunal (*Raad van Beroep*) of Amsterdam.

9. On 28 August 1992, the Social Insurance Bank transmitted the applicant's case-file to the Appeals Tribunal. On 30 December 1992, the Social Insurance Bank submitted a written reaction to the applicant's appeal to which the applicant responded by letter of 7 April 1993.

10. On 11 March 1994, following a hearing held on 28 January 1994, the Administrative Law Division of the Regional Court (*Arrondissementsrechtbank*; hereinafter "the Regional Court") of Amsterdam, which had replaced the Appeals Tribunal following statutory changes, rejected the applicant's appeal as ill-founded. On 25 April 1994 the applicant filed an appeal with the Central Appeals Tribunal (*Centrale Raad van Beroep*).

11. In a letter of 2 December 1994 the Registrar of the Central Appeals Tribunal informed the applicant's lawyer that, given the large number of appeals filed, considerable time could pass before the applicant's appeal would be dealt with.

12. On 23 December 1994 the Social Insurance Bank replied to the applicant's appeal, which was transmitted to the applicant on 2 January 1995. By letter of 15 February 1995, containing a reminder of a previous letter of 2 December 1994, the Registrar of the Central Appeals Tribunal urged the Regional Court to transmit the applicant's case-file. On 21 March 1995, the Registrar of the Central Appeals Tribunal sent a second reminder to the Regional Court.

13. On 29 March 1995, the Regional Court transmitted the case-file to the Central Appeals Tribunal. After having noted that a number of documents transmitted did not relate to the applicant's case, the Registrar of the Central Appeals Division requested the Regional Court on 3 August 1995 to transmit a number of relevant documents concerning the applicant's case. On 5 and 27 September 1995 respectively, the Registrar of the Central Appeals Tribunal sent a reminder of the letter of 3 August 1995 to the Regional Court.

14. On 22 January 1996 the applicant's lawyer sent a letter to the Central Appeals Tribunal in which she argued, *inter alia*, that the applicant considered that the Central Appeals Tribunal had violated Article 6 of the Convention by its failure to schedule a hearing in her case. The applicant's lawyer urged the Tribunal to examine her case without further delay.

15. By judgment of 1 May 1996, following a hearing held on 13 March 1996, the Central Appeals Tribunal upheld the Regional Court's decision of 11 March 1994.

THE LAW

16. On 9 June 2000 the Court received the following declaration from the parties:

“The Government of the Netherlands and the applicant, Ms Ayşe Akın, have reached the following agreement in full and final settlement of the applicant's claim.

1. That the Netherlands Government will pay the applicant a total amount of NLG. 2,000 on an *ex gratia* basis;

2. That the applicant undertakes, following payment of the stated amount and without being entitled to damages or other payments from the Netherlands Government, to withdraw her application to the European Court of Human Rights and not to take legal action against the Netherlands State on account of the above matter before the courts of the Netherlands or international tribunals.

3. The above settlement is without prejudice to the question of liability under the Convention.

4. The Netherlands Government and the applicant 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.”

17. 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).

18. 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 4 July 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Elisabeth PALM
President