



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

THIRD SECTION

CASE OF C.H. v. AUSTRIA

(Application no. 27629/95)

JUDGMENT
(Striking out)

STRASBOURG

3 October 2000

In the case of C.H. v. Austria,

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

Mr P. KÜRIS, *President*,
Mr W. FUHRMANN,
Mrs F. TULKENS,
Mr K. JUNGWIERT,
Sir Nicolas BRATZA,
Mrs H.S. GREVE,
Mr K. TRAJA, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 12 September 2000,

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

PROCEDURE

1. The case originated in an application (no. 27629/95) against Austria 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 Austrian national, C.H. (“the applicant”), on 8 March 1995.

2. The applicant was represented by Mr. G. Liedermann, a lawyer practising in Vienna (Austria). The Austrian Government (“the Government”) were represented by their Agent, Ambassador H. Winkler, Head of the International Law Department at the Federal Ministry of Foreign Affairs.

3. The applicant complained, *inter alia*, that he had been the victim of a violation of Article 6 § 2 of the Convention in that the Austrian courts disregarded the presumption of innocence when refusing his claim for compensation under the Criminal Proceedings Compensation Act because they found that a suspicion against him continued to exist despite his acquittal by the Regional Court.

4. Following communication of the complaint about the alleged violation of the presumption of innocence to the Government and rejection of the remainder of the application by the Commission, the case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention. On 14 December 1999, having obtained the parties’ observations, the Court declared the application admissible in so far as it had been communicated to the Government.

5. On 2 August 2000, after an exchange of correspondence, 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 4 August 2000 and on 10 August 2000 the applicant's representative and the Agent of the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. Between 14 and 17 September 1992 the applicant was remanded in custody as it was suspected that in the course of a demonstration he had attempted to resist the acts of a public authority and had caused bodily harm to a police officer. On 7 October 1993 the Vienna Regional Court (*Landesgericht*) acquitted the applicant of these charges. Thereupon the applicant requested compensation for the detention on remand under the Criminal Proceedings Compensation Act. On 11 February 1994 the Vienna Regional Court dismissed the compensation claim as it found that, notwithstanding the applicant's acquittal, the suspicion that he had committed criminal offences had not been completely dissipated. On 30 August 1994 the Vienna Court of Appeal (*Oberlandesgericht*) dismissed the applicant's appeal.

THE LAW

7. On 4 August 2000 and 10 August 2000, respectively, the Court received the following declaration from the Government and the applicant's representative:

“Statements of the parties with a view to a friendly settlement

With reference to Article 38 § 1 (b) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the parties in the proceedings concerning application no. 27629/95 lodged by Mr. C.H., declare, with a view to a friendly settlement reached with the assistance of the European Court of Human Rights, as follows:

1. The Government of the Republic of Austria will pay the applicant a sum of altogether 50,000 Austrian schillings as compensation in respect of any possible claims relating to the present application.

This amount will be paid to the applicants' representative Mr Gabriel Liedermann in Vienna.

2. The applicant declares his application settled.

3. The applicant waives any further claims against the Republic of Austria relating to the facts underlying the present application.”

8. 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).

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

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

S. DOLLÉ
Registrar

P. KÜRIS
President