



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

THIRD SECTION

CASE OF RAIF OGLU v. GREECE

(Application no. 33738/96)

JUDGMENT

STRASBOURG

27 June 2000

In the case of Raif Oglu v. Greece,

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

Mr J.-P. COSTA, *President*,

Mr W. FUHRMANN,

Mr C. ROZAKIS,

Mr L. LOUCAIDES,

Mr P. KÜRIS,

Sir Nicolas BRATZA,

Mr K. TRAJA, *Judges*

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 6 June 2000,

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

PROCEDURE

1. The case originated in an application against Greece lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Fundamental Rights and Freedoms (“the Convention”) by a Greek national, Mr Atnan Raif Oglu, on 11 April 1996. The application was registered on 11 December 1996 under file no. 33738/96.

2. The applicant was represented before the Court by Mr O. Hacıibram, a lawyer practising in Xanthi, and Mr T. Akillioglu, a lawyer practising in Ankara. The Government of Greece were represented by their Agent, Mr Aristomenis Komissopoulos, President of the State Legal Council.

3. The applicant complained, *inter alia*, that, contrary to Articles 6 § 1 and 14 of the Convention, the authorities failed to comply with judgments issued in his favour.

4. On 20 May 1997 the Commission decided to give notice of the application to the respondent Government and invited them to submit their observations on the merits. The parties exchanged observations and supplementary observations.

5. 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 case falls to be examined by the Court.

6. In accordance with Rule 52 § 1 of the Rules of Court, the President of the Court, Mr L. Wildhaber, assigned the case to the Third Section. The Chamber constituted within the Section included *ex officio* Mr C. Rozakis, the judge elected in respect of Greece (Article 27 § 2 of the Convention and Rule 26 § 1 (a) of the Rules of Court).

7. On 16 March 1999, the Chamber declared admissible the applicant's complaints concerning a lack of effective judicial protection and discrimination in this connection. It declared the remainder of the application inadmissible. It also decided to invite the parties to submit observations on the merits.

8. The applicant submitted his observations on 20 April 1999 and the Government theirs on 17 May 1999.

9. On 3 March 2000 the Government provided further information. The applicant commented thereon on 2 April 2000.

AS TO THE FACTS

A. The disciplinary sanction against the applicant and the proceedings before the Council of State

10. The applicant used to work as a teacher in the minority primary school of Xanthi in Thrace under a private-law contract.

11. On 26 February 1987 the Regional Primary Education Board of the Prefecture of Xanthi imposed on the applicant a disciplinary penalty of one year's suspension, because "in his capacity as a member of the committee of the Union of Muslim Teachers of Western Thrace, he printed and distributed a document in which he used the term 'Turkish teachers' and old Turkish names of villages in breach of international agreements, the laws of the Greek State and a recent judgment of the Court of Appeal of Thrace".

12. An appeal lodged by the applicant before the Council of State was rejected on 5 March 1992 as inadmissible. The relevant judgment was served on the applicant on 3 February 1993.

B. The refusal to assign the applicant any duties and the first set of proceedings before the Administrative Court of Appeal

13. The applicant was suspended from his duties between 4 February 1993 and 3 February 1994. On 2 February 1994 the Minority Schools Office of the Prefecture of Xanthi informed the applicant that he could not resume his duties in the primary school where he used to work because there were no posts available. The Office indicated that the applicant could, nevertheless, reapply should a vacancy arise. The applicant lodged an application for judicial review of this decision before the Administrative Court of Appeal (*Diikritiko Efetio*) of Komotini, which was competent to hear the case at first instance because of the nature of the dispute.

14. On 20 March 1996 the Court of Appeal considered that the decision of 2 February 1994 of the Minority Schools Office in essence made the applicant redundant. However, such a decision could only be taken by the Prefect (*Nomarhis*) and serious reasons had to be invoked. For this reason, the Court quashed the decision in question.

C. The applicant's dismissal and the second set of proceedings before the Administrative Court of Appeal

15. On 6 June 1996 the applicant served the judgment of the Court of Appeal on the Minister of Education, the Prefect of Xanthi, the Supervisor of the Minority Schools and the Minority Schools Office of the Prefecture of Xanthi, and announced that he would present himself at the school where he used to work to resume his duties. On 6 June 1996 the Minority Schools Office of the Prefecture of Xanthi certified that the applicant presented himself at the school where he used to work, but that the office "did not have any orders to assign him any duties". A similar certificate was issued on 21 June 1996.

16. On 27 August 1996 the Minority Schools Office of the Prefecture of Xanthi ordered the school where the applicant used to work "not to accept" the applicant at the beginning of the new school year, pending further instructions.

17. On 24 September 1996 the Prefect of Xanthi decided to dismiss the applicant as from 2 February 1994 on the ground that "he had engaged in activities which could harm the interests of the State".

18. On 10 October 1996 the applicant lodged a criminal complaint for breach of duty against the Supervisor of the Minority Schools, the civil servants of the Minority Schools Office of the Prefecture of Xanthi and every other person responsible for his not being assigned any duties.

19. On 10 December 1996 the applicant lodged an application for judicial review of the decision of 24 September 1996 of the Prefect of Xanthi before the Administrative Court of Appeal of Komotini.

20. On 31 July 1997 the Central Minority Schools Office of the Ministry of Education invited the applicant to inform them whether he was prepared to work in the minority primary schools of Kirnos or Kremasti in the Prefecture of Xanthi where vacant posts existed. The office referred to a proposal made orally to the applicant in the autumn of 1994 to work in Kirnos, which he had rejected.

21. On 11 August 1997 the applicant replied that he remained the holder of a post in the minority primary school of Xanthi. Accepting employment in one of the schools mentioned in the Central Minority Schools Office's letter of 31 July 1997 would not solve a number of important issues, namely the payment of the salary owed to him for the time he had remained unemployed, his travel expenses - given that the two schools were at least

25 kilometres away from Xanthi - and his membership of a social security scheme. The applicant indicated that, if these problems were solved, he would be prepared to accept the Central Minority Schools Office's proposal.

22. On 24 November 1997 the Administrative Court of Appeal of Komotini quashed the decision of 24 September 1996 of the Prefect of Xanthi on the ground that the reasons for dismissing the applicant were inadequate. The court made no order as to costs.

23. On 17 February 1998 the Prefect of Xanthi rehired the applicant in the minority primary school of Xanthi. On 23 February 1998 the applicant resumed his duties. On 25 February 2000 the Government deposited in favour of the applicant the sum GRD 7,108,572 with the Fund of Deposits and Loans (*Tamio Parakathikon ke Danion*). This sum corresponded to the applicant's salaries and social security contributions for the period between 4 February 1994 and 22 February 1998.

AS TO THE LAW

24. The applicant complained that the authorities' failure to comply with the judgments issued in his favour constituted a violation of Article 6 § 1 of the Convention, which provides:

"In the determination of his civil rights and obligations..., everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law. ..."

He further claimed that the authorities' handling of his case was related to the fact that he was a member of the Muslim-Turkish minority. He invoked in this connection Article 14 of the Convention, which provides:

"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

25. The Government submitted that the applicant, following his rehiring and payment of compensation, could no longer claim to be a victim within the meaning of Article 34 of the Convention. The applicant claimed that compensation for the real damage he had incurred was not sufficient. He also claimed compensation for non-pecuniary damage and his legal costs.

26. The Court recalls that the applicant instituted two sets of proceedings before the Administrative Court of Appeal. The first set resulted in the annulment of the authorities' failure to assign the applicant any duties on 4 February 1994, and the second in the annulment of his subsequent dismissal, which purported to have retroactive effect as from 2 February 1994. As a result of these proceedings, the applicant obtained his reinstatement as from 23 February 1998 in the minority school where he

used to work. He was also compensated in respect of the salary and related benefits he had lost between 4 February 1994 and 22 February 1998.

27. In these circumstances, the Court considers that the matter has been resolved and that respect for human rights as defined in the Convention does not require it to continue the examination of the application. The Court, therefore, decides to strike the application out of its list of cases in accordance with Article 37 § 1 (b) of the Convention.

FOR THESE REASONS THE COURT

Decides by 6 votes to 1 to strike the case out of the list.

Done in English and notified in writing on 27 June 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President