



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

FOURTH SECTION

CASE OF MIRAGALL ESCOLANO AND OTHERS v. SPAIN

*(Applications nos. 38366/97, 38688/97, 40777/98, 40843/98, 41015/98,
41400/98, 41446/98, 41484/98, 41487/98 and 41509/98)*

JUDGMENT
(Just satisfaction and striking out)

STRASBOURG

25 May 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.

In the case of Miragall Escolano and Others v. Spain,

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

Mr G. RESS, *President*,

Mr A. PASTOR RIDRUEJO,

Mr L. CAFLISCH,

Mr J. MAKARCZYK,

Mr I. CABRAL BARRETO,

Mrs N. VAJIĆ,

Mr M. PELLONPÄÄ, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 11 May 2000,

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

PROCEDURE

1. The case originated in ten applications¹ against the Kingdom of Spain 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 Mr Juan Miragall Escolano, Mrs María de la Cinta Andreu Rocamora, Mrs María Victoria Bonet Vilar, Mr Valentín Gómez López, Mr José Antonio Soriano Rams, Mr Francisco Monforte Sancho, Mrs María Dolores García Moreno, Mr José Roig Espert, Mr Salvador Roig Espert and Mrs Ana María Icardo García (“the applicants”), who are Spanish nationals, on 16 September and 10 November 1997, 26 March, 14 and 15 April, 18, 25, 27 and 26 May 1998 respectively.

2. The applicants were all represented by Mr M.R. Mancebo Monge, a lawyer practising in Valencia. The Spanish Government (“the Government”) were represented by their Agent, Mr J. Borrego Borrego, Head of the Human Rights Department at the Ministry of Justice.

3. In a judgment delivered on 25 January 2000 (“the principal judgment”), the Court held that as a result of a particularly strict construction of a procedural rule by the domestic courts, the applicants had been denied their right of access to a court to have their claims for compensation examined following the quashing of a ministerial order reducing the profit margins of chemists in Spain, and that there had therefore been a violation of Article 6 § 1 of the Convention (*ibid.*, paragraph 39 and point 1 of the operative provisions).

1. Nos. 38366/97, 38688/97, 40777/98, 40843/98, 41015/98, 41400/98, 41446/98, 41484/98, 41487/98 and 41509/98.

4. 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 to submit, within three months, their written observations on the matter and the parties to notify the Court of any agreement they might reach (*ibid.*, paragraph 44 and point 2 of the operative provisions).

5. On 25 April 2000 the Court received the following declaration from the Agent of the Government:

“(1) On receipt of the judgment delivered by the Court on 25 January 2000 the representative of the State took the necessary steps to pay the applicants the amounts claimed and interest for the period from 5 July 1988 to 25 January 2000. ...

Subsequently, on 10 April 2000 the accounting documents were drawn up so that a payment order could be made...

I have received confirmation from the applicants' representative that he has already contacted the solicitor who will physically receive the sums in question.

(2) The applicants have expressed their full agreement to this friendly settlement through their lawyer.

...”

6. On 26 April 2000 the Court received the following declaration signed by the applicants' representative:

“(i) Within the period stated in point 2 (b) of the operative provisions of the judgment of 25 January 2000, I would inform the Court that the Spanish Government have offered to execute the said judgment by paying the following amounts of compensation:

Mr Juan Miragall Escolano	3,204,629 pesetas
Mrs María Cinta Andreu Rocamora	3,166,977 pesetas
Mrs María Victoria Bonet Vilar	1,020,016 pesetas
Mr Valentín Gómez López	1,265,893 pesetas
Mr José Antonio Soriano Rams	1,203,846 pesetas
Mr Francisco Monforte Sancho	2,236,887 pesetas
Mrs María Dolores García Moreno	1,772,678 pesetas
Mr José Roig Espert	1,759,173 pesetas
Mr Salvador Roig Espert	6,999,318 pesetas
Mrs Ana María Icardo García	983,053 pesetas

(ii) In my capacity as the applicants' representative I considered the offer of the Spanish Government reasonable and accepted it.

Consequently, I would ask the Fourth Section of the Court to take note of the agreement reached between the applicants and the Spanish Government.”

THE LAW

7. Following its principal judgment 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 for pecuniary damage under Article 41 of the Convention.

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

8. 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 French, and notified in writing on 25 May 2000, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Georg RESS
President