



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

FIRST SECTION

CASE OF JAKOLA v. SWEDEN

(Application no. 32531/96)

JUDGMENT
Friendly Settlement

STRASBOURG

6 March 2001

In the case of Jakola v. Sweden,

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

Mrs W. THOMASSEN, *President*,

Mrs E. PALM,

Mr GAUKUR JÖRUNDSSON,

Mr R. TÜRMEŒ,

Mr C. BİRSAN,

Mr J. CASADEVALL,

Mr R. MARUSTE, *judges*,

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

Having deliberated in private on 13 February 2001,

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

PROCEDURE

1. The case originated in an application (no. 32531/96) against Sweden 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 Finnish national, Ms Aune Jakola ("the applicant"), on 15 May 1996.

2. The applicant was represented by Mr P. Stadig, a lawyer practising in Stockholm, Sweden. The Swedish Government ("the Government") were represented by their Agent, Ms E. Jagander, of the Ministry for Foreign Affairs.

3. The applicant complained, *inter alia*, that she had been a victim of a violation of Article 6 of the Convention in that she was denied an oral hearing before the national courts.

Under Article 6 of the Convention the applicant also complained that the courts were partial and the proceedings unfair, given that in their judgments the courts failed to consider an invoked certificate by the chairman of the local union branch and an article in a trade union paper. Consequently, the courts' conclusions were allegedly arbitrary and unlawful.

4. Following communication of the application to the Government 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 4 May 2000, having obtained the parties' observations, the Court declared the application admissible in so far as it concerned the complaint about the lack of an oral hearing. The applicant's further complaint was declared inadmissible.

5. On 6 December 2000 and on 8 December 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. The applicant requested compensation for an industrial injury under Chapter 3, Section 1 of the Work Accident Insurance Act (*lagen om arbetsskadeförsäkring*). On 14 November 1991 the Social Insurance Office (*försäkringskassan*; hereinafter "the Office") rejected the application, considering that the applicant's pains were not related to her work.

7. The applicant appealed to the County Administrative Court (*länsrätten*) of the County of Stockholm. She submitted a certificate by the chairman of the local union branch, indicating the number of workers suffering from similar injuries at the applicant's workplace. She did not request an oral hearing and the court did not hold one of its own motion.

8. By a judgment of 28 October 1992 the County Administrative Court rejected the appeal, having regard to medical certificates and other evidence in the case.

9. The applicant then appealed to the Administrative Court of Appeal (*kammarrätten*) in Stockholm, now requesting that an oral hearing be held and that witnesses be examined. On 12 October 1993 the court rejected the request for an oral hearing, giving the following reasons:

"The proceedings before the [court] consist of a written procedure. According to Section 9 of the Administrative Court Procedure Act, the proceedings may include an oral hearing with regard to a certain issue, when there is reason to assume that such a measure would be to the advantage of the proceedings or that a rapid determination of the case is promoted. An oral hearing shall take place at the request of an individual party to the case, if such a hearing is not unnecessary and there are no particular reasons against it.

The [court], having regard to the subject-matter at issue and the facts available in the case, finds that an oral hearing is unnecessary and rejects the request for such a hearing. [The applicant] is invited to submit her final written observations in the case within one month after receipt of this decision.

A decision in the case can be made notwithstanding failure to submit [such] written observations."

10. In response, the applicant alleged that the court was not impartial if it did not hold an oral hearing and examine the proposed witness. She also submitted a supplement to the certificate by the chairman of the local union branch.

11. On 28 March 1995 the Administrative Court of Appeal found that there was still no reason to hold an oral hearing and rejected the applicant's appeal.

12. The applicant requested the Supreme Social Insurance Court (*Försäkringsöverdomstolen*) to grant leave to appeal. She again requested that an oral hearing be held and that witnesses or a medical expert be examined and stated that, if this was refused, the court would not be impartial.

13. By a letter of 2 June 1995 the Supreme Social Insurance Court informed the applicant that it would probably not hold an oral hearing in the case. She was given the opportunity to submit further observations in writing on the question of leave to appeal. Subsequently, as a result of a reform of the judiciary, the Supreme Social Insurance Court ceased to exist and the applicant's appeal was transferred to the Supreme Administrative Court (*Regeringsrätten*).

14. By a letter of 15 September 1995 the Supreme Administrative Court informed the applicant that it did not intend to hold an oral hearing or carry out any further investigation *ex officio*. She was also given the opportunity to submit further observations in writing.

15. On 9 April 1996 the Supreme Administrative Court refused the applicant leave to appeal.

THE LAW

16. On 8 and 11 December 2000 the Court received the following declaration from the applicant's representative and the Government, respectively:

"On 4 May 2000 the European Court of Human Rights declared partly admissible and partly inadmissible application no. 32531/96 lodged by Aune Jakola against Sweden.

The Swedish Government and the applicant have now reached the following friendly settlement, on the basis of respect for human rights as defined in the European Convention for the Protection of Human Rights and Fundamental Freedoms, in order to terminate the proceedings before the Court.

- a) The Government will pay, *ex gratia*, the sum of SEK 35,000 to the applicant.
- b) The applicant declares that she has no further claims on the Swedish State based on the facts of the above application.
- c) The Government and the applicant 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.

This settlement is dependent upon the formal approval of the Swedish Government at a Cabinet meeting.

Stockholm, 7 December 2000

Stockholm, 7 December 2000

(Signed)
Eva Jagander
Agent of the Swedish
Government”

(Signed)
Per Stadig
Counsel for the Applicant

17. This settlement was approved by the Swedish Government on 11 January 2001.

18. 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).

19. 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 6 March 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O’BOYLE
Registrar

Wilhelmina THOMASSEN
President