



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

SECOND SECTION

CASE OF ZOHIOU v. GREECE

(Application no. 40428/98)

JUDGMENT
Friendly settlement

STRASBOURG

29 March 2001

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In the case of Zohiou v. Greece,

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

Mr A.B. BAKA, *President*,
Mr C.L. ROZAKIS,
Mr G. BONELLO,
Mrs V. STRÁŽNICKÁ,
Mr P. LORENZEN,
Mr M. FISCHBACH,
Mr A. KOVLER, *judges*,
and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 8 March 2001,

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

PROCEDURE

1. The case originated in an application (no. 40428/98) against Greece 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 Greek national, Mrs Stamatella Zohiou (“the applicant”), on 19 November 1997.

2. The applicant was represented by Mr C. Chryssanthakis, a lawyer practising in Athens. The Greek Government (“the Government”) were represented by the Delegate of their Agent, Mr M. Apessos, Senior Adviser at the State Legal Council and Mr I. Bakopoulos, Legal Assistant at the State Legal Council.

3. The applicant complained under Article 6 § 1 of the Convention about the length of a set of civil proceedings. She also alleged a violation of Article 13 of the Convention and Article 1 of Protocol No. 1.

4. The case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention.

5. Following communication of the application to the Government by the Court, and after having obtained the parties’ observations, on 23 March 2000 the Court declared the application admissible in so far as it concerned Article 6 § 1 of the Convention. The applicant’s further complaints were declared inadmissible.

6. On 2 January 2001, after an exchange of correspondence, the 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 15 January 2001 and on 2 February 2001 the applicant’s

representative and the Agent of the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

7. In 1970 the applicant's father donated her a plot of land. In April 1971 the applicant married Mr V. The applicant and V stopped living together in 1980.

8. On 18 February 1983 Article 1400 of the Civil Code entered into force providing that, in case of divorce or of a separation lasting at least three years, either spouse could claim compensation for his or her contribution to the increase in the value of the other spouse's property during the marriage. According to Article 1400 § 3, donations were not to be taken into consideration when the increase in the value of the property was calculated.

9. On 26 August 1983 V sued the applicant before the multi-member first instance civil court of Corfou asking for a specific sum which he had invested during their marriage in the construction of a hotel on the plot of land that had been donated to the applicant in 1970.

10. On 31 January 1994 the civil court, applying Article 1400 of the Civil Code, considered that the applicant had to pay 28,822,769 drachmas plus interest.

11. On 23 March 1993 the applicant appealed. The applicant's appeal was rejected by the Court of Appeal of Corfou on 12 January 1996.

12. On 28 June 1996 the applicant appealed on points of law. On 18 June 1997 the Court of Cassation rejected the appeal.

THE LAW

13. On 2 February 2001 the Court received from the Government the following declaration:

"I declare that the Government of Greece offer to pay 4 250 000 GRD to Mrs Zohiou with a view to securing a friendly settlement of the application registered under no. 40428/98. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable immediately after the notification of the judgment delivered by the Court pursuant to Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertakes not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention."

14. On 15 January 2001 the Court received the following declaration from the applicant's representative:

"I note that the Government of Greece are prepared to pay a sum totalling 4 250 000 GRD covering both pecuniary and non-pecuniary damage and costs to Mrs Zohiou with a view to securing a friendly settlement of application no. 40428/98 pending before the Court.

I accept the proposal and waive any further claims in respect of Greece relating to the facts of this application. I declare that the case is definitely settled.

This declaration is made in the context of a friendly settlement which the Government and the applicant have reached.

I 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."

15. 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).

16. 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 27 March 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

András BAKA
President