



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

SECOND SECTION

CASE OF BÁNOŠOVÁ v. SLOVAKIA

(Application no. 38798/97)

JUDGMENT

STRASBOURG

19 April 2001

In the case of Bánošová v. Slovakia,

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

Mr C.L. ROZAKIS, *President*,

Mr A.B. BAKA,

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 5 April 2001,

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

PROCEDURE

1. The case originated in an application (no. 38798/97) against the Slovak Republic lodged with the European Commission of Human Rights under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Slovak national, Mrs Marcela Bánošová (“the applicant”), on 28 July 1997.

2. The Slovak Government (“the Government”) were represented by their Agent, Mr R. Fico, to whom Mr P. Vršanský later succeeded in the exercise of this function.

3. The applicant complained, *inter alia*, under Article 6 § 1 of the Convention about the length of proceedings concerning the determination of an estate.

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. On 27 April 2000, after obtaining the parties’ observations, the Court declared the application admissible in so far as the applicant’s complaint about the length of the proceedings is concerned. Further complaints of the applicant were declared inadmissible on 24 August 1999.

6. On 10 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 20 February 2001 and on 12 March 2001 the applicant and the Agent of the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

7. On 25 October 1989 proceedings were brought before the State Notary's Office in Banská Bystrica with a view to determining the estate of the applicant's late father.

8. On 14 May 1993 the applicant lodged an action with the District Court and claimed, in accordance with the instruction of the court's clerk, that the defendant was not entitled to a share in the estate. The defendant lodged a counter-action. On 28 November 1993 the proceedings concerning the estate were stayed pending the outcome of the proceedings brought on 14 May 1993.

9. On 3 October 1994 the District Court dismissed the applicant's action on the ground that she had no pressing legal interest in having the issue determined. It further granted the defendant's counter-claim. The applicant appealed on 28 December 1994.

10. On 16 March 1995 the Banská Bystrica Regional Court (*Krajský súd*) upheld the District Court's decision to dismiss the applicant's action and dismissed the defendant's counter-action. The Regional Court found unlawful the instruction of the District Court's clerk of 13 April 1993.

11. On 3 June 1996 the District Court stayed the proceedings concerning the estate and ordered the other person claiming to be a daughter of the applicant's late father to lodge an action with a view to having this issue determined by a court. Such an action was lodged on 5 August 1996.

12. On 1 October 1996 the applicant informed the District Court that she wished to join the affiliation proceedings brought on 5 August 1996. On 25 April 1997 the District Court permitted the applicant to join the affiliation proceedings. Hearings were held on 11 July 1997 and on 5 December 1997.

13. On 17 September 1999 the District Court appointed an expert with a view to carrying out a DNA test. It ordered that the applicant should also undergo a blood test and that she should pay an advance on the expert's costs. The applicant appealed. On 31 March 2000 the Banská Bystrica Regional Court upheld the decision that the applicant should also undergo a test. It quashed the District Court's decision ordering the applicant to pay an advance on the expert's costs.

THE LAW

14. On 12 March 2001 the Court received the following declaration from the Agent of the Government:

"I declare that the Government of the Slovak Republic offer to pay 125,000 (one hundred and twenty-five thousand) Slovak korunas to Ms Marcela Bánošová with a view to securing a friendly settlement of her application registered under No. 38798/97. This sum shall cover any damage and 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 present declaration does not entail any acknowledgment by the Government of the Slovak Republic of a violation of the European Convention on Human Rights in the present case.

The Government of the Slovak Republic further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention.”

15. On 20 February 2001 the Court received the following declaration signed by the applicant:

“I note that the Government of the Slovak Republic are prepared to pay 125,000 (one hundred twenty five thousand) Slovak korunas (covering both damage and costs) with a view to securing a friendly settlement of my application No. 38798/97 pending before the Court.

I accept the proposal and waive any further claims in respect of the Slovak Republic related to the facts of the aforesaid application until the delivery by the Court of a judgment pursuant to Article 39 of the European Convention on Human Rights. 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 pursuant to Article 43 § 1 of the Convention after the delivery of the Court’s judgment.”

16. 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).

17. 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 19 April 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President