



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

THIRD SECTION

CASE OF KOUNOUNIS v. CYPRUS

(Application no. 37943/97)

JUDGMENT
(Friendly settlement)

STRASBOURG

2 October 2001

This judgment may be subject to editorial revision.

In the case of Kounounis v. Cyprus,

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

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

Mr L. LOUCAIDES,

Mr P. KÜRIS,

Sir Nicolas BRATZA,

Mrs H.S. GREVE,

Mr K. TRAJA,

Mr M. UGREKHELIDZE, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 12 December 2000 and on 11 September 2001,

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

PROCEDURE

1. The case originated in an application (no. 37943/97) against the Republic of Cyprus 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 Cypriot national, Mr Antonis Kounounis (“the applicant”), on 29 July 1997.

2. The applicant was represented before the Court by Mr G. Cacoyannis, a lawyer practising in Limassol. The Cypriot Government (“the Government”) were represented by their Agent, Mr A. Markides, the Attorney-General of the Republic.

3. The applicant complained, under Articles 6 § 1 and 13 of the Convention, about the length of a set of civil proceedings.

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 12 December 2000, having obtained the parties’ observations, the Court declared the application admissible.

5. On 11 May 2001 and on 17 May 2001 the applicant’s representative and the Agent of the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. On 26 May 1987 the administrators of the estate of Mr S. instituted civil proceedings against the applicant before the District Court of Limassol claiming damages for Mr S.'s death which occurred in the applicant's clinic. On 4 October 1993 the Limassol District Court rejected the action.

7. On November 1993 the plaintiffs appealed to the Supreme Court. The appeal was heard by the Supreme Court between 25 June 1996 and 24 September 1996. The applicant protested about the delays, invoking Article 30.2 of the Constitution of Cyprus, which guarantees the right to a fair trial within a reasonable time.

8. On 29 May 1997 the Supreme Court allowed the appeal and sent the case back to the District Court of Limassol. The applicant, invoking Article 30.2 of the Constitution of Cyprus and Article 6 of the Convention, complained about the length of the proceedings.

9. On 21 July 1997 the parties informed the Limassol District Court that they had reached a friendly settlement, by which the applicant had agreed to pay CYP 30,000. On the same date the District Court issued a judgment by consent ordering the applicant to pay the plaintiffs the agreed amount.

THE LAW

10. The Court received the following declaration from the Government:

"I declare that the Government of Cyprus offer to pay 27.000,00 CYP to Mr Antonis Kounounis with a view to securing a friendly settlement of the application registered under no. 37943/97. 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 the Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

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

11. The Court received the following declaration signed by the applicant's representative:

"I note that the Government of Cyprus are prepared to pay a sum totalling 27.000,00 CYP covering both pecuniary and non-pecuniary damage and costs to Mr Kounounis with a view to securing a friendly settlement of application no. 37943/97 pending before the Court.

I accept the proposal and waive any further claims in respect of Cyprus 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."

12. 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).

13. 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 2 October 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President