



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

SECOND SECTION

CASE OF E.H. v. GREECE

(Application No. 42079/98)

JUDGMENT

STRASBOURG

25 October 2001

FINAL

27/03/2002

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of E.H. 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,
Mr P. LORENZEN,
Mrs M. TSATSA-NIKOLOVSKA,
Mr E. LEVITS,
Mr A. KOVLER, *judges*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 4 October 2001,

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

PROCEDURE

1. The case originated in an application (No. 42079/98) against the Hellenic Republic 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, Mr E. H. (“the applicant”), on 8 April 1998.

2. The Greek Government (“the Government”) were represented by their Agent, Mrs K. Grigoriou, Senior Adviser at the Legal Council of State and Mr I. Bakopoulos, Legal Assistant at the Legal Council of State. The President of the Chamber acceded to the applicant’s request not to have his name disclosed (Rule 47 § 3 of the Rules of Court).

3. The applicant alleged, in particular, that the length of the proceedings before the administrative courts has been excessive.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. The application was allocated to the Second Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1 of the Rules of Court.

6. By a decision of 12 October 2000 the Court declared the application admissible.

THE FACTS

7. The applicant is a Greek national, born in 1963 and living in Veroia (Greece).

8. The applicant graduated in 1991 from the Faculty of Humanities of the University of Bari (Italy) with a Bachelor's Degree in Literature. On 20 June 1991 he submitted his degree to DIKATSA, a public body empowered to award to Greek students recognition of diplomas obtained from foreign schools and Universities. On 14 October 1991 the committee of history and archaeology of DIKATSA examined the degree and proposed to recognise it as equivalent to a Greek degree. However, the committee considered that the applicant should take part in fourteen supplementary examinations. On 9 July 1992 the committee of classical literature of DIKATSA decided that the applicant should take eighteen supplementary examinations. On 30 July 1992, the Chairman of the Board of Directors of DIKATSA considered the degree as equivalent to a Greek degree but not fully corresponding to such a degree and, accordingly, invited the applicant to take nine supplementary disciplines. On 4 December 1992 the applicant introduced an application for review of the decision of 30 July 1992, but on 25 May 1993 DIKATSA reiterated its refusal to recognise the applicant's degree and invited him to sit eighteen supplementary examinations (decision N° 11/55/93).

9. On 24 April 1995 the applicant applied to the Supreme Administrative Court asking it to set aside decision No. 11/55/93 of DIKATSA. He also requested the Supreme Court to refer to the Court of Justice of the European Communities the prejudicial question of Community law raised by the case. He alleged that the above-mentioned decision was not taken in conformity with Council Directive 89/48/EEC of 21 December 1988 setting up "a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration"; in particular, he stressed that the Greek State had not yet taken the necessary measures to comply with the Directive although two years had elapsed since its notification to the member States of the EEC. He also maintained that following that decision, it was impossible for him to find a job or to work in a public school because he did not meet any longer the condition of the age limit.

10. The Supreme Administrative Court fixed the date of the hearing on 24 September 1996. On that date, the hearing was adjourned *ex officio* and the case was referred to an enlarged formation of the Chamber because of its major importance. Then the Chamber set down the hearing for 7 October 1996 but on that date three more actions aiming at setting aside decisions of the DIKATSA having the same subject-matter with that concerning the applicant were introduced before the same Chamber. The hearing was thus adjourned until 13 January 1997. However, the Chamber decided to

relinquish jurisdiction in favour of the Plenary for the three new cases and, accordingly, the hearing in the applicant's case was adjourned again until 17 March 1997, 2 June 1997, 1 December 1997, 6 April 1998, 1st June 1998 and 7 December 1998.

11. On 20 May 1994 the applicant had introduced an action for damages before the First Instance Administrative Court of Veroia. He claimed a substantial amount for the pecuniary damage he had suffered as a result of the omission of the State to implement Directive 89/48/EEC and alleged that the amount sought corresponded to the loss of income he would have earned if he had been able to work as a teacher in a private school. The hearing was listed for 24 September 1996. However, on that date the Administrative Court adjourned the consideration of the case due to the parliamentary elections. A new hearing date was fixed on 21 July 1997 but the hearing was adjourned by agreement of both parties awaiting the Supreme Administrative Court's judgment. On 29 September 1997, 17 March 1998 and 24 November 1998 the Court adjourned again the examination of the action.

12. On 11 January 1999 the Supreme Administrative Court rejected the above-mentioned application because the applicant was not represented by a lawyer at the hearing. The judge rapporteur had, however, proposed to have the decision of the DIKATSA set aside for lack of reasoning.

13. The hearing before the Administrative Court of Veroia took place on 22 June 1999. In its judgment of 24 September 1999 the Administrative Court declared that it was incompetent to deal with the case and referred it to the Administrative Court of Athens, on the ground that the competent administrative authorities which allegedly omitted to take the necessary measures to comply with the European Communities directives and amend the relevant legislation in matters relating to recognition of degrees had their seat in Athens.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

14. The applicant complains of the length of proceedings before the Supreme Administrative Court and the First Instance Administrative Court of Veroia. He invokes Article 6 § 1 of the Convention, which in its relevant part reads as follows:

“In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

15. The Government submit that the complexity of the case as well as the major importance of the issue pending before the Supreme Administrative Court, and on which that Court would deliver a final judgment (Articles 3 § 2 and 5 § 1 of Law No. 2717/1999) imposed the adjournment of the consideration of the case before the Administrative Court of Veroia. When the Supreme Administrative Court rendered its decision on 11 January 1999, the Court of Veroia heard the case immediately (on 22 June 1999) and delivered its judgment three months later, on 24 September 1999. As to the proceedings before the Supreme Administrative Court, the numerous adjournments were due to the importance of the case and the introduction, pending these proceedings of three new applications raising similar issues, but whose prior determination by the Plenary of the court was necessary.

16. The applicant contends that his case was not complex and could have been examined independently from the other similar cases which were introduced before the Supreme Administrative Court. He maintains that on 27 March 1996 he invited that Court to deal with his case with priority.

A. Period to be taken into consideration

17. The Court notes that the proceedings before the Supreme Administrative Court started on 24 April 1995 and ended on 11 January 1999. Therefore, they lasted three years, eight months and seventeen days. The proceedings before the Administrative Court of Veroia started on 20 May 1994 and are still pending before the Administrative Court of Athens. They have lasted so far more than seven years and four months.

B. Reasonableness of the length of the proceedings

18. The reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard to the criteria laid down in the Court's case-law, in particular the complexity of the case, the conduct of the applicant and of the relevant authorities, and the importance of what was at stake for the applicant in the litigation (see, among other authorities, the *Styranski v. Poland* judgment of 30 October 1998, *Reports of Judgments and Decisions* 1998-VIII, p. 3376, § 47).

19. As regards the proceedings before the Supreme Administrative Court, the Court notes that they were adjourned nine times. Two of the adjournments were justified by the referral of the case to the enlarged formation of the Chamber and then to the Plenary and the remainder by the alleged necessity for the Supreme Administrative Court to adjudicate the three other similar cases prior to that of the applicant. However, the Court does not find this delay justified. It notes that the applicant lodged his application with the Supreme Administrative Court in April 1995 and that

the hearing was fixed in September 1996. Despite the fact that there had been a number of delays because of the fact that the hearing was set down one year and a half after the introduction of the case and that the Chamber relinquished jurisdiction in favour of the Plenary, the Supreme Administrative Court accepted to adjourn the applicant's case instead of accelerating the examination of the other similar cases which were introduced much later than the applicant's case.

20. As regards the proceedings before the Administrative Court of Veroia, the Court notes that they were adjourned five times and that the main part of the delay was caused by the parties agreement to adjourn pending the examination of the case by the Supreme Administrative Court. However, the Court cannot accept this delay since it turned out that the judgment of the Supreme Administrative Court was not relevant for the examination of the case brought before the Administrative Court of Veroia. In fact, on 24 September 1999, that is five years and four months after the introduction of the case, the Supreme Administrative Court found that it was incompetent to deal with the case.

21. In view of these facts, the Courts considers that the length of the proceedings was unreasonable.

22. Accordingly, there has been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

23. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

24. The applicant claims 85 000 000 drachmas (GRD) for damage, without any further specification.

25. The Government consider that the amount claimed is excessive.

26. The Court considers that the excessive length of the proceedings may reasonably be considered to have caused the applicant anxiety and tension. Making its assessment on an equitable basis, the Court awards him 1 500 000 GRD under this head.

B. Costs and expenses

27. The applicant, who was not represented by a lawyer before the Court, does not seem to claim any amount for costs and expenses and this is not a matter for the Court to examine of its own motion.

C. Default interest

28. According to the information available to the Court, the statutory rate of interest applicable in Greece at the date of adoption of the present judgment is 6% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
2. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, 1 500 000 (one million and five hundred thousand) drachmas for non-pecuniary damage, together with any value-added tax that may be chargeable;
 - (b) that simple interest at an annual rate of 6 % shall be payable from the expiry of the above-mentioned three months until settlement;
3. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 25 October 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

András BAKA
President