



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

FOURTH SECTION

CASE OF GAWRACZ v. TURKEY

(Application no. 32055/96)

JUDGMENT
(Friendly settlement)

STRASBOURG

12 February 2002

This judgment may be subject to editorial revision.

In the case of Gawracz v. Turkey,

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

Sir Nicolas BRATZA, *President*,

Mr M. PELLONPÄÄ,

Mr A. PASTOR RIDRUEJO,

Mr J. MAKARCZYK,

Mr R. TÜRMEŒ,

Mrs V. STRÁŒNICKÁ,

Mr S. PAVLOVSCHI, *judges*,

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

Having deliberated in private on 17 May 2001 and on 22 January 2002,

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

PROCEDURE

1. The case originated in an application (no. 32055/96) against the Republic of Turkey 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 Polish national, Leszek Gawracz ("the applicant"), on 18 August 1995.

2. The applicant was represented before the Court by Mr M. Ciplak, a lawyer practising in Soma, Turkey. The Turkish Government ("the Government") did not designate an Agent for the purposes of the proceedings before the Court.

3. The applicant complained under Article 6 § 1 of the Convention about the length of civil proceedings concerning his claim for damages.

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. On 17 May 2001, having obtained the parties' observations, the Court declared the application admissible.

5. On 22 June 2001 the Polish Government informed the Court that in the present case they would exercise their right to submit written comments (Article 36 § 1 of the Convention read in conjunction with Rule 61 of the Rules of Court). They further filed their pleading on 23 July 2001. In the proceedings before the Court they were represented by their Agent, Mr K. Drzewicki, of the Ministry of Foreign Affairs.

6. On 29 October 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 21 November 2001 and on 7 January 2002 the applicant and the respondent Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

7. On 28 May 1988 the applicant sued seven individuals and two Turkish companies called, respectively, “Mengerler AS” and “Baska Sigorta Sti” in the Soma Civil Court of General Jurisdiction (*Soma Asliye Hukuk Mahkenesi*), seeking damages for injuries sustained by him in a car accident and for loss of earnings. He asked the court to award him 21,760,832 Turkish liras.

On 30 January 1989 the court decided to determine jointly the claim submitted by the applicant and a claim lodged by a certain M.-A.P. because both respective proceedings concerned the same defendants and were filed by the persons injured in the same accident.

On 13 September 1990 the court obtained a report from an expert, according to which the defendants were liable for damages arising from the accident. Later, the court ordered that fresh expert evidence be taken.

The court held hearings on 21 February, 25 April and 4 May 1994.

On 11 May 1994 it gave judgment and partly granted the applicant’s claim.

On 26 September 1995, upon the applicant’s appeal, the Court of Cassation (*Yargitay*) upheld the first-instance judgment.

THE LAW

8. On 21 November 2001 the Court received from the applicant the following declaration:

“I note that the Government of Turkey are prepared to pay me the sum of 55,000 FRF covering pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of the application no. 32055/96 pending before the Court.

I accept the proposal and waive any further claims against Turkey in respect of the facts of this application. I declare that this constitutes a final settlement of the case.

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

9. On 7 January 2002 the Court received from the Government the following declaration:

“I declare that the Government of Turkey offer to pay 55,000 FRF to Leszek Gawracz with a view to securing a friendly settlement of the application registered under no. 32055/96.

This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable within three months from the date of delivery of judgment by the Court pursuant to Article 39 of the European Convention on Human Rights.

This payment will constitute the final resolution of the case.”

10. 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 and its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

11. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English, and notified in writing on 12 February 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O’BOYLE
Registrar

Nicolas BRATZA
President