



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

FOURTH SECTION

CASE OF ERVIN AND OLGA DE LACZAY v. SWEDEN

(Application no. 30526/96)

JUDGMENT
(Friendly settlement)

STRASBOURG

24 September 2002

This judgment is final but it may be subject to editorial revision.

In the case of Ervin and Olga de Laczay v. Sweden,

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

Sir Nicolas BRATZA, *President*,

Mr M. PELLONPÄÄ

Mrs E. PALM,

Mr M. FISCHBACH,

Mr J. CASADEVALL,

Mr R. MARUSTE,

Mr L. GARLICKI, *judges*,

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

Having deliberated in private on 3 September 2002,

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

PROCEDURE

1. The case originated in an application (no. 30526/96) against the Kingdom of Sweden 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 United States national, Mr Erwin de Laczay, and a Canadian national, Ms Olga de Laczay ("the applicants"), on 19 April 1995. On 5 December 1995 the first applicant died and the application was pursued on his behalf by his two legal successors.

2. The applicants were represented by Mr H. Sjöström, a lawyer practising in Stockholm. The Swedish Government ("the Government") were represented by their Agent, Ms E. Jagander, Ministry for Foreign Affairs.

3. The applicants complained under Article 6 § 1 of the Convention about the fairness and length of civil proceedings regarding damages.

4. On 4 March 1998, having obtained the parties' observations, the Commission declared the application admissible in so far as it concerned the length of the proceedings. The applicants' further complaint was declared inadmissible. On 6 March 1999, after an exchange of correspondence, the Commission suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention.

5. On 1 November 1999 the case was transferred to the Court by virtue of Article 5 § 3 of Protocol No. 11 to the Convention. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Fourth Section.

6. On 16 April 2002, following further correspondence and the submission of powers of attorney from the first applicant's legal successors, the Government submitted a formal declaration signed by the parties, accepting a friendly settlement of the case.

THE FACTS

7. The applicants were born in 1909 and 1911 respectively. The second applicant lives in Montreal, Canada.

8. The applicants' brother, Mr Tibor de Laczay, was employed by the Swedish company AGA and, *inter alia*, concluded patent licensing contracts on behalf of the company. Following the death of the brother and his wife in 1967, the estates, including the applicants, claimed that they were entitled to a share of the profits on the contracts concluded by the brother. AGA disagreed and the dispute was brought before an arbitration board in December 1971. The board rejected the claim in October 1972 and the estates' subsequent protest action (*klandertalan*) against the board's award was rejected by the courts, the final decision being taken by the Supreme Court (*Högsta domstolen*) on 19 March 1982.

9. In March 1983 the estates instituted court proceedings for damages, claiming that a representative of AGA had given false evidence before the arbitration board and that AGA had submitted falsified documents to the board which had led the board to take an erroneous decision. In March 1990 the action was dismissed for being *res judicata* by the District Court (*tingsrätten*) of Södra Roslag. However, in February 1991 the Svea Court of Appeal (*Svea hovrätt*) quashed that decision and referred the case back to the District Court. In July 1994 the District Court rejected the case on the merits. This judgment was upheld by the Court of Appeal in February 1997. On 14 July 1997 the Supreme Court refused leave to appeal.

THE LAW

10. On 16 April 2002 the Court received the following declaration from the Swedish Government, signed by the Agent of the Government on 5 March 2002 and by the applicants' representative on 7 March 2002:

“The Swedish Government (“the Government”) and the applicants have now reached the following friendly settlement on the basis of respect for human rights, as defined in the Convention, in order to terminate the proceedings before the Court.

a) The Government will pay, *ex gratia*, the sum of SEK 250,000 to the applicants. The amount will be paid to their counsel ..., who has been authorized by the applicants

to receive payment on their behalf. Execution of payment will take place when the Government has received the Court's judgment striking the case out of its list of cases.

b) The applicants declare that they have no further claims on the Swedish State based on the facts of the [present] application.

c) The Government and the applicants undertake not to request the reference of the case to the Court's Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court's judgment.

This settlement is dependent upon the formal approval of the Government at a Cabinet meeting.”

Attached to the Government's letter was the Government's decision of 11 April 2002 to approve the settlement reached.

11. 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).

12. 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 24 September 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President