



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

FOURTH SECTION

CASE OF KONČEK v. SLOVAKIA

(Application no. 41263/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

26 November 2002

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

In the case of Konček v. Slovakia,

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

Sir Nicolas BRATZA, *President*,

Mr A. PASTOR RIDRUEJO,

Mrs E. PALM,

Mrs V. STRÁŽNICKÁ,

Mr M. FISCHBACH,

Mr J. CASADEVALL,

Mr R. MARUSTE, *judges*,

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

Having deliberated in private on 5 November 2002,

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

PROCEDURE

1. The case originated in an application (no. 41263/98) against the Slovak 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 Slovakian national, Mr Dušan Konček ("the applicant"), on 20 April 1998.

2. The applicant was represented by Mrs M. Szadziulová, a lawyer practising in Košice. The Government of the Slovak Republic ("the Government") were represented by Mr P. Vršanský, their Agent.

3. The applicant complained, *inter alia*, under Articles 6 § 1 and 13 of the Convention about unfairness and length of proceedings concerning the decision to withhold his driving licence, and under Article 6 § 1 of the Convention that the criminal charges against him were not determined within a reasonable time.

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 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 14 May 2002, having obtained the parties' observations, the Court declared the application partially admissible.

7. On 25 July 2002, 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 8 August 2002 and on 9 August 2002 the Government and the applicant

respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

A. Proceedings concerning the withdrawal of the applicant's driving licence

8. On 12 January 1996 the applicant had an accident while driving a car belonging to his employer. The police found alcohol on the applicant's breath and seized his driving licence.

9. On 17 January 1996 the police department in Košice decided not to restore the driving licence to the applicant pending the outcome of the investigation into the accident. On 1 February 1996 the applicant appealed.

10. On 5 March 1996 the Ministry of the Interior upheld the first instance decision.

11. On 17 May 1996 the applicant sought a judicial review of the administrative decisions to withhold his driving licence.

12. On 30 June 1997 the Bratislava III District Court dismissed the action. It noted that the administrative decisions in question were of a procedural nature and that it lacked jurisdiction to review them.

13. On 19 December 1997 the applicant lodged a petition with the Constitutional Court. He alleged a violation of his constitutional right to a hearing without undue delays in the proceedings concerning the decision to withhold his driving licence. He also alleged a violation of Article 6 § 1 of the Convention in that the proceedings before the Bratislava III District Court had been unfair.

14. On 11 February 1998 the Constitutional Court rejected the complaint under Article 6 § 1 of the Convention as it found no reason for applying an international treaty in the applicant's case. It declared admissible the complaint about the length of the proceedings. On 31 March 1998 the Constitutional Court found that the applicant's constitutional right to a hearing without undue delays had been violated in the proceedings before the Bratislava III District Court.

B. Criminal proceedings against the applicant

15. On 12 April 1996 the Košice 1 District Prosecutor indicted the applicant for two offences on the ground that on 17 December 1995 and on 12 January 1996 respectively he had driven a car after having drunk alcohol and that on the latter date he had caused a road accident.

16. On 30 April 1996 the Košice 1 District Court issued a penal order convicting the applicant on two counts of causing danger to other persons while being intoxicated and imposed a conditional six months' prison sentence. The applicant was further disqualified from driving for two and a half years.

17. On 15 May 1996 the applicant challenged the penal order.

18. Hearings before the Košice 1 District Court were held on 11 June 1996, on 26 November 1996 and on 17 December 1996. On the latter date the Košice 1 District Court delivered a judgment the operative part of which was the same, in substantive terms, as that of the penal order.

19. On 7 February 1997 the applicant appealed.

20. On 23 April 1997 the Supreme Court transferred the case from the Košice Regional Court to the Žilina Regional Court.

21. On 16 July 1997 the latter quashed the first instance judgment with reference to several shortcomings in the proceedings before the trial court. The decision was to be served by the Košice 1 District Court. The latter received it on 28 July 1997.

22. On 25 March 1998 the applicant complained to the President of the Košice 1 District Court that he had not been notified of the appellate court's decision. On 16 April 1998 the President of the Košice 1 District apologised to the applicant for delays in the proceedings.

23. On 4 May 1998 the applicant complained to the President of the Košice Regional Court that the decision on his appeal had not been served and that the proceedings had lasted an unreasonably long time.

24. On 12 May 1998 the applicant complained to the Constitutional Court about delays in the proceedings.

25. On 17 December 1998 the Constitutional Court found that the Košice 1 District Court was responsible for undue delays in the proceedings.

26. In December 1998 and on 13 January 1999 the Košice 1 District Court held hearings in the case.

27. On 12 January 2000 the Košice 1 District Court convicted the applicant on two counts of causing danger to other persons while being intoxicated and imposed a combined sentence: the applicant was fined 5,000 Slovakian korunas and disqualified from driving for five years.

28. On 28 February 2000 the applicant appealed. The applicant's brother and son respectively also filed an appeal.

29. On 28 June 2000 the Žilina Regional Court dismissed the appeals.

30. On 22 August 2000 the Košice 1 District Court decided that the five years' prohibition to drive motor vehicles imposed in the criminal proceedings was to be counted as from 12 January 1996 when the applicant's driving licence had been withheld by an administrative measure.

THE LAW

31. On 8 August 2002 the Court received the following declaration from the Agent of the Government:

“I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of the Slovak Republic offer to pay 140,000 (one hundred and forty thousand) Slovakian korunas to Mr Dušan Konček. This sum is to 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 the judgment 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 that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention.”

32. On 9 August 2002 the Court received the following declaration signed by the applicant:

“I note that the Government of the Slovak Republic are prepared to pay me the sum of 140,000 (one hundred and forty thousand) Slovakian korunas covering pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

I accept the proposal and waive any further claims against the Slovak Republic 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.

I further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court’s judgment.”

33. 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).

34. 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 26 November 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President