



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

FOURTH SECTION

CASE OF VARGA v. SLOVAKIA

(Application no. 41384/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

26 November 2002

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

In the case of Varga 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. 41384/98) 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 Štefan Varga ("the applicant"), on 13 January 1998.

2. The applicant, who had been granted legal aid, was represented by Mr A. Fuchs, 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*, about the length of criminal proceedings and that he had no effective remedy at his disposal in that respect.

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 30 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 13 August 2002 the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

8. On 6 July 1990 the police investigator accused the applicant of theft and of breach of domestic privacy. On 7 July 1990 the Košice Public Prosecutor decided to remand the applicant in custody as from 5 July 1990.

9. On 4 January 1991 the applicant was indicted for several offences.

10. On 16 May 1991 the Supreme Court decided that the case was within the jurisdiction of the Košice Regional Court.

11. On 3 July 1991 the Košice Regional Court sent the applicant's criminal case back to the Public Prosecutor for further investigation.

12. On 31 December 1991 the applicant was released from detention on remand.

13. On 13 April 1992 a new indictment was filed with the Košice City Court. On 27 May 1992 the latter referred the case to the Košice Regional Court for reasons of jurisdiction.

14. On 10 August 1992 the Košice Regional Court returned the case to the Public Prosecutor for further investigation.

15. On 9 February 1993 the Košice 1 District Prosecutor filed a new indictment against the applicant to the Košice 1 District Court. On 3 March 1993 the District Court transferred the case to the Košice Regional Court for reasons of jurisdiction. On 1 June 1993 the public prosecutor withdrew the indictment.

16. On 6 May 1994 the Košice 1 District Prosecutor again indicted the applicant before the Košice 1 District Court. On 16 May 1994 the prosecutor withdrew the indictment.

17. On 5 October 1994 the Košice 1 District Prosecutor filed a new indictment with the Košice 1 District Court. On 30 June 1995 the latter returned the case to the public prosecutor and ordered further investigation into the case. On 9 November 1995 the Košice Regional Court ordered the District Court to decide on the case on the basis of the indictment filed on 5 October 1994.

18. On 15 and 22 January 1996 the District Court adjourned the case after it had found that the applicant could not attend because he was detained in the context of different proceedings.

19. Hearings before the District Court were held on 14, 26 and 29 February 1996.

20. On 29 April 1996 the applicant requested that a different lawyer be appointed to represent him in the proceedings. His request was granted. Further hearings were held on 22 May 1996 and on 10 June 1996.

21. On 1 July 1996 the case was adjourned as witnesses did not appear. The court proceeded with the case on 11 and 16 September 1996. On the latter date the District Court delivered a judgment in which it convicted the applicant on sixty-nine counts of theft and attempted theft, of violation of domestic privacy and of damaging other persons' property.

22. The Public Prosecutor appealed and claimed that the court should have imposed a consolidated sentence on the applicant.

23. On 30 September 1997 the Košice Regional Court granted the appeal and imposed a consolidated three years' prison sentence.

24. In the meantime, on 5 May 1997, the applicant requested the District Court to restore his savings book which had been taken away from him at the preliminary stage of the proceedings.

25. On 5 November 1997 the Košice 1 District Court issued a decision, in the context of the above criminal proceedings, by which it seized the savings book from the applicant. On 18 February 1998 the Košice Regional Court dismissed the applicant's complaint against this decision.

THE LAW

26. 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 130,000 (one hundred and thirty thousand) Slovakian korunas to Mr Štefan Varga. 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.”

27. On 13 August 2002 the Court received the following declaration signed by the applicant's representative:

“I note that the Government of the Slovak Republic are prepared to pay me the sum of 130,000 (one hundred and thirty 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.”

28. 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).

29. 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