



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

FOURTH SECTION

CASE OF EEROLA v. FINLAND

(Application no. 42059/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

6 May 2003

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

In the case of Eerola v. Finland,

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 S. PAVLOVSKI,

Mr J. BORRERO BORRERO, *judges*,

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

Having deliberated in private on 8 April 2003,

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

PROCEDURE

1. The case originated in an application (no. 42059/98) against the Republic of Finland 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 Finnish national, Mr Vesa-Ville Eerola ("the applicant"), on 30 June 1998.

2. The applicant was represented by Mr Matti Wuori, a lawyer practising in Helsinki. The Finnish Government ("the Government") were represented by their Agent, Mr Arto Kosonen, Director in the Ministry for Foreign Affairs.

3. The applicant complained, *inter alia*, under Article 6 § 1 of the Convention that the criminal proceedings against him were unfair, given the changing composition of the first-instance court. Whereas it was presided over by a presiding professional judge accompanied by three lay judges, altogether 20 lay judges participated in the eight hearings, being unable therefore to form their own opinion of the facts.

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 12 November 2002, having obtained the parties' observations, the Court declared the application admissible in so far as it had been communicated to the Government. The applicant's further complaints were declared inadmissible.

5. On 18 November 2002 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 27 February and 4 March 2003 the

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

THE FACTS

6. The applicant was born in 1966 and lives in Turku.

7. The applicant was charged with aggravated fraud and other offences before the District Court (*käräjäoikeus, tingsrätten*) of Porvoo which was composed of a presiding judge and three lay judges. The presiding judge changed after the first hearing. Altogether 20 lay judges participated in the eight hearings, four of them participating in two hearings and the others in one hearing each. When it rendered judgment the court was composed of one lay judge who had participated in one earlier hearing, whereas the two others were new. The applicant was convicted and sentenced to three years' imprisonment.

8. The applicant appealed to the Court of Appeal (*hovioikeus, hovrätten*) of Helsinki, requesting an oral hearing. The prosecutor and the co-defendants also requested an oral hearing. On 6 November 1997 the court rejected the hearing requests and upheld the District Court's judgment.

9. On 2 March 1998 the Supreme Court (*korkein oikeus, högsta domstolen*) refused the applicant leave to appeal but accepted the prosecutor's request to that effect. In its judgment of 9 November 1999 the court increased the applicant's sentence by three months.

THE LAW

10. On 27 February 2003 the Court received the following declaration from the Government:

"I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of Finland offer to pay *ex gratia* to Mr Vesa-Ville Eerola EUR 5,000 in compensation for non-pecuniary damage as well as EUR 2,040 + EUR 448.80 in VAT in compensation for costs and expenses, less EUR 630 in legal aid granted by the Court, that is to say a total of EUR 1,858.80 under this head.

These sums 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. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay, until settlement, simple interest on the amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention.”

11. On 4 March 2003 the Court received the following declaration signed by the applicant’s representative:

“I note that the Government of Finland are prepared to pay me *ex gratia* EUR 5,000 in compensation for non-pecuniary damage as well as EUR 2,040 + EUR 448.80 in VAT in compensation for costs and expenses, less EUR 630 in legal aid granted by the Court, that is to say a total of EUR 1,858.80 under this head, 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 Finland 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.”

12. 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).

13. 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 6 May 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O’BOYLE
Registrar

Nicolas BRATZA
President