



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

THIRD SECTION

CASE OF MARTIN v. THE UNITED KINGDOM

(Application no. 63608/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

19/02/2004

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

In the case of Martin v. the United Kingdom,

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

Mr G. RESS, *President*,
Mr I. CABRAL BARRETO,
Sir Nicolas BRATZA,
Mr L. CAFLISCH,
Mr P. KÜRIS,
Mr R. TÜRMEŒ,
Mrs H.S. GREVE, *judges*,

and Mr M. VILLIGER, *Deputy Section Registrar*,

Having deliberated in private on 29 January 2004,

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

PROCEDURE

1. The case originated in an application (no. 63608/00) against the United Kingdom of Great Britain and Northern Ireland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a United Kingdom national, Ms Janette Martin (“the applicant”), on 11 September 2000.

2. The applicant, who had been granted legal aid, was represented by Mr T. Oldham, a lawyer practising in Nottinghamshire, England. The United Kingdom Government (“the Government”) were represented by their Agent, Mr John Grainger.

3. The applicant complained under Articles 8 and 14 of the Convention about the decision of her local council to institute covert surveillance on her home and to maintain surveillance there between about 18 April and 4 September 2000.

4. On 27 March 2003, having obtained the parties' observations, the Court declared the applicant's complaints under Article 8 of the Convention to be admissible and the remainder of the application to be inadmissible.

5. Following an exchange of correspondence, on 15 and 19 December 2003 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1959 and lives in Nottingham, England.

7. In 1998 the applicant's local council received complaints about the behaviour of the applicant, and that of her children, from her neighbours, the Davies'.

8. Following the institution of proceedings against the applicant by the local council for the possession of her home in July 1999 as a result of an alleged assault by her upon Mrs Davies, the applicant agreed to be bound by an undertaking, until 17 April 2000, that she would not harass or cause a nuisance to anyone in her road.

9. The Davies' made further allegations about the behaviour of the applicant and her family between 9 November 1999 and 18 April 2000, including assertions that eggs had been thrown at their property, excrement had been placed on the door handle of their front door and bleach had been poured into their letterbox.

10. On 18 April 2000 the local council attached a hidden video camera to the wall to the right of the Davies' front door, which pointed towards the front door of the applicant's home and monitored the space directly in front of her home.

11. In May 2000 the applicant first became aware of the presence, and location, of the video camera. The local council issued further proceedings against the applicant seeking possession of her home on the grounds, *inter alia*, that she had broken an obligation of her tenancy and/or was causing a nuisance. The applicant either denied or did not admit the incidents alleged against her.

12. On 31 May 2000 the applicant gave an undertaking to the court promising not to assault or cause a nuisance to the Davies', and neither to trespass upon their land, nor to permit her children and/or visitors to her home to do so. As a result of the applicant complying with that undertaking, the possession proceedings were adjourned generally in or after September 2000. No possession of the applicant's home ever, in fact, took place.

13. By letter of 4 September 2000 the local council confirmed to the applicant that no further covert surveillance would be undertaken on her property and that the tapes of the surveillance undertaken to date had already been destroyed and disposed of. No surveillance took place thereafter.

14. No video surveillance was ever directed at the Davies' home.

THE LAW

15. On 15 December 2003 the Court received the following declaration signed by the applicant's representative:

“I note that the Government of the United Kingdom are prepared to pay the sum of 4,000 pounds sterling (“GBP”) in damages to Ms Janette Martin and GBP 7,050

(inclusive of VAT) to her solicitors in respect of 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 United Kingdom 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 the applicant 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.”

16. On 19 December 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 the United Kingdom offer to pay 4,000 pounds sterling (“GBP”) in damages to Ms Janette Martin and GBP 7,050 (inclusive of VAT) to her solicitors in respect of costs. These sums will be payable within three months from the date of delivery of the 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. In the event of failure to pay these sums 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.”

17. 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).

18. 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 19 February 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Mark VILLIGER
Deputy Registrar

Georg RESS
President