



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

FIRST SECTION

CASE OF PETERSEN v. DENMARK

(Application no. 70210/01)

JUDGMENT
(Friendly settlement)

STRASBOURG

22 April 2004

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

In the case of Petersen v. Denmark,

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

Mr C. ROZAKIS, President

Mr P. LORENZEN,

Mr G. BONELLO,

Mrs F. TULKENS,

Mrs N. VAJIĆ,

Mr E. LEVITS,

Mrs S. BOTOUCHAROVA, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 25 March 2004,

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

PROCEDURE

1. The case originated in an application (no. 70210/01) against the Kingdom of Denmark lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Danish national, Ms Lizzy Petersen (“the applicant”), on 6 April 2001.

2. The applicant was represented by Mr Karsten Steen Jensen, a lawyer practising in Esbjerg. The Danish Government (“the Government”) were represented by their Agent, Ms Nina Holst-Christensen of the Ministry of Justice.

3. The applicant complained that the length of the proceedings during which her claim for compensation was determined as to an industrial injury exceeded the “reasonable time” requirement within the meaning of Article 6 § 1 of the Convention

4. On 18 September 2003, having obtained the parties’ observations, the Court declared the application admissible.

5. On 11 November 2003 and 11 December 2003, the Agent of the Government and the applicant’s representative respectively submitted letters proposing a friendly settlement of the case, and on 28 January 2004 formal declarations in this respect were submitted.

THE FACTS

6. The applicant worked as a fillet cutter at a fish factory since 1970. In 1984 she instituted administrative proceedings requesting that the National Board of Industrial Injuries (*Arbejdsskadestyrelsen*, formerly called *Sikringsstyrelsen*) acknowledge that the pain that she was suffering in her neck, shoulders and arms, was caused by her work and that therefore she was entitled to compensation. This was refused several times, lastly on appeal by the Social Appeal Board (*den Sociale Ankestyrelse*) on 5 April 1989. On 18 June 1992, the applicant brought the case before the High Court of Eastern Denmark (*Østre Landsret*), which found for her by judgment of 27 September 1994. On appeal, on 24 September 1998 the judgment was upheld by the Supreme Court (*Højesteret*). Subsequently, the National Board of Industrial Industry calculated the degree of the applicant's disablement and her loss of working capacity, and thus the equivalent compensation that she was entitled to. Some compensation was paid out in 1999 and 2000. Due to a dispute concerning the degree of the applicant's loss of working capacity the remainder of the compensation to which the applicant was entitled was not paid out until 8 March 2001.

THE LAW

7. On 28 January 2004 the Government submitted to the Court the following declaration:

"I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of Denmark offer to pay *ex gratia* 70,000 Danish kroner (DKK) to Ms Lizzy Petersen. This sum is to cover any pecuniary and non-pecuniary damage. Furthermore, the Government offer to pay DKK 43,000 plus VAT to Ms Lizzy Petersen to cover her costs. The 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. The 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."

8. On 28 January 2004 the applicant's representative submitted to the Court the following declaration:

"I note that the Government of Denmark are prepared to pay *ex gratia* 70,000 Danish kroner (DKK) to Ms Lizzy Petersen. This sum is to cover any pecuniary and non-pecuniary damage. Furthermore, the Government offer to pay DKK 43,000 plus VAT to Ms Lizzy Petersen to cover her 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 Denmark 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."

9. 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).

10. 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 22 April 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.]

Søren NIELSEN
Registrar

Christos ROZAKIS
President