



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

FOURTH SECTION

CASE OF MANASSON v. SWEDEN

(Application no. 41265/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

20 July 2004

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

In the case of Manasson v. Sweden,

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

Sir Nicolas BRATZA, *President*,

Mr M. PELLONPÄÄ,

Mr J. CASADEVALL,

Mr S. PAVLOVSKI,

Mr J. BORRERO BORRERO,

Mrs E. FURA-SANDSTRÖM,

Ms L. MIJOVIĆ, *judges*,

and Mrs F. ELEN-PASSOS, *Deputy Section Registrar*,

Having deliberated in private on 29 June 2004,

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

PROCEDURE

1. The case originated in an application (no. 41265/98) against the Kingdom of Sweden 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 Swedish national, Mr Mishel Manasson (“the applicant”), on 17 February 1998.

2. The applicant was represented by Mr J. Thörnhammar, a lawyer practising in Stockholm. The Swedish Government (“the Government”) were represented by their Agent, Ms I. Kalmerborn, Ministry for Foreign Affairs.

3. The applicant complained that he had been a victim of a violation of Article 6 of the Convention in that he did not have a fair hearing within a reasonable time and was not presumed innocent. He made further complaints under Articles 6 and 14 of the Convention, Article 1 of Protocol No. 1 to the Convention and Article 4 of Protocol No. 7 to the Convention.

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 8 April 2003, having obtained the parties’ observations, the Court declared admissible the complaints detailed above at paragraph 3. The applicant’s further complaints were declared inadmissible.

5. On 26 January 2004, 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 11 March 2004 the Government submitted a declaration on a friendly settlement of the case signed by the Agent of the Government on 18 February 2004 and by the applicant’s representative on 9 March 2004.

THE FACTS

6. The applicant was born in 1947 and lives in Älvsjö.

7. In the autumn of 1994, as part of a large-scale investigation into taxicab operators, the Tax Authority (*skattemyndigheten*) of the County of Stockholm carried out a tax audit of the applicant's taxi firm. By decisions of 14 December 1995 and 8 February 1996 the Tax Authority increased the applicant's liability to income tax, value-added tax and employer's contributions. Moreover, as the information supplied by the applicant in his tax returns was found to be incorrect and the turnover of the applicant's business had been revised upwards under a discretionary assessment procedure, the Tax Authority ordered him to pay tax surcharges (*skattetillägg, avgiftstillägg*) amounting to 20% or 40% of the increased tax liability, depending on the type of tax involved. The additional taxes levied on the applicant, including interest and surcharges, totalled SEK 566,967 Swedish *kronor* (SEK), of which SEK 99,507 were surcharges. The amounts were payable in February and May 1996.

8. The applicant appealed against the Tax Authority's decisions on 4 March 1996. As the appeal had no suspensive effect on the obligation to pay the taxes and tax surcharges, he also requested a stay of execution in respect of the amounts assessed. As the applicant was unable to provide security for the amounts in question, his request was rejected, the final decision being taken by the Supreme Administrative Court (*Regeringsrätten*) on 17 September 1997.

9. Meanwhile, the debts relating to the taxes and tax surcharges imposed by the Tax Authority essentially remained outstanding. On 15 April 1997 the Enforcement Office (*kronofogdemyndigheten*) of the County of Stockholm, representing the State, filed a petition with the District Court (*tingsrätten*) of Stockholm, requesting that the applicant be declared bankrupt. The Office stated that an investigation had revealed that the value of the applicant's property was insufficient to cover the debts. By a decision of 12 June 1997 the District Court declared the applicant bankrupt. The declaration was upheld on appeal, the final decision being taken by the Supreme Court (*Högsta domstolen*) on 26 September 1997.

10. Moreover, on 31 January 1997 the County Administrative Board (*länsstyrelsen*) of the County of Stockholm revoked the applicant's traffic licence (*trafiktillstånd*) and decided that he was unsuitable to run a commercial taxi business for a period of three years on the ground that he had failed to fulfil his obligations with respect to the payment of taxes and other charges. The decision was upheld on appeal, the final decision being taken by the Supreme Administrative Court on 17 December 1997.

11. On 5 September 1997 the Public Prosecution Office (*åklagar-myndigheten*) in Stockholm indicted the applicant for a suspected bookkeeping offence related to the amounts which were subject to determination in the taxation proceedings. By a judgment of 13 January 1998 the District Court found the applicant guilty of having intentionally failed to enter certain income and salary payments in the books. He was sentenced to two months' imprisonment. The applicant appealed to the Court of Appeal but subsequently withdrew his appeal. Accordingly, on 14 December 1998 the case was struck out of the appellate court's list.

12. By a judgment of 2 December 1998 the County Administrative Court upheld the Tax Authority's taxation decisions. The judgment was upheld by the Administrative Court of Appeal on 15 February 2001. On 7 May 2002 the Supreme Administrative Court refused the applicant leave to appeal.

THE LAW

13. On 11 March 2004 the Court received the following declaration from the Swedish Government, signed by the Agent of the Government on 18 February 2004 and by the applicants' representative on 9 March 2004:

"The Swedish Government ("the Government") and the applicant have now reached the following friendly settlement on the basis of respect for human rights, as defined in the [Convention], in order to terminate the proceedings before the Court.

a) The Government will pay, *ex gratia*, the sum of EUR 44,000 (forty-four thousand) to the applicant to be converted into the national currency at the rate applicable at the date of payment. The amount will be paid to his counsel, Mr Jan Thörnhammar, who has been authorized by the applicant to receive payment on his behalf. Execution of payment will take place when the Government has received the Court's judgment striking the case out of its list of cases.

b) The applicant declares that he has no further claims on the Swedish State based on the facts of the [present] application.

c) The Government and the applicant undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court's judgment.

This settlement is dependent upon the formal approval of the Government at a Cabinet meeting."

By a decision of 22 April 2004 the Government approved the settlement reached.

14. 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).

15. 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 20 July 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise ELEN-PASSOS
Deputy Registrar

Nicolas BRATZA
President