



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

FOURTH SECTION

CASE OF FRÖDINGE GRUS & ÅKERI AB v. SWEDEN

(Application no. 44830/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

14 September 2004

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

In the case of Frödinge Grus & Åkeri AB 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 R. MARUSTE,

Mr L. GARLICKI,

Mrs E. FURA-SANDSTRÖM,

Ms L. MIJOVIĆ, *judges*,

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

Having deliberated in private on 24 August 2004,

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

PROCEDURE

1. The case originated in an application (no. 44830/98) 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 limited liability company, Frödinge Grus & Åkeri AB (“the applicant”), on 1 July 1998.

2. The applicant was represented by Mr S. Godåker, Blackstad. The Swedish Government (“the Government”) were represented by their Agent, Ms I. Kalmerborn, Ministry for Foreign Affairs.

3. Relying on Article 6 § 1 of the Convention, the applicant alleged that the civil proceedings to which it had been a party had been excessively long.

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 1 July 2003, having obtained the parties’ observations, the Court declared the application admissible.

5. On 7 July 2003 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 20 April 2004 the Government submitted a declaration on a friendly settlement of the case signed by the Agent of the Government on 14 April 2004 and by the applicant’s representative on 17 April 2004.

THE FACTS

6. On 17 December 1991 the applicant company instituted civil proceedings against another company, claiming pecuniary compensation for work performed for that company, consisting of crushing and removal of gravel belonging to the latter. The applicant's claim was not in dispute between the parties; instead the dispute concerned the question whether the defendant company had a counter-claim which it could use as a set-off against the applicant's claim. The set-off claim related to gravel which the applicant allegedly had extracted but not paid for.

7. By a judgment of 24 May 1994 the District Court (*tingsrätten*) of Västervik, rejecting the defendant company's set-off claim, granted the applicant's claim in full and awarded it 31,337.40 Swedish *kronor* (SEK) in compensation.

8. The defendant company appealed and, by a judgment of 17 May 1995, the Göta Court of Appeal (*Göta hovrätt*) partly accepted the set-off claim and reduced the applicant's compensation to SEK 7,604.40.

9. On 16 January 1998, upon the applicant's appeal, the Supreme Court (*Högsta domstolen*) refused leave to appeal.

THE LAW

10. On 20 April 2004 the Court received the following declaration from the Swedish Government, signed by the Agent of the Government on 14 April 2004 and by the applicant's representative on 17 April 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 SEK 70,000 (seventy thousand) [approximately 7,000 euros] to the applicant. The amount will be paid to its counsel, Mr Stefanus Godåker, who has been authorized by the applicant to receive payment on its 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 it 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 13 May 2004 the Government approved the settlement reached.

11. 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).

12. 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 14 September 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President