



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

FOURTH SECTION

CASE OF HELLBORG v. SWEDEN

(Application no. 45275/99)

JUDGMENT
(Friendly settlement)

STRASBOURG

14 September 2004

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

In the case of Hellborg 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 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. 45275/99) 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 Bengt Hellborg ("the applicant"), on 22 May 1998.

2. The applicant was represented by Mr B. C. J. Söderquist, Lund. The Swedish Government ("the Government") were represented by their Agent, Ms I. Kalmerborn, Ministry for Foreign Affairs.

3. The applicant complained, *inter alia*, under Article 6 § 1 of the Convention about the length of a set of civil proceedings.

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 6 January 2004, having obtained the parties' observations, the Court declared admissible the complaint mentioned above at paragraph 3.

5. On 5 March 2004 the Government submitted a declaration on a friendly settlement of the case signed by the Agent of the Government on 3 March 2004 and by the applicant personally on 4 March 2004.

THE FACTS

6. The applicant was born in 1940 and lives in Åkarp.

7. He owns a piece of real property in central Lund. Wishing to make an extension to the residential house situated on that property – a construction requiring a building permit under the Planning and Building Act (*Plan- och*

bygglagen, 1987:10) – he applied, on 2 April 1990, to the Building Committee (*byggnadsnämnden*) of Lund for a tentative approval (*förhandsbesked*) of the permissibility of this project. The purpose of such an approval is to give a property owner, who is planning a building project for which the grant of a building permit is uncertain, the possibility to obtain an advance assessment of whether the planned measures may at all be permitted, thereby avoiding unnecessary projecting work and costs. In assessing an application for a building permit made within two years after the issuance of a tentative approval, the building committee is bound by the determinations made in that approval.

8. On 19 August 1992 the Building Committee, having obtained the opinions of some neighbours and several municipal offices, declared that a building permit could not be expected. It did not therefore give a tentative approval of the construction project.

9. The applicant appealed against the Building Committee's decision. On 16 May 1994 the County Administrative Board (*länsstyrelsen*) of the County of Malmöhus, having obtained the observations of the Committee and the applicant on several occasions and visited the location of the property, upheld the appealed decision.

10. Upon the applicant's further appeal, the Administrative Court of Appeal (*kammarrätten*) in Gothenburg held an oral hearing at the location of the applicant's property on 29 March 1995. By a judgment of 21 April 1995 it rejected the appeal.

11. The applicant then appealed to the Supreme Administrative Court (*Regeringsrätten*) which, by a decision of 15 October 1996, granted him leave to appeal. The court obtained the opinions of the Building Committee and the National Board of Housing, Building and Planning (*Boverket*). By a judgment of 25 November 1997 it rejected the appeal.

THE LAW

12. On 5 March 2004 the Court received the following declaration from the Swedish Government, signed by the Agent of the Government on 3 March 2004 and by the applicant on 4 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 SEK 90,000 (ninety thousand) [approximately 10,000 euros] to the applicant. 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 25 March 2004 the Government approved the settlement reached.

13. 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).

14. 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