



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

SECOND SECTION

CASE OF TOIMI v. SWEDEN

(Application no. 55164/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

22 March 2005

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

In the case of Toimi v. Sweden,

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

Mr J.-P. COSTA, *President*,

Mr A.B. BAKA,

Mr I. CABRAL BARRETO,

Mr K. JUNGWIERT,

Mrs M. UGREKHELIDZE,

Mrs A. MULARONI,

Mrs E. FURA-SANDSTRÖM, *judges*,

and Mr S. NAISMITH, *Deputy Section Registrar*,

Having deliberated in private on 1 March 2005,

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

PROCEDURE

1. The case originated in an application (no. 55164/00) against the Kingdom of Sweden lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Finnish national, Ms Ritva Toimi (“the applicant”), on 22 September 1999.

2. The applicant was represented by Mr P. Stadig, a lawyer practising in Stockholm. The Swedish Government (“the Government”) were represented by their Agents, Ms E. Jagander and Ms. A. Linder, Ministry for Foreign Affairs.

3. The applicant complained under Article 6 § 1 of the Convention about effective access to court and the length of proceedings in a case determining her pension rights.

4. On 23 November 2004 the Government submitted a declaration concerning the friendly settlement of the case signed by the Agent of the Government on 9 November 2004 and by the applicant’s representative on 19 November 2004.

THE FACTS

5. The applicant was born in 1938 and lives in Hälleforsnäs.

6. As from 1990, the applicant received a pension from the Swedish State in addition to the pension she received from the Finnish State. By a decision of 10 February 1995 the Stockholm Social Insurance Office (*försäkringskassan*) fixed her Swedish pension at 3,754 Swedish kronor (SEK) per month. As from 1996 the applicant was attached to the Social

Insurance Office in Flen. Apparently, in August 1997 the entry in the computerised pension register concerning her pension was changed so that, as from September 1997, she received a monthly pension of SEK 776 from Sweden. The applicant received a notice that the amount had been deposited on her bank account from the Flen office. Later investigations revealed that the entry in the pension register had been made by the Stockholm office. The applicant's case file, however, disappeared and she did not receive a formal decision concerning the reduction of her pension. Nevertheless, on 29 October 1997 counsel for the applicant sent a letter to the National Social Insurance Board (*Riksförsäkringsverket*) demanding the revocation of the social-insurance office's decision and the establishment of her right to an unchanged pension. On 13 November 1997 the Board forwarded this letter to the Flen office. On 30 October 1997 the applicant herself sent a letter to the Stockholm office, in which she complained that her pension had been reduced by more than SEK 3,000 without any decision in the matter having been taken. Following an internal inquiry regarding which office was to deal with the case, it was, on 10 February 1998, allocated to the Stockholm office. This office later asked the applicant to send all the decisions she had received in order to establish what had happened in the case. Apart from this and attempts to locate the case file, the offices did not take any further action.

7. On 23 June 1998 the applicant complained to the Chancellor of Justice (*Justitiekanslern*). She claimed that, despite her efforts, no action had been taken in her case by the authorities and that her possibility to appeal had thereby been blocked. By a decision of 9 May 2000 the Chancellor severely criticised the two social-insurance offices for their handling of the applicant's case. He noted that, as the case file had gone missing, it was not possible to clarify who had decided in 1997 to reduce her pension or on which basis the decision had been taken. Although the applicant's letters to the offices had to be seen as appeals or requests for review, no re-examination of the decision had been made. Noting that, due to the offices' handling of the case, the applicant had been deprived of her right to appeal, the Chancellor found it striking that the offices had not yet taken any action to make possible a review of the decision.

8. On 23 August 2000 the Stockholm office produced a decision replacing the missing decision from September 1997. It noted that the pension decision of 10 February 1995 had been incorrect and that there were thus reasons to review it under chapter 20, section 10 a of the Social Insurance Act (*Lagen om allmän försäkring*, 1962:381). Having regard to the provisions of the Nordic Convention on Social Security (*Nordiska konventionen om social trygghet*) and the pension the applicant received from Finland, the office found that the applicant was entitled to a Swedish pension of SEK 776.

9. The applicant appealed to the County Administrative Court (*länsrätten*) of the County of Stockholm. Following an oral hearing on 10 May 2001, the court rejected the appeal by a judgment of 30 May 2001. On 24 October 2001 and 17 September 2003, respectively, the Administrative Court of Appeal (*kammarrätten*) in Stockholm and the Supreme Administrative Court (*Regeringsrätten*) refused the applicant leave to appeal.

THE LAW

10. On 23 November 2004 the Court received the following declaration from the Government, signed by the Agent of the Government on 9 November 2004 and by the applicant's representative on 19 November 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 65,000 (sixty-five thousand) [approximately 7,200 euros] to the applicant. The amount will be paid to her counsel, Mr Per Stadig, who has been authorized by the applicant to receive payment on her 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 she 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 16 December 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 22 March 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. NAISMITH
Deputy Registrar

J.-P. COSTA
President