



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

FOURTH SECTION

**CASE OF LÖNNHOLTZ v. FINLAND**

*(Application no. 60790/00)*

JUDGMENT  
*(Friendly settlement)*

STRASBOURG

25 April 2006

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



**In the case of Lönnholtz v. Finland,**

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

Sir Nicolas BRATZA, *President*,

Mr J. CASADEVALL,

Mr M. PELLONPÄÄ,

Mr R. MARUSTE,

Mr S. PAVLOVSCHI,

Mr J. BORREGO BORREGO,

Mr J. ŠIKUTA, *judges*,

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

Having deliberated in private on 17 January 2006 and on 28 March 2006,

Delivers the following judgment, which was adopted on the last-mentioned date:

## PROCEDURE

1. The case originated in an application (no. 60790/00) against the Republic of Finland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Finnish nationals, Ms Anja Lönnholtz and Ms Anne Lönnholtz, and the estate of Mrs Martta Lönnholtz ("the applicants"), on 4 August 2000.

2. The applicants were represented by Mr Vesa Laukkanen, a lawyer practising in Kokkola. The Finnish Government ("the Government") were represented by their Agent, Mr Arto Kosonen, a director in the Ministry for Foreign Affairs.

3. The applicants complained, *inter alia*, under Article 6 § 1 of the Convention about the length of a set of a private prosecution proceedings which they had initiated.

4. On 17 January 2006, after obtaining the parties' observations, the Court declared the application admissible in so far as this complaint as lodged by Ms Anja Lönnholtz and Ms Anne Lönnholtz was concerned. Further complaints of the applicants were declared inadmissible on the same date.

5. On 28 February and on 1 March 2006 the applicants and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

## THE FACTS

6. The applicants were born in 1952 and 1955 respectively and live in Iittala.

7. On 19 January 1994 they brought a private prosecution before the Turku Court of Appeal (*hovioikeus, hovrätten*) against some District Court judges, who had convicted them of malicious accusation in separate proceedings. The judges were charged with abuse of office as they had allegedly neglected to examine the case thoroughly, both as to the facts and as to the law. The applicants claimed damages from the State.

8. On 4 February, 30 March and 25 May 1994 respectively the court invited the responses of the defendant judges, the Ministry of Justice and the acting public prosecutor, the Chancellor of Justice to the application for a summons. The court received them on 15 March, 19 April and 9 June 1994 respectively. The defendants denied the charges and the State its liability for any damages. In September 1994, the Deputy Chancellor of Justice informed the Court of Appeal that he did not associate himself with the private prosecution.

On 1 September 1994 the case was assigned to another judicial secretary of the court. On 15 November 1994 the court invited the applicants' further comments and they were received on 15 December 1994.

On 10 March 1995 the court held its deliberations, following which the draft judgment was circulated among the judges for their final consideration. On 13 September 1995 the court, finding that the defendant judges had not overstepped their powers when deciding the case before them, rejected the charges and the other claims.

9. On 13 November 1995 the applicants appealed to the Supreme Court (*korkein oikeus, högsta domstolen*), requesting an oral hearing. Alternatively, they requested that the case be referred back to the lower court and that it be directed to hold a hearing. On 11 December 1995 the case was assigned to a judicial secretary of the court, who reported on it to the judges on the bench on 27 March 1996. By its decision of 20 June 1996 the Supreme Court referred the case back to the lower court, as it considered that the case should not have been decided without an oral hearing.

10. On 25 June 1996 the case was restored to the Court of Appeal's case-list. The case was assigned to a section of the court and to a judicial secretary on 23 July and 9 August 1996 respectively. The court held preparatory sessions on 31 January, 6 February, and on 5, 13 and 21 March 1997.

On 20 May 1997 the Court of Appeal held an oral hearing and received oral evidence from the parties. The Deputy Chancellor of Justice confirmed that he did not associate himself with the private prosecution.

On 23 November 1998 the court held its final deliberations in the case. On 1 December 1998 it gave judgment, finding that the defendant judges

should not have convicted the applicants of malicious accusation. The Court of Appeal held that the judges had neglected their duties to examine thoroughly all aspects of the case, but it rejected the charges as it found that the neglect was only minor taken in the context of the proceedings as a whole. However, it found that the applicants were entitled to compensation due to the afore-mentioned wrongful conviction. The State was ordered to pay each applicant 30,000 Finnish marks (FIM; about 5,045 euros (EUR)) plus legal costs. All the parties appealed.

11. On 1 February 1999 the applicants among others lodged their appeals with the Supreme Court. On 20 May 1999 the case was assigned to a judicial secretary of the court. It held a preparatory meeting on 14 September 1999 following which it invited comments from the Ministry of Justice and the President of the Court of Appeal, which were received on 12 and 18 October 1999 respectively. Following a preparatory meeting on 3 November 1999 the court received the applicants' comments in reply on 22 November 1999. The court deliberations were held on 1 December 1999. On 8 February 2000 the Supreme Court upheld the Court of Appeal's judgment insofar as it had rejected the charges. However, the Supreme Court rejected also the claim for damages, as the judges had not acted in a negligent or careless manner. Thus, it found that the applicants were entitled neither to compensation nor to legal costs.

## THE LAW

12. On 1 March 2006 the Court received the following declaration from the Government:

"I ... declare that the Government of Finland offer to pay *ex gratia* EUR 10,200 (ten thousand two hundred euros) to Ms Anja Lönnholtz and Ms Anne Lönnholtz with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, and it will be payable within three months from the date of notification of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention."

13. On 28 February 2006 the Court received the following declaration signed by the applicants:

“We ... note that the Government of Finland are prepared to pay us *ex gratia* the sum of EUR 10,200 (ten thousand two hundred euros) with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum is to cover any pecuniary and non-pecuniary damage as well as costs and expenses and will be payable within three months from the date of notification of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

We accept the proposal and waive any further claims against Finland in respect of the facts of this application. We declare that this constitutes a final resolution of the case. This declaration is made in the context of a friendly settlement which the Government and the applicants have reached. We 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.”

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 25 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O’BOYLE  
Registrar

Nicolas BRATZA  
President