



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

FIRST SECTION

CASE OF SWIG v. RUSSIA

(Application no. 307/02)

JUDGMENT
(Striking-out)

STRASBOURG

11 January 2007

FINAL

11/04/2007

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of SWIG v. Russia,

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

Mr C.L. ROZAKIS, *President*,

Mrs N. VAJIĆ,

Mr A. KOVLER,

Mrs E. STEINER,

Mr K. HAJIYEV,

Mr D. SPIELMANN,

Mr S.E. JEBENS, *judges*

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 7 December 2006,

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

PROCEDURE

1. The case originated in an application (no. 307/02) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Nevsko-Baltiyskaya Transportnaya Kompaniya (NBTK), a limited liability company based in Russia and SWIG Group Inc., a company incorporated in the USA (“the applicant”), on 6 August 2001.

2. NBTK and the applicant were represented by Mr B. Karhu, a lawyer practising in St. Petersburg and in Helsinki. The Russian Government (“the Government”) were represented by their Agent, Mr P. Laptev, Representative of the Russian Federation at the European Court of Human Rights.

3. The applicant alleged under Article 1 of Protocol No. 1 to the Convention that there had been a violation of their right to the peaceful enjoyment of their possessions, namely the commercial cargo which was seized by the customs and have not been returned or compensated for.

4. By a decision of 23 March 2006, the Court declared the application admissible in respect of the applicant and inadmissible in respect of NBTK.

5. The Government, but not the applicant, filed further written observations (Rule 59 § 1).

THE FACTS

6. In February 1999 NBTK, a transport company, carried a commercial cargo for its commercial client from Kotka, Finland, to Moscow. The North-Western Customs Office examined the lorry, stated that it contained

undeclared goods and seized the cargo and the lorry. On 17 February 1999 NBTK was charged with an administrative offence of a breach of the customs regulations.

7. On 12 April 1999 the Leningrad-Finlyandskaya Prosecutor's Office opened criminal case file no. 44437 concerning the alleged smuggling, which on 14 June 1999 was suspended as no suspect could be identified. The attached goods were ordered to be sold, with the proceeds to be held as deposit until the case concerning the customs breach was decided.

8. On 3 August 1999 the applicant bought the seized goods knowing that they were under injunction.

9. Thereafter the administrative charges against NBTK were lifted, but there the criminal proceedings remained suspended, and the injunction related thereto continued to apply.

THE LAW

10. By letter of 29 March 2006 the Court informed the applicant of the partial admissibility decision and requested it to answer, by 23 May 2006, the Court's specific questions concerning the case and to submit such additional evidence and observations it wished to put before the Court. In the same letter the applicant was also asked to submit its claims for just satisfaction and its position regarding the question of reaching a friendly settlement in the case. The applicant did not reply.

11. On 29 May 2006 the applicant was informed that the above time limit had been extended, upon the Government's request, until 23 June 2006.

12. By registered letter of 10 July 2006, also sent by fax on 11 July 2006, the Court reiterated its requests and warned the applicant that its failure to reply might lead to the application being struck out of the Court's list of cases. The applicant's representative received the fax and the letter but no reply followed.

13. On 4 October 2006 the applicant's representative contacted the Court and confirmed that his client had been aware of the Court's requests but he had not been instructed to reply or to take other procedural steps.

14. In these circumstances, having regard to Article 37 § 1 (a) of the Convention, the Court considers that the applicant does not intend to pursue the petition. Furthermore, the Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the examination of the application.

15. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English, and notified in writing on 11 January 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President