



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

FIFTH SECTION

CASE OF BRØSTED v. DENMARK

(Application no. 21846/04)

JUDGMENT
(Friendly settlement)

STRASBOURG

15 March 2007

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

In the case of Brøsted v. Denmark,

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

Mrs S. BOTOUCHAROVA, *President*,

Mr P. LORENZEN,

Mr V. BUTKEVYCH,

Mrs M. TSATSA-NIKOLOVSKA,

Mr R. MARUSTE,

Mr J. BORREGO BORREGO,

Mrs R. JAEGER, *judges*,

and Mrs C. WESTERDIEK, *Section Registrar*,

Having deliberated in private on 20 February 2007

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

PROCEDURE

1. The case originated in an application (no. 21846/04) against the Kingdom of Denmark lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Danish national, Mr Jens Brøsted (“the applicant”), on 11 June 2004.

2. The applicant is represented before the Court by Mr Christian Harlang, a lawyer practising in Copenhagen. The Danish Government (“the Government”) were represented by their Agent, Mr Jørgen Steen Sørensen, of the Ministry of Justice.

3. The applicant complained under Article 6 § 1 of the Convention that the length of the proceedings had exceeded the “reasonable time” requirement and under Article 13 of the Convention that he did not have at his disposal an effective domestic remedy.

4. On 30 August 2006, after obtaining the parties' observations, the Court declared the application admissible

5 On 3 January 2007 the Government submitted formal declarations signed by both parties accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1949 and lives in Copenhagen.

7. On 30 January 1998 the applicant instituted civil proceedings before the High Court of Eastern Denmark (*Østre Landsret*) against the Ministry of Employment (*Beskæftigelsesministeriet*), claiming among other things that the Ministry pay him DKK 83,025, equal to approximately 11,000 Euros

(EUR), corresponding to the difference between the salary he had received during a seven months so-called “job offer” period and the salary he allegedly should have received in accordance with the collective agreement.

8. On 8 May 2002 the High Court decided that the case should commence before the City Court. Having been granted leave to appeal against this decision to the Supreme Court (*Højesteret*), on 20 December 2002 the latter found for the applicant, and referred the case back to the High Court.

9. In a letter of 20 May 2003 to the Ministry of Justice and the Court Administration (*Domstolsstyrelsen*) the applicant complained that the length of the proceedings had exceeded the reasonable time requirement within the meaning of Article 6 of the Convention. By letter of 16 June 2003 the Ministry referred the applicant to lodge his complaint before the High Court, where the case was pending. By letter of 18 June 2003 the Court Administration concurred with the Ministry's reply.

10. By letter of 8 August 2003 to the division of the High Court dealing with the case, the applicant repeated his complaint and claimed compensation. In reply, on 11 December 2003 the President of the High Court found no reason to grant the applicant compensation *inter alia* because the High Court had offered that the trial could commence earlier, but that the applicant's counsel had been unable to appear on any of the proposed days.

11. By judgment of 6 May 2004 the High Court found against the applicant. It also ordered that the applicant pay defendant's costs to the Ministry of Employment in the amount of DKK 90,000.

12. On 1 July 2004 the applicant appealed against the judgment to the Supreme Court (*Højesteret*), which on 26 April 2006, upheld the High Court's judgment.

THE LAW

13. On 3 January 2007 the Government signed the following declaration, and submitted it to the Court:

“I, Mr Jørgen Steen Sørensen, Agent of the Government of Denmark, declare that the Government of Denmark offer to pay *ex gratia* 135,000 Danish kroner (DKK) to Mr Jens Brøsted with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs occurred before the High Court, will be free of any taxes that may be applicable and will be payable within three months from the date of notification of the decision taken by the Court pursuant to the Article 37 § 1 of the European Convention on Human Right. 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.

As part of this friendly settlement, it is agreed that the issue of costs and expenses related to the submission and conducting of this application before the European Court of Human Rights is to be resolved finally by the Civil Affairs Agency (*Civilstyrelsen*) taking into account that the Civil Affairs Agency already has issued a decision according to which the applicant has been granted legal aid for an amount up to DKK 40,000.

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

14. On 23 December 2006 the applicant signed the following declaration, which was submitted to the Court:

“I, Mr Jens Brøsted, note that the Government of Denmark are prepared to pay me *ex gratia* the sum of DKK 135,000 with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as cost before the High Court, will be free of any taxes that may be applicable and will be payable within three months from the date of notification of the decision taken by the Court pursuant to the Article 37 § 1 of the European Convention on Human Right. 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.

As part of this friendly settlement, I agree to the fact that the issue of costs and expenses related to the submission and conducting of this application before the European Court of Human Rights is to be resolved finally by the Civil Affairs Agency taking into account that the Civil Affairs Agency already has issued a decision according to which I have been granted legal aid for an amount up to DKK 40,000.

I accept the proposal and waive any further claims against Denmark in respect of the facts giving rise to this application. I 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 I have reached. I further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention.”

15. 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).

16. 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 15 March 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK
Registrar

Snejana BOTOCHAROVA
President