



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

FOURTH SECTION

CASE OF ASITO v. MOLDOVA

(Application no. 40663/98)

JUDGMENT
(Just satisfaction)

STRASBOURG

24 April 2007

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

In the case of Asito v. Moldova,

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

Sir Nicolas BRATZA, *President*,
Mr J. CASADEVALL,
Mr G. BONELLO,
Mr M. PELLONPÄÄ,
Mr R. MARUSTE,
Mr S. PAVLOVSKI,
Mr J. ŠIKUTA, *judges*,

and Mr T.L. EARLY, *Section Registrar*,

Having deliberated in private on 27 March 2007,

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

PROCEDURE

1. The case originated in an application (no. 40663/98) against the Republic of Moldova 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 the Moldovan incorporated insurance company, ASITO (“the applicant”), on 5 February 1998.

2. In a judgment delivered on 8 November 2005 (“the principal judgment”), the Court held there had been a violation of the applicant company's rights provided by Article 6 § 1 and Article 1 of Protocol No. 1 to the Convention (see *ASITO v. Moldova*, no. 40663/98, 8 November 2005).

3. Under Article 41 of the Convention the applicant sought just satisfaction in the amount of 2,388,949 euros (EUR).

4. Since the question of the application of Article 41 of the Convention was not ready for decision as regards the applicant's claim for pecuniary and non-pecuniary damage, the Court reserved it and invited the Government and the applicant to submit, within three months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach.

THE FACTS

5. The applicant is a Moldovan incorporated insurance company, with its seat in Chişinău.

6. The applicant company had a dispute with a third company concerning the fulfilment by the latter of a contract between them. On 23 September 1997 the Appeal on Points of Law Chamber of the Economic Court allowed a request by the Prosecutor General lodged under Article 38 § 3 of the Law on Economic Courts, and quashed a final judgment of 1 August 1997 in the applicant company's favour by which the latter was awarded 327,474.75 Moldovan lei (MDL) (the equivalent of EUR 62,780 at the time).

7. On 24 December 1997, the Supreme Court of Justice allowed a request for annulment lodged by the Prosecutor General's Office in another set of proceedings and quashed two final judgments (of 26 July 1996 and of 23 September 1997) in favour of the applicant company by which the contract between it and the third company was declared legal and binding. According to that contract the applicant company was entitled to receive the sum of MDL 269,500, payable in monthly instalments.

8. Subsequently, the Prosecutor General's Office filed an action with the Economic Court of the Republic of Moldova seeking the confiscation of the profit which the company had obtained as a result of the contract declared null and void on 24 December 1997. On 2 February 1999 the Economic Court ordered ASITO to pay the State MDL 186,945.00 (the equivalent of EUR 18,765 at the time).

THE LAW

9. On 9 February 2006 the Court received from the parties a document containing a friendly settlement agreement which read *inter alia* as follows:

“...The applicant agrees that the finding of a violation of Articles 6 § 1 and 1 of Protocol No. 1 to the Convention constitutes in itself sufficient just satisfaction in respect of the non-pecuniary damage.

...The Government shall pay the applicant MDL 186,945¹... and MDL 187,432²... within three months from the date on which this case will be struck off the list of cases by the Court...

1. The Government shall:

(a) promote during 2006 the adoption of a Law on Insurance and of a Law concerning Compulsory Insurance of Vehicles;

(b) conduct a policy oriented towards the protection and development of competition and limitation of monopolistic activities within the sphere of insurance.

¹ EUR 12,082

² EUR 12,113

2. ...The Government shall modify during 2006 section 38 of Law No. 970 of 24 July 1996 on Economic Courts.

3. The applicant company shall suspend its application no. 40663/98... for a period of 12 months after the signature of this settlement in order for point 1(a) of the settlement to be executed. Once point 1(a) is executed, the applicant company will withdraw its application no. 40663/98 and will declare that it has no further claims against the Government.

...”

10. On 8 February and 6 March 2007 the Court received from the applicant company two letters stating *inter alia* that:

“...On 21 and 22 December 2006 the Parliament adopted the Laws on Insurance and concerning Compulsory Insurance of Vehicles”.

“...the company wishes to withdraw its application ... and declares that it does not have further claims against the Government.”

11. The Court takes formal note of the above agreement. It observes that its purpose is to put an end to the dispute. It further observes that under the terms of the settlement thus reached the applicant will be paid compensation for the pecuniary prejudice it has suffered, that the Government have already adopted the legislation referred to in the agreement and that the applicant will withdraw all the compensation claims against the respondent State before the Court.

12. Having examined the terms of the agreement reached, the Court considers that it is equitable within the meaning of Rule 75 § 4 of the Rules of Court and that it is based on respect for human rights as defined in the Convention and its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court) (see *Maurice v. France* (just satisfaction - friendly settlement) [GC], no. 11810/03, §§ 34-35, ECHR 2006-...).

13. Accordingly, the remainder of the case should be struck out of the Court's list (Article 37 § 1 (b) of the Convention and Rule 43 § 3).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Takes formal note* of the agreement between the parties and the arrangements made to ensure compliance with the undertakings given therein (Rule 43 § 3 of the Rules of Court);
2. *Decides* to strike the remainder of the case out of its list of cases.

Done in English, and notified in writing on 24 April 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Registrar

Nicolas BRATZA
President