



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

SECOND SECTION

CASE OF JONASSON v. SWEDEN

(Application no. 59403/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

12 July 2005

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

In the case of Jonasson v. Sweden,

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

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

Mr I. CABRAL BARRETO,

Mr V. BUTKEVYCH,

Mrs A. MULARONI,

Mrs E. FURA-SANDSTRÖM,

Ms D. JOČIENĖ,

Mr D. POPOVIĆ, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*.

Having deliberated in private on 21 June 2005

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

PROCEDURE

1. The case originated in an application (no. 59403/00) 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 Swedish national, Anders T. Jonasson (“the applicant”), on 5 July 2000.

2. The applicant was represented by Mr Kurt Junesjö, a lawyer practising in Stockholm. The Swedish Government (“the Government”) were represented by their Agent, Mrs Inger Kalmerborn of the Ministry of Foreign Affairs.

3. With regard to a decision of 27 November 1998 by the Swedish Civil Aviation Administration (*Luftfartsverket*) the applicant complained, *inter alia*, under Article 6 of the Convention that he did not have access to a court; under Article 8 of the Convention that as a result of the decision his right to support himself was impaired and his personal integrity violated; and under Article 13 of the Convention that he did not have an effective remedy with respect to the alleged violation of the Convention.

4. On 30 March 2004, after obtaining the parties’ observations, the Court declared the application partly admissible.

5. By letter of 12 May 2005 the Government informed the Court that the parties had reached a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention, and submitted a formal declaration in this respect signed on 4 February 2005 by the applicant’s representative and the Agent of the Government.

THE FACTS

6. In February 1995 the applicant was hired as a cook by a private limited company, Air Inn, which ran a restaurant in an Airport. Air Inn had rented the premises from the Civil Aviation Administration (*Luftfartsverket*), hereinafter called the CAA, which is a public body responsible for airports, air-traffic control and air safety in Sweden. When hired, the applicant was provided with a document giving him access to sensitive areas at the airport.

7. On 1 July 1996 the Security Protection Act (*Säkerhetsskyddslagen 1996:627*) and the Security Protection Ordinance (*Säkerhetsskyddsförordningen 1996:633*) entered into force, on the basis of which, in 1998 Air Inn requested that the CAA run a security check, including a check of registers, on the applicant. The CAA had to request the National Police Board (*Rikspolisstyrelsen*) to check the registers. Thereafter, the National Police Board had to turn over the case, including the information found, to the Records Board (*Registernämnden*). The latter decided to communicate to the CAA that the applicant had been convicted of assault twice, in 1979 and 1998, respectively. The Records Board's decision included the date of the judgments, the case numbers, the name of the district court, the criminal offences of which the applicant had been found guilty and the sentences imposed on him. The judgments, which were public and available at the relevant district court, were not enclosed with the decision. Subsequently, at a meeting with Air Inn and the Director of the Airport, the applicant had an opportunity to comment on the judgments. The applicant maintained that the first conviction concerned a youthful misdemeanour that had occurred more than twenty years earlier and that the last had stemmed from an incident within the applicant's family at a time when the applicant had been under a great deal of stress due to his stepson's psychiatric handicap (DAMP - deficit in attention, motor-function and perception).

8. By decision of 27 November 1998 addressed to Air Inn, the CAA found the applicant unreliable from a security point of view. Air Inn was accordingly ordered to prevent the applicant from participating in activities requiring personnel to pass a security check, and to turn in his airport access document to the Director of the Airport. The decision could not be appealed against. Air Inn had no opportunities to transfer the applicant to other work locations and he was thus given notice and suspended from work as from 1 February 1999.

9. Subsequently, on the applicant's behalf, his trade union, the Hotel and Restaurant Workers' Union, instituted proceedings against Air Inn before the Labour Court claiming that the dismissal be declared void as being

unjustified. By judgment of 16 February 2000, finding that Air Inn had no alternative other than to comply with the CAA's decision, and that the applicant's lack of access to the work place amounted to such a legal hindrance that Air Inn could invoke the right to be released from the employment agreement, the Labour Court found against the applicant.

10. During the proceedings a main issue to be determined was whether the Labour Court had authority to review the decision of the CAA, notably whether the decision was based on legislation contravening the Swedish Instrument of Government (*Regeringsformen*) or otherwise was unlawful and thus not binding for Air Inn. The Labour Court answered this in the negative, stating *inter alia* that neither the Security Protection Act nor the Ordinance contained any rules on appeal against such a decision, and that even if the legality of the decision may be challenged elsewhere, formally or on the merits, nevertheless in the case before it the circumstances were such that Air Inn had to comply with the decision.

THE LAW

11. By letter of 12 May 2005 the Swedish Government informed the Court that the parties in the above case had reached a friendly settlement. Enclosed with the letter was the following declaration, signed on 4 February 2005 by the applicant's representative and the Agent of the Government:

"...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 European Convention for the Protection of Human Rights and Fundamental Freedoms, in order to terminate the proceedings before the Court.

- a) The Government will pay, *ex gratia*, the sum of SEK 275,000¹ (two hundred and seventy-five thousand) to the applicant. The amount will be paid to his counsel, Mr Kurt Junesjö, who has been authorised by the applicant to receive payment on his 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 he has no further claims on the Swedish State based on the facts of the above 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.

¹ On 4 February 2005, the amount of 275,000 Swedish kronor (SEK) was equal to Euro 30,280 (EUR).

This settlement is dependent upon the formal approval of the Government at a Cabinet meeting. ...”

12. Also enclosed the Government’s letter of 12 May 2005 was the Government’s formal approval of the settlement of 21 April 2005.

13. 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).

14. 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 12 July 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President