



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

FIFTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 3093/05
by Vladimir ANTON
against the Czech Republic

The European Court of Human Rights (Fifth Section), sitting on 11 September 2007 as a Chamber composed of:

Mrs S. BOTOCHAROVA, *President*,

Mr K. JUNGWIERT,

Mr V. BUTKEVYCH,

Mrs M. TSATSA-NIKOLOVSKA,

Mr R. MARUSTE,

Mrs R. JAEGER,

Mr M. VILLIGER, *judges*,

and Mrs C. WESTERDIEK, *Section Registrar*,

Having regard to the above application lodged on 14 January 2005,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together.

Having regard to the formal declarations accepting a friendly settlement of the case.

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Vladimír Anton, is a Czech national who was born in 1979 and lives in Prague. He was represented before the Court by Mr F. Penk, a lawyer practising in Prague. The Czech Government (“the

Government”) were represented by their Agent, Mr V.A. Schorm, Ministry of Justice.

The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

On 14 December 1999 the applicant had an accident while driving his car under the influence of alcohol. A front-passenger sustained serious bodily injuries (hereinafter “the victim”).

On 31 May 2000 a single judge at the Benešov u Prahy District Court (*samosoudce okresního soudu*) issued a penal order convicting the applicant of having caused bodily injury and imposing on him a conditional ten months’ prison sentence. The applicant was further disqualified from driving for three years.

The applicant’s insurance company paid CZK 120,000 (EUR 4,218) to the victim to compensate her injuries taking into account her contributory negligence of 20%.

On 31 October 2001 the victim brought an action for damages against the applicant’s insurance company in the Prague 5 District Court (*obvodní soud*). The applicant joined the proceedings as a secondary party; being obliged to reimburse damages which the court would order the insurance company to pay to the victim, the applicant was directly interested in the outcome of the proceedings.

In a judgment of 28 May 2002 the District Court partly granted the victim’s action, ordering the insurance company to pay her CZK 339,600 (EUR 11,950) together with the court fees and the plaintiff’s costs of CZK 19,465 (EUR 685) and CZK 38,595 (EUR 1,358) respectively.

On 9 January 2003 the court amended its judgment ordering the applicant to share the payment of the plaintiff’s expenses with the defendant. It also stated that the Czech Republic was not entitled to reimbursement of its procedural costs vis-à-vis the applicant. This decision was not delivered in public, being notified to the parties.

On 5 May 2003, in a further amendment to its judgment, the District Court held that the Czech Republic was not entitled to reimbursement of its legal costs vis-à-vis the victim.

The applicant and the defendant appealed, the applicant challenging the merits of the case as well as the fact that he had not been heard and could not, therefore, make comments on the evidence assessed by the court.

On 3 September 2003 the Prague Municipal Court (*městský soud*) upheld the first instance judgment, ordering the defendant and the applicant to pay, one and all, the plaintiff’s appellate costs.

On 13 October 2003 the judgment was notified to the applicant, who on 13 December 2003 at the latest appealed on points of law (*dovolání*) to the

Supreme Court (*Nejvyšší soud*). Relying on sections 237(1)(c), 241a(2)(b) and 241a(3) of the Code of Civil Procedure (hereinafter “the CCP”), he challenged the ordinary courts’ legal conclusions.

On 30 March 2004 the Supreme Court rejected the appeal on points of law finding that the applicant in his position of enjoined party was not entitled to lodge such an appeal.

On 15 June 2004 the applicant challenged the Supreme Court’s decision and the Municipal Court’s judgment before the Constitutional Court (*Ústavní soud*) alleging a violation of his constitutional guarantees embodied in Articles 4 §§ 2-4 and 37 § 3 of the Charter of Fundamental Rights and Freedoms (*Listina základních práv a svobod*).

On 12 August 2004 the Constitutional Court dismissed the applicant’s constitutional appeal as manifestly ill-founded in respect of the Supreme Court’s decision. It further held, with regard to the Municipal Court’s decision, that the appeal had been lodged outside the statutory sixty-day time-limit which had started running on the date on which the decision had been notified to the applicant.

COMPLAINTS

The applicant complained under Article 6 § 1 of the Convention that the Supreme Court and the Constitutional Court had not dealt with the merits of his appeal on points of law and partly with those of his constitutional appeal. He also challenged the legal opinions and meritorious findings of the national courts. He further complained that contrary to the victim, he had not been personally heard by the ordinary courts. He finally alleged that the amendments to the District Court’s judgment had not been delivered publicly.

THE LAW

The Court received the following declaration from the Government:

“I, Vít Alexander Schorm, Agent of the Government of the Czech Republic, declare that the Government of the Czech Republic offer to pay *ex gratia* 5,700 euros to Mr Vladimír Anton 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 and expenses, will be converted into Czech korunas at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 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 the 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 Court received the following declaration signed by the applicant:

“I, Vladimír Anton, note that the Government of the Czech Republic are prepared to pay me *ex gratia* the sum of 5,700 euros 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 and expenses, will be converted into Czech korunas at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 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.

I accept the proposal and waive any further claims against the Czech Republic in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case.”

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no public policy reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). Accordingly, Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Claudia WESTERDIEK
Registrar

Snejana BOTOCHAROVA
President