CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

FINAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 64712/01
by Ulf ANDERSSON and Lena ANDERSSON
against Sweden

The European Court of Human Rights (Fourth Section), sitting on 28 September 2004 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mrs V. STRÁŽNICKÁ,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI,
Mrs E. FURA-SANDSTRÖM,
Ms L. MIJOVIĆ,
Mr D. SPIELMANN, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application lodged on 4 December 2000,

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 partial decision of 16 March 2004,

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr Ulf Andersson and Mrs Lena Andersson, are Swedish nationals, who were born in 1947 and 1952 respectively and live in Jönköping. They were represented before the Court by Mr B. Rosén, a lawyer practising in Götene. The respondent Government were represented by Ms I. Kalmerborn, Ministry for Foreign Affairs.

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

In 1990 the applicants purchased a property for the purpose of pig breeding. They entered into an agreement on the transformation of their cultivable land under the Ordinance on Income, Transformation and Construction Aid to Farmers (*Förordningen om inkomst-, omställnings- och anläggningsstöd till jordbrukare m.m.*, 1990:941). Pursuant to the terms of the agreement, they were, *inter alia*, not allowed to cultivate the land for the coming five years, in return for which they received compensation from the Swedish State, a so-called transformation aid (*omställningsstöd*) amounting to 463,220 Swedish kronor (SEK).

The applicants' business subsequently encountered problems and on 22 February 1993 they sold the property. The new owner did not refrain from cultivating the land in accordance with the above agreement.

In view of the fact that the applicants had not kept their part of the agreement – not to cultivate the land for five years – they were, under the provisions of the Ordinance, obliged to refund the entire transformation aid. They refunded three-fifths of the aid but refused to refund the aid for the first two years during which incontestably no cultivation had taken place. The National Board of Agriculture (*Statens Jordbruksverk*) did not accept the proposed accord and summoned the applicants before the District Court (*tingsrätten*) of Jönköping in order to get the entire aid refunded.

By a judgment of 19 December 1994 the District Court found in favour of the Board and thus ordered the applicants to refund the remaining parts of the transformation aid plus interest. On 19 February 1996 the Göta Court of Appeal (*Göta hovrätt*) upheld the District Court's judgment. On 7 July 2000 the Supreme Court (*Högsta domstolen*) refused the applicants leave to appeal.

COMPLAINT

The applicants complained under Article 6 of the Convention about the excessive length of the proceedings in the case.

THE LAW

On 4 June 2004 the Court received the following declaration from the Swedish Government, signed by the Agent of the Government on 1 June 2004 and by the applicants on 3 June 2004:

> "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 [Convention], in order to terminate the proceedings before the Court.
>
> a) The Government will pay, *ex gratia*, the sum of SEK 60,000 (sixty thousand) [approximately 6,500 euros] to the applicants. Execution of payment will take place when the Government has received the Court's decision striking the case out of its list of cases.
>
> b) The applicants declare that they have no further claims on the Swedish State based on the facts of the [present] application.
>
> This settlement is dependent upon the formal approval of the Government at a Cabinet meeting."

By a decision of 23 June 2004 the Government approved the settlement reached.

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 discontinue the application of Article 29 § 3 of the Convention;

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

Michael O'BOYLE
Registrar

Nicolas BRATZA
President