

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

FIRST SECTION

DECISION

Application no. 32936/10
B.A.S.
against Denmark

The European Court of Human Rights (First Section), sitting on 22 May 2012 as a Chamber composed of:

Khanlar Hajiyev, *President,*
Peer Lorenzen,
Julia Laffranque, *judges,*

and André Wampach, *Deputy Section Registrar,*

Having regard to the above application lodged on 14 June 2010,

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

Having deliberated, decides as follows:

PROCEDURE

The applicant, B. A. S. is an Afghan national who was born in 1986 and lives in Afghanistan. The President of the Section has granted the applicant's request that his identity should not be disclosed to the public (Rule 47 § 3). He was represented before the Court by Ms Mary Lisa Jayaseelan, a legal adviser for the Danish Refugee Council (*Dansk Flygtningehjælp*), an NGO. The Danish Government ("the Government") were represented by their Agent, Mr Thomas Winkler, and their Co-agent, Ms Nina Holst-Christensen.

FACTS

At some unknown time, in vain the applicant applied for asylum in Greece. In 2009, it appears, he entered Denmark and requested asylum.

On 15 April 2010, the Immigration Service (*Udlændingeservice*) found that the applicant should be returned to Greece pursuant to the Dublin Regulation. The decision was upheld by the Ministry for Refugee, Immigration and Integration Affairs (*Ministeriet for flygtninge, indvandrere og integration*).

The applicant was returned to Greece on 9 September 2010.

The applicant complained that to return him to Greece was in violation of Articles 3 and 13 of the Convention.

On 7 October 2011 the Government submitted a friendly settlement declaration in which they stated, *inter alia:*

> "...Taking into account the ruling of the Court in *M.S.S. v. Belgium and Greece* [GC] [no. 30696/09, 21 January 2011], and having regard to the specific circumstances of the present case, the Government proposes to pay the applicant 185,000 Danish Kroner (DKK). This amount is intended to compensate the applicant for any non-pecuniary damage he may have suffered as a result of the decision of the Danish authorities to return him to Greece under the Dublin Regulation.
>
> The Government is also prepared to compensate the applicant for necessary and reasonable costs and expenses incurred in relation to the proceedings before the Court, the amount to be determined by the Court..."

On 8 December 2011 the applicant's representative submitted a declaration in which she stated, *inter alia,*:

> "...[the applicant] wishes to accept the friendly settlement of DKK 185,000 as a compensation for the non-pecuniary damage he has suffered as a result of his return to Greece by the Danish authorities...
>
> ...there are no claims [for costs and expenses]"

THE LAW

The Court takes note of the friendly settlement reached between the parties. It notes that the sum DKK 185,000 is 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 must 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.

The Court is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention).

For these reasons, the Court unanimously

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

André Wampach
Deputy Registrar

Khanlar Hajiyev
President