



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

1959 · 50 · 2009

THIRD SECTION

CASE OF SYNNELIUS AND EDSBERGS TAXI AB v. SWEDEN

(Application no. 44298/02)

JUDGMENT
(friendly settlement)

STRASBOURG

30 June 2009

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

In the case of Synnelius and Edsbergs Taxi Ab v. Sweden,

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

Josep Casadevall, *President*,

Elisabet Fura-Sandström,

Corneliu Bîrsan,

Boštjan M. Zupančič,

Alvina Gyulumyan,

Egbert Myjer,

Ineta Ziemele, *judges*,

and Stanley Naismith, *Deputy Section Registrar*,

Having deliberated in private on 9 June 2009

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

PROCEDURE

1. The case originated in an application (no. 44298/02) 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, Mr Anders Synnelius, and a Swedish limited liability company, Edsbergs Taxi AB (“the applicants”), on 11 December 2002.

2. The applicants were represented by Mr J. Thörnhammar, a lawyer practising in Stockholm. The Swedish Government (“the Government”) were represented by their Agent, Ms I. Kalmerborn, of the Ministry for Foreign Affairs.

3. The applicants complained, *inter alia*, under Article 6 § 1 of the Convention about the length of taxation proceedings.

4. On 17 June 2008, after obtaining the parties' observations, the Court declared the application admissible in so far as this complaint is concerned. Further complaints of the applicants were declared inadmissible on the same date.

5. On 3 December 2008, after an exchange of correspondence, the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 20 and 24 February 2009 the Agent of the Government and the representative of the applicants respectively signed a formal declaration accepting a friendly settlement of the case.

THE FACTS

6. The first applicant, Mr Anders Synnelius, was born in 1957 and lives in Sollentuna. The second applicant, Edsbergs Taxi AB, a limited liability company, was owned by the first applicant and was dissolved following bankruptcy in 1999.

7. In 1996 and 1997 the Tax Authority (*skattemyndigheten*) of the County of Stockholm carried out a tax audit concerning the second applicant's taxi business during the years 1993 and 1994. By decisions of 17 December 1997, the Tax Authority increased the applicants' tax liability. Moreover, as the information supplied by them was found to be incorrect and, therefore, the taxation had been made under a discretionary assessment procedure, the Authority ordered them to pay tax surcharges (*skattetillägg, avgiftstillägg*). The surcharges levied on the applicants respectively amounted to 11,000 and 8,000 euros (EUR) plus interest for each year.

8. Following the applicants' appeal to the County Administrative Court (*länsrätten*) in Stockholm, the Tax Authority reconsidered its decisions on 27 September 1999 but did not change them.

9. By judgments of 29 November 2001, the County Administrative Court upheld the Tax Authority's decisions concerning the first applicant. On the same date, the court struck out the cases concerning the second applicant owing to the bankruptcy. The applicants appealed against the courts' judgments and decisions.

10. By a decision of 2 March 2004, the Administrative Court of Appeal (*kammarrätten*) in Stockholm found that the second applicant had legal capacity to act as a party in the taxation proceedings. Accordingly, the cases concerning the company were referred back to the County Administrative Court for examination.

11. By judgments of 16 November 2004, the County Administrative Court upheld the Tax Authority's decisions concerning the second applicant. The company's appeal was dismissed on formal grounds by the Administrative Court of Appeal on 21 February 2005. The court noted that the Supreme Administrative Court (*Regeringsrätten*) (RÅ 2003 ref. 53) had found that a dissolved company could not claim a right to a review of tax surcharges in two court instances pursuant to the provisions of the Convention. Having regard to the Supreme Administrative Court's finding, the second applicant did not appeal against the appellate court's decision.

12. Also on 21 February 2005, the Administrative Court of Appeal upheld the County Administrative Court's judgments of 29 November 2001 concerning the first applicant. On 3 January 2007 the Supreme Administrative Court refused the first applicant leave to appeal.

THE LAW

13. On 9 March 2009 the Court received the following declaration from the Government, signed by the Agent of the Government on 20 February 2009 and by the representative of the applicants on 24 February 2009:

“The Swedish Government (“the Government”) and the applicants 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 EUR 10,000 (ten thousand) to the applicants, to be converted into Swedish kronor at the rate applicable on the date of payment. The amount will be paid to their counsel, Mr Jan Thörnhammar, who has been authorised by the applicants to receive payment on their 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 applicants declare that they have no further claims on the Swedish State based on the facts of the [present] application.

c) The Government and the applicants 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.

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

By a decision of 16 April 2009, the Government approved the settlement reached.

14. 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).

15. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the application out of its list of cases;
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 30 June 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith
Deputy Registrar

Josep Casadevall
President