



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

THIRD SECTION

DECISION

Application no. 17849/03
by Ara ZAKARYAN
against Armenia

The European Court of Human Rights (Third Section), sitting on 29 November 2007 as a Chamber composed of:

Mr B.M. ZUPANČIČ, *President*,

Mr C. BÎRSAN,

Mrs E. FURA-SANDSTRÖM,

Mrs A. GYULUMYAN,

Mr E. MYJER,

Mrs I. ZIEMELE,

Mrs I. BERRO-LEFÈVRE, *judges*,

and Mr S. QUESADA, *Section Registrar*,

Having regard to the above application lodged on 7 May 2003,

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 observations submitted by the respondent Government and the applicant's letter of 26 September 2007 whereby he expressed his wish to withdraw the application,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Ara Zakaryan, is an Armenian national who was born in 1968 and lives in Yerevan. He was represented before the Court by Mr A. Grigoryan, a lawyer practising in Yerevan. The Armenian Government ("the Government") are represented by their Agent, Mr G. Kostanyan, Representative of the Republic of Armenia at the European Court of Human Rights.

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

The applicant works as an advocate. In August 2002 he was engaged as a defence counsel in a criminal case.

In October 2002 the relevant criminal proceedings commenced in the Kentron and Nork-Marash District Court of Yerevan (*Երևան քաղաքի Կենտրոն և Նորք-Մարաշ համայնքների առաջին աստիճանի դատարան*) presided by judge O.

At the court hearing of 5 December 2002, the applicant made an oral challenge to the presiding judge. The judge ordered the applicant to sit down, explaining that the stage for making challenges was already over. The applicant disagreed with the judge and insisted on making a declaration concerning the grounds for the challenge. The judge ordered the applicant to sit down again, stating that the Code of Criminal Procedure did not envisage making such declarations. When the applicant tried to disagree again, the judge decided to impose on him a fine under Article 206.1 of the Code of Administrative Offences for contempt of court in the amount of 1,000 Armenian drams (approx. 1.7 euros at the material time).

This decision was not subject to appeal.

COMPLAINTS

1. The applicant complained under Article 6 §§ 1 and 3 a)-d) of the Convention that the decision imposing an administrative fine had been pronounced on the spot without any court examination. As a result, he had not been informed about the nature and the grounds of the charge against him. Nor had he had the possibility to have a defence counsel, to make submissions, to lodge motions, to submit evidence and to contest the charge against him.

2. The applicant complained under Article 13 of the Convention that the decision imposing an administrative fine was not subject to appeal.

THE LAW

By a letter of 26 September 2007 the applicant and his representative asked the Court to strike the application off the list of cases since the applicant feared that the authorities would use the outcome of the examination of the present application to impose disciplinary sanctions on judge O. who, in his opinion, was a truly independent judge.

The Government submitted no comments concerning this request.

The Court considers that, in these circumstances, the applicant may be regarded as no longer wishing to pursue his application, within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case. In view of the above, it is appropriate to discontinue the application of Article 29 § 3 and to strike the case out of the list.

For these reasons, the Court unanimously

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

Santiago QUESADA
Registrar

Boštjan M. ZUPANČIČ
President