



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

COURT (GRAND CHAMBER)

CASE OF VOGT v. GERMANY

(Application no. 17851/91)

JUDGMENT

STRASBOURG

2 September 1996

In the case of Vogt v. Germany¹,

The European Court of Human Rights, sitting, in accordance with Rule 51 of Rules of Court A², as a Grand Chamber composed of the following judges:

Mr R. RYSSDAL, *President*,

Mr R. BERNHARDT,

Mr F. GÖLCÜKLÜ,

Mr F. MATSCHER,

Mr L.-E. PETTITI,

Mr R. MACDONALD,

Mr A. SPIELMANN,

Mr J. DE MEYER,

Mr S.K. MARTENS,

Mrs E. PALM,

Mr I. FOIGHEL,

Mr A.N. LOIZOU,

Mr J.M. MORENILLA,

Mr M.A. LOPES ROCHA,

Mr G. MIFSUD BONNICI,

Mr D. GOTCHEV,

Mr P. JAMBREK,

Mr K. JUNGWIERT,

Mr P. KURIS,

and also of Mr H. PETZOLD, *Registrar*,

Having deliberated in private on 29 August 1996,

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

PROCEDURE AND FACTS

1. The case was referred to the Court by the European Commission of Human Rights ("the Commission") on 11 March 1994 and by the German Government ("the Government") on 29 March 1994, within the three-month period laid down by Article 32 para. 1 and Article 47 (art. 32-1, art. 47) of the Convention for the Protection of Human Rights and Fundamental

¹ The case is numbered 7/1994/454/535. The first number is the case's position on the list of cases referred to the Court in the relevant year (second number). The last two numbers indicate the case's position on the list of cases referred to the Court since its creation and on the list of the corresponding originating applications to the Commission.

² Rules A apply to all cases referred to the Court before the entry into force of Protocol No. 9 (P9) (1 October 1994) and thereafter only to cases concerning States not bound by that Protocol (P9). They correspond to the Rules that came into force on 1 January 1983, as amended several times subsequently.

Freedoms ("the Convention"). It originated in an application (no. 17851/91) against the Federal Republic of Germany lodged with the Commission under Article 25 (art. 25) by a German national, Mrs Dorothea Vogt, on 13 February 1991.

2. In its judgment of 26 September 1995 ("the principal judgment", Series A no. 323), the Court held that Mrs Vogt's dismissal from her post as a teacher with civil-servant status in the employ of the Land of Lower Saxony on account of her political activities as a member of the German Communist Party had breached Article 10 (art. 10) (freedom of expression) and Article 11 (art. 11) (freedom of association) of the Convention (*ibid.*, pp. 22-31, paras. 41-68, and points 1-4 of the operative provisions). The Court also decided that it was not necessary to consider the case under Article 14 of the Convention, taken in conjunction with Article 10 (art. 14+10) (*ibid.*, p. 31, paras. 69-70, and point 5 of the operative provisions).

3. As the question of the application of Article 50 (art. 50) was not ready for decision, the Court reserved it and invited the Government and the applicant to submit their written observations on the matter within the next six months and, in particular, to notify the Court of any agreement they might reach (*ibid.*, p. 32, para. 74, and point 6 of the operative provisions).

4. On 21 March 1996 the Agent of the Government informed the Registrar of the state of their negotiations with the applicant and asked the Court to assist them in their efforts to resolve the issue of just satisfaction. In telephone conversations with the Registrar, subsequently confirmed by a letter of 29 April 1996, the applicant's lawyers endorsed the above request.

By an order of 10 April 1996 the President authorised the Registrar to put himself at the disposal of the Government and the applicant with a view to achieving a friendly settlement of this aspect of the case.

5. At the request of the Registrar, the applicant's lawyers and the Agent of the Government sent him - on 29 April and 3 June 1996 respectively - a summary of the outcome of their negotiations and a list of the points still in issue.

6. On 10 June 1996 the Registrar invited the Government's and the applicant's representatives to meet him in order to try to reach a friendly settlement of the question of the application of Article 50 of the Convention (art. 50).

The meeting took place in the Human Rights Building, Strasbourg, on 20 June 1996. The participants, in addition to the Registrar, assisted by Ms M. Keller, a legal officer in the registry, were:

(a) for the Government:

Mr J. MEYER-LADEWIG,

Ministerialdirigent, Agent, assisted by

Mr B. FEUERHERM,

Ministerialrat, representing the Land of Lower Saxony;

(b) for the applicant, present in person:

Mr K. DAMMANN and

Mr O. JÄCKEL, Rechtsanwälte.

At the end of the meeting the representatives agreed on the terms of a friendly settlement, the written and signed text of which was sent to the Registrar by Mr Dammann on 19 July 1996.

7. The settlement reads as follows (translation from German):

"SETTLEMENT

The basis of the following settlement is the judgment of the European Court of Human Rights ("the Court") of 26 September 1995 in the case of Vogt v. Germany (7/1994/454/535), in which it was held that the dismissal from the education service of Lower Saxony, following disciplinary proceedings, of Dorothea Vogt, a teacher, on account of her political activities for the German Communist Party contravened Articles 10 and 11 (art. 10, art. 11) of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"). On the basis of this judgment, the participants in the proceedings - the Government of the Federal Republic of Germany, represented by their Agent, Mr Meyer-Ladewig, Ministerialdirigent, and Mrs Vogt, represented by her lawyers Mr Dammann and Mr Jäckel - have reached the following settlement, which finally resolves the dispute over Mrs Vogt's claim under Article 50 of the Convention (art. 50). This settlement was reached in Strasbourg on 20 June 1996 with the agreement of the Land of Lower Saxony, represented by Mr Feuerherm, Ministerialrat, and the assistance of the Registrar of the Court, Mr Petzold.

1. Mrs Vogt is to receive DEM 117,639.55 from the Land of Lower Saxony as compensation for the loss of part of her salary during the disciplinary proceedings and for the loss of the whole of it after dismissal from her job.

2. With regard to seniority, Mrs Vogt will be deemed by the Land of Lower Saxony to have reached the fourteenth and final step in salary grade A13 in November 1996.

3. In connection with Mrs Vogt's claim as regards pension rights, the Land of Lower Saxony declares that it is willing to recognise the period between 31 October 1989 and 31 January 1991 as a period of pensionable service by her as a civil servant.

4. The Land of Lower Saxony is to pay Mrs Vogt the sum of DEM 60,000 as compensation for non-pecuniary damage.

5. Mrs Vogt is to receive DEM 40,000 from the Land of Lower Saxony in respect of the costs incurred both in the domestic proceedings and before the Convention institutions, the Commission and the Court.

6. The Land of Lower Saxony is to pay Mrs Vogt DEM 5,000 in respect of expenses incurred by her between the start of the preliminary disciplinary investigation and the hearing before the Court.

7. All Mrs Vogt's claims for compensation against the Federal Republic of Germany, the Land of Lower Saxony and any other authority in the Federal Republic

in connection with her dismissal from the education service of Lower Saxony are extinguished by the compensation itemised above, totalling DEM 222,639.55.

8. The participants undertake to inform the Court forthwith of the agreement reached regarding compensation for Mrs Vogt.

Bonn, 2 July 1996

Meyer-Ladewig (Agent of the Government of the Federal Republic of Germany)

Hanover, 27 June 1996

Feuerherm (Representative of the Land of Lower Saxony)

Hamburg, 19 July 1996

Dammann (Authorised agent of Mrs Vogt)

Wiesbaden, 11 July 1996

Jäckel (Authorised agent of Mrs Vogt)"

8. The Delegate of the Commission, when consulted, made it known on 23 August 1996 that he had no comment to make.

AS TO THE LAW

9. Article 50 of the Convention (art. 50) provides:

"If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the ... Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party."

10. Since the principal judgment of 26 September 1995 the Court has been notified of a friendly settlement reached between the Government and the applicant in respect of the latter's claims under Article 50 (art. 50). Having regard to the terms agreed and to the fact that the Delegate of the Commission had no comment to make, the Court finds that the settlement reached is equitable within the meaning of Rule 54 para. 4 of Rules of Court A. Accordingly, the Court takes formal note of the settlement and concludes that it would be appropriate to strike the case out of the list pursuant to that Rule.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English and in French, and notified in writing under Rule 55 para. 2, second sub-paragraph, of Rules of Court A on 2 September 1996.

Rolv RYSSDAL
President

Herbert PETZOLD
Registrar