



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

FIRST SECTION

**CASE OF MAJSTOROVIĆ v. CROATIA**

*(Application no. 53227/99)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

6 June 2002

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



**In the case of Majstorović v. Croatia,**

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

Mr C.L. ROZAKIS, *President*,

Mr G. BONELLO,

Mr P. LORENZEN,

Mrs N. VAJIĆ,

Mrs S. BOTOUCHAROVA,

Mr V. ZAGREBELSKY,

Mrs E. STEINER, *judges*,

and Mr S. NIELSEN, *Deputy Section Registrar*,

Having deliberated in private on 16 May 2002,

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

**PROCEDURE**

1. The case originated in an application (no. 53227/99) against the Republic of Croatia lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Croatian citizen, Mr Vinko Majstorović (“the applicant”), on 19 April 1997.

2. The applicant was represented by Mr Zvonko Nogolica, a lawyer practising in Zagreb. The Croatian Government (“the Government”) were represented by their Agent, Ms Lidija Lukina-Karajković.

3. The applicant complained, *inter alia*, under Article 6 § 1 of the Convention about the length of a set of civil proceedings. He also complained under Article 13 of the Convention that he had no effective remedy at his disposal in respect of the length of these proceedings.

4. The case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention.

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed First Section.

6. On 6 December 2001, after obtaining the parties’ observations, the Court declared the application admissible in so far as the above complaints are concerned. Further complaints of the applicant had been declared inadmissible on 25 May 2000.

7. On 11 December 2001, 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 2 and on 4 April 2002 the applicant and the Government

respectively submitted formal declarations accepting a friendly settlement of the case.

## THE FACTS

8. The applicant was born in 1940 and lives in Zagreb.

9. On 10 December 1992 the applicant lent 20,000 German Marks (DEM) to V.M.M., a company in Zagreb, for a period of three months at a rate of interest of 20 %.

10. As the company failed to comply with its obligations under the contract, on 15 October 1993 the applicant, together with 10 other plaintiffs, instituted civil proceedings in the Zagreb Municipal Court seeking repayment of the loan from B.J., the owner of the company.

11. According to the Government the applicant, as well as the other plaintiffs in the same proceedings, did not pay the court fees nor did he submit a request for exemption from the payment of the fees. Thus, he prevented the Zagreb Municipal Court from proceeding with the case.

12. According to the applicant, he was not due to pay the court fees since the Act regulating court fees came into force on 28 September 1995 while his claim had been filed almost two years earlier.

13. The Zagreb Municipal Court scheduled a hearing on the merits for 12 July 2001 but it was adjourned because the applicant's counsel did not appear. He also informed the court that he had ceased to represent the applicant.

14. The next hearing scheduled for 26 July 2001 was adjourned because the applicant did not appear. The notice of the hearing date was sent to him by registered mail and the postal receipt showed that he had failed to collect the notice. The court severed the proceedings in respect of each plaintiff.

15. The proceedings are pending before the court of first instance.

## THE LAW

16. On 4 April 2002 the Court received the following declaration from the Government:

“I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of Croatia offer to pay EUR 2,500 to Mr Vinko Majstorović. This sum is to cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable within three months from the date of delivery of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention.”

17. On 2 April 2002 the Court received the following declaration signed by the applicant’s representative:

“I note that the Government of Croatia are prepared to pay the sum of EUR 2,500 covering pecuniary and non-pecuniary damage and costs to Mr Vinko Majstorović with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

I accept the proposal and waive any further claims against Croatia in respect of the facts of this application. I declare that this constitutes a final settlement of the case.

This declaration is made in the context of a friendly settlement which the Government and the applicant have reached.

I further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court’s judgment.”

18. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It also takes note of the fact that on 15 March 2002 the Constitutional Act on the Constitutional Court was amended to the effect that a new provision (Section 59 (a)) was introduced allowing individuals to bring a constitutional complaint alleging that proceedings, to which Article 6 § 1 of the Convention would apply, have lasted unreasonably long and to obtain just satisfaction in case the Constitutional Court accepts the complaint. In these circumstances the Court 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).

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

## FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
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 6 June 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN  
Deputy Registrar

Christos ROZAKIS  
President