



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

FIRST SECTION

CASE OF BUBAŠ v. CROATIA

(Application no. 15308/02)

JUDGMENT
(Friendly settlement)

STRASBOURG

21 October 2004

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

In the case of Bubaš v. Croatia,

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

Mr C.L. ROZAKIS, *President*,

Mr P. LORENZEN,

Mr G. BONELLO,

Mrs F. TULKENS,

Mrs N. VAJIĆ,

Mrs S. BOTOCHAROVA,

Mrs E. STEINER, *judges*,

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

Having deliberated in private on 30 September 2004,

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

PROCEDURE

1. The case originated in an application (no. 15308/02) against the Republic of Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Croatian national, Mr Josip Bubaš (“the applicant”), on 19 February 2002.

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

3. The applicants complained that the enactment of the Amendments to the Civil Obligations Act in 1996 violated his rights of access to court and his right to an effective remedy guaranteed by Article 6 § 1 and Article 13 of the Convention.

4. By a decision of 29 January 2004 the Court declared the applicant’s complaints admissible.

5. On 10 May 2004 and on 21 June 2004 the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1924 and lives in Vinkovci.

7. On 12 April 1993 the applicant’s house in Lički Novi was blown up by unknown perpetrators.

8. On 11 April 1995 the applicant instituted civil proceedings before the Zagreb Municipal Court (*Općinski sud u Zagrebu*), seeking damages from the Republic of Croatia for his damaged property.

9. On 17 January 1996 Parliament introduced an amendment to the Civil Obligations Act (*Zakon o obveznim odnosima*) which provided that all proceedings concerning actions for damages resulting from terrorist acts were to be stayed, pending the enactment of new legislation. Before the enactment of such new legislation damages for terrorist acts could not be sought.

10. On 5 October 1999 the Zagreb Municipal Court stayed the proceedings.

11. On 14 July 2003 Parliament passed the Act on Liability for Damage Resulting from Terrorist Acts and Public Demonstrations (*Zakon o odgovornosti za štetu nastalu uslijed terorističkih akata i javnih demonstracija*, Official Gazette no. 117/2003 of 23 July 2003).

THE LAW

12. On 10 May 2004 the Court received the following declaration on the Government's behalf:

"I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of Croatia offer to pay *ex gratia* EUR 6,000 to Mr Josip Bubaš. This sum is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, converted into the national currency on the date of payment and free of any taxes that may be applicable. It will be payable within three months from the date of delivery of the judgment by the Court pursuant to the Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

In the event of failure to pay this sum within the said three-month period, the Government undertake to pay, until settlement, simple interest on the amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

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

13. On 21 June 2004 the Court received the following declaration signed by the applicant's representative:

"I note that the Government of Croatia are prepared to pay *ex gratia* the sum of EUR 6,000 covering pecuniary and non-pecuniary damage as well as costs and expenses, converted into national currency on the date of payment and free of any taxes that may be applicable, to Mr Josip Bubaš with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

The applicant accepts the proposal and waives any further claims against Croatia in respect of the facts of this application. The applicant declares 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. The applicant further undertakes not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court's judgment."

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 its list of cases.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case 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 21 October 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago QUESADA
Deputy Registrar

Christos ROZAKIS
President