



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

SECOND SECTION

**CASE OF HUTTEN v. THE NETHERLANDS**

*(Application no. 56698/00)*

JUDGMENT  
(Friendly settlement)

STRASBOURG

26 October 2004

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



**In the case of Hutten v. the Netherlands,**

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

Mr A.B. BAKA, *President*,

Mr G. BONELLO,

Mr L. LOUCAIDES,

Mr K. JUNGWIERT,

Mrs W. THOMASSEN,

Mr M. UGREKHELIDZE,

Mrs A. MULARONI, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 5 October 2004,

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

**PROCEDURE**

1. The case originated in an application (no. 56698/00) against the Kingdom of the Netherlands lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Netherlands national, Mr B.J.M. Hutten (“the applicant”), on 2 February 2000.

2. The applicant was initially represented by Mr G.W.H.J. de Koning and, as from 5 August 2004, by Mr J.H. Meijer, both lawyers practising in Apeldoorn. The Netherlands Government (“the Government”) were represented by their Agent, Mr R.A.A. Böcker, of the Netherlands Ministry of Foreign Affairs.

3. The applicant complained under Article 6 § 1 of the Convention that the proceedings on his compensation request had exceeded a reasonable time.

4. The application was allocated to the Second Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. The Court began its examination of the admissibility of the application on 14 February 2003 and decided, under Rule 54 § 2 (b) of the Rules of Court, that notice of the application should be given to the Government, and that the Government should be invited to submit written observations on the application.

6. On 11 May 2004, having obtained the parties' observations, the Court declared the application admissible.

7. On 6 July 2004 the Agent of the Government informed the Court that the parties had agreed to a friendly settlement of the case. On 9 August 2004

the Court received a declaration signed by both parties setting out the terms of the settlement.

## THE FACTS

8. The applicant was born in 1947 and lives in Wilp.

9. On 17 December 1991, the applicant filed a request with the Voorst Municipal Council (*gemeenteraad*) for compensation under Article 49 of the Town and Country Planning Act (*Wet op de Ruimtelijke Ordening*) for damage caused by a partial revision of a zoning plan relating to land owned by him.

10. This request was rejected by the Municipal Council on 27 January 1992. On 26 September 1994 the Administrative Jurisdiction Division quashed that decision, considering that the Municipal Council had unjustly failed to seek the opinion of an independent expert before determining the applicant's request, and it issued an order for costs against the Voorst municipal authorities.

11. On 24 July 1995 the municipal authorities again refused the applicant compensation, after having consulted various experts.

12. The applicant filed an objection (*bezwaar*) with the Municipal Council, which was heard before the Commission for Appeals and Objections (*Commissie voor de bezwaar- en beroepsschriften*) on 31 October 1995.

13. By decision of 18 December 1995, in accordance with the advice given on 8 November 1995 by the Commission for Appeals and Objections, the Municipal Council rejected the applicant's objection as ill-founded. The applicant, who was informed of this decision on 29 December 1995, filed an appeal with the Zutphen Regional Court (*arrondissementsrechtbank*) on 8 February 1996.

14. On 27 November 1997, after two rounds of written submissions by the parties, a hearing was held before the Regional Court. In its judgment of 12 January 1998, the Regional Court rejected the applicant's appeal.

15. On 20 February 1998, the applicant filed an appeal with the Administrative Jurisdiction Division. In its decision of 3 August 1999, following a hearing held on 7 December 1998, the Administrative Jurisdiction Division accepted the applicant's appeal. It found that the decision of 18 December 1995 had not been duly reasoned. Consequently, it quashed the judgment of 12 January 1998, admitted the applicant's appeal against the decision of 18 December 1995, quashed the latter decision, ordered the Municipal Council to take a new decision with due regard to the considerations of the Administrative Jurisdiction Division, and issued an order for costs against the Voorst municipal authorities.

16. As from 3 August 1999, the applicant and the municipal authorities examined the possibility of reaching a friendly settlement, but failed to reach an agreement.

17. In an undated decision received by the applicant's lawyer on 21 September 2001, the Municipal Council awarded the applicant compensation in an amount of 11,218.14 euros, and ordered that interest be payable on this sum as from the date of filing of the applicant's compensation request. The Municipal Council rejected the remainder of the applicant's claim.

18. On 30 October 2001, the applicant filed an appeal against this decision with the Zutphen Regional Court, which rejected it on 20 January 2003. On 27 February 2003, the applicant filed an appeal with the Administrative Jurisdiction Division.

## THE LAW

19. On 9 August 2004 the Court received the following declaration from the parties:

“The Government of the Netherlands (“the Government”) and Mr Bernardus J.M. Hutten (“the applicant”) have now reached the following agreement in full and final settlement of the applicant's claim in order to terminate the proceedings before the European Court of Human Rights (“the Court”).

1. The Government will pay the applicant the total amount of € 6,000 (six thousand euros) on an *ex gratia* basis;

2. The applicant undertakes to withdraw his application to Court and declares, subject to the fulfilment of what is stated under (1), that he has no further claims against the State of the Netherlands based on the facts of the application filed by him, and therefore will not take further legal actions on this matter before national courts or international tribunals.

This settlement can in no way be interpreted as a recognition on behalf of the Government that a violation of the provision of the Convention invoked by the applicants has occurred.

This settlement will constitute the final resolution of the case. The Government and the applicant further undertake not to request the referral of the case to the Grand Chamber under Article 43, paragraph 1, of the Convention.”

20. 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).

21. 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 26 October 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ  
Registrar

A.B. BAKA  
President