



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

FIRST SECTION

CASE OF KOSTIĆ v. CROATIA

(Application no. 69265/01)

JUDGMENT
(Friendly settlement)

STRASBOURG

18 November 2004

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

In the case of Kostić v. Croatia,

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

Mr C.L. ROZAKIS, *President*,

Mr P. LORENZEN,

Mrs F. TULKENS,

Mrs N. VAJIĆ,

Mrs S. BOTOUCHAROVA,

Mr A. KOVLER,

Mr K. HAJIYEV, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 28 October 2004,

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

PROCEDURE

1. The case originated in an application (no. 69265/01) 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 Miodrag Kostić (“the applicant”), on 2 May 2001. The respondent Government were represented by their Agent, Ms L. Lukina-Karajković.

2. The applicant complained *inter alia* that he had been prevented from repossessing his house for a long period of time, which amounted to a breach of Article 1 of Protocol No. 1 to the Convention.

3. By a decision of 8 January 2004 the Court declared the application partly admissible.

4. On 25 May 2004 and 1 June 2004, respectively, the Government and the applicant submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

5. The applicant, who was born in 1936, lives in Petrinja, Croatia.

6. The applicant was the owner of a house in Petrinja where he had lived until August 1995 when he left Croatia due to military actions in that area.

7. On 23 September 1995 Parliament enacted a law providing that the property of persons who left Croatia was to be taken into possession of the State. It also entitled the local authorities temporarily to accommodate refugees and displaced persons in such property.

8. On 24 March 1997 the Petrinja local authorities gave the applicant's house to Z.L. and M.L. ("the occupants") for temporary use because their house had been destroyed during the war.

9. On 10 June 1998 the applicant obtained a judgment from the Petrinja Municipal Court (*Općinski sud u Petrinji*) ordering the occupants to vacate his house within fifteen days. The judgment became final on 30 September 1998 when the Sisak County Court (*Županijski sud u Sisku*) dismissed the occupants' appeal and upheld the first-instance judgment.

10. Since the occupants refused to vacate the applicant's house, on 24 November 1998 the applicant applied for the enforcement of the above judgment to the Petrinja Municipal Court. On 7 December 1998 the court issued an eviction order.

11. However, pursuant to the laws in force, the eviction order could not be carried out until the State secured alternative accommodation for the occupants. The court repeatedly requested the local authorities to find temporary accommodation for the occupants and enquired with the competent Ministry on the state of repair of their house. The local authorities informed the court that they were unable to find accommodation for the occupants.

12. On 28 June 2001 the competent Ministry informed the court that the reconstruction of the occupants' house was completed.

13. On 8 November 2001 the occupants vacated the applicant's house. On 12 November 2001 the applicant repossessed the house.

THE LAW

14. On 25 May 2004 the Court received the following declaration from the Government:

"I declare that the Government of Croatia offer to pay *ex gratia* EUR 11,000 to Mr Miodrag Kostić with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, and it will be payable within three months from the date of notification of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The 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."

15. On 1 June 2004 the Court received the following declaration signed by the applicant:

“I note that the Government of Croatia are prepared to pay me *ex gratia* the sum of EUR 11,000 with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum is to cover any pecuniary and non-pecuniary damage as well as costs and expenses and will be payable within three months from the date of notification of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

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 resolution of the case.

This declaration is made in the context of a friendly settlement which the Government and I 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 delivery of the Court’s judgment.”

16. 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).

17. 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 18 November 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President