



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

FIRST SECTION

CASE OF ANDRIĆ v. CROATIA

(Application no. 9707/02)

JUDGMENT
(Friendly Settlement)

STRASBOURG

17 November 2005

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

In the case of Andrić 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 N. VAJIĆ,

Mrs S. BOTOUCHAROVA,

Mr A. KOVLER,

Mrs E. STEINER,

Mr K. HAJIYEV, *judges*,

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

Having deliberated in private on 25 October 2005,

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

PROCEDURE

1. The case originated in an application (no. 9707/02) 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 Dragoslav Andrić (“the applicant”), on 7 February 2002.

2. The applicant was represented by Mr M. Mihočević, a lawyer practising in Zagreb. The Croatian Government (“the Government”) were represented by successive agents: Ms L. Lukina-Karajković, Agent, Mr D. Maričić, Co-Agent, and, subsequently, Ms Š. Stažnik, Agent.

3. The applicant complained that his right of access to court guaranteed by Article 6 § 1 of the Convention and his right to an effective remedy guaranteed by Article 13 of the Convention were violated as a consequence of the Civil Obligations (Amendments) Act 1996.

4. By a decision of 19 May 2005 the Court declared the applicant’s complaints admissible.

5. On 13 July and on 24 August 2005 the applicant and the Government, respectively, submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1934 and lives in Križevci, Croatia.

7. On 4 February 1992 the applicant’s house in Bjelovar was blown up by unknown perpetrators.

8. On 29 January 1997 he instituted civil proceedings before the Zagreb Municipal Court (*Općinski sud u Zagrebu*) seeking damages from the State for his damaged property.

9. Pursuant to the Civil Obligations (Amendments) Act 1996 (*Zakon o izmjeni Zakona o obveznim odnosima*), the Zagreb Municipal Court stayed the proceedings on 16 September 1999.

10. On 26 November 2002 the applicant filed a constitutional complaint under section 63 of the Constitutional Act on the Constitutional Court (*Ustavni zakon o Ustavnom sudu Republike Hrvatske*) complaining about the stay on his proceedings. It would appear that the proceedings before the Constitutional Court are still pending.

11. The proceedings before the Zagreb Municipal Court resumed on 25 November 2003 pursuant to the “Damage from Terrorist Acts and Public Demonstrations Act 2003” (*Zakon o odgovornosti za štetu nastalu uslijed terorističkih akata i javnih demonstracija*).

12. On 8 December 2003 the Zagreb Municipal Court decided that it lacked jurisdiction to hear the case and dismissed his claim accordingly. The applicant appealed to the Zagreb County Court (*Županijski sud u Zagrebu*) where the case is apparently still pending.

THE LAW

13. On 13 July 2005 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 6,000 euros to Mr Dragoslav Andrić 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 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 delivery of the Court’s judgment.”

14. On 24 August 2005 the Court received the following declaration from the Government:

“I declare that the Government of Croatia offer to pay *ex gratia* 6,000 euros to Mr Dragoslav Andrić 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. 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).

16. 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 17 November 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago QUESADA
Deputy Registrar

Christos ROZAKIS
President