



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

FOURTH SECTION

CASE OF PRODAN v. MOLDOVA

(Application no. 49806/99)

JUDGMENT
(Striking out)

STRASBOURG

25 April 2006

FINAL

25/07/2006

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Prodan v. Moldova,

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

Sir Nicolas BRATZA, *President*,

Mr J. CASADEVALL,

Mr G. BONELLO,

Mr R. MARUSTE,

Mr S. PAVLOVSKI,

Mr L. GARLICKI,

Mr J. BORREGO BORREGO, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 28 March 2006,

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

PROCEDURE

1. The case originated in an application (no. 49806/99) against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Moldovan national, Mrs Tatiana Prodan, on 5 January 1999.

2. In a judgment delivered on 18 May 2004 ("the principal judgment"), the Court held that there had been a violation of the applicant's rights provided by Article 6 § 1 and Article 1 of Protocol No. 1 to the Convention on the account of non-execution of the judgments of 14 March 1997 and 3 October 2000 (see *Prodan v. Moldova*, no. 49806/99, ECHR 2004-III (extracts)).

3. Under Article 41 of the Convention the applicant sought just satisfaction of 98,419.91 euros (EUR).

4. Since the question of the application of Article 41 of the Convention concerning the continuing failure to restore apartment no. 8 to the applicant was not ready for decision, the Court reserved it and invited the Government and the applicant to submit, within three months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach.

THE FACTS

5. On 18 May 2004 the Court adopted the principal judgment in which it made awards under Article 41 to cover the pecuniary (lack of use of

property) and non-pecuniary damage suffered by the applicant to that date. The only part left open was the question of restitution of apartment no. 8.

6. In the meantime, on 6 May 2004, the applicant concluded a friendly settlement agreement with the Chişinău Municipal Council concerning the restitution of apartment no. 8. The parties agreed that in lieu of the apartment, the applicant was to be paid its market value of 510,000 Moldovan lei (the equivalent of EUR 36,470 at the time).

7. The money was paid to the applicant on 24 May 2004.

THE LAW

8. In view of the payment of the market value of apartment no. 8 to the applicant, the Government asked the Court to strike the case out of its list of cases.

9. The applicant disagreed and argued that the friendly settlement concluded with the Chişinău Municipal Council on 6 May 2004 did not constitute an acknowledgment by the Government of a violation and that no pecuniary and non-pecuniary damage was paid to her by the former in respect of apartment no. 8.

10. The Court notes that in the principal judgment a violation was found also in respect of apartment no. 8. It also notes that the pecuniary and non-pecuniary damage awarded was intended to cover *inter alia* the loss suffered as a result of lack of use of apartment no. 8 until the date of the principal judgment. Since the applicant was paid the value of that apartment six days later, the Court considers that it is no longer justified to continue the examination of the application under Article 37 § 1 (c) of the Convention. It is satisfied, having regard to the circumstances of the case, that respect for human rights does not require the continued examination of the application. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the application out of the list in accordance with Article 37 § 1 (c) of the Convention.

Done in English, and notified in writing on 25 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President