



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

THIRD SECTION

DECISION

Application no. 52269/11
E.M.S.
against the Netherlands

The European Court of Human Rights (Third Section), sitting on 26 March 2013 as a Committee composed of:

Alvina Gyulumyan, *President*,

Kristina Pardalos,

Johannes Silvis, *judges*,

and Marialena Tsirli, *Deputy Section Registrar*,

Having regard to the above application lodged on 16 August 2011,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr E.M.S., is a Dutch national, who was born in 1991 and lives in Almere. The President decided on 11 July 2012 that the applicant's identity would not to be disclosed to the public (Rule 47 § 3). He was represented before the Court by Ms E.C. Cerezo-Weijsenfeld, a lawyer practising in Haarlem.

The Dutch Government ("the Government") were represented by their Agent, Mr R.A.A. Böcker, of the Ministry of Foreign Affairs.

The applicant complained under Article 5 § 1 (d) of the Convention about his having been placed, as a minor and on the basis of an order issued by a civil court, in a custodial institution for juveniles for almost twelve months, awaiting placement in a suitable facility, and without receiving

treatment. He further complained under Article 5 § 5 that he had no enforceable right to compensation for the time he spent in the aforementioned facility.

On 15 and 26 February 2013 the Court received friendly settlement declarations signed by the parties under which the applicant agreed to waive any further claims against the Netherlands in respect of the facts giving rise to this application against an undertaking by the Government to pay him 3,675 euro to cover any non-pecuniary damage, plus any tax that may be chargeable, which amount will be payable within three months from the date of notification of the decision taken by the Court. This amount did not cover costs and expenses, in view of the fact that the applicant had already been provided with State-sponsored legal aid (*toevoeging*). In the event of failure to pay this sum within the said three-month period, the Government undertook to pay simple interest on it, from the 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 LAW

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application. In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases in accordance with Article 39 of the Convention.

Marialena Tsirli
Deputy Registrar

Alvina Gyulumyan
President