EUROPEAN COURT OF HUMAN RIGHTS

129
8.3.2006

Press release issued by the Registrar

GRAND CHAMBER JUDGMENT
BLEČIĆ v. CROATIA

The European Court of Human Rights has today delivered at a public hearing its Grand Chamber judgment[1] in the case of ***Blečić v. Croatia*** (application no. 59532/00).

The Court held by 11 votes to six that it was unable to take cognisance of the merits of the application as it fell outside the Court's temporal jurisdiction. (The judgment is available in English and French.)

1. Principal facts

The applicant, Krstina Blečić, is a Croatian national aged 79 who currently lives in Rome.

In 1953 the applicant acquired a specially protected tenancy (*stanarsko pravo*) of a flat in Zadar.

On 26 July 1991 she went to stay with her daughter in Rome for the summer, locking her flat, with all the furniture and personal belongings in it, and asking a neighbour to pay the bills in her absence and to take care of the flat.

From 15 September 1991 the town of Zadar was exposed to constant shelling and the supply of electricity and water was disrupted for over 100 days. In October 1991 the applicant's pension was stopped. She therefore decided to stay in Rome.

In November 1991 a certain M.F., with his wife and two children, broke into and occupied the applicant's flat in Zadar.

On 12 February 1992 the Zadar Municipality (*Općina Zadar*) brought a civil action against the applicant for termination of her tenancy, on the ground that she had been absent from the flat for more than six months without justification.

The applicant claimed that she had not been able to return to Zadar given the war in Croatia and because she had no money and was in poor health. When she had enquired about her flat and her possessions, M.F. had also threatened her over the telephone.

On 18 January 1994 the Zadar Municipal Court terminated the applicant's specially protected tenancy, finding that the reasons she had given did not justify her absence. After being reversed by the Zadar County Court this judgment became final on 15 February 1996, on which date the Supreme Court reversed the County Court's decision.

---

[1] Grand Chamber judgments are final (Article 44 of the Convention).

The Constitutional Court dismissed an appeal by the applicant on 8 November 1999.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 6 May 2000 and declared admissible on 30 January 2003. In a judgment of 29 July 2004 (see press release no. 387 of 2004) the Court held that there had been no violation of Article 8 of the European Convention on Human Rights (right to respect for home) or Article 1 of Protocol No. 1 thereto (protection of property).

On 27 October 2004 the applicant requested that the case be referred to the Grand Chamber and on 15 December 2004 the panel of the Grand Chamber accepted that request. A Grand Chamber hearing took place in public in the Human Rights Building, Strasbourg, on 14 September 2005.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Luzius **Wildhaber** (Swiss), ***President***,
Christos **Rozakis** (Greek),
Jean-Paul **Costa** (French),
Nicolas **Bratza** (British),
Boštjan M. **Zupančič** (Slovenian),
Lucius **Caflisch** (Swiss)[1],
Loukis **Loucaides** (Cypriot),
Ireneu **Cabral Barreto** (Portuguese),
Corneliu **Bîrsan** (Romanian),
Nina **Vajić** (Croatian),
John **Hedigan** (Irish),
Mindia **Ugrekhelidze** (Georgian),
Antonella **Mularoni** (San Marinese),
Stanislav **Pavlovschi** (Moldovan),
Lech **Garlicki** (Polish),
Renate **Jaeger** (German),
David Thór **Björgvinsson** (Icelandic), ***judges***,

and also Lawrence **Early**, ***Deputy Grand Chamber Registrar***.

3. Summary of the judgment[2]

Complaints

Relying on Article 8 of the Convention (right to respect for one's home) and Article 1 of Protocol No. 1 (protection of property), the applicant alleged that her rights to respect for her home and to the peaceful enjoyment of her possessions had been infringed.

---

[1] Judge elected in respect of Liechtenstein.
[2] This summary by the Registry does not bind the Court.

Decision of the Court

The Court noted that the Croatian Government had raised in particular a preliminary objection concerning the Court's lack of temporal jurisdiction.

In that connection the Court noted that when Croatia ratified the Convention on 5 November 1997 it had recognised the Convention institutions' competence to examine any individual petitions based on facts occurring after the Convention and its Protocols came into force in respect of Croatia.

Accordingly, the Court was not competent to examine applications against Croatia in so far as the alleged violations were based on facts having occurred before the date of ratification. However, difficulties arose where, as in the present case, the facts relied on fell partly within and partly outside the period of the Court's competence.

The Court further observed that, while it was true that from the ratification date onwards all of the State's acts and omissions must conform to the Convention, the Convention imposed no specific obligation on the Contracting States to provide redress for wrongs or damage caused prior to that date

In the present case the Court accepted that the termination of the applicant's tenancy had been the fact constitutive of the alleged interference, but it remained to be determined when the termination had occurred. In that connection, the Court noted that the judgment by which the tenancy was terminated had become final on 15 February 1996 when the Supreme Court reversed the County Court's judgment. It had therefore been at that moment that the applicant lost her tenancy. It followed that the alleged interference with the applicant's rights lay in the Supreme Court's judgment of 15 February 1996. The subsequent Constitutional Court decision only resulted in allowing the interference allegedly caused by that judgment – a definitive act which was by itself capable of violating the applicant's rights – to subsist. The Constitutional Court decision, as it stood, did not constitute the interference.

Consequently, regard being had to the date of the Supreme Court's judgment, the interference fell outside the Court's temporal jurisdiction.

Judge Loucaides expressed a dissenting opinion joined by Judges Rozakis, Zupančič, Cabral Barreto, Pavlovschi and Thòr Björgvinsson. Judge Zupančič expressed a dissenting opinion joined by Judge Cabral Barreto. Judge Cabral Barreto expressed a dissenting opinion. The texts are annexed to the judgment.

***

The Court's judgments are accessible on its Internet site (http://www.echr.coe.int).

Registry of the European Court of Human Rights
F – 67075 Strasbourg Cedex
Press contacts: Roderick Liddell (telephone: +00 33 (0)3 88 41 24 92)
Emma Hellyer (telephone: +00 33 (0)3 90 21 42 15)
Stéphanie Klein (telephone: +00 33 (0)3 88 41 21 54)

Beverley Jacobs (telephone: +00 33 (0)3 90 21 54 21)
Fax: +00 33 (0)3 88 41 27 91

The European Court of Human Rights *was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights. Since 1 November 1998 it has sat as a full-time Court composed of an equal number of judges to that of the States party to the Convention. The Court examines the admissibility and merits of applications submitted to it. It sits in Chambers of 7 judges or, in exceptional cases, as a Grand Chamber of 17 judges. The Committee of Ministers of the Council of Europe supervises the execution of the Court's judgments. More detailed information about the Court and its activities can be found on its Internet site.*