CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 17343/02
by Zorka and Siniša AMANOVIĆ
against Croatia

The European Court of Human Rights (First Section), sitting on 3 May 2005 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mr L. LOUCAIDES,
Mr P. LORENZEN,
Mrs N. VAJIĆ,
Mr A. KOVLER,
Mrs E. STEINER,
Mr K. HAJIYEV, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 9 March 2002,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicants, Ms Zorka Amanović and Mr Siniša Amanović were born in 1942 and 1950, respectively, and live in Vienna, Austria. They were represented before the Court by Mr I. Šalina, a lawyer practising in Zadar, Croatia. The respondent Government were represented by succesive agents: Ms L. Lukina-Karajković, Agent, Mr D. Maričić, Co-Agent, and, subsequently, Ms Š. Stažnik, Agent.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

The applicants lived in Zadar, Croatia, until 19 December 1991. Soon after they had left Zadar, their house was looted and set on fire by unknown perpetrators.

On 16 December 1994 the applicants instituted civil proceedings before the Zadar Municipal Court (*Općinski sud u Zadru*) seeking damages from the local authorities in Zadar and from the Republic of Croatia for their destroyed property.

Pursuant to the Civil Obligations (Amendments) Act 1996 (*Zakon o izmjeni Zakona o obveznim odnosima*), the Zadar Municipal Court stayed the proceedings on 8 February 2002.

The proceedings resumed on 22 March 2004 pursuant to the "Damage from Terrorist Acts and Public Demonstrations Act 2003" (*Zakon o odgovornosti za štetu nastalu uslijed terorističkih akata i javnih demonstracija*). It is not known whether the case is still pending.

B. Relevant domestic law

The relevant part of the Civil Obligations Act (*Zakon o obveznim odnosima,* Official Gazette nos. 53/1991, 73/1991, 3/1994, 7/1996 and 112/1999) read as follows:

Section 180 (1)

> "Responsibility for loss caused by death or bodily injury or by damage or destruction of another's property, when it results from violent acts or terror or from public demonstrations or manifestations, lies with the ... authority whose officers were under a duty, according to the laws in force, to prevent such loss."

The Civil Obligations (Amendments) Act 1996 (*Zakon o izmjeni Zakona o obveznim odnosima*, Official Gazette no. 7/1996, hereinafter "the 1996 Act") entered into force on 3 February 1996. The relevant parts of that Act read as follows:

Section 1

"Section 180 of the Civil Obligations Act ... shall be repealed."

Section 2

"Proceedings for damages instituted under section 180 of the Civil Obligations Act shall be stayed.

The proceedings referred to in sub-section 1 of this section shall resume after the enactment of special legislation governing responsibility for damage resulting from terrorist acts."

The relevant part of the Civil Procedure Act (*Zakon o parničnom postupku*, Official Gazette nos. 53/1991, 91/1992, 112/1999 and 117/2003) provides:

Section 212

"Proceedings shall be stayed:

...

(6) where another statute so prescribes."

The "Damage from Terrorist Acts and Public Demonstrations Act 2003" (*Zakon o odgovornosti za štetu nastalu uslijed terorističkih akata i javnih demonstracija*, Official Gazette no. 117/2003) entered into force on 31 July 2003. It provides that proceedings which were stayed pursuant to the 1996 Act will resume and defines circumstances in which the Republic of Croatia is liable for damage resulting from terrorist acts and public demonstrations.

COMPLAINT

The applicants complained that the enactment of the 1996 Act violated their right of access to court guaranteed by Article 6 § 1 of the Convention.

THE LAW

On 16 February 2004 the Court decided that notice of the application should be given to the respondent Government and that that Government should be invited to submit written observations on the admissibility and merits of the case. On 25 August 2004 the Government's observations were transmitted to the applicants' legal representative who was invited to submit observations by 27 September 2004.

Having received no reply, by a registered letter of 20 December 2004, the Court reminded the applicants' legal representative that the observations had not been submitted and that no extension of the time-limit had been requested. He was also warned that the Court might strike the case out of its list of cases if it considered that the applicants did not intend to pursue the application. The Court sent a copy of that letter to the applicants. Neither the applicants' legal representative, who received the said letter on 28 December 2004, nor the applicants replied.

In the light of the above, in accordance with Article 37 § 1 (a) of the Convention, the Court now considers that the applicants do not intend to pursue the application. Furthermore, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and the Protocols thereto which require the continuation of the examination of the application.

For these reasons, the Court unanimously

Decides to discontinue the application of Article 29 § 3 of the Convention and to strike the application out of its list of cases.

Søren NIELSEN
Registrar

Christos ROZAKIS
President