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

THIRD SECTION

DECISION

Application no. 70043/13
Mark BALLEGEER
against the Netherlands

The European Court of Human Rights (Third Section), sitting on 21 November 2017 as a Committee composed of:

Luis López Guerra, *President,*
Dmitry Dedov,
Jolien Schukking, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 1 November 2013,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr M. Ballegeer, is a Dutch national, who was born in 1982 and lives in Poortugaal. He was represented before the Court by Mr H.M. Dunsbergen, a lawyer practising in Breda.

The Dutch Government ("the Government") were represented by their Agent, Ms B. Koopman, of the Ministry of Foreign Affairs.

The applicant complained under Article 5 § 1 of the Convention that the extension of his TBS order (placement at the disposal of the Government (*terbeschikkingstelling*)), after it had already expired, was not in accordance with the procedure prescribed by Articles 509o and 509oa of the Code of Criminal Procedure.

On 5 and 20 September 2017 the Court received friendly settlement declarations signed by the parties under which the applicant agreed to waive any further claims against the Netherlands related to the substance of the application, either under domestic or international law, against an

undertaking by the Government to pay him *ex gratia* 24,524.28 euros (EUR) as well as an amount of EUR 4,500 for reimbursement of the costs for legal assistance. These sums will be payable within three months from the date of notification of the decision taken by the Court. In the event of failure to pay these sums within the said three-month period, the Government undertook to pay simple interest on them, 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.

Done in English and notified in writing on 14 December 2017.

Fatoş Aracı
Deputy Registrar

Luis López Guerra
President