CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 6013/03
by Dragan BEKIĆ
against Croatia

The European Court of Human Rights (First Section), sitting on 16 June 2005 as a Chamber composed of

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

Having regard to the above application lodged on 28 January 2003,

Having regard to the decision to apply the procedure under Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

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

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Dragan Bekić, is a Croatian national, who was born in 1967 and lives in Zagreb. He is represented before the Court by Mr B. Spiz, a lawyer practising in Zagreb.

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

On 21 November 1995 the applicant brought a civil action in the Zagreb Municipal Court (*Općinski sud u Zagrebu*) against the State seeking non-pecuniary damages for injuries sustained in a traffic accident involving a military vehicle.

On 18 June 1999 the court gave judgment and accepted the applicant's claim.

On 6 November 1999 the Amendments to the Civil Obligations Act ("the 1999 Amendments") entered into force. The amended legislation provided that all proceedings instituted against the State for damage caused by members of the Croatian Army and police in the performance of their official duties during the Homeland War in Croatia were to be stayed.

On 20 December 1999 the State appealed against the judgment to the Zagreb County Court (*Županijski sud u Zagrebu*).

On 22 January 2002 the County Court returned the case file to the Municipal Court with a view to staying the proceedings pursuant to the above amendments.

Being unaware that the case-file had been returned to the Municipal Court, on 6 May 2002 the applicant requested the County Court to deliver a decision on the appeal.

On 23 July 2002 the Zagreb Municipal Court stayed the proceedings.

Meanwhile, on 3 June 2002 the applicant filed a constitutional complaint concerning the failure of the County Court to deliver a decision on the appeal within a reasonable time.

On 22 November 2002 the Constitutional Court dismissed the applicant's complaint. It found that the County Court had acted in accordance with the relevant substantive and procedural law when it had decided to return the case file to the first-instance court.

On 31 July 2003 new legislation on the liability of the State for damage caused by members of the Croatian Army and police in the performance of their official duties during the Homeland War entered into force ("the 2003 Liability Act").

On 12 January 2004 the Municipal Court, pursuant to the 2003 Liability Act, resumed the proceedings and forwarded the case-file to the County Court.

On 24 February 2004 the County Court partly upheld and partly reversed the first instance judgment, which thereby became final.

COMPLAINTS

The applicant complained under Article 6 § 1 of the Convention that the enactment of the 1999 Amendments and the prolonged stay of the proceedings had violated his right of access to a court.

He also complained under Article 13 of the Convention that he had not had an effective remedy at his disposal in respect of his Article 6 complaint.

THE LAW

By letter of 31 March 2005 the Government informed the Court that they accepted the proposal for a friendly settlement and that the Government would pay the applicant 6,000 euros in full and final settlement of the applicant's claim under the Convention, costs and expenses included.

On 18 April 2005 the applicant's representative informed the Court that the parties had reached a settlement whereby the applicant waived any further claims against Croatia in respect of the facts of the present application.

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 (Article 37 § 1 *in fine* of the Convention). Accordingly, Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Santiago QUESADA
Deputy Registrar

Christos ROZAKIS
President