CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 12840/02
by Lokman BEŠOVIĆ
against Croatia

The European Court of Human Rights (First Section), sitting on 30 September 2004 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mr P. LORENZEN,
Mr G. BONELLO,
Mrs F. TULKENS,
Mrs N. VAJIĆ,
Mrs E. STEINER,
Mr K. HAJIYEV, *judges*,
and Mr S. QUESADA, *Deputy Section Registrar*,

Having regard to the above application lodged on 4 March 2002,

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

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Lokman Bešović, is a Croatian national who was born in 1938 and lives in Daruvar, Croatia. He was represented before the Court by Mr B. Spiz, a lawyer practising in Zagreb.

The respondent Government were represented by their Agent, Ms L. Lukina-Karajković.

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

On 17 June 1992 the applicant sustained injuries in a traffic accident that was allegedly caused by a member of the Croatian Army.

On 19 October 1992 the applicant instituted civil proceedings before the Zagreb Municipal Court (*Općinski sud u Zagrebu*) seeking damages from the Republic of Croatia and from an insurance company.

Pursuant to the Civil Obligations (Amendments) Act 1999 (*Zakon o dopunama Zakona o obveznim odnosima*, Official Gazette no. 112/1999 of 29 October 1999, hereinafter "the 1999 Act"), the Zagreb Municipal Court stayed the proceedings on 21 March 2003.

The proceedings resumed on 18 December 2003 pursuant to the "Damage Caused by Members of the Croatian Army and Police during the Homeland War Act 2003" (*Zakon o odgovornosti Republike Hrvatske za štetu uzrokovanu od pripadnika Hrvatskih oružanih i redarstvenih snaga tijekom Domovinskog rata*, Official Gazette no. 117/2003 of 23 July 2003).

COMPLAINTS

The applicant complained that the enactment of the 1999 Act violated his right of access to court guaranteed by Article 6 § 1 of the Convention and his right to an effective remedy guaranteed by Article 13 of the Convention.

THE LAW

On 25 March 2004 the respondent Government offered to pay to the applicant the amount of 30,000 Croatian kunas and 760 euros (the latter to be converted into Croatian kunas at the rate applicable at the date of payment). Both sums would be free of any taxes that might be applicable, would be payable within three months from the notification of the decision

of the Court accepting any settlement and no interest would be calculated during that period. The payment would constitute the final resolution of the case. On 3 June 2004 the applicant accepted that offer.

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 public policy reasons to justify a continued examination of the application (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 discontinue the application of Article 29 § 3 of the Convention; and

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

Santiago QUESADA
Deputy Registrar

Christos ROZAKIS
President