CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 32012/03
by Mario BRAJKOVIĆ
against Croatia

The European Court of Human Rights (First Section), sitting on 29 March 2007 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mrs N. VAJIĆ,
Mr A. KOVLER,
Mr K. HAJIYEV,
Mr D. SPIELMANN,
Mr S.E. JEBENS,
Mr G. MALINVERNI, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 11 September 2003,

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 formal declarations accepting a friendly settlement of the case.

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Mario Brajković, is a Croatian national who was born in 1970 and lives in Zagreb. He was represented before the Court by Mr B. Spiz, a lawyer practising in Zagreb. The Croatian Government were represented by their Agent, Mrs Š. Stažnik.

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

On 26 June 1994 the applicant sustained a severe bodily injury owing to a bomb explosion in café C. in Zagreb.

On 20 June 1994 the applicant brought a civil action against the City of Zagreb in the Zagreb Municipal Court (*Općinski sud u Zagrebu*) seeking damages.

On 3 February 1996 the Amendment to the Civil Obligations Act ("the 1996 Amendment") entered into force. It provided that all proceedings concerning actions for damages resulting from terrorist acts or acts of violence were to be stayed pending the enactment of new legislation on the subject.

On 4 January 2000 the Municipal Court stayed the proceedings pursuant to the 1996 Amendment.

On 31 July 2003 the Act on Liability for Damage Resulting from Terrorist Acts and Public Demonstrations ("the 2003 Liability Act") entered into force. It provided, *inter alia*, that all proceedings stayed pursuant to the 1996 Amendment were to be resumed.

Pursuant to the 2003 Liability Act, on 11 December 2003 the Municipal Court resumed the proceedings. On 22 July 2004 it dismissed the applicant's claim finding that under the new legislation it was the State, and not the City of Zagreb, that was liable for the damage.

On 19 July 2005 the Zagreb County Court (*Županijski sud u Zagrebu*) dismissed the applicant's appeal and upheld the first-instance judgment.

Meanwhile, on 3 June 2002 the applicant lodged a constitutional complaint about the length of proceedings. On 11 November 2004 the Constitutional Court accepted the applicant's complaint and found violations of his constitutional rights to a hearing within a reasonable time and of access to a court. It awarded him 4,400 Croatian kunas in compensation and ordered the Zagreb Municipal Court to give a decision in the case in the shortest time possible but no later than six months following the publication of the decision in the Official Gazette. The Constitutional Court's decision was published on 26 November 2004.

COMPLAINTS

1. The applicant complained under Articles 6 § 1 of the Convention that the enactment of the 1996 Amendment and the prolonged stay of the proceedings resulting thereof had violated his right of access to a court.

2. He also complained under Article 13, taken in conjunction with Article 6 § 1 of the Convention, that he had not had an effective remedy for his access-to-a-court complaint.

THE LAW

By letter of 23 January 2007 the applicant informed the Court that he accepted a proposal for a friendly settlement and waived any further claims against Croatia in respect of the facts of the present application.

On 23 February 2007 the Government informed the Court that the parties had reached a settlement whereby the Government would pay the applicant 3,200 euros in full and final settlement of the case, costs and expenses included.

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.

Søren NIELSEN
Registrar

Christos ROZAKIS
President