CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

FINAL DECISION

Application no. 15319/02
by Mile ČANAK
against Croatia

The European Court of Human Rights (First Section), sitting on 2 September 2004 as a Chamber composed of

Mr C.L. ROZAKIS, *President*,
Mr P. LORENZEN,
Mrs F. TULKENS,
Mrs N. VAJIĆ,
Mrs S. BOTOUCHAROVA,
Mr A. KOVLER,
Mr V. ZAGREBELSKY, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 18 February 2002,

Having regard to the partial decision of 22 May 2003 and the decision to apply the procedure under Article 29 § 3 of the Convention and to examine the admissibility and merits of the case together,

Having regard to the respondent Government's letter dated 11 March 2004, and the applicant's representative's letter dated 22 March 2004,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Mile Čanak, is a Croatian citizen, who was born in 1928 and lives in Bjelovar, Croatia. He is represented before the Court by Ms T. Burjačenko Grubiša, a lawyer practising in Zagreb. The respondent Government are represented by their Agent, Ms L. Lukina Karajković.

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

On 23 February 1992 the applicant's house in Gornje Plavnice, Croatia was blown up by unknown perpetrators.

On 9 February 1995 the applicant instituted civil proceedings before the Zagreb Municipal Court (*Općinski sud u Zagrebu*), seeking damages from the State.

On 17 January 1996 Parliament introduced an amendment to the Civil Obligations Act which provided that all proceedings concerning actions for damages resulting from terrorist acts were to be stayed pending the enactment of new legislation on the subject and that before the enactment of such new legislation damages for terrorist acts could not be sought.

On 20 March 1998 the Zagreb Municipal Court stayed the proceedings.

On 14 July 2003 Parliament introduced the Act on Liability for Damage Resulting from Terrorist Acts and Public Demonstrations (*Zakon o odgovornosti za štetu nastalu uslijed terorističkih akata i javnih demonstracija*, Official Gazette, no. 117/2003 of 23 July 2003).

Commented [Note1]: To be checked.

COMPLAINTS

The applicant complained that Parliament's enactment of the 1996 legislation had interfered with his right of access to court within the meaning of Article 6 § 1 of the Convention and his right to an effective remedy within the meaning of Article 13 of the Convention.

THE LAW

By letter of 11 March 2004 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 applicants' claim under the Convention, costs and expenses included.

On 22 March 2004 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 (Article 39 of the Convention) and considers that the matter has been resolved within the meaning of Article 37 § 1 (b) of the Convention. It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention Rule 62 § 3 of the Rules of Court). Accordingly, the application of Article 29 § 3 of the Convention to the case should be discontinued and the case 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