CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 31044/03
by Borivoje GAJIĆ
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,
Mrs E. STEINER,
Mr K. HAJIYEV,
Mr S.E. JEBENS,
Mr G. MALINVERNI, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 23 June 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 Borivoje Gajić, is a Serbian national who was born in 1927 and lives in Beograd. The Croatian Government ("the Government") were represented by their Agent, Mrs Š. Stažnik.

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

The applicant was the owner of a summer house at the island of Pašman, Croatia. In 1992 and 1994 his house was blown up by unknown perpetrators.

On 3 February 1996 the Amendment to the Civil Obligations Act 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.

Meanwhile, fearing that some evidence might be lost or more difficult to present in the future civil proceedings, in December 1994 the applicant instituted non-contentious proceedings (*izvanparnični postupak*) for perpetuation of evidence (*osiguranje dokaza*) with the Biograd-na-moru Municipal Court (*Općinski sud u Biogradu na moru*). On 25 March 1999 the court discontinued the non-contentious proceedings because the applicant failed to advance the necessary costs.

On 10 April 2000 the applicant instituted regular civil proceedings against the State in the same court seeking damages for the destruction of his house.

On 21 March 2001 the court decided to stay the proceedings (*prekid postupka*) pursuant to the 1996 Amendment. The applicant submitted that he had authorised a certain Lj.B., a local advocate, to represent him, but only at that particular hearing.

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

Accordingly, the Municipal Court resumed the proceedings and scheduled a hearing for 16 May 2005. Since no one appeared at that hearing on the side of the plaintiff, the court decided to temporarily suspend the proceedings (*mirovanje postupka*).

On 19 October 2005 the court gave a decision declaring that the applicant's action was considered withdrawn because neither party had requested the continuation of the proceedings within four months following

their suspension. As the parties did not appeal that decision became final on 8 November 2005.

COMPLAINTS

1. The applicant complained under Article 6 § 1 of the Convention about the length of the above non-contentious and civil proceedings.

2. He further complained under Article 13 of the Convention about the lack of an effective remedy, without further substantiating this complaint.

3. The applicant also complained under Article 8 of the Convention and Article 1 of Protocol No. 1 thereto about the destruction of his house.

4. Lastly, the applicant complained that he had not been informed about the resumption of the above civil proceedings, or of a hearing scheduled for 16 May 2005.

THE LAW

By letter of 24 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 9 February 2007 the Government informed the Court that the parties had reached a settlement whereby the Government would pay the applicant 4,500 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