CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 25799/05
by Mladen HRŽENJAK
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 D. SPIELMANN,
Mr S.E. JEBENS, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 2 June 2005,

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 Mladen Hrženjak, is a Croatian national who was born in 1951 and lives in Koprivnica. 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 30 April 1993 the applicant instituted enforcement proceedings in the Koprivnica Municipal Court (*Općinski sud u Koprivnici*) against a certain S.I. seeking payment of some money.

On 2 June 1993 the Municipal Court issued a writ of execution (*rješenje o izvršenju*) ordering seizure and sale of S.I.'s immovable property in satisfaction of the applicant's claim.

By its decision of 2 September 1996 the Municipal Court assessed the value of S.I.'s immovable property. It did so by taking into account the assessment it had previously made in concurrent enforcement proceedings pending between the same parties. S.I. appealed.

On 17 October 1996 the Bjelovar County Court (*Županijski sud u Bjelovaru*) quashed the decision of 2 September 1996 and remitted the case. It held that the first-instance court had erred in taking into consideration the value of S.I.'s immovable property assessed in parallel enforcement proceedings. Accordingly, it instructed the lower court to make an independent assessment in the enforcement proceedings at issue.

On 16 March 2004 the court invited the applicant to advance, within eight days, the costs of an *in situ* inspection (*očevid*) necessary to asses the value of S.I.'s immovable property. In his reply of 18 March 2004, the applicant stated that he was satisfied with the previous assessment and that if S.I. was not satisfied with it, she should have advanced the costs.

On 5 July 2004 the Municipal Court gave a decision discontinuing the enforcement proceedings on account of the applicant's failure to advance the costs of an *in situ* inspection within the time-limit indicated. The applicant appealed.

On 23 July 2004 the Koprivnica County Court (*Županijski sud u Koprivnici*) dismissed the applicant's appeal and upheld the first-instance decision. The applicant then lodged a constitutional complaint.

On 13 March 2005 the Constitutional Court (*Ustavni sud Republike Hrvatske*) dismissed his constitutional complaint.

COMPLAINTS

1. The applicant complained under Article 6 § 1 of the Convention about the length of the enforcement proceedings.

2. He also complained under the same Article about the decisions of the domestic courts to discontinue the enforcement proceedings on account of his failure to advance the costs necessary to assess the value of the debtor's immovable property.

THE LAW

By letter of 12 December 2006 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 29 January 2007 the Government informed the Court that the parties had reached a settlement whereby the Government would pay the applicant 3,500 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