CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 13871/02
by Jovan and Blaženka KOROLIJA
against Croatia

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

Mr C.L. ROZAKIS, *President*,
Mr P. LORENZEN,
Mrs N. VAJIĆ,
Mrs S. BOTOUCHAROVA,
Mrs E. STEINER,
Mr K. HAJIYEV,
Mr D. SPIELMANN, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 26 February 2002,

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

Having regard to the respondent Government's letter dated 1 March 2004, and the applicants' representative's letter dated 21 June 2004,

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr Jovan Korolija and Ms Blaženka Korolija, are Croatian nationals, who were both born in 1942 and live in Zagreb. They are represented before the Court by Mr A. Nobilo, a lawyer practising in Zagreb.

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

A. The circumstances of the case

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

On 14 July 1992 the applicants' house in Sukošan, Croatia, was blown up by unknown perpetrators.

On 13 July 1995 the applicants filed an action against the State and the insurance company C.O. with the Zagreb Municipal Court (*Općinski sud u Zagrebu*) seeking compensation for their destroyed house.

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.

The court held hearings on 2 April 1996, 3 June 1999, 17 November 2000 and 1 July 2002.

On 17 March 2003 the Municipal Court stayed the proceedings in respect of the State and dismissed on its merits the applicants' claim in respect of the insurance company.

Meanwhile, on 7 November 2002 the applicants filed a constitutional complaint about the length of the proceedings with the Constitutional Court (*Ustavni sud Republike Hrvatske*).

On 12 February 2003 the Constitutional Court dismissed their complaint finding that the delay had been attributable to the applicants.

On 14 July 2003 Parliament passed 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).

COMPLAINT

The applicants maintained that Parliament's enactment of the 1996 legislation interfered with their right of access to a court within the meaning

of Article 6 § 1 of the Convention and/or their right to an effective remedy within the meaning of Article 13 of the Convention.

THE LAW

By letter of 1 March 2004 the Government informed the Court that they accepted the proposal for a friendly settlement and that the Government would pay the applicants 10,000 euros in full and final settlement of the applicants' claim under the Convention, costs and expenses included.

On 21 June 2004 the applicants' representative informed the Court that the parties had reached a settlement whereby the applicants 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