

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

FIFTH SECTION

DECISION

Application no. 26466/08
Silvestr KOTEK
against the Czech Republic

The European Court of Human Rights (Fifth Section), sitting on 27 November 2012 as a Committee composed of:

Angelika Nußberger, President,
André Potocki,
Aleš Pejchal, judges,

and Stephen Phillips, Deputy Section Registrar,

Having regard to the above application lodged on 25 October 2006,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Silvestr Kotek, is a Czech national, who was born in 1943 and lives in Želetice. He was represented before the Court by Mr M. Matiaško, a lawyer from the Mental Disability Advocacy Center in Brno.

The Czech Government ("the Government") were represented by their Agent, Mr V.A. Schorm, of the Ministry of Justice.

The applicant complained under Articles 6, 8, 13 and 14 of the Convention and Article 1 of Protocol No. 1 that he had been deprived of his legal capacity to act and as a result denied effective access to courts to protect his property rights and that he had been discriminated against on the grounds of mental disability.

On 1 October 2012 the Court received friendly settlement declarations signed by the parties under which the applicant agreed to waive any further claims against the Czech Republic in respect of the facts giving rise to this application against an undertaking by the Government to pay him 15,000 euros to cover any pecuniary and non-pecuniary damage as well as costs and expenses, which will be converted into Czech korunas at the rate applicable on the date of payment, and will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court. In the event of failure to pay this sum within the said three-month period, the Government undertook to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

THE LAW

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 and finds no reasons to justify a continued examination of the application. In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases in accordance with Article 39 of the Convention.

Stephen Phillips
Deputy Registrar

Angelika Nußberger
President