CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

DECISION

Application no. 7242/02
by Jan MALÝ
against the Czech Republic

The European Court of Human Rights (Second Section), sitting on 14 June 2005 as a Chamber composed of:

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr R. TÜRMEN,
Mr K. JUNGWIERT,
Mr M. UGREKHELIDZE,
Mrs A. MULARONI,
Mrs E. FURA-SANDSTRÖM, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application lodged on 16 October 2000,

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 regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Jan Malý, is a Czech national who was born in 1942 and lives in Březník. He was represented before the Court by Mr J. Hurdík, a lawyer practising in Třebíč.

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

On 9 December 1985 the applicant, who was then working for the Dukovany nuclear power station, suffered serious injuries due to an accident at work.

On 4 December 1987 he issued proceedings for damages against his employer in the Třebíč District Court *(okresní soud)*.

By judgment of 13 April 1990 the District Court ordered the defendant to pay CZK 12,452 (EUR 395) in damages to the applicant for personal injury and loss of working capacity, as well as his legal costs.

On 22 August 1990 the Brno Regional Court *(krajský soud)* quashed this judgment and ordered the District Court to commission a new expert opinion on the applicant's state of health.

On 20 May 1994 the District Court, having supplemented the evidence according to the Regional Court's order, ordered the defendant to pay CZK 4,202 (EUR 134). It dismissed the remainder of the applicant's action.

On 12 January 1996 the Regional Court upheld the first-instance judgment as regards the latter's award of compensation for loss of earnings. It quashed the remaining part of the judgment and remitted the case to the District Court for further consideration.

On 21 June 1996 the applicant lodged an appeal on points of law against the last two judgments.

On 21 February 1997 the District Court dismissed the applicant's action for damages in so far as it related to loss of loss of earnings and working capacity. It discontinued the proceedings as regards his claim for compensation for personal injury.

On 16 April 1998 the Supreme Court *(Nejvyšší soud)* dismissed the applicant's appeal on points of law.

On 3 March 1999 the Regional Court upheld the first-instance judgment in the part concerning the amount of compensation awarded for loss of working capacity. It modified the decision to discontinue the proceedings in so far as it related to the applicant's claim for compensation for loss of earnings.

On 25 May 1999 the District Court dismissed the applicant's claim for compensation for personal injury. On 8 December 1999 the Regional Court upheld this judgment.

On 11 January 2001 the Supreme Court discontinued the proceedings on the applicant's appeal on points of law filed on 28 February 2000 in so far as it related to the judgment of the District Court of 25 May 1999. It declared the appeal inadmissible in so far as it related to the judgment of the Regional Court of 8 December 1999.

On 14 August 2001 the Constitutional Court *(Ústavní soud)* dismissed the applicant's constitutional appeal *(ústavní stížnost)* of 23 March 2001.

COMPLAINT

Invoking Article 6 § 1 of the Convention, the applicant originally complained that the proceedings for damages lasted an unreasonably long time.

THE LAW

The Court received the following declaration from the Government:

> "Je déclare qu'en vue d'un règlement amiable de l'affaire susmentionnée, le gouvernement tchèque offre de verser à M. Jan Malý la somme globale de 4 900 EUR au titre de préjudice matériel et moral ainsi que pour frais et dépens.
>
> Cette somme est à convertir en monnaie nationale de l'Etat défendeur au taux applicable à la date du règlement, dans les trois mois suivant la date du prononcé de l'arrêt de la Cour rendu conformément à l'article 39 de la Convention européenne des Droits de l'Homme. Ce versement vaudra règlement définitif de l'affaire. A défaut de règlement dans ledit délai, le Gouvernement s'engage à verser, à compter de l'expiration de celui-ci et jusqu'au règlement effectif de la somme en question, un intérêt simple à un taux égal à celui de la facilité de prêt marginal de la Banque centrale européenne, augmenté de trois points de pourcentage. (...)"

The Court received the following declaration signed by the applicant and his legal representative:

> "Je note que le Gouvernement tchèque est prêt à verser à M. Jan Malý la somme de 4 900 EUR au titre de préjudice matériel et moral ainsi que pour frais et dépens en vue d'un règlement amiable de l'affaire ayant pour origine la requête susmentionnée pendante devant la Cour européenne des Droits de l'Homme. Cette somme est à convertir en monnaie nationale de l'Etat défendeur au taux applicable à la date du règlement. Je note également que le Gouvernement s'engage, à défaut de règlement dans le délai de 3 mois suivant la date du prononcé de l'arrêt de la Cour rendu conformément à l'article 39 de la Convention européenne des Droits de l'Homme, à verser, à compter de l'expiration de celui-ci et jusqu'au règlement effectif de la somme en question, un intérêt simple à un taux égal à celui de la facilité de prêt marginal de la Banque centrale européenne, augmenté de trois points de pourcentage.
>
> J'accepte cette proposition et renonce par ailleurs à toute autre prétention à l'encontre de la République tchèque à propos des faits à l'origine de ladite requête. Je déclare l'affaire définitivement réglée.
>
> La présente déclaration s'inscrit dans le cadre du règlement amiable auquel le Gouvernement et le requérant sont parvenus. (...)"

The Court takes note of the friendly settlement reached between the parties. It finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the further

examination of the application (Article 37 § 1 *in fine* of the Convention). Accordingly, the application to the case of Article 29 § 3 of the Convention should be discontinued and the case struck out of the list.

For these reasons, the Court unanimously

Declares to strike the application out of its list of cases.

S. DOLLÉ
Registrar

J.-P. COSTA
President