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

FIFTH SECTION

DECISION

Application no. 64337/12
Heinz Rainer MAREK
against Germany

The European Court of Human Rights (Fifth Section), sitting on 24 May 2016 as a Committee composed of:

Khanlar Hajiyev, *President,*
Faris Vehabović,
Carlo Ranzoni, *judges,*
and Milan Blaško, *Deputy Section Registrar,*

Having regard to the above application lodged on 1 October 2012,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Heinz Rainer Marek, is a German national, who was born in 1954 and is currently detained in Rosdorf. He was represented before the Court by Mr E. Medecke, a lawyer practising in Hamburg.

The German Government ("the Government") were represented by one of their Agents, Mrs K. Behr, of the Federal Ministry of Justice and Consumer Protection.

The applicant complained under Articles 5 § 1 and 7 § 1 of the Convention about the retrospective prolongation of his preventive detention beyond the former statutory ten-year maximum duration, executed in Celle Prison pursuant to an order of the Lüneburg Regional Court of 13 May 2011. He relied on the Court's judgment in the case of *M. v. Germany* (no. 19359/04, ECHR 2009) to support his view.

On 3 December 2015 the application was communicated to the Government.

On 28 January 2016 and 11 March 2016 the Court received friendly settlement declarations signed by the Government and the applicant respectively. Under these declarations, the applicant agreed to waive any further claims against Germany in respect of the facts giving rise to this application against an undertaking by the Government to pay him eleven thousand euros to cover any and all pecuniary and non-pecuniary damage as well as costs and expenses, plus any tax that may be chargeable to the applicant. This sum will be payable within three months from the date of notification of the decision taken by the Court to strike the case out of its list of cases. 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 shall 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.

Done in English and notified in writing on 16 June 2016.

Milan Blaško
Deputy Registrar

Khanlar Hajiyev
President