

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

THIRD SECTION

DECISION

Application no. 31212/20
Samir MESSAOUDI
against the Netherlands

The European Court of Human Rights (Third Section), sitting on 17 May 2023 as a Committee composed of:

Darian Pavli*, President*,
Ioannis Ktistakis,
Oddný Mjöll Arnardóttir*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 16 July 2020,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases, and the applicant's reply to this declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Samir Messaoudi, is a Dutch national, who was born in 1989 and lives in Nederhorst den Berg. He was represented by Mr J.C. Reisinger, a lawyer practising in Utrecht.

The applicant's complaints under Article 5 § 3 of the Convention concerning the unlawfulness of his pre-trial detention and the refusal to suspend his pre-trial detention under certain conditions, were communicated to the Government of the Kingdom of the Netherlands ("the Government").

After unsuccessful friendly-settlement negotiations, on 31 March 2023 the Government submitted a declaration with a view to resolving the issues raised by these complaints. They acknowledged that the domestic courts had not sufficiently reasoned their decisions regarding the applicant's request for a conditional suspension of his detention on remand and that that course of events was not in conformity with the requirements of Article 5 § 3 of the Convention. They offered to pay the applicant the amount of 2,250 (two thousand and two hundred and fifty) euros (EUR) to cover non-pecuniary damage and invited the Court to strike the application out of

the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amount would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay this amount within the above-mentioned 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.

On 14 April 2023 the applicant informed the Court that he agreed to the terms of the declaration.

THE LAW

The Court finds that, following the applicant's express agreement to the terms of the declaration made by the Government, the case should be treated as a friendly settlement between the parties.

It therefore 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 the Protocols thereto and finds no reasons to justify the 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 8 June 2023.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President