CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 15234/02
by Ljubiša and Vesna MILOŠEVIĆ
against Croatia

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

Mr C.L. ROZAKIS, *President*,
Mr P. LORENZEN,
Mrs F. TULKENS,
Mrs N. VAJIĆ,
Mrs S. BOTOUCHAROVA,
Mr A. KOVLER,
Mr V. ZAGREBELSKY, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 6 May 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 26 January 2004,

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr Ljubiša Milošević and Mrs Vesna Milošević, are Croatian citizens, who were born in 1940 (the first applicant) and 1947 (the second applicant) and live in Samobor, Croatia. They are represented before the Court by Mr B. Spiz, a lawyer practising in Zagreb. The respondent Government are represented by their Agent, Ms L. Lukina-Karajković.

Commented [Note1]: To be checked.

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

On 5 January 1993 the applicants filed a civil claim with the Zagreb Municipal Court (*Općinski sud u Zagrebu*) against the State and C.I., a Zagreb insurance company, seeking non-pecuniary damages for injuries sustained in a traffic accident. The accident had been caused by a member of the Croatian Army.

On 9 June 1995 the applicants withdrew their claim in respect of the insurance company.

On 18 October 1995 the court gave a judgment accepting the applicants' claim against the State.

On 17 November 1995 the State appealed against the judgment.

On 23 December 1996 the Zagreb County Court (*Županijski sud u Zagrebu*) quashed the first-instance judgment and remitted the case.

On 6 November 1999 Parliament introduced an amendment to the Civil Obligations Act, which provided that all proceedings against the State concerning actions for damages resulting from acts of members of the Croatian army and police, when acting in their official capacity during the Homeland War in Croatia, were to be stayed.

Pursuant to the above amendments, on 20 December 2000 the Zagreb Municipal Court stayed the proceedings.

On 16 July 2003 Parliament enacted the Act on the Liability of the Republic of Croatia for Damage Caused by Members of the Croatian Army and Police When Acting in Their Official Capacity During the Homeland War (Official Gazette No. 117/2003 of 23 July 2003) ("2003 Liability Act").

In December 2003 the proceedings before the Municipal Court resumed pursuant to the 2003 Liability Act. It appears that the proceedings are still pending.

COMPLAINTS

The applicants complained that Parliament's enactment of the 1999 amendments had interfered with their right of access to a court within the meaning of Article 6 § 1 of the Convention and their right to an effective remedy within the meaning of Article 13 of the Convention.

THE LAW

By letter of 26 January 2004 the applicants' representative informed the Court that the applicants accepted the proposal for a friendly settlement and waived any further claims against Croatia in respect of the facts of the present application.

On 1 March 2004 the Government informed the Court that the parties had reached a settlement whereby 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.

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