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

FIRST SECTION

DECISION

Application no. 2140/13
N.Z.
against Croatia

The European Court of Human Rights (First Section), sitting on 2 June 2015 as a Committee composed of:

Mirjana Lazarova Trajkovska, *President,*
Linos-Alexandre Sicilianos,
Ksenija Turković, *judges,*
and André Wampach, *Deputy Section Registrar,*

Having regard to the above application lodged on 2 April 2013,

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

1. The applicant, Ms N.Z., is a Croatian national, who was born in 1940 and lives in S. The President granted the applicant's request for her identity not to be disclosed to the public (Rule 47 § 4). She was represented by Mr. M.Z. from P.

2. The Croatian Government ("the Government") were represented by their Agent, Ms Š. Stažnik.

The circumstances of the case

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

1. Background to the case

4. The applicant and her husband lived in the village of G., Croatia, close to its border with Bosnia and Herzegovina. During 1991 and 1992

Serbian paramilitary forces gained control over about one-third of the territory of Croatia and proclaimed the "Serbian Autonomous region of Krajina" (*Srpska autonomna oblast Krajina*, hereinafter "Krajina"). The village of G. was situated in that territory.

5. During the night of 5 to 6 September 1991 the Croatian army carried out a military action with the aim of regaining control over the village of G. in which it succeeded for about one week, between 6 and 13 September 1991 when the Serbian para-military forces again gained control over it.

6. The applicant's husband was killed on 6 September 1991 during the above-mentioned military action.

2. Investigation into the killing of the applicant's husband

7. The Croatian authorities learned for the first time about the killing of civilians in the villages of G. and Č. in July 2013 when the Serbian Prosecutor for War Crimes sent a letter about it to the Croatian State Attorney's Office. An investigation by the Osijek County State Attorney's Office (hereinafter the "OCSAO") issued.

8. On 22 October 2013 the OCSAO received the list of the Croatian forces present in September 1991 in the village of G.

9. On 24 October 2013 A.P. was interviewed and said that she had lived in the village of G. in the critical period. At the beginning of September 1991 Croatian army entered the village. She did not know of any instances of ill-treatment by members of that army. When they had left the village about a week later they had asked the villagers to come with them which she had done.

10. On 23 May 2014 the police interviewed the applicant who said that at about 11 p.m. on 5 September 1991 she had heard that an army had been coming to their village. She had run away from their house and had spent the night in another house in the village while her husband had remained in their house. The next morning she had found him dead in their house.

11. On 28 May 2014 the police interviewed D.Č. who had lived in the village of G. at the critical period but had no direct knowledge about the killing of the applicant's husband.

12. On 30 August 2014 the police interviewed M.Z., a brother of the applicant's late husband. He had no direct knowledge about the circumstances in which his brother had been killed.

13. On 1 September 2014 an investigating judge of the Osijek County Court heard evidence from the applicant who reiterated her previous statement.

14. On 4 September 2014 the police interviewed Mi.Z. and Si.Z. who had both lived in the village of G. in the critical period but had no direct knowledge about the circumstances in which the applicant's husband had been killed.

COMPLAINTS

15. The applicant complained under the procedural aspect of Articles 2 and 14 of the Convention that the available criminal-law mechanisms in connection with the death of her husband were inefficient, and that the national authorities had not investigated possible ethnic motives for his killing, as required under Article 14 of the Convention.

PROCEDURE BEFORE THE COURT

16. A letter of introduction was received at to the Court on 10 December 2012 by Mr M.Z. in connection with the killing of his brother S.M. The letter was signed by M.Z.'s typed name but no written signature was on it.

17. On 14 January 2013 the Court replied to Mr M.Z., by a letter in which it invited him to submit an application form and sending him an application package, including Notes for Guidance.

18. On 12 April 2013 Mr M.Z. sent a letter which he signed personally together with an application form on behalf of N.Z., his sister in law and the wife of the late S.Z. The application form was not signed and no power of attorney was enclosed.

19. In their observations submitted on 15 September 2014 the Government challenged the authenticity of the application claiming that Mr M.Z. had no written authority signed by the application and that the application form had not been signed.

20. On 15 October 2014 a reply to the Government's observations was submitted in which the applicant's name as well as the name of her alleged representative Mr M.Z. was typed but neither of them signed it. The reply did not address the issue of the written authority for the applicant's representation and lack of signature on the application form.

THE LAW

21. Rule 36 of the Rules of Court reads, in the relevant part:

> "1. Persons, non-governmental organisations or groups of individuals may initially present applications under Article 34 of the Convention themselves or through a representative. ...
>
> 4. (a) The representative of the applicant shall be an advocate authorised to practise in any of the Contracting Parties and resident in the territory of one of them, or any other person approved by the President of the Chamber."

22. Rule 45 § 3 of the Rules of Court, in so far as relevant, reads:

> "1. Any application made under Articles 33 or 34 of the Convention shall be submitted in writing and shall be signed by the applicant or by the applicant's representative. ...
>
> 3. Where applicants are represented in accordance with Rule 36, a power of attorney or written authority to act shall be supplied by their representative or representatives."

23. The applicant has never been in contact with the Court directly and the application was introduced through her alleged representative Mr M.Z. Where applicants choose to be represented by another person under Rule 36 of the Rules of Court, rather than to introduce their application themselves, it is a requirement, under Rule 45 § 3 of the Rules of Court, that a power of attorney or written authority to act shall be supplied by their representatives. However, written authority has never been submitted to the Court and the application form was not signed.

24. The Court considers it essential for representatives to demonstrate that they have received specific and explicit instructions from the alleged victim(s) within the meaning of Article 34 of the Convention on whose behalf they purport to act. In the present case the file contains no document in which the applicant has indicated that she wished Mr M.Z. to lodge an application with the Court on her behalf. The Court cannot but conclude that the case must be rejected for want of an "applicant" for the purposes of Article 34 of the Convention. Consequently, in the circumstances of the case the application must be rejected for being incompatible *ratione personae*, pursuant to Article 35 §§ 3 and 4 of the Convention (see, *mutatis mutandis*, *Post v. the Netherlands* (dec.), no. 21727/08, 20 January 2009; *K.M. and Others v. Russia* (dec.), no. 46086/07, 29 April 2010; and *Şükrü Çetin v. Turkey* (dec.), no. 10449/08, 13 September 2011).

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 25 June 2015.

André Wampach
Deputy Registrar

Mirjana Lazarova Trajkovska
President