CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

Application no. 41790/02
by Claudia NESTOR
against Moldova

The European Court of Human Rights (Fourth Section), sitting on 27 March 2007 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr J. CASADEVALL,
Mr G. BONELLO,
Mr K. TRAJA,
Mr S. PAVLOVSCHI,
Mr J. ŠIKUTA,
Mrs P. HIRVELÄ, *judges*,
and Mr T.L. EARLY, *Section Registrar*,

Having regard to the above application lodged on 12 November 2002,

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 parties' declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mrs Claudia Nestor, is a Moldovan national who was born in 1952 and lives in Străşeni. She was represented before the Court by Mr V. Nagacevschi, a lawyer practising in Chişinău. The Moldovan Government ("the Government") were represented by their Agent, Mr V. Grosu.

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

In 1999 the applicant was charged with theft but on 12 April 2000 the Court of Appeal acquitted her.

The applicant brought an action against the Ministry of Finance (the Ministry) seeking compensation for pecuniary and non-pecuniary damage arising from her unlawful prosecution.

On 15 September 2000 the Străşeni District Court ruled in her favour and awarded her 1,149 Moldovan lei (MDL, the equivalent of 106.91 euros (EUR) at the time) in compensation for pecuniary damage and MDL 50,000 (EUR 4,652.42 at the time) in compensation for non-pecuniary damage. Both parties appealed.

On 13 December 2000 the Chişinău Regional Court partially upheld her appeal and increased the award for non-pecuniary damage to MDL 75,000 (EUR 6,903.6 at the time) while maintaining the award of compensation for pecuniary damage. The Ministry's appeal on points of law was dismissed by a final judgment of 20 March 2001 of the Court of Appeal.

Between 2001 and 2002 the applicant lodged with the Bailiff and the Ministry of Justice several unsuccessful requests for the enforcement of the judgment of 20 March 2001.

Following a request by the Ministry, on 4 April 2002, the Deputy Prosecutor General lodged a request for annulment of the final judgment of 20 March 2001.

On 19 June 2002 the Supreme Court of Justice upheld the Prosecutor's request for annulment and quashed the above-mentioned judgment. The Supreme Court adopted a new judgment and reduced the award of compensation for non-pecuniary damage to MDL 5,000 (EUR 381.41 at the time).

On 14 April 2003 the judgment of 19 June 2002 was enforced.

COMPLAINTS

The applicant complained under Article 6 § 1 of the Convention about the non-enforcement of the final judgment of 20 March 2001 of the Court of Appeal.

She also complained under Article 6 § 1 and under Article 1 of Protocol No. 1 to the Convention about the quashing by the Supreme Court of the final judgment of 20 March 2001 as a result of the Deputy Prosecutor General's request for annulment.

Finally, the applicant submitted that the annulment proceedings before the Supreme Court of Justice on 19 June 2002 had been unfair in that there had been a violation of the principle of "equality of arms".

THE LAW

On 5 March 2007 the Government informed the Court that on 2 March 2007 the parties had signed a friendly settlement agreement. They submitted to the Court a copy of the agreement according to which the Government had acknowledged that there had been a breach of the applicant's rights under the Convention and had undertaken to pay her, within three months from the adoption of a strike-out decision by the Court, EUR 9,100 in respect of any damage suffered by the applicant. The Government requested the Court to strike the application out of the list of cases.

On 6 March 2007 the applicant also informed the Court that the parties had signed a friendly settlement agreement along the above-mentioned lines and that she wished to discontinue the examination of the application.

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 (Article 37 § 1 *in fine* of the Convention). Accordingly, Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list.

For these reasons, the Court unanimously

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

T.L. EARLY
Registrar

Nicolas BRATZA
President