CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 18432/05
by Edita and Edi OREB
against Croatia

The European Court of Human Rights (First Section), sitting on 5 April 2007 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mr L. LOUCAIDES,
Mrs N. VAJIĆ,
Mr A. KOVLER,
Mr K. HAJIYEV,
Mr D. SPIELMANN,
Mr G. MALINVERNI, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 12 April 2005,

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 declarations accepting a friendly settlement of the case.

Having deliberated, decides as follows:

THE FACTS

The applicants, Ms Edita Oreb, and Mr Edi Oreb, are Croatian nationals who were born in 1966 and 1988 respectively and live in Smokvica, the island of Korčula. They were represented before the Court by Mr M. Baničević, a lawyer practising in Split. The Croatian Government were represented by their Agent, Mrs Š. Stažnik.

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

On 25 October 1991 the applicants brought a civil action in the Delnice Municipal Court (*Općinski sud u Delnicama*) against the former Yugoslavia. They claimed damages for the death of the first applicant's husband and the second applicant's father, who had died as a conscript in the Yugoslav army in 1989.

On 10 May 1995 the Delnice Municipal Court declared the applicants' action inadmissible because it had been directed against the former Yugoslavia, which no longer existed.

On appeal, on 15 May 1996 the Rijeka County Court (*Županijski sud u Rijeci*) dismissed the applicants' appeal.

On 13 August 1996 the applicants filed an appeal on points of law (*revizija*). On 28 November 2001 the Supreme Court (*Vrhovni sud Republike Hrvatske*) upheld the lower instances' decisions. It held that Yugoslavia ceased to exist before the applicants had instituted the proceedings. Therefore, the claim had been declared inadmissible *ratione personae*. The applicants could therefore not have amended their claim, but could have brought another action against Croatia.

Subsequently, on 20 October 2005 the Constitutional Court (*Ustavni sud Republike Hrvatske*) dismissed the applicants' constitutional complaint of 18 February 2002 as ill-founded.

COMPLAINTS

The applicants complained under Article 6 § 1 of the Convention about the length of the proceedings and under Article 13 of the Convention about the lack of an effective remedy in that respect.

THE LAW

By letter of 18 December 2006 the applicants' representative informed the Court that the applicants accepted a proposal for a friendly settlement and waived any further claims against Croatia in respect of the facts of the present application.

On 23 January 2007 the Government informed the Court that the parties had reached a settlement whereby the Government would pay the applicants jointly 9,900 euros in full and final settlement of the case, costs and expenses included.

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 (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.

Søren NIELSEN
Registrar

Christos ROZAKIS
President