CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

FINAL DECISION

Application no. 14601/02
by Mladen PAVKOVIĆ
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 1 February 2002,

Having regard to the partial decision of 5 June 2003 and the decision to apply the procedure under Article 29 § 3 of the Convention and to examine the admissibility and merits of the case together,

Having regard to the respondent Government's letter dated 11 March 2004, and the applicant's representative's letter dated 21 April 2004,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Mladen Pavković, is a Croatian citizen, who was born in 1935 and lives in Lipik, Croatia. He is represented before the Court by Ms M. Trninić, a lawyer practising in Slavonski Brod. The respondent Government are represented by their Agent, Ms L. Lukina-Karajković.

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

On 26 April 1992 the applicant's house in Slobodnica, Croatia was blown up by unknown perpetrators.

On 27 September 1993 the applicant instituted civil proceedings before the Slavonski Brod Municipal Court (*Općinski sud u Slavonskom Brodu*), seeking damages from the Slavonski Brod Municipality (*Općina Slavonski Brod*).

On 23 November 1993 the applicant's claim was dismissed. The court found that the Slavonski Brod Municipality was not liable for damages caused by terrorist acts. Instead, the applicant should have filed a claim against the State.

The applicant's subsequent appeal was dismissed on 25 April 1994 by the Požega County Court (*Županijski sud u Požegi*).

On 27 June 1994 the applicant filed a request for revision on points of law with the Supreme Court (*Vrhovni sud Republike Hrvatske*).

On 17 January 1996 Parliament introduced an amendment to the Civil Obligations Act which provided that all proceedings concerning actions for damages resulting from terrorist acts were to be stayed pending the enactment of new legislation on the subject and that, before the enactment of such new legislation, damages for terrorist acts could not be sought.

In application of the above legislation, the Supreme Court returned the case-file to the Municipal Court without adopting any decision.

On 14 February 1996 the Slavonski Brod Municipal Court stayed the proceedings pursuant to the above legislation.

The applicant appealed.

On 2 February 1998 the applicant introduced an application with the European Commission of Human Rights ("Commission") complaining under Article 1 of Protocol No. 1 about the destruction of his home. He further alleged a violation of Article 3 § 1 of Protocol No. 4 in that his house had been destroyed with a view to forcing him to leave Croatia.

On 22 October 1998 the Commission declared the applicant's application inadmissible (application no. 42085/98, decision of 22 October 1998).

On 14 July 2000 the Požega County Court (*Županijski sud u Požegi*) dismissed the applicant's appeal against the decision of 14 February 1996 to stay the domestic proceedings.

The applicant's subsequent request for revision was dismissed as inadmissible on 27 June 2001 by the Supreme Court.

The applicant then filed a constitutional complaint claiming that the decisions to stay the proceedings concerning his civil claim for damages violated his right to property. On 10 July 2002 the Constitutional Court dismissed the applicant's complaint.

On 14 July 2003 Parliament introduced the Act on Liability for Damage Resulting from Terrorist Acts and Public Demonstrations (*Zakon o odgovornosti za štetu nastalu uslijed terorističkih akata i javnih demonstracija*, Official Gazette, no. 117/2003 of 23 July 2003).

COMPLAINT

The applicant complained under Article 6 § 1 of the Convention that his civil claim had never been adjudged.

THE LAW

By letter of 11 March 2004 the Government informed the Court that they accepted the proposal for a friendly settlement and that the Government would pay the applicant 6,000 euros in full and final settlement of the applicant's claim under the Convention, costs and expenses included.

On 21 April 2004 the applicant's representative informed the Court that the parties had reached a settlement whereby the applicant waived any further claims against Croatia in respect of the facts of the present application.

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