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

THIRD SECTION

DECISION

Application no. 3869/08
Evert PRAK
against the Netherlands

The European Court of Human Rights (Third Section), sitting on 27 May 2014 as a Committee composed of:

Alvina Gyulumyan, *President,*
Kristina Pardalos,
Johannes Silvis, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 21 January 2008,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Evert Prak, is a Netherlands national, who was born in 1957 and lives in Leeuwarden. He was initially represented before the Court by Ms T. Spronken, a lawyer practising in Maastricht, and subsequently by Mr A.A. Franken, a lawyer practising in Amsterdam.

The Netherlands Government ("the Government") were represented by their Agent, Mr R.A.A. Böcker, of the Ministry of Foreign Affairs.

The applicant complained under Article 5 § 1 of the Convention that the extension of his order for confinement in a custodial clinic (*terbeschikking-stelling met bevel tot verpleging van overheidswege*; "TBS order") did not accord with the standards set out in Articles 590o and 590oa of the Netherlands Code of Criminal Procedure (*Wetboek van Strafvordering*). He further complained under Article 5 § 4 of the Convention that the proceedings were not pursued with the necessary speed.

On 22 January and 17 February 2014 the Court received friendly settlement declarations signed by the parties under which the applicant

agreed to waive any further claims against the Netherlands in respect of the facts giving rise to this application against an undertaking by the Government to pay him *ex gratia* 5,000 euros to cover any and all damage and 3,997.57 euros to cover any and all costs and expenses, plus any tax that may be charged to the applicant, which amounts will be payable within three months from the date of notification of the decision taken by the Court. In the event of failure to pay this sum within the said three-month period, the Government undertook to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

THE LAW

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. In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases in accordance with Article 39 of the Convention.

Marialena Tsirli
Deputy Registrar

Alvina Gyulumyan
President