CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 15304/02
by Ivan PRUGOVEČKI
against Croatia

The European Court of Human Rights (First Section), sitting on2 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 decision to apply the procedure under Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the above application lodged on 6 March 2002,

Having regard to the letter of the applicant's representative dated 26 January 2004 and the respondent Government's letter dated 1 March 2004,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Ivan Prugovečki, is a Croatian citizen who was born in 1952 and lives in Velika Gorica. He is represented before the Court by Mr B. Spiz, a lawyer practising in Zagreb. The respondent Government are represented by their Agent, Ms Lidija Lukina-Karajković.

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

On 18 September 1991 a certain B.M., at the time member of the Police, wounded the applicant by shooting at his car.

On 23 June 1994 the applicant instituted civil proceedings before the Zagreb Municipal Court (*Općinski sud u Zagrebu*) against B.M., the Zagreb Municipality and the State, seeking non-pecuniary damages.

On 19 March 1997 the applicant withdrew his action in respect of B.M.

On 13 May 1998 the court gave a judgment accepting the applicant's claim in respect of the State and dismissing it in respect of the Zagreb Municipality.

On 28 September 1999 the State appealed against the judgment.

On 6 November 1999 Parliament introduced an amendment to the Civil Obligations Act, which provided that all proceedings against the State concerning actions for damages resulting from acts of members of the Croatian army and police, when acting in their official capacity during the Homeland War in Croatia, were to be stayed.

On 6 December 2001 the Zagreb County Court returned the case file to the Municipal Court with an instruction to stay the proceedings pursuant to the above Act.

On 3 January 2002 the Zagreb Municipal Court stayed the proceedings.

On 16 July 2003 Parliament enacted the Act on the Liability of the Republic of Croatia for Damage Caused by Members of the Croatian Army and Police When Acting in Their Official Capacity During the Homeland War (Official Gazette No. 117/2003 of 23 July 2003) ("2003 Liability Act").

In November 2003 the proceedings before the Municipal Court resumed pursuant to the 2003 Liability Act. It appears that the proceedings are still pending.

COMPLAINT

The applicant complained that Parliament's enactment of the 1999 legislation had interfered with his right of access to a court within the meaning of Article 6 § 1 of the Convention and his right to an effective remedy within the meaning of Article 13 of the Convention.

THE LAW

By letter of 26 January 2004 the applicant's representative informed the Court that the applicant accepted a proposal for a friendly settlement and waived any further claims against Croatia in respect of the facts of the present application.

On 1 March 2004 the Government informed the Court that the parties had reached a settlement whereby 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.

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