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. 24927/02
by Dara and Dušan SVILOKOS
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 3 May 2002,

Having regard to the partial decision of 18 September 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 1 March 2004, and the applicants' representative's letter dated 23 January 2004,

Having deliberated, decides as follows:

THE FACTS

The applicants, Ms Dara Svilokos and Mr Dušan Svilokos, are Croatian citizens, who were born in 1939 (the first applicant) and 1933 (the second applicant) and live in Sisak, Croatia. They are represented before the Court by Mr Z. Kostanjšek, a lawyer practising in Sisak. The respondent Government are represented by their Agent, Ms L. Lukina-Karajković.

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

On 11 July 1992 the applicants' house in Sisak, Croatia, was blown up by unknown perpetrators.

Responsibility for damages resulting from terrorist acts was at that time regulated by section 180 of the Civil Obligations Act (*Zakon o obveznim odnosima*) providing that the responsibility lay with the authority whose officers were under duty to prevent such damages.

On 3 September 1992 the applicants instituted civil proceedings before the Sisak Municipal Court (*Općinski sud u Sisku*), seeking compensation from the State for their destroyed property. They based their claim on section 180 of the Civil Obligations Act.

On 20 May 1993 the court gave a judgment in favour of the applicants.

On 23 June 1993 the State appealed against the judgment.

On 29 September 1993 the Sisak County Court (*Županijski sud u Sisku*) quashed the first-instance judgment and remitted the case. The court considered that no damage resulting from terrorist acts had been established.

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.

On 29 February 1996 the Sisak Municipal Court stayed the proceedings.

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) ("2003 Liability Act").

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

COMPLAINT

The applicants complained under Article 6 § 1 of the Convention that the enactment of the 1996 legislation had violated their right of access to a court.

THE LAW

By letter of 23 January 2004 the applicants' representative informed the Court that the applicants accepted the 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 applicants 10,000 euros in full and final settlement of the applicants' 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