THIRD SECTION

DECISION

Application no. 38727/02
by Jurijs ŠMUTERS
against Latvia

The European Court of Human Rights (Third Section), sitting on 6 May 2008 as a Chamber composed of:

 Josep Casadevall, *President,* Elisabet Fura-Sandström, Alvina Gyulumyan, Egbert Myjer, Ineta Ziemele, Luis López Guerra, Ann Power, *judges,*and Santiago Quesada, *Section Registrar*,

Having regard to the above application lodged on 16 October 2002,

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 applicant, Mr Jurijs Šmuters, is a non-citizen (permanent resident) of Latvia, who was born in 1971 and lives in Liepāja. The Latvian Government (“the Government”) were represented by their Agent, Mrs I. Reine.

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

Between 19 February 1995 and 9 July 1996 and from 3 August 1999 to 9 November 2001 the applicant was detained on suspicion of having committed aggravated misappropriation. The Convention entered into force with respect to Latvia on 27 June 1997. On 9 November 2001 the Criminal Chamber of the Kurzeme Regional Court found the applicant guilty of the criminal offence he was suspected of and sentenced him to four years and six months’ imprisonment. On 7 April 2002 the Criminal Chamber of the Supreme Court quashed the judgment of the first instance court and sentenced the applicant to six years’ imprisonment. On 24 September 2002 the Senate of the Supreme Court upheld the judgment of the second instance court in part and send the remaining issues for adjudication *de novo* to the second instance. On 21 November 2002 the Criminal Chamber of the Supreme Court delivered the final judgment; the applicant did not submit his cassation appeal against it.

COMPLAINT

1.  The applicant complained under Article 5 § 3 of the Convention about the length of his pre-trial detention.

2.  The applicant complained under Article 6 § 1 of the Convention about the length of the criminal proceedings against him.

THE LAW

On 30 January 2008 the Court received the following declaration signed by the applicant:

“I, Jurijs Šmuters, note that the Government of Latvia are prepared to pay me *ex gratia* the sum of 1,600 euros with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Latvian lati [LVL-official abbreviation] at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

I accept the proposal and waive any further claims against Latvia in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case.”

On 6 March 2008 the Court received the following declaration from the Latvian Government:

“I, Inga Reine, Representative of the Government of Latvia, declare that the Government of Latvia offer to pay *ex gratia* 1,600 euros to Mr Jurijs Šmuters with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Latvian lati [LVL-official abbreviation] at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from 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 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 public policy reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). In view of the above, it is appropriate to discontinue the application of Article 29 § 3 and 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.

 Santiago Quesada Josep Casadevall
 Registrar President