



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

FIFTH SECTION

**CASE OF KOZAROV v. THE FORMER YUGOSLAV REPUBLIC
OF MACEDONIA**

(Application no. 64229/01)

JUDGMENT
(Striking out)

STRASBOURG

15 February 2007

FINAL

15/05/2007

*This judgment will become final in the circumstances set out in Article 44 § 2 of the
Convention. It may be subject to editorial revision.*

In the case of Kozarov v. the former Yugoslav Republic of Macedonia,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Mr P. LORENZEN, *President*,

Mr K. JUNGWIERT,

Mr V. BUTKEVYCH,

Mrs M. TSATSA-NIKOLOVSKA,

Mr J. BORREGO BORREGO,

Mrs R. JAEGER,

Mr M. VILLIGER, *judges*,

Mrs S. BOTOUCHAROVA,

Mr R. MARUSTE, *substitute judges*,

and Mrs C. WESTERDIEK, *Section Registrar*,

Having deliberated in private on 22 January 2007,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 64229/01) against the former Yugoslav Republic of Macedonia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Macedonian national, Mr Dimče Kozarov (“the applicant”), on 30 May 2000.

2. The Macedonian Government (“the Government”) were represented by their Agent, Mrs R. Lazareska Gerovska.

3. The applicant alleged that the length of the impugned proceedings had been excessive.

4. By a decision of 10 November 2005 the Court declared the application admissible.

5. By a letter received by the Court on 9 January 2006, the applicant informed the Court that he had concluded before the Supreme Court a court settlement with the respondent State and that the latter had enforced it in full. Accordingly, he considered the case before the Supreme Court and the Court as settled. On the Registry's request for clarification, the applicant informed the Court by letter dated 25 January 2006 that he wishes to withdraw the application.

THE FACTS

6. On 17 January 1997 the Skopje Pension and Disability Insurance Fund ("the Fund"), determined the amount of the applicant's pension.

7. On 30 January 1997 the applicant lodged an appeal with the Fund's Appeal Commission (*Комисија за жалби при Фондот за пензиско и инвалидско осигурување на Македонија*) on the ground that his pension entitlement had been incorrectly calculated.

8. On 5 June 1997 the Fund's Appeal Commission dismissed his appeal.

9. On 1 October 1997 the Supreme Court set aside the Fund's decision and remitted the case to the Appeal Commission, pointing out that the administrative body had incorrectly interpreted and applied the national law.

10. On 6 March 1998 the Government Appeal Commission ("the Commission") dismissed the applicant's appeal on the ground that Article 36 of the Pension and Disability Insurance Act (*Закон за пензиското и инвалидското осигурување*) ("the Act") imposed a general ceiling on the amount of pension awards, which determined and had an effect on the highest pension award payable to the applicant.

11. On 6 October 1999 the Supreme Court upheld his claim and declared the Commission's decision null and void. It held that the applicant's pension had not been calculated correctly and gave instructions as to how the applicant's pension was to be calculated in accordance with the Act.

12. The Commission took no action further to that judgment despite a submission by the applicant of 2 December 1999 that it should not remain silent.

13. On 15 December 1999 the applicant applied to the Supreme Court, requesting it to render a judgment in the absence of an administrative decision concerning the amount of his pension. On 23 February 2000 he repeated his request before the court.

14. On 14 June 2000 the Supreme Court dismissed the applicant's request on the ground that in the meantime, on 10 May 2000, the Commission had rendered a decision concerning his claim and no judgment instead could have been taken.

15. On 7 June 2000 the applicant challenged the Commission's decision before the Supreme Court as it had again erred in law and had apparently disregarded the court's legal reasoning and instructions given in its judgment of 6 October 1998.

16. On 29 May 2002 the Supreme Court upheld the applicant's complaint and declared the Commission's decision null and void. It repeated its previous findings about wrong application of the law and instructed the Commission to take into consideration its instructions in the subsequent decision-making.

17. On 30 August 2002 the Commission rendered a decision which was not in line with the instructions given by the Supreme Court.

18. On 30 September 2002, the applicant instituted, for the third time, administrative contentious proceedings before the Supreme Court on the same grounds as before.

19. On 16 April 2003 the Fund and the applicant concluded a court settlement about the amount of the pension. It was concluded that the amount agreed would be retroactively paid to the applicant from the day when he met the criteria for age-retirement and that the difference between the amount actually paid and the amount agreed would be paid by the Fund in two instalments.

THE LAW

20. By a letter received by the Court on 9 January 2006, the applicant informed the Court that he had concluded before the Supreme Court a court settlement with the respondent State the terms of which had been completely fulfilled. Accordingly, he considered the case before the Supreme Court and the Court as settled. On the Registry's request for clarification, by a letter of 25 January 2006 the applicant informed the Court that he wished to withdraw the application.

21. Article 37 § 1 of the Convention, insofar as relevant, provides as follows:

“The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

(a) the applicant does not intend to pursue his application...”

22. Having regard to the applicant's letter of 25 January 2006, the Court finds that the applicant does not intend to pursue his application within the meaning of the Article cited above.

23. The case concerned length-of-proceedings complaint under Article 6 § 1 and a complaint under Article 13 of the Convention, issue on which the Court has had ample opportunity to express its opinion. In these circumstances, the Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the examination of the application by virtue of that Article (see *Osteo Deutschland GmbH v. Germany* (striking out), no. 26988/95, § 24, 3 November 1999).

24. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English, and notified in writing on 15 February 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK
Registrar

Peer LORENZEN
President