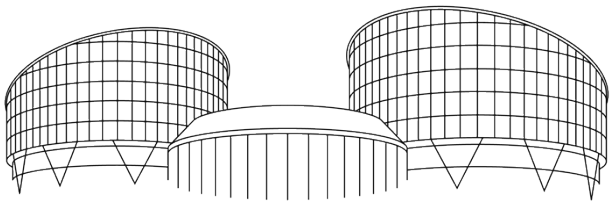

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

DECISION

Application no. 40370/04
by Nikola FIDANOVSKI (no.1)
against the former Yugoslav Republic of Macedonia

The European Court of Human Rights (Fifth Section), sitting on 2 March 2010 as a Chamber composed of:

Peer Lorenzen, *President,*
Renate Jaeger,
Karel Jungwiert,
Rait Maruste,
Mark Villiger,
Isabelle Berro-Lefèvre,
Mirjana Lazarova Trajkovska, *judges,*
and Claudia Westerdiek, *Section Registrar*,

Having regard to the above application lodged on 5 October 2004,

Having regard to the declaration submitted by the respondent Government on 15 October 2009 requesting the Court to strike the length complaint out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

PROCEDURE

The application was lodged by Mr Nikola Fidanovski, a Macedonian national who was born in 1947 and lives in Bitola. He was represented before the Court by Ms K. Jandrijeska Jovanova, a lawyer practising in Skopje. The Macedonian Government ("the Government") were represented by their Agent, Mrs R. Lazareska Gerovska. The case mainly concerned the length of civil proceedings in which the applicant claimed annulment of his reassignment. The proceedings started on 7 October 1997 and ended on

7 April 2004 when the Supreme Court's decision of 4 February 2004 was served on the applicant.

COMPLAINTS

The applicant complained under Article 4 § 2 of the Convention that he had been required to perform forced labour since he had been reassigned to a post that did not correspond to his qualifications. He further complained under Article 6 of the Convention that his case had not been heard within a reasonable time. Relying on the same Convention Article the applicant also alleged that the domestic courts had erred in facts and law and that the Supreme Court's decision had not been reasoned. The applicant finally invoked Article 13 of the Convention restating his complaints already raised under Article 6.

LAW

1. The applicant complained about the length of the civil proceedings under Article 6 § 1 of the Convention. This provision provides as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

By letter dated 15 October 2009, the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by this part of the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The declaration provided, *inter alia*, as follows:

> "... the Government would hereby like to express – by a way of unilateral declaration – its acknowledgement that in the special circumstances of the present case, the length of the domestic proceedings did not fulfil the requirement of "reasonable time" referred to in Article 6 § 1 of the Convention. Consequently, the Government is prepared to pay to the applicant the global sum of 490 euros (four hundred and ninety euros). In its view, this amount would constitute adequate redress and sufficient compensation for the impugned length of the said proceedings, and thus a reasonable sum as to quantum in the present case in the light of the Court's case law. This sum is to cover any pecuniary and non-pecuniary damage as well as the costs and expenses and will be free of any taxes that may be applicable. This sum will be payable to the personal account of the applicant within three months from the date of the notification of the decision pursuant to Article 37 § 1 (c) of the Convention ... In the light of the above and in accordance with Article 37 § 1 (c) of the Convention the Government would like to suggest that the circumstances of the present case allow the Court to reach the conclusion that for "any other reason" it is no longer justified to continue the examination of the application. Moreover, there are no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the further examination of the case by virtue of that provision. Therefore, the Government invites the Court to strike the application out of its list of cases"

In a letter received by the Court on 2 December 2009 the applicant stated that he does not agree with the declaration, as he had also lodged other complaints apart from the one about the length of the proceedings.

Having regard to the Court's practice in this field (see *Petkovski v. the former Yugoslav Republic of Macedonia*, no. 27314/04, 13 November 2008 and *Ajvazi v. the former Yugoslav Republic of Macedonia*, no. 30956/05, 13 November 2008) and to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed, which is compatible with the amounts awarded in similar cases, the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1(c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of this part of the application (Article 37 § 1 *in fine*). Accordingly, it should be struck out of the list.

2. The applicant further complained under Article 4 § 2 of the Convention alleging that he had been required to perform forced labour. He also complained under Article 6 of the Convention that the domestic courts had erred in facts and law and that the Supreme Court's decision had not been reasoned. The applicant finally invoked Article 13 of the Convention restating his complaints already raised under Article 6.

The Court has examined the remainder of the complaints as submitted by the applicant. However, having regard to all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that the applicant has failed to substantiate his complaints. It follows that this part of the application must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Takes note of the terms of the respondent Government's declaration in respect of the length-of-proceedings complaint under Article 6 § 1 of the Convention;

Decides to strike the application out of its list of cases in so far as it relates to the above complaint in accordance with Article 37 § 1 (c) of the Convention;

Declares the remainder of the application inadmissible.

Claudia Westerdiek
Registrar

Peer Lorenzen
President