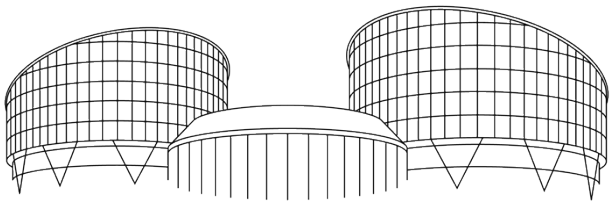

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

DECISION

Application no. 51743/07
Tomislav MILOSAVLJEVIĆ
against Serbia

The European Court of Human Rights (Second Section), sitting on 3 April 2012 as a Committee composed of:

András Sajó, *President,*
Dragoljub Popović,
Paulo Pinto de Albuquerque, *judges,*

and Françoise Elens-Passos, *Deputy Section Registrar.*

Having regard to the above application lodged on 14 November 2007,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Tomislav Milosavljević, is a Serbian national who was born in 1936 and lives in Belgrade.

He was represented before the Court by Mr D. Kuzmanović, a lawyer practising in Beograd. The Serbian Government ("the Government") were represented by their Agent, Mr S. Carić.

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

On 7 June 1978 the applicant filed a lawsuit against three other persons, requesting the courts to determine his right to use a real property as a joint tenant. Following one remittal, on 21 April 2008 the Second Municipal Court in Belgrade accepted the applicant's claim with respect to the first two defendants, and dismissed the claim with respect to the third defendant.

On 4 February 2009 the District Court in Belgrade confirmed the judgment of 21 April 2008.

COMPLAINTS

Relying on Articles 6 and 13 of the Convention, the applicant complained about the length of the impugned proceedings, as well as the absence of an effective domestic remedy for procedural delay.

THE LAW

The application had been communicated to the Government under Article 6 § 1 and Article 13 of the Convention.

After unsuccessful friendly-settlement negotiations, by letter dated 24 June 2010 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The declaration provided as follows:

> "I declare that the Government of the Republic of Serbia is ready to accept that there had been a violation of the applicant's right under Article 6 paragraph 1 and 13 of the Convention and offer to pay to the applicant, Mr. Tomislav Milosavljević, the amount of EUR 2,700 [...] in respect of the application registered under no. 51743/07 before the European Court of Human Rights.
>
> This sum, which covers any pecuniary and non-pecuniary damage as well as costs, shall be paid in dinar counter-value, free of any taxes that may be applicable and to an account [specified] by the applicant. The sum shall be payable within three months from the date of delivery of the judgment by the Court. This payment will constitute the final resolution of the case.
>
> The Government regret the occurrence of the actions which have led to the bringing of the present application. "

In a letter of 14 October 2011 the applicant expressed the view that the sum mentioned in the Government's declaration was unacceptable and requested the Court to be awarded EUR 15,000 in damages.

The Court recalls that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

"for any other reason established by the Court, it is no longer justified to continue the examination of the application".

It also recalls that in certain circumstances, it may strike out an application under Article 37 § 1(c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

To this end, the Court will examine carefully the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey*, [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI); *WAZA Spółka z o.o. v. Poland* (dec.) no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.) no. 28953/03).

The Court has established in a number of cases, including those brought against Serbia, its practice concerning complaints about the violation of Article 6 § 1 and 13 of the Convention concerning the right to a hearing within a reasonable time (see, for example, *Cocchiarella v. Italy* [GC], no. 64886/01, ECHR 2006; *Kudła v. Poland* [GC], no. 30210/96, ECHR 2000-XI; *Ilić v. Serbia*, no. 30132/04, 9 October 2007). Where the Court has found a breach of these Articles it has awarded just satisfaction, the amount of which has depended on the particular features of the case.

Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases, when account is taken of the fact that only four years and eleven months of the impugned proceedings fall within the Court's competence *ratione temporis*, Serbia having ratified the Convention on 3 March 2004 – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1(c) see, for the relevant principles, *Tahsin Acar*, cited above; *Haran v. Turkey*, no. 25754/94, judgment of 26 March 2002).

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 the application (Article 37 § 1 *in fine*).

Accordingly, it should be struck out of the list.

Finally, the Court recalls that, in accordance with Article 46 § 2 of the Convention, the Committee of Ministers is competent to supervise the execution of its final judgments only. However, should the respondent State, fail to comply with the terms of its unilateral declaration in the present case, the application could be restored to the Court's list pursuant to Article 37 § 2 of the Convention (see *Aleksentseva and 28 Others v. Russia* (dec.), no. 75025/01, 23 March 2006).

For these reasons, the Court unanimously

Takes note of the terms of the respondent Government's declaration and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Françoise Elens-Passos	András Sajó
Deputy Registrar	President