

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

SECOND SECTION

DECISION

Application no. 8136/07
by Branislav BODIĆ
against Serbia

The European Court of Human Rights (Second Section), sitting on 8 March 2011 as a Committee composed of:

Ireneu Cabral Barreto, *President,*
Dragoljub Popović,
András Sajó, *judges,*

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

Having regard to the above application lodged on 13 February 2007,

Having deliberated, decides as follows:

THE FACTS

The application was lodged by Mr Branislav Bodić, a Serbian national who was born in 1963 and lives in Belgrade. The Serbian Government ("the Government") were represented by their Agent, Mr S. Carić.

On 1 August 1994, while travelling by bus with his family, the applicant's wife and daughter were killed, while the applicant himself suffered severe injuries in a traffic accident.

On 17 April 1995 the applicant filed a lawsuit against the tourist agency which had organized his travel.

Following two remittals, on 4 October 2007 the First Municipal Court in Belgrade partly granted the applicant's claim.

On 22 October 2008 the District Court in Belgrade upheld this judgment, thereby finally resolving the case.

On 16 January 2009 the applicant filed an appeal on points of law, which was rejected on 2 February 2009.

THE LAW

Without relying on a specific provision of the Convention, the applicant complained about the length of his civil proceedings.

By letter dated 29 April 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 of the Convention and offer to pay to the applicant, Mr Branislav Bodić, the amount of EUR 600 *ex gratia* in respect of the application registered under no. 8136/07 before the European Court of Human Rights.
>
> This sum, which covers 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 [decision] 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 26 May 2010 the applicant expressed the view that the sum mentioned in the Government's declaration was unacceptably low.

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 one's right to a hearing within a reasonable time (see, for example, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII; *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 69-98, ECHR 2006-....; *Majewski v. Poland*, no. 52690/99, 11 October 2005; *Wende and Kukówka v. Poland*, no. 56026/00, 10 May 2007; and *Čížková v. Serbia*, no. 8044/06, 19 January 2010).

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

For these reasons, the Court unanimously

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

Françoise Elens-Passos
Deputy Registrar

Ireneu Cabral Barreto
President