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

FOURTH SECTION

DECISION

Application no. 71562/16
Joseph CAMILLERI
against Malta

The European Court of Human Rights (Fourth Section), sitting on 23 May 2017 as a Commitee composed of:

Iulia Motoc, *President,*
Vincent A. De Gaetano,
Marko Bošnjak, *judges,*

and Andrea Tamietti, *Deputy Section Registrar,*

Having regard to the above application lodged on 24 November 2016,

Having regard to the declaration submitted by the respondent Government on 3 March 2017 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Joseph Camilleri, is a Maltese national, who was born in 1972 and lives in Zurrieq. He was represented before the Court by Dr J. Brincat, a lawyer practising in Marsa.

2. The Maltese Government ("the Government") were represented by their Agent, Dr P. Grech, Attorney General.

3. The applicant complained under Article 6 § 1 of the Convention about the length of criminal proceedings. In particular, on 27 June 2016 the Constitutional Court held that the applicant had suffered a violation of his rights as protected under Article 6 of the Convention during the committal stage of his criminal proceedings which had lasted seven years. It awarded the applicant 4,000 euros (EUR) in non-pecuniary damage. The Constitutional Court noted that in order to be provided with compensation for pecuniary damages the applicant had to prove: a causal link between the

infringement suffered and the damages claimed; that the damage suffered was real and not based on presumptions and that the proof given was clear and unequivocal. Noting that the proof presented by the applicant was scarce and sometimes of a contradictory nature, the Constitutional Court concluded that the applicant had not provided sufficient evidence to prove the material damages he had suffered, and awarded no compensation in this respect.

4. On 16 December 2016 the application had been communicated to the Government.

THE LAW

5. The applicant complained under Article 6 § 1 of the Convention about the length of the criminal proceedings against him. He alleged that he remained a victim of the violation upheld by the Constitutional Court, as the award of compensation (EUR 4,000) was too low and did not cover pecuniary damage.

6. After the failure of attempts to reach a friendly settlement, by a letter of 3 March 2017, amended on 8 March 2017, 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.

7. The Government acknowledged the unreasonable duration of the criminal proceedings in which the applicant was involved. They offered to pay EUR 2,000 as just satisfaction in the light of the Court's case-law, such as that in *Zarb v. Malta* (no. 16631/04, 4 July 2006) and *Debono v. Malta* (no. 34539/02, 7 February 2006) and invited the Court to strike out the case of the Court's list of cases, as referred to in Article 37 (1) (c) of the Convention. The sum, which was to cover any pecuniary and non-pecuniary damage as well as costs and expenses, would be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 (1) of the Convention. In the event of failure to pay this sum within the three months period, the Government undertook to pay simple interest on it from the 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.

8. By a letter of 23 March 2017 the applicant indicated that he was not satisfied with the terms of the unilateral declaration on the ground that the sum offered did not take account of pecuniary damage.

9. In this respect the Court notes that the applicant's pecuniary losses had not been substantiated before the domestic court (see paragraph 3 above). Nor have they been substantiated before this Court.

10. The Court reiterates 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".

11. It also reiterates 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.

12. To this end, the Court has examined the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; see also *WAZA Sp. z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007, and *Sulwińska v. Poland* (dec.), no. 28953/03, 18 September 2007).

13. The Court has established in a number of cases, including those brought against Malta, 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-V; *Zarb*, cited above, § 40; and *Central Mediterranean Development Corporation Limited v. Malta*, no. 35829/03, §§ 36-43, 24 October 2006).

14. The Court notes that the sum awarded by the last-instance court in a final judgment at the domestic level, in the present case the Constitutional Court (see paragraph 3 above), remains payable to the applicant (see, for example and *mutatis mutandis*, *Gera de Petri Testaferrata Bonici Ghaxaq v. Malta* (just satisfaction), no. 26771/07, § 26, 3 September 2013).

15. Having regard to the above and 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)).

16. 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*).

17. Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could

be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

18. In view of the above, it is appropriate to strike the case out of the list.

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.

Done in English and notified in writing on 15 June 2017.

Andrea Tamietti	Iulia Motoc
Deputy Registrar	President