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

FOURTH SECTION

# DECISION

Application no. 38449/05
Anatolijs DAŅILOVS
against Latvia

The European Court of Human Rights (Fourth Section), sitting on 1 September 2015 as a Committee composed of:

Nona Tsotsoria, *President,*
Paul Mahoney,
Faris Vehabović, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 12 October 2005,

Having regard to the declaration submitted by the respondent Government on 6 March 2015 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

The applicant, Mr Anatolijs Daņilovs, is a Latvian national, who was born in 1971 and lives in Stockholm.

The Latvian Government ("the Government") were represented by their Agent, Ms K. Līce.

The applicant complained under Article 5 § 3 of the Convention about the length of his pre-trial detention.

The application had been communicated to the Government.

## THE LAW

The applicant complained about the excessive duration of his pre-trial detention. He relied on Article 5 § 3 of the Convention.

After the failure of attempts to reach a friendly settlement, by a letter of 6 March 2015 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application.

The declaration provided as follows:

> "The Government of the Republic of Latvia (hereinafter – the Government) represented by its Agent Kristīne Līce admits that the length of detention on remand in respect of Anatolijs Daņilovs (hereinafter – the applicant) which was applied during the course of the criminal proceedings Nos.11180160604, 111800037407 and 11180098207 did not meet the standards enshrined in Article 5, paragraph 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – the Convention). Being aware of that, the Government undertakes to adopt all necessary measures in order to avoid similar infringements in future. The Government hereby declares that it offers to pay to the applicant the compensation in the amount of 2,800 EUR, this amount being the global sum and covering any pecuniary and non-pecuniary damage together with any costs and expenses incurred, free of any taxes that may be applicable, with a view to terminating the proceedings pending before the European Court of Human Rights (hereinafter – the Court) in the case of *Daņilovs v. Latvia* (application No.38449/05).
>
> The Government undertakes to pay the above compensation within three months from the date of notification of the decision/judgment by the Court pursuant to Article 37 of the Convention. In the event of failure to pay this sum within the said three-month period, the Government undertakes to pay simple interest on the amount, as established in the decision/judgment by the Court. The above sum shall be transferred to the bank account indicated by the applicant.
>
> This payment will constitute the final resolution of the case."

By a letter of 6 April 2015, the applicant indicated that he was not satisfied with the terms of the unilateral declaration.

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".

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.

To this end, the Court has examined the declaration carefully 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, 18 September 2007).

The Court has established in a number of cases, including those brought against Latvia, its practice concerning complaints about the length of pre-trial detention (see, for example *Lavents v. Latvia*, no. 58442/00, §§ 70-71, 28 November 2002; *Svipsta v. Latvia*, no. 66820/01, §§ 106-113, ECHR 2006-III; and *Estrikh v. Latvia*, no. 73819/01, §§ 113-114, 118-120, 18 January 2007).

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 (see, for example *Nazarenko v. Latvia*, no. 76843/01, 1 February 2007 and *Zandbergs v. Latvia*, no. 71092/01, 20 December 2011) – 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*).

The Court considers that this amount should be paid within three months from the date of notification of the Court's decision issued in accordance with Article 37 § 1 of the European Convention on Human Rights. In the event of failure to settle within this period, simple interest shall be payable on the amount in question at a rate equal to the marginal lending rate of the European Central Bank plus three percentage points.

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).

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 under Article 5 § 3 of the Convention 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 24 September 2015.

Fatoş Aracı
Deputy Registrar

Nona Tsotsoria
President