

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

SECOND SECTION

DECISION

Application no. 37852/06
by Milena FILIPOVIĆ
against Serbia

The European Court of Human Rights (Second Section), sitting on 5 July 2011 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 8 September 2006,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Milena Filipović, is a Serbian national who was born in 1952 and lives in Orljane. She was represented before the Court by Mr S. Đurić, a lawyer practising in Niš. The Serbian Government ("the Government") were represented by their Agent, Mr S. Carić

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

On 11 April 1997 the Municipal Court in Niš issued a judgment ordering the company M. to transfer to the applicant's possession certain real property, to perform certain repairs to the property at question, and to pay her a certain amount of damages.

On 17 July 1998 the Municipal Court ordered enforcement of judgment of 11 April 1997.

Following the enforcement order, the debtor transferred into the applicant's possession the real property in question, and started paying the amount of damages, apparently in instalments. However, it would appear that the debtor has failed to transfer to the applicant the documents necessary for her registration as an owner in the land registry.

THE LAW

Under Article 6 § 1 of the Convention the applicant complained about the failure of the respondent Party to enforce the judgment of 11 April 1997.

By letter dated 24 January 2011 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, Ms Milena Filipović, the amount of EUR 5,400 in respect of the application registered under no. 37852/06 before the European Court of Human Rights.
>
> This sum, which covers 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 of 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 16 March and 18 March 2011 the applicant's attorney and the applicant herself, respectively, 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 one's right to have a final decision enforced (see, for example, *Hornsby v. Greece*, judgment of 19 March 1997, *Reports* 1997-II, p. 511, § 41; *Burdov v. Russia*, no. 59498/00, ECHR 2002-III; *Ilić v. Serbia*, no. 30132/04, 9 October 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 – 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

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