

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

FOURTH SECTION

DECISION

Application no. 23011/11
Matti Johannes JALAVA
against Finland

The European Court of Human Rights (Fourth Section), sitting on 25 September 2012 as a Committee composed of:

Ledi Bianku, *President,*
Päivi Hirvelä,
Zdravka Kalaydjieva, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 7 April 2011,

Having regard to the declaration submitted by the respondent Government on 6 July 2012 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 Matti Johannes Jalava, is a Finnish national, who was born in 1953 and lives in Espoo. He was represented before the Court by Mr Miikka Hakanen, a lawyer practising in Turku.

2. The Finnish Government ("the Government") were represented by their Agent, Mr Arto Kosonen of the Ministry for Foreign Affairs.

3. The applicant complained under Articles 8 and 13 of the Convention about the search conducted by the police in his home and that he had had no effective remedy to challenge that search before a court.

4. The application had been communicated to the Government.

THE LAW

5. The applicant complained about the search of his home and the lack of an effective remedy. He relied on Articles 8 and 13 of the Convention.

6. After the failure of attempts to reach a friendly settlement, by a letter of 6 July 2012 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 declaration provided as follows:

> "Whereas the efforts with a view to securing a friendly settlement of the case have been unsuccessful, the Government - referring to your Court's *Harju v. Finland* judgment of 15 February 2011 (no. 56716/09, esp. §§ 45 to 48 and 54) in a similar case - wishes to express by way of a unilateral declaration its acknowledgement that there has been a breach of the Convention in the present case for the same reasons and to the same extent as your Court has ruled in the *Harju* judgment.
>
> Consequently, the Government is prepared to pay the applicant a total amount of EUR 2,850 in compensation for non-pecuniary damage. In the Government's view, having regard to all the circumstances of the case and to your Court's awards in comparable cases, the above total amount would constitute adequate redress in the present case.
>
> The total sum will be payable within three months from the date of notification of the decision pursuant to Article 37 § 1 (c) of the Convention. In the event of the failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from 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.
>
> In the light of above, the Government would suggest that the circumstances of the present case allow your Court to reach the conclusion that there exists 'any other reason', as referred to in Article 37 § 1 (c) of the Convention, justifying your Court to discontinue the examination of the application, and that, moreover, there are no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the further examination of the case."

8. By a letter of 21 July 2012, the applicant indicated that he was not satisfied with the terms of the unilateral declaration on the ground that the overall compensation was too low.

9. 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".

10. 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.

11. 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, 18 September 2007.

12. The Court has established in a number of cases, including those brought against Finland, its practice concerning complaints about the violation of one's right to respect for one's home and a lack of an effective remedy in that respect (see, for example, *Harju v. Finland*, no. 56716/09, §§ 43-45 and 54, 15 February 2011; and *Heino v. Finland*, no. 56720/09, §§ 44-46 and 55, 15 February 2011).

13. 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)).

14. 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*).

15. 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).

For these reasons, the Court unanimously

Takes note of the terms of the respondent Government's declaration under Articles 8 and 13 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.

Fatoş Aracı	Ledi Bianku
Deputy Registrar	President