

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

# THIRD SECTION

# DECISION

Application no. 55509/18
KAYAT TRADING LIMITED
against Cyprus
(see appended table)

The European Court of Human Rights (Third Section), sitting on 10 November 2022 as a Committee composed of:

Darian Pavli*, President*,
Ioannis Ktistakis,
Andreas Zünd*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 20 November 2018,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

## FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant was represented by Mr Y. Georgiades, a lawyer practising in Nicosia.

The applicant's complaints under Article 6 § 1 of the Convention concerning the lack of impartiality of the Supreme Court were communicated to the Cypriot Government ("the Government").

## THE LAW

After unsuccessful friendly settlement negotiations, the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by these complaints. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The Government acknowledged the breach of the applicant's rights under Article 6 § 1 of the Convention for the lack of objective impartiality of the

Supreme Court. The Government further noted that the code of judicial conduct was accordingly amended following this Court's case-law to prevent similar violations in the future. They offered to pay the applicant the amount detailed in the appended table and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amount would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay this amount within the above-mentioned three-month 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.

The payment will constitute the final resolution of the case.

The applicant was sent the terms of the Government's unilateral declaration several weeks before the date of this decision. In a letter of 21 June 2021 sent to the Court after the expiry of the deadline set for the applicant to reply to the Government's proposal, the applicant objected to the declaration. It noted, *inter alia,* that the sum proposed by the Government was inadequate to provide just satisfaction for its complaints.

The Court observes that Article 37 § 1 (c) enables it 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".

Thus, it may strike out applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicants wishe the examination of the cases to be continued (see, in particular, the *Tahsin Acar v. Turkey* judgment (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

The Court has established clear and extensive case-law concerning complaints relating to the lack of impartiality of a tribunal (see, for example, *Koulias v. Cyprus,* no. 48781/12, 26 May 2020 and *Nicholas v. Cyprus,* no. 63246/10, 9 January 2018).

Noting 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)). As regards the applicant's objection to the terms of the unilateral declaration, the Court has, in the absence of further details, no reasons to consider that the compensation offered by the Government constitutes inadequate or otherwise unreasonable redress for the violation of its Convention rights (see *Ryabkin and Volokitin v. Russia* (dec.), nos. 52166/08 and 8526/09, §§ 49 50, 28 June 2016, and *Igranov and Others v. Russia*, nos. 42399/13 and 8 others, § 24, 20 March 2018, and, for a similar approach, *Korol v. Russia* (dec.) [Committee], no. 20129/18, 20 May 2021).

In the light of the above considerations, 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*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application may be restored to the list in accordance with Article 37 § 2 of the Convention (see *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 and of the arrangements 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 1 December 2022.

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| Viktoriya Maradudina | Darian Pavli |
| Acting Deputy Registrar | President |

# APPENDIX

## Application raising complaints under Article 6 § 1 of the Convention

| Application no.<br>Date of introduction | Applicant's name<br>Year of registration | Representative's name and location | Date of receipt of Government's declaration | Date of receipt of applicant's comments | Amount awarded for non-pecuniary damage and costs and expenses per applicant (in euros)[1] |
|---|---|---|---|---|---|
| 55509/18<br>20/11/2018 | **KAYAT TRADING LIMITED**<br>1996 | Georgiades Yiannos<br>Nicosia | 11/04/2022 | 21/06/2022 | 9,600 |

[1] Plus any tax that may be chargeable to the applicant