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

SECOND SECTION

DECISION

Applications nos. 37953/13 and 48643/16
Frosina KIPROVSKA LUKIKJ
against North Macedonia

The European Court of Human Rights (Second Section), sitting on 30 August 2022 as a Committee composed of:

Egidijus Kūris, *President,*
Pauliine Koskelo,
Gilberto Felici, *judges,*

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to the above applications lodged on 4 June 2013 and 15 August 2016 respectively,

Having regard to the declaration submitted by the respondent Government on 8 October 2018 requesting the Court to strike the applications 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, Ms Frosina Kiprovska Lukikj, is a Macedonian/citizen of the Republic of North Macedonia, who was born in 1971 and lives in Skopje. She was represented before the Court by Mr D. Nikodinovski, a lawyer practising in Skopje.

2. The respondent Government were represented by their Agent, Ms D. Djonova.

3. The applicant complained under Article 6 § 1 of the Convention about the alleged unfairness of both the administrative proceedings concerning the revocation of her security clearance and the labour dispute concerning her dismissal from the State Intelligence Agency.

4. The applications had been communicated to the Government.

THE LAW

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

6. After the failure of attempts to reach a friendly settlement, by a letter of 8 October 2018 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the applications. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

7. The declaration provided as follows:

> "... the Government would hereby like to express – by a way of unilateral declaration – its acknowledgement that in the special circumstances of the present case(s), did not fulfil the requirements of the applicant's rights protected by Article 6 of the Convention.
>
> Consequently, the Government is prepared to pay to the applicant [name of the applicant] a sum of 4,725 EUR (four thousand seven hundred and twenty-five euros). In its view, this amount would constitute adequate redress and sufficient compensation for the violation of Article 6 before the administrative courts concerning her security clearance and in the dismissal proceedings before the civil courts, thus a reasonable sum as to quantum in the present case in the light of the Court's case law.
>
> This sum is to cover any pecuniary and non-pecuniary damage as well as the costs and expenses and will be free of any taxes that may be applicable. This sum will be payable to the personal account of the applicant within three months from the date of the notification of the Court decision ...
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> ... In the light of the above and in accordance with Article 37 § 1 (c) of the Convention, the Government, having in mind the terms of this declaration, would like to suggest that the circumstances of the present case allow the Court to reach the conclusion that for 'any other reason' it is no longer justified to continue the examination of the applications. 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 by virtue of that provision. Therefore, the Government invites the Court to strike the application(s) out of its list of cases."

8. By a letter of 19 November 2018 the applicant indicated that she was not satisfied with the terms of the unilateral declaration on the ground that, in accordance with the relevant domestic law valid at the time, a strike-out decision of the Court would prevent her to seek the reopening of the domestic proceedings against her. She also claimed that the sum offered by the Government did not in itself constitute adequate redress for the violation complained of.

9. 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 applications".

10. It also reiterates that in certain circumstances, it may strike out an applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the cases to be continued.

11. 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; *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).

12. The Court has already established that in May 2019 a new Administrative Disputes Act (Official Gazette no. 96/2019) entered into force which explicitly provides for reopening of proceedings on the basis, *inter alia*, of "a decision (by the Court) based on a unilateral declaration by the State acknowledging a violation of the Convention" (section 82(1)2 of the Act) (see *Milchin and Psaltirov v North Macedonia,* nos. 17607/15 and 32576/15, § 13, 16 September 2021). The Court further notes the close interplay between the administrative and the civil proceedings in that the applicant's dismissal was predicated by the revocation of her security clearance, which was the subject of the impugned administrative proceedings.

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 applications (Article 37 § 1 (c)).

14. Moreover, in light of the above considerations, and in particular given the clear 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 applications (Article 37 § 1 *in fine*).

15. The Court considers that the amount should be converted into the national currency at the rate applicable at the date of payment, and 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 cases out of the list.

For these reasons, the Court, unanimously,

Decides to join the applications;

Takes note of the terms of the respondent Government's declaration under Article 6 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 22 September 2022.

Dorothee von Arnim Deputy Registrar	Egidijus Kūris President

APPENDIX

List of cases

1. 37953/13 Kiprovska Lukikj v. North Macedonia
2. 48643/16 Kiprovska Lukikj v. North Macedonia