

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

SECOND SECTION

DECISION

Application no. 23253/08
Sidik LJAJIĆ
against Serbia

The European Court of Human Rights (Second Section), sitting on 22 May 2012 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 22 April 2008,

Having deliberated, decides as follows:

## THE FACTS

The applicant, Mr Sidik Ljajić, is a Serbian national, who was born in 1954 and lives in Belgrade.

The Serbian Government ("the Government") were represented by their Agent, Mr S. Carić.

The applicant complained under Article 6 § 1 of the Convention about the length of civil proceedings he had in 2002 initiated against a third private party, and which were finished on 27 March 2009.

The application was communicated to the Government.

# THE LAW

After unsuccessful friendly-settlement negotiations, by letter dated 4 March 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, Mr Sidik Ljajić, the amount of EUR 1,600 to cover any and all non-pecuniary damage plus any tax that may be chargeable to the applicant in respect of the application registered under no. 23253/08 before the European Court of Human Rights.
>
> These sums 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 17 May 2011 the applicant 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 violation of one's right to a hearing within a reasonable time (see, for example, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII; *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 69-98, ECHR 2006-....; *Majewski v. Poland*, no. 52690/99, 11 October 2005; *Wende and Kukówka*

*v. Poland*, no. 56026/00, 10 May 2007 and *Čížková v. Serbia*, no. 8044/06, 19 January 2010).

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, when account is taken of the fact that only five years of the impugned proceedings fall within the Court's competence *ratione temporis*, Serbia having ratified the Convention on 3 March 2004 – 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.

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| Françoise Elens-Passos | András Sajó |
| Deputy Registrar | President |