

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

FIRST SECTION

DECISION

Applications nos. 24335/13 and 38734/13
Antun MATASOVIĆ against Croatia
and Ivan PEIČIĆ against Croatia

The European Court of Human Rights (First Section), sitting on 25 August 2015 as a Committee composed of:

Mirjana Lazarova Trajkovska, *President,*
Paulo Pinto de Albuquerque,
Ksenija Turković, *judges,*
and André Wampach, *Deputy Section Registrar,*

Having regard to the above applications lodged on 11 March 2013 and 15 April 2013 respectively,

Having regard to the declarations submitted by the respondent Government on 20 March and 20 May 2015 requesting the Court to strike the applications out of the list of cases and the applicants' reply to those declarations,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The first applicant, Mr Antun Matasović, was born in 1958 and lives in Poreč. The second applicant, Mr Ivan Peičić, was born in 1966 and lives in Vinkovci. They are both Croatian nationals. The first applicant was represented before the Court by Mr Z. Ilić, a lawyer practising in Poreč. The second applicant was represented before the Court by Mr D. Ostović, a lawyer practising in Vinkovci.

The Croatian Government ("the Government") were represented by their Agent, Ms Š. Stažnik.

The applicants complained under Article 6 § 1 of the Convention about the excessive length of their proceedings.

The applications had been communicated to the Government.

THE LAW

The first applicant complained about the excessive length of criminal proceedings which had lasted twelve years and eight months before two instances.

The second applicant complained about excessive length of proceedings before Constitutional Court which had lasted five years and two months.

They relied on Article 6 § 1 of the Convention.

Given that the two applications at hand concern similar facts and complaints and raise identical issues under the Convention, the Court decides to join them, pursuant to Rule 42 § 1 of the Rules of the Court.

After the failure of attempts to reach friendly settlements, by letters of 20 March and 20 May 2015 the Government informed the Court that they proposed to make unilateral declarations with a view to resolving the issues raised by the applications. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

The declaration submitted in respect of the first applicant provided as follows:

> "(a) acknowledges that in the instant case there has been a violation of the applicant's right to a fair trial within a reasonable time, guaranteed by the Article 6 § 1 of the Convention; and
>
> (b) is ready to pay to the applicant 1,170 euros to cover any and all non-pecuniary damage as well as costs and expenses, plus any tax that may be chargeable to the applicant.
>
> This sum will be converted into Croatian kunas at the rate applicable on the date of payment, and will be payable within three months from the date of notification of the decision by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights to the account indicated by the applicant. In the event of 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. The payment will constitute the final resolution of the case."

The declaration submitted in respect of the second applicant differed only as regards the sum the Government was ready to pay, which was 2,700 euros.

By letters of 14 April and 6 May 2015, the first and second applicants indicated that they were not satisfied with the terms of the unilateral declarations because the sums offered by the Government were unacceptably low considering the length of proceedings and their importance to them.

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".

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.

To this end, the Court has examined the declaration carefully 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).

The Court has established in a number of cases (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 V; *Majewski v. Poland*, no. 52690/99, 11 October 2005; and *Wende and Kukówka v. Poland*, no. 56026/00, 10 May 2007), including those brought against Croatia (see, for example, *Horvat v. Croatia*, no. 51585/99, ECHR 2001 VIII; *Kozlica v. Croatia*, no. 29182/03, 2 November 2006; and *Pavić v. Croatia*, no. 21846/08, 28 January 2010), its practice concerning complaints about the violation of one's right to a hearing within a reasonable time.

Having regard to the nature of the admissions contained in the Government's declarations, as well as the amounts of compensation proposed – which are 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)).

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 applications (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declarations, the applications could 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 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 declarations under Article 6 § 1 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 17 September 2015.

André Wampach
Deputy Registrar

Mirjana Lazarova Trajkovska
President