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

# FIFTH SECTION

# DECISION

Application no. 52288/13
Reinhard MAYER
against Liechtenstein

The European Court of Human Rights (Fifth Section), sitting on 23 February 2016 as a Committee composed of:

Khanlar Hajiyev, *President,*
Faris Vehabović,
Carlo Ranzoni, *judges,*

and Milan Blaško, *Deputy Section Registrar,*

Having regard to the above application lodged on 13 August 2013,

Having regard to the declaration submitted by the respondent Government on 27 October 2015 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

The applicant, Mr Reinhard Mayer, is a German national, who was born in 1956 and lives in Monrovia (Liberia). He was represented before the Court by Mr F.J. Giesinger, a lawyer practising in Schaan.

The Liechtenstein Government ("the Government") were represented by Mr T. Zwiefelhofer, Deputy Prime Minister, and by their Agent, Mr D. Ospelt, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Liechtenstein to the Council of Europe. The Government of Germany, having been informed of their right to intervene in the proceedings (Article 36 § 1 of the Convention and Rule 44), did not indicate that they wished to exercise that right.

The applicant complained under Article 6 of the Convention about the length of criminal proceedings brought against him concerning an altercation between himself and A. in Triesen on 14 June 2008.

The application had been communicated to the Government.

## THE LAW

The applicant complained about the duration of the criminal proceedings instituted against him. He relied on Article 6 of the Convention.

After the failure of attempts to reach a friendly settlement, by a letter dated 23 October 2015 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:

> "In this case the Court proposed a friendly settlement which was rejected by the Applicant with letter dated 21 September 2015.
>
> The Government would wish to acknowledge – by way of a unilateral declaration – that the length of the proceedings at issue was incompatible with the "reasonable time" requirement within the meaning of Article 6 § 1 of the Convention.
>
> If the Court strikes this case from its list, the Government is willing to offer compensation in the amount of EUR 9,000 (nine thousand euros). This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Swiss Francs 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. 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."

By a letter of 26 November 2015, the applicant indicated that he was not satisfied with the terms of the unilateral declaration and requested the Court to deliver a judgment in his case in the light of the Liechtenstein Government's admission that there had been a breach of Article 6 of the Convention.

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 application".

It also reiterates 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 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* (preliminary issue) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Spółka z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007; and *Herman v. the Netherlands* (dec.), no. 35965/14, §§ 15-18, 17 November 2015).

The Court has established in a number of cases, including those brought against Liechtenstein, 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 et seq., ECHR 2000-VII; and *von Hoffen v. Liechtenstein*, no. 5010/04, §§ 47 et seq., 27 July 2006).

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)).

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*).

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 case out of the list.

For these reasons, the Court, unanimously,

*Takes note* of the terms of the respondent Government's declaration regarding the unreasonable length of the proceedings within the meaning of Article 6 § 1 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.

Done in English and notified in writing on 17 March 2016.

Milan Blaško
Deputy Registrar

Khanlar Hajiyev
President