

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

THIRD SECTION

DECISION

Application no. 13511/12
Mária NÉMETHOVÁ and Others
against Slovakia

The European Court of Human Rights (Third Section), sitting on 19 Februry 2013 as a Committee composed of:

Luis López Guerra, *President,*
Ján Šikuta,
Nona Tsotsoria, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 2 March 2012,

Having regard to the declaration submitted by the respondent Government on 13 December 2012 requesting the Court to strike the application out of the list of cases and the applicants' reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

A list of the applicants is set out in the appendix. They were represented before the Court by Ms M. Stahovcová, a lawyer practicing in Brezno.

The Government of the Slovak Republic ("the Government") were represented by their Agent, Ms M. Pirošíková.

The applicants complained under Articles 6 § 1 and 13 of the Convention about the length of civil proceedings before the Galanta District Court registered under no. D 688/92. The proceedings have lasted more than twenty years and six months at two levels of jurisdiction.

On 9 November 2011 the Constitutional Court decided that there had been a violation of the applicants' right to a hearing within a reasonable time and awarded to each applicant EUR 2,500 as just satisfaction in respect of non-pecuniary damage. It also ordered the District Court to avoid any further delay in the proceedings and to reimburse the applicants' legal costs.

The proceedings are still pending.

THE LAW

After the failure of attempts to reach a friendly settlement, by a letter of 13 December 2012 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.

Four declarations submitted in respect of each applicant provided as follows:

> "The Government acknowledge both the applicant's status of the victim within the meaning of Article 34 of the Convention and the unreasonable duration of the domestic proceedings in which the applicant was involved.
>
> I, Marica Pirošíková, the Agent of the Government of the Slovak Republic before the European Court of Human Rights, declare that the Government offer to pay to [each applicant] the sum of EUR 2,700 (two thousand seven hundred euros), plus any tax that may be chargeable to the applicant.
>
> The Government would suggest that the above information be accepted by the Court as "any other reason" justifying the striking out of the case of the Court's list of cases, as referred to in Article 37 § 1 (c) of the Convention.
>
> In the event of the Court's decision pursuant to Article 37 § 1 of the Convention, the Government undertake to pay to the applicant the declared sum within the three months from the date of notification of the decision. 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. This payment will constitute the final settlement of the case."

By a letter of 9 January 2013, the applicants indicated that they were not satisfied with the terms of the unilateral declarations since they had found the sum offered inappropriate.

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 applicants wish the examination of the case to be continued.

To this end, the Court will examine carefully the declarations 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 Slovakia, 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; *Scordino v. Italy (no. 1)* [GC], no. 36813/97, §§ 178-227, ECHR 2006-V; *Majewski v. Poland*, no. 52690/99, 11 October 2005; *Rapoš v. Slovakia*, no. 25763/02, §§ 32-34, 20 May 2008; *Bič v. Slovakia*, no. 23865/03, §§ 39-41, 4 November 2008 or *Rusnáková v. Slovakia*, no. 51071/06, §§ 28-35, 14 April 2009).

Having regard to the nature of the admissions contained in the Government's declarations, 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*).

The Court considers that these amounts should be 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 amounts 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 declarations, 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 declarations under Article 37 § 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.

Marialena Tsirli Deputy Registrar	Luis López Guerra President

APPENDIX

1. Mária Némethová, a Slovak national, born in 1930, lives in Bratislava
2. Alžbeta Farkašová, a Slovak national, born in 1957, lives in Bratislava
3. Ferdinand Németh, a Slovak national, born in 1937, lives in Brezno
4. Štefan Németh, a Slovak national, born in 1964, lives in Brezno