

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

SECOND SECTION

DECISION

Application no. 6382/06
by Dragiša PAUNOVIĆ
against Serbia

The European Court of Human Rights (Second Section), sitting on 13 December 2011 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 30 January 2006,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Dragisa Paunovic, is a Serbian national who was born in 1929 and lives in Belgrade. He was represented before the Court by Mr P. Savić, a lawyer practising in Beograd. The Serbian Government ("the Government") were represented by their Agent, Mr S. Carić.

On 14 March 1979 the applicants predecessors filed a suit against the Municipality of Petrovac na Mlavi and the local water supply company, claiming damages caused to their property by floods caused by the works performed on the regulation of river flow. By 2000 the applicant became a party to these proceedings.

Following two remittals, on 13 August 2007 and 8 April 2008 the Municipal Court and the District Court, respectively, rejected the applicant's claim. It would appear that the case is still pending before the Supreme Court, following the applicant's appeal on points of law.

THE LAW

The applicant complained under Article 6 of the Convention about the length of the civil proceedings at question. Under Article 1 of Protocol No. 1, he further complains about the violation of his property rights.

1. By letter dated 26 October 2009 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 fo the applicant's right under Articles 6 § 1 and 13 of the Convention and offer to pay to the applicant, Mr Dragiša Paunović, the amount of EUR 1,200 [...] in respect fo the applciation registered under no. 6382/06 before the European Court of Human Right s.
>
> This sum, which covers any pecuniary and non-pecuniary damage as well as costs, shall be paid in dinar counter-value, free of any taxes that may be applicable and to an account [specified] by the applicant. The sum shall be payabl.e within three months from the date of delivery of the judgment by the Court. This payment will constitute the final resolution of the case.
>
> The Government regret the occurrence of the action s which have lead to the bringing of the present application."

In a letter of 3 October 2010 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; and *Wende and Kukówka v. Poland*, no. 56026/00, 10 May 2007; *Nemet v. Serbia*, no. 22543/05, §§ 17-18, 8 December 2009).

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, bearing in mind the fact that the proceedings have been pending within the Court's competence *ratione temporis* for seven years and six months (as the Convention entered into force in respect of Serbia on 3 March 2004), and are currently pending at third instance – the Court considers that it is no longer justified to continue the examination of this part 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*).

2. As to the alleged violation of Article 1 of Protocol No. 1, the Court notes that the proceedings at issue are apparently still pending. Accordingly, the Court finds that this complaint is premature and, as such, inadmissible for non-exhaustion of domestic remedies, pursuant to Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court unanimously

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

Françoise Elens-Passos
Deputy Registrar

András Sajó
President