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

SECOND SECTION

DECISION

Application no. 17153/12
Alberto PIMENTEL DIAS SERRALHEIRO
against Portugal

The European Court of Human Rights (Second Section), sitting on 1st October 2013 as a Committee composed of:

Dragoljub Popović, *president,*
Paulo Pinto de Albuquerque,
Helen Keller, *judges,*

and Seçkin Erel, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 19 March 2012,

Having regard to the declaration submitted by the respondent Government on the 18 February 2013 requesting the Court to strike the application out of the list of cases.

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Alberto Pimentel Dias Serralheiro, is a Portuguese national, who was born in 1953 and lives in S. Martinho de Árvore. He was represented before the Court by Mr J. J. F. Alves, a lawyer practising in Matosinhos.

The Portuguese Government ("the Government") were represented by their Agent, Ms. M. F. de Graça Carvalho, Assistant General-Attorney.

The applicant complained under Article 6 § 1 of the Convention about the length of his civil procedure before the Court of Coimbra following an unfair dismissal, which lasted four years and seven months from 9 February 2007 to 5 January 2012, date of the final domestic decision (Supreme Court of Justice). The applicant's claim before the Portuguese court concerned the unfairness of his dismissal and the consequent payment of a compensation.

The part of the application concerning the length of proceedings was communicated to the Government.

THE LAW

The applicant complained about the length of his civil proceedings before the Labour Court of Coimbra, which lasted almost five years from the 9 February 2007 to 5 May 2012. He relied on Article 6 § 1 of the Convention.

After the failure of attempts to reach a friendly settlement, by a letter of 18 February 2013 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:

> "Je soussignée, Mme M. F. da Graça Carvalho, Procureur général adjointe, déclare que le gouvernement portugais offer de verser à M. Alberto Pimentel Dias Serralheiro, la somme de 1 300 euros couvrant tout préjudice moral et la somme de 1 000 euros couvrant l'ensemble des frais et dépens, au titre de la requête enregistrée sous le n° 17153/12, portant sur le délai raisonnable.
>
> Ces sommes seront exemptes de toute taxe éventuellement applicable et seront payées dans les trois mois suivant la date de la notification de la décision de radiation rendue par la Cour sur le fondement l'article 37 § 1 c) de la Convention. Le paiement vaudra règlement définitif de la cause.
>
> A défaut de règlement dans ledit délai le Gouvernement s'engage à verser, à compter de l'expiration de celui-ci et jusqu'au règlement effectif des sommes en question, un intérêt simple à un taux égal à celui de la facilité de prêt marginal de la Banque centrale européenne, augmenté de trois points de pourcentage.
>
> Le Gouvernement reconnaît qu'en l'espèce qu'il y a eu violation de l'article 6 § 1 de la Convention. "

The applicant was notified of this declaration but did not submit any reply to it.

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* (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 *Sulwińska v. Poland* (dec.) no. 28953/03, 18 September 2007).

The Court has established in a number of cases, including those brought against Portugal, 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-V; *Majewski v. Poland*, no. 52690/99, 11 October 2005; and *Wende and Kukówka v. Poland*, no. 56026/00, 10 May 2007; regarding Portugal, see *Martins Castro and Alves Correia de Castro v. Portugal*, no. 33729/06, 10 June 2008).

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).

Relying on articles 6 § 1 and 13 of the Convention, the applicant also complained about the fairness of the proceedings and the violation of his right to an effective remedy.

In the light of all the material in its possession, and in so far as it has jurisdiction to examine these allegations, the Court has not found any appearance of a breach of the rights and freedoms guaranteed by the Convention or its Protocols.

It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with article 35 §§ 3 (b) and 4 of the Convention.

For these reasons, the Court unanimously

Takes note of the terms of the respondent Government's declaration under Article 6 § 1 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

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

Declares the remainder of the application inadmissible.

Seçkin Erel
Acting Deputy Registrar

Dragoljub Popović
President