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

FIRST SECTION

DECISION

Application no. 23136/13
Selvie RUSHITI
against Albania

The European Court of Human Rights (First Section), sitting on 24 January 2017 as a Committee composed of:

Linos-Alexandre Sicilianos, *President,*
Aleš Pejchal,
Armen Harutyunyan, *judges,*
and Renata Degener, *Deputy Section Registrar,*

Having regard to the above application lodged on 1 April 2013,

Having regard to the declaration submitted by the respondent Government on 16 September 2015 and their submissions of 4 July 2016 requesting implicitly the Court to strike the application out of the list of cases and the applicant's failure to submit any comments in reply,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Ms Selvie Rushiti, is an Albanian national, who was born in 1958 and lives in Tirana.

The Albanian Government ("the Government") were represented by their Agent, Ms A. Hicka of the State Advocate's Office.

The applicant complained about the excessive length of civil proceedings, which had started on 27 February 2001 and ended on 12 March 2013.

THE LAW

The applicant complained about the length of proceedings. She relied on Article 6 § 1 of the Convention.

On 16 September 2015 the Court received a friendly settlement declaration signed by the Government under which the Government of Albania offered to pay the applicant EUR 1,800 (one thousand eight hundred euros) to cover any and all non-pecuniary damage as well as costs and expenses, which will be converted into the national currency at the rate applicable on the date of payment, and will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court. In the event of failure to pay this sum within the said three-month period, the Government undertook to pay simple interest on it, from the 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.

That declaration was submitted in response to the Registry's proposal for a friendly-settlement agreement, addressed to both parties.

The applicant failed to reply to the Registry's proposal.

On 4 July 2016 the Government informed the Court that their signed declaration of 16 September 2015 should be treated as a unilateral declaration with a view to resolving the issue raised by the application. They also reiterated the following:

> "The Albanian Government accepts that there has been a violation of the applicant's rights guaranteed by Article 6 § 1 of the European Convention on Human Rights, as a result of the excessively long of the judicial proceedings. Considering the above, the Government offers to pay *ex gratia* Euros 1,800 in favour of Ms. Selvie Rushiti".

The applicant failed to submit any comments.

The Court notes that, despite the fact that the Government did not submit a new, separate form of unilateral declaration, they explicitly maintained their position that their signed friendly settlement declaration submitted in response to the Registry's proposal, be treated as a unilateral declaration. Accordingly, the Court will consider that the Government submitted a unilateral declaration with a view to resolving the issue raised by the application.

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 in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Sp. 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 Albania, its practice concerning complaints about the violation of Article 6 § 1 of the Convention on account of the length of proceedings (see *Luli and Others v. Albania*, nos. 64480/09, 64482/09, 12874/10, 56935/10, 3129/12 and 31355/09, §§ 63-64, 1 April 2014).

The Court notes that, in their submissions of 4 July 2016, the Government acknowledged that there had been a violation of Article 6 of the Convention on account of the length of proceedings. The Court further notes that the sum of money offered purports to compensate the applicant for the damage suffered as a result of the length of judicial proceedings.

Having regard to the nature of the submissions made by the Government, 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 this amount should be converted into national currency at the rate applicable at the date of payment, and 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 amount 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 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 under 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 16 February 2017.

Renata Degener
Deputy Registrar

Linos-Alexandre Sicilianos
President