

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

THIRD SECTION

DECISION

Application no. 61873/09
Marián SLOVÁK
against Slovakia

The European Court of Human Rights (Third Section), sitting on 6 March 2012 as a Committee composed of:

Nona Tsotsoria, *President,*
Ján Šikuta,
Mihai Poalelungi, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 11 November 2009,

Having regard to the declaration submitted by the respondent Government on 8 December 2011 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:

THE FACTS

The applicant, Mr Marián Slovák, is a Slovakian national who was born in 1945 and lives in Cífer. The Government of the Slovak Republic ("the Government") were represented by their Agent, Mrs M. Pirošíková.

The applicant complained under Article 6 § 1 of the Convention about the length of civil proceedings which, to date, has exceeded fourteen years for two levels of jurisdiction. With reference to Article 41 of the Convention the applicant also objected to the fact that the Constitutional Court had refused to award him just satisfaction notwithstanding that it had found a breach of his right to a hearing within a reasonable time in 2009.

THE LAW

The applicant complained about the length of civil proceedings to which he has been a party and that he had not obtained appropriate redress from the Constitutional Court. He alleged a breach of Article 6 § 1 of the Convention which, in so far as relevant, provides as follows:

> "In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

By letter dated 8 December 2011 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:

> "The Government acknowledge the applicant's status as a 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 the applicant Mr Marián Slovák the sum of EUR 10,000 (ten thousand euros). This sum shall cover any pecuniary and non-pecuniary damage together with any costs and expenses incurred by the applicant with respect to the violation of his right under the Convention, 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 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."

In a letter of 16 January 2012 the applicant stated that he left it to the Court's discretion to assess whether the Government's proposal is compatible with the Court's practice.

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 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; *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 69-98, ECHR 2006-V; *Majewski v. Poland*, no. 52690/99, 11 October 2005; *Kuril v. Slovakia*, no. 63959/00, §§ 39-43, 3 October 2006; *Rapoš v. Slovakia*, no. 25763/02, §§ 32-34, 20 May 2008; or *Bič v. Slovakia*, no. 23865/03, §§ 39-41, 4 November 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*).

Accordingly, the application should be struck out of the list.

For these reasons, the Court unanimously

Takes note of the terms of the respondent Government's declaration 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

Nona Tsotsoria
President