

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

FOURTH SECTION

DECISION

Application no. 4610/10
Bosiljka TEVANOVIĆ and others
against Bosnia and Herzegovina

The European Court of Human Rights (Fourth Section), sitting on 3 July 2012 as a Committee composed of:

David Thór Björgvinsson, *President,*
Nebojša Vučinić,
Vincent A. De Gaetano, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 13 January 2010,

Having regard to the declaration submitted by the respondent Government on 28 February 2012 requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

THE FACTS

The applicants, Ms Bosiljka Tevanović, Mr Rade Tevanović, Mr Goran Tevanović and Ms Gordana Tevanović, are citizens of Bosnia and Herzegovina who were born in 1942, 1938, 1975 and 1983, respectively and live in Prijedor.

The Bosnian-Herzegovinian Government ("the Government") were represented by their Agent, Ms M. Mijić.

The applicants complained under Articles 6 and 8, and Article 1 of Protocol No. 1 to the Convention of the non-enforcement of the final judgment adopted in their favour against the Republika Srpska by the Prijedor First Instance Court on 20 September 2001.

THE LAW

On 4 July 2011 the application was communicated to the Government. Since the issues raised by this application were already subject of well-established case-law of the Court, the Government were referred to the leading case concerning the non-enforcement of domestic judgments ordering the Republika Srpska to pay war damages (see *Čolić and Others v. Bosnia and Herzegovina*, nos. 1218/07 *et al*., 10 November 2009, in which the Court found a breach of Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention).

By a letter dated 28 February 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.

The declaration provided as follows:

> "I, Monika Mijić, the Agent, declare that the Government are ready to accept that there had been a violation of the applicants' rights guaranteed by the Convention due to non-enforcement of the domestic judgment rendered in favour of the applicants and offer to pay *ex gratia* a total sum of 900 euros to the applicants Bosiljka, Rade, Goran and Gordana Tevanović.
>
> This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into convertible marks at the rate applicable on the date of payment, and will be free of any taxes that may be applicable. The above sum will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. 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.
>
> I further declare that the domestic authorities offer to secure full enforcement of the domestic judgment under consideration in this case in cash within nine months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights.
>
> This will constitute the final resolution of the case."

In her letters of 12 April and 8 May 2012 Ms Bosiljka Tevanović informed the Court that she did not accept the Government's declaration and wished the examination of the case to be continued. Other applicants did not submit any comments.

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 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 many cases, including those brought against Bosnia and Herzegovina, its practice concerning complaints of the non-enforcement of domestic decisions (see *Jeličić v. Bosnia and Herzegovina*, no. 41183/02, ECHR 2006-XII; *Karanović v. Bosnia and Herzegovina*, no. 39462/03, 20 November 2007; *Milisavljević v. Bosnia and Herzegovina*, no. 7435/04, 3 March 2009; and *Čolić and Others,* cited above).

Having regard to the nature of the admissions contained in the Government's declaration, the undertaking to secure full enforcement of the domestic judgment under consideration in this case in cash, 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*).

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.

Fatoş Aracı
Deputy Registrar

David Thór Björgvinsson
President