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

SECOND SECTION

DECISION

Applications nos. 72092/11 and 3521/12
Paulo Manuel VIEIRA PINHEIRO against Portugal
and Paulo Manuel VIEIRA PINHEIRO 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 applications lodged on 16 November 2011 and 6 January 2012 respectively,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Paulo Manuel Vieira Pinheiro, is a Portuguese national, who was born in 1968 and lives in Braga. 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. da Graça Carvalho, Deputy Attorney-General.

The applicant complained under Article 6 § 1 of the Convention about the length of civil proceedings before the Court of Ponte da Barca and the Court of Appeal of Guimarães.

The facts of the case, as submitted by the applicant, may be summarised as follows.

1. Application no. 72092/11

On 12 July 2011 the applicant initiated civil proceedings before the Court of Ponte da Barca (*Tribunal de Ponte da Barca*) related to a promissory

sales contract. When the application was lodged before the Court, the proceedings, were still pending and had already lasted 10 years and four months for two levels of jurisdiction.

2. Application no. 3521/12

The second application relates to civil proceedings which were brought against the applicant before the Court of Ponte da Barca on 9 January 2003 and which, when the application was lodged before the Court, were still pending and had already lasted eight years and 11 months for four levels of jurisdiction.

The domestic proceedings related to the same contract.

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

THE LAW

The applicant complained about the overall length of the two different civil proceedings before the Court of Ponte da Barca, considering both of them excessive. In the first application, the applicant also complains about the length of the procedure in the Court of Guimarães (Court of Appeal). At the time of the lodging of the applications, both procedures were still pending before the Portuguese Courts. The applicant 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 applications. They further requested the Court to strike out the applications 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 offre de verser à M. Paulo Manuel Vieira Pinheiro, la somme de 7 800 euros couvrant tout préjudice moral et la somme de 1 000 euros couvrant l'ensemble des frais et dépens, au titre des requêtes enregistrées sous les n°s 72092/11 et 3521/12, portant sur le délai raisonnable.
>
> Ces sommes seront exemptes de toute taxe éventuellement applicable et seront payée 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 des causes.
>
> 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 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 applications".

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 cases 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 applications (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 applications (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 8 and 13 of the Convention and on Article 1 of Protocol N° 1 to the Convention, the applicant, on both cases, complains about his right of an effective remedy and his rights of private life and to property were breached.

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, therefore, must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

Decides to join the applications;

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 applications 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 applications inadmissible.

Seçkin Erel
Acting Deputy Registrar

Dragoljub Popović
President