



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

SECOND SECTION

DECISION

Application no. 13920/04  
by Tomislav KATIĆ and Borislav KATIĆ  
against Serbia

The European Court of Human Rights (Second Section), sitting on  
4 March 2008 as a Chamber composed of:

Françoise Tulkens, *President*,

Antonella Mularoni,

Ireneu Cabral Barreto,

Rıza Türmen,

Danutė Jočienė,

Dragoljub Popović,

Nona Tsotsoria, *judges*,

and Françoise Elens-Passos, *Deputy Section Registrar*,

Having regard to the above application lodged on 2 April 2004,

Having regard to the decision to apply Article 29 § 3 of the Convention  
and examine the admissibility and merits of the case together,

Having regard to the formal declarations accepting a friendly settlement  
of the case,

Having regard to the decision to grant priority to the above application  
under Rule 41 of the Rules of Court,

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr Tomislav Katić and Mr Branislav Katić, are Serbian nationals who were born in 1948 and 1953, respectively. They live in Markovac and were both represented before the Court by Mr B. Mikić, as their legal guardian, and, subsequently, Mr M. Bogosavljević, a lawyer authorised by Mr Mikić to act on behalf of the applicants. The Serbian

Government (“the Government”) were represented by their Agent, Mr S.Carić.

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

Both applicants are mentally disabled, which is why they were totally dependant on their father’s financial support for as long as he lived.

On 28 June 1983, however, the applicants’ father died in a traffic accident and the applicants were thus left with no income of their own.

In 1987 the applicants filed a civil claim against “Dunav”, a major Serbian insurance company. They sought accrued and ongoing maintenance, together with statutory interest, the recovery of their father’s funeral expenses and legal costs.

Between 6 June 1989 and 1 February 2000, the Municipal Court (*Opštinski sud*) in Velika Plana issued five judgements, ruling in favour of the applicants, but each time the District Court (*Okružni sud*) in Smederevo quashed those judgments on appeal and ordered a retrial.

On 26 September 2001 the Municipal Court ruled in favour of the applicants.

On 21 August 2002 the District Court partly upheld this judgment, but quashed the remainder and ordered a retrial before the Municipal Court.

On 15 October 2007 the Municipal Court ruled partly in favour of the applicants.

On 2 November 2007 and 7 November 2007, respectively, the respondent as well as the applicants filed their appeals with the District Court.

The proceedings thus appear to be still pending.

## COMPLAINTS

The applicants relied on Articles 6 § 1, 13 and 14 of the Convention, as well as Article 1 of Protocol No. 1. In substance, however, they complained about the overall fairness as well as the length of the above proceedings.

## THE LAW

On 7 January 2008 the Court received the following declaration signed by the Government’s Agent:

“I declare that the Government of Serbia offer to pay *ex gratia* 6,000 euros to Mr Tomislav Katić and Mr Borislav Katić jointly with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any non-pecuniary damage, suffered as a result of domestic procedural delay, as well as the costs and expenses incurred in the proceedings before this Court, will be converted into the national currency at the rate applicable on the date of payment, and 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 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. The payment will constitute the final resolution of the case pending before the European Court of Human Rights. The applicants' domestic ... [claim] ... shall be considered by the Serbian courts separately and is not affected by this declaration."

On 11 January 2008 the Court received the following declaration signed by Mr M. Bogosavljević, as the applicant's legal representative, which, *inter alia*, read as follows:

"I note that the Government of Serbia are prepared to pay *ex gratia* the sum of 6,000 euros to Mr Tomislav Katić and Mr Borivoje Katić jointly with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights ... I accept the proposal and waive any further claims against Serbia in respect of the facts giving rise to this application. I declare that this constitutes the final resolution of ... [the applicants'] ... case pending before the European Court of Human Rights. The applicants' domestic ... [claim] ... shall be considered by the Serbian courts separately and is not affected by this declaration."

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols (Article 37 § 1 *in fine* of the Convention). Nevertheless, in the particular circumstances of the case, the Court considers that the State should still ensure that all necessary steps are taken to allow the trial to be concluded as speedily as possible, taking into account the requirements of the proper administration of justice. In view of the above, it is appropriate to discontinue the application of Article 29 § 3 and to strike the case out of the Court's list.

For these reasons, the Court unanimously

*Decides* to strike the application out of its list of cases.

Françoise Elens-Passos  
Deputy Registrar

Françoise Tulkens  
President