



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

SECOND SECTION

DECISION

Application no. 33430/05  
by Iren ABRAHAM  
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 Registrar,

Having regard to the above application lodged on 21 December 2005,

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

Having deliberated, decides as follows:

THE FACTS

The applicant, Mrs Iren Abraham, is a Serbian citizen who was born in 1959 and lives in Subotica. She was represented before the Court by Mr V. Juhas Đurić, a lawyer practising in the same city. 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.

On 20 April 2004 the applicant's former husband I.A. brought divorce proceedings against her before the Municipal Court (*Opštinski sud*) in Subotica.

On 21 June 2004 the applicant filed a counterclaim, seeking maintenance because of her illness and inability to work.

On 21 December 2004 the Municipal Court issued a judgment whereby the parties' marriage was dissolved and the maintenance sought by the applicant was granted. The Municipal Court also ordered I.A. to pay the applicant's costs in the amount of 9,102 Dinars (at that time approximately 115 EUR).

On 10 January 2005 the applicant filed an appeal in respect of the costs awarded, claiming a higher amount based on the fact that "I.A. had caused the adjournment of numerous hearings by his own conduct".

I.A. did not file an appeal against the judgment of the Municipal Court, nor did he submit a reply to the applicant's appeal.

On 30 March 2005 the District Court (*Okružni sud*) in Subotica formally granted the applicant's appeal but decided that "each party shall bear its own costs".

## COMPLAINTS

The applicant relied on Article 6 § 1 of the Convention and, in so doing, complained about the fact that the District Court had failed to comply with the "prohibition of *reformatio in peius*", meaning that a sole appellant cannot be put in a worse position than if he had not filed an appeal in the first place. The applicant also complained about the consequent breach of her property rights.

## THE LAW

On 20 November 2007 the applicant accepted a friendly settlement offer, whereby the Government acknowledged a violation of Article 6 § 1 of the Convention and a separate violation of Article 1 of Protocol No. 1, and promised to pay her 9,102 dinars, with default interest as of 6 January 2005, as well as an equivalent of 300 euros in dinars on account of the costs incurred in the proceedings before this Court. The applicant, in return, agreed to withdraw her application, once these sums were paid, and waived any further claims in respect of the present case.

On 27 November 2007 the respondent State paid the above-specified amounts.

On 28 November 2007 the applicant informed the Court that she wanted to withdraw her application.

In view of the above, the Court considers that the applicant no longer wishes to pursue her application, within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which would require the continued examination of the case. Accordingly, 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