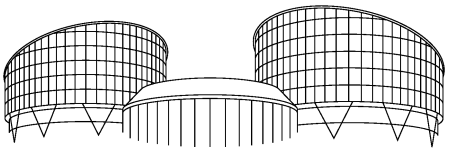

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Application no. 5495/13
HasanZEČIĆ
against Serbia

The European Court of Human Rights (Third Section), sitting on 21 October 2014 as a Committee composed of:

JánŠikuta, *President*,
DragoljubPopović,
Iulia AntoanellaMotoc, *judges*,
and MarialenaTsirli, *Deputy Section Registrar*,

Having regard to the above application lodged on 10 January 2013,

Having regard to the declaration submitted by the respondent Government on 26 March 2014 requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, MrHasanZečić, is a Serbian national, who was born in 1954 and lives in Novi Pazar. He was represented before the Court by Mr I. Kalić, a lawyer practising in Novi Pazar.

The Serbian Government ("the Government") were represented by their Agent, Ms V. Rodić.

The applicant complained under Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention about the non-enforcement of final judgments of the Municipal Court (*Opštinskisud*) in Novi Pazar of 27 September 2004, 5 October 2005 and 25 September 2006.

On 28 August 2013 the application was communicated to the Government.

THE LAW

After the failure of attempts to reach a friendly settlement, by a letter of 26 March 2014 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue of the non-enforcement of the Municipal Court judgments of 27 September 2004 and 5 October 2005. They further requested the Court to strike out that part of the application in accordance with Article 37 of the Convention.

The declaration provided as follows:

> "[...] the Government of the Republic of Serbia is ready to acknowledge that there had been a violation of the applicant's rights under Articles 6 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention and offer to pay to the applicant, Hasan Zečić, the amount of EUR 2,000 [two thousand euros] in respect of the application registered under no. 5495/13 before the European Court of Human Rights.
>
> This sum, which is to cover any non-pecuniary damage as well as costs and expenses, will be converted into [Serbian dinars] at the rate applicable on the date of payment, 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 to strike the case out of its list of cases.
>
> [...] further [...] within the same three-month period the Government offer to pay to the applicant, from their own funds, the sums awarded in [the judgments of 27 September 2004 and 5 October 2005 and the related enforcement orders], less any amounts which may have already been paid on the basis of the said decisions, plus the costs of the domestic enforcement proceedings.
>
> The amounts at issue will be paid directly to the account of the applicant. This payment will constitute the final resolution of the case.
>
> The Government regret the occurrence of the actions which have led to the bringing of the present application."

The applicant did not comment.

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 Spółkaz.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 Serbia, its practice concerning complaints about the non-enforcement of final domestic decisions rendered against socially/State‑owned companies (see, for example, *R. Kačapor and Others v. Serbia*, nos. 2269/06, 3041/06, 3042/06, 3043/06, 3045/06 and 3046/06, 15 January 2008; *Crnišanin and Others v. Serbia*, nos. 35835/05, 43548/05, 43569/05 and 36986/06, 13 January 2009; *Rašković and Milunović v. Serbia*, nos. 1789/07 and 28058/07, 31 May 2011; *Milunović and Čekrlić v. Serbia* (dec.), nos. 3716/09 and 38051/09, 17 May 2011; and *Stošić v. Serbia*, no. 64931/1, 1 October 2013).

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*).

Further, the Court interprets the Government's declaration as meaning that in the event of failure to settle within the three-month period indicated in that declaration, simple interest shall be payable on the amounts in question at a rate equal to the marginal lending rate of the European Central Bank plus three percentage points.

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).

In view of the above, it is appropriate to strike the case out of the list in so far as it relates to the non-enforcement of the Municipal Court judgments of 27 September 2004 and 5 October 2005.

As regards the applicant's complaint about the non-enforcement of the Municipal Court judgment of 25 September 2006, the Court notes that this judgment was rendered in the name of Hasan Zečević. While it may well be the case that the applicant's name was simply misspelled, the applicant did not make any attempt to show that he was actually the claimant in that domestic case. Having regard to the material in the case file, the Court cannot be sure that the impugned judgment was given in favour of the applicant. Accordingly, it cannot regard the applicant as a "victim", within

the meaning of Article 34 of the Convention, of the acts of which he complained.

It follows that this part of the application must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration under Articles6 and 13 of the Convention and Article 1 of Protocol No. 1 thereto and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the part of the application concerning the non-enforcement of the judgments of 27 September 2004 and 5 October 2005out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Declares the remainder of the application inadmissible.

MarialenaTsirli	JánŠikuta
Deputy Registrar	President