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

SECOND SECTION

CASE OF PREMOVIĆ v. SERBIA

(Application no. 61920/09)

JUDGMENT

STRASBOURG

14 January 2014

This judgment is final but it may be subject to editorial revision.

In the case of Premović v. Serbia,

The European Court of Human Rights (Second Section), sitting as a Committee composed of:

Paulo Pinto de Albuquerque, *President,*
Dragoljub Popović,
Helen Keller, *judges,*
and Stanley Naismith, *Section Registrar,*

Having deliberated in private on 10 December 2013,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 61920/09) against the Republic of Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Serbian national, Mr Dragan Premović ("the applicant"), on 23 October 2009.

2. The applicant was initially represented by Ms M. Popović and after her death by Mr S. Milanović, a lawyer practising in Novi Pazar. The Serbian Government ("the Government") were represented by their Agent, Mr S. Carić.

3. On 2 November 2011 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1951 and lives in Novi Pazar.

5. The applicant was employed by "*Raška Holding Kompanija A.D. u restrukturiranju*", a socially/State-owned company based in Novi Pazar (hereinafter – "the debtor").

6. On 22 December 2004, 5 January 2007, 10 April 2007, and 24 October 2007 the Novi Pazar Municipal Court adopted four judgments in the applicant's favour according to which the debtor was ordered to pay certain sums.

7. On 11 February 2005, 5 March 2007, 21 November 2007 and 31 December 2007 respectively, the applicant lodged applications for the enforcement of the above judgments with the Novi Pazar Municipal Court.

8. On 22 February 2005, 11 September 2007, 22 November 2007 and 3 January 2008 respectively, the court allowed the applications and issued enforcement's orders.

II. RELEVANT DOMESTIC LAW

9. The relevant domestic law was set out in the Court's judgments of *EVT Company v. Serbia* (no. 3102/05, §§ 26 and 27, 21 June 2007); *Marčić and Others v. Serbia* (no. 17556/05, § 29, 30 October 2007); R. *Kačapor and Others v. Serbia* (nos. 2269/06, 3041/06, 3042/06, 3043/06, 3045/06 and 3046/06, 15 January 2008, §§ 57-82); *Vlahović v. Serbia* (no. 42619/04, §§37-47, 16 December 2008); *Crnišanin and Others v. Serbia* (nos. 35835/05, 43548/05, 43569/05 and 36986/06, 13 January 2009, §§ 100-104); *Adamović v. Serbia,* (no. 41703/06, §§ 17-22, 2 October 2012); and *Marinković v. Serbia* ((dec.) no. 5353/11, 29 January 2013, §§ 26-29 and §§ 31-44).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

10. The applicant complained about the respondent State's failure to enforce four final judgments rendered in his favour against the debtor. He relied on Article 6 of the Convention and Article 1 of Protocol No. 1 which, in so far as relevant, read as follows:

Article 6 § 1

"In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

Article 1 of Protocol No. 1

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. The complaint concerning non-enforcement of the final court judgment of 24 October 2007

11. On 26 November 2011 the applicant informed the court that he would like to withdraw his complaint in respect of the non-enforcement of final court judgment of 24 October 2007.

12. The Government requested the Court to strike out this part of the application from its list of cases in accordance with Article 37 § 1 (a) in the view of the applicant's statement of 26 November 2011.

13. The Court, having regard to Article 37 of the Convention, notes that the applicant does not intend to pursue this part of the application, within the meaning of Article 37 § 1 (a). It finds no reasons of a general character affecting respect for human rights as defined in the Convention which require the further examination of the present complaints by virtue of Article 37 § 1 of the Convention *in fine* (see, among other authorities, *Singh and Others v. the United Kingdom* (dec.), no. 30024/96, 26 September 2000).

14. It follows that this part of the application must be struck out in accordance with Article 37 § 1 (a) of the Convention.

B. The complaint concerning non-enforcement of the final court judgments of 22 December 2004, 5 January 2007 and 10 April 2007

1. The Government's request that the Court strike out the application

15. The Government also requested the Court to strike out this part of the application from its list of cases in accordance with Article 37 § 1 (a) in the view of the applicant's statement of 26 November 2011 (see paragraph 11 above).

16. The Court notes that the applicant explicitly withdrew only the part of the application that relates to the non-enforcement of the final domestic judgment of 24 October 2007. Therefore, it rejects the Government's request.

2. Admissibility

17. The Court notes that the applicant's complaints concerning the non-enforcement of final court judgments of 22 December 2004, 5 January 2007 and 10 April 2007 are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

3. Merits

18. The Court observes that it has frequently found violations of Article 6 of the Convention and/or Article 1 of Protocol No. 1 to the Convention in cases raising issues similar to those raised in the present case (see *Crnišanin and Others*, cited above, §§ 123-124 and §§ 133-134; *Rašković and Milunović v. Serbia*, nos. 1789/07 and 28058/07, §§ 74 and 79, 31 May 2011).

19. Having examined all the material submitted to it, the Court does not see any reason to reach a different conclusion in the present case. There has, accordingly, been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

21. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

22. It must, however, be noted that a judgment in which the Court finds a violation of the Convention or of its Protocols imposes on the respondent State a legal obligation not just to pay those concerned the sums awarded by way of just satisfaction, but also to choose, subject to supervision by the Committee of Ministers, the general and/or, if appropriate, individual measures to be adopted in its domestic legal order to put an end to the violation found (see *Apostol v. Georgia*, no.40765/02, §§ 71-73, ECHR 2006, *Marčić and Others v. Serbia*, cited above, §§ 64-65, and *Pralica v. Bosnia and Herzegovina*, no. 38945/05, § 19, 27 January 2009).

23. Having regard to its finding in the instant case, and without prejudice to any other measures which may be deemed necessary, the Court considers that the respondent State must secure the enforcement of the final domestic judgments of 22 December 2004, 5 January 2007 and 10 April 2007 rendered in the applicant's favour by way of paying the applicant, from their own funds, the sums awarded in the said final judgments, less any amounts which may have already been paid in respect of the said judgments.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to strike the application out of its list of cases in so far as it relates to the non-enforcement of final judgment of 24 October 2007, in accordance with Article 37 § 1 (a) of the Convention;

2. *Dismisses* the Government's request to strike the remainder of the application out of the list;

3. *Declares* the remainder of the application admissible;

4. *Holds* that there has been a violation of Article 6 of the Convention and of Article 1 of Protocol No. 1 to the Convention;

5. *Holds*
   (a) that the respondent State shall, from its own funds and within three months, pay the applicant, the sums awarded in the final court decisions of 22 December 2004, 5 January 2007 and 10 April 2007, less any amounts which may have already been paid on the basis of the said decisions;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

Done in English, and notified in writing on 14 January 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith
Registrar

Paulo Pinto de Albuquerque
President