



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

THIRD SECTION

DECISION

Application no. 54121/10
Vesna JOVANOVIĆ against Serbia
and 15 other applications
(see list appended)

The European Court of Human Rights (Third Section), sitting on 10 June 2014 as a Committee composed of:

Ján Šikuta, *President*,

Dragoljub Popović,

Iulia Antoanella Motoc, *judges*,

and Marialena Tsirli, Deputy Section Registrar,

Having regard to the above applications lodged on 20 May 2010,

Having deliberated, decides as follows:

THE FACTS

1. The applicants are all Serbian nationals, and their further personal details are set out in the Appendix. They were all represented before the Court by the same attorney, Mr. D. Vidosavljević, a lawyer practising in Leskovac, who was subsequently, replaced by Ms. J. Spasić, a lawyer practising in Vlasotince.

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

A. The circumstances of the case

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

1. The applicants’ proceedings

4. All of the applicants obtained final court decisions ordering the same socially-owned company – “*Fabrika ventila za pneumatike*” d.o.o., Bor

from Bor (hereinafter: the debtor) – to pay them certain sums on account of salary arrears and costs and expenses.

5. On 14 October 2005 the Commercial Court in Zaječar opened insolvency proceedings in respect of the debtor (St. 28/05). Subsequently, the Commercial Court in Zaječar recognised the applicants' claims based on the above judgments.

6. On 19 March and 27 November 2007 the Commercial Court adopted the decision on main distribution of the company's insolvency assets, classifying the applicants into the second and fourth sequences of payment. Pursuant to this decision, the applicants' claims in the second sequence of payment were fully enforced, while those in the fourth sequence of payment were executed in the amount of 1.33%.

7. On 3 June 2008 the Commercial Court terminated the insolvency proceedings and ordered the debtor's liquidation as the latter had gone bankrupt. This decision was published in the Official Gazette of the Republic of Serbia on 20 June 2008 (no. 61/08) and registered ("*zabeležba*") in the relevant public registries concerning the status of all companies; it became final on 3 July 2008.

8. Following a request filed by the applicants' lawyer, on 15 April 2010 the Commercial Court's decision of 3 June 2008 was served on him.

9. On 29 April 2010 the applicants filed their respective appeals with the Constitutional Court.

10. On 2 October 2012 the Constitutional Court dismissed the applicants' constitutional appeals.

11. The final court judgments in the applicants' favour remain partly enforced to the present day.

2. *The legal status of the debtor*

12. The debtor was registered as a predominantly socially owned company in the relevant public registries before and throughout the insolvency proceedings.

13. On 14 July 2008 the debtor was liquidated without having any legal successor and struck from the relevant public registries.

B. Relevant domestic law

14. 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, §§ 57-82, 15 January 2008); *Vlahović v. Serbia* (no. 42619/04, §§ 37-47, 16 December 2008); *Crnišanić and Others v. Serbia* (nos. 35835/05, 43548/05, 43569/05 and 36986/06, §§ 100-104, 13 January 2009); *Adamović v. Serbia* (no. 41703/06, §§ 17-22, 2 October 2012);

Marinković v. Serbia ((dec.) no. 5353/11, §§ 26-29 and §§ 31-44, 29 January 2013); *Jovičić and Others v. Serbia* ((dec.), nos. 37270/11 et al, §§ 88-93, 15 October 2013); and *Sokolov and Others v. Serbia* ((dec.), § 20 nos. 30859/10, 54078/10, 54105/10 et al, 14 January 2014).

COMPLAINTS

15. The applicants complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 that the respondent State had failed to fully enforce the final court decisions rendered in their favour.

16. The applicants further complained, under Article 13 of the Convention, of the absence of an effective domestic remedy in this regard.

THE LAW

17. The Court considers that, in accordance, with Rule 42 § 1 of the Rules of the Court, the applications should be joined, given their common factual and legal background.

18. As noted above, the applicants complained about the non-enforcement of final court decisions rendered in their favour.

19. The relevant provisions of Articles 6 § 1 and 13 of the Convention, as well as Article 1 of Protocol No. 1 read as follows:

Article 6 § 1

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing within a reasonable time by [a] ... tribunal ...”

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.”

Article 13

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

20. The Government submitted, *inter alia*, that the applicants' complaints should be rejected for non-observance of the six-month rule. According to the Government, in the circumstances of the present case, this time-limit had started to run when the termination of the insolvency proceedings against the debtor company had been published in the Official Gazette and/or became final.

21. The applicants stated that they lodged their applications within six months from the date on which the Commercial Court's decision of 3 June 2008 had been served on them, namely on 15 April 2010.

22. The Court has already accepted a similar argument by the Government in the case of *Sokolov and others*, cited above. The Court sees no reason to depart from that jurisprudence in the present case. Consequently, it considers that the applicants should have acted diligently to lodge their applications within six months as of when the Commercial Court's decision on the termination of the insolvency proceedings had been published in the respondent State's Official Gazette, or at the latest, when the decision had become final, i.e. on 3 July 2008.

23. It follows that the applications were introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention, there being no need for the Court to examine the remainder of the Government's admissibility objections.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Marialena Tsirli
Deputy Registrar

Ján Šikuta
President

APPENDIX

No.	Application no. and date of introduction	Applicant name date of birth place of residence nationality	Final domestic decision (issuing authority / case no. / adopted on)
1.	54121/10 20/05/2010	Vesna JOVANOVIĆ 28/10/1960 Bor Serbian	<u>Municipal Court in Bor</u> P1. 857/05 of 5 September 2005
2.	54124/10 20/05/2010	Marina DRAGIJEVIĆ 02/03/1964 Bor Serbian	<u>Municipal Court in Bor</u> P1. 382/03 of 3 June 2003 P1. 833/05 of 19 July 2005
3.	54126/10 20/05/2010	Predrag DRAGIJEVIĆ 12/10/1961 Bor Serbian	<u>Municipal Court in Bor</u> P1. 382/03 of 3 June 2003 P1. 834/05 of 5 September 2005
4.	54132/10 20/05/2010	Ljubiša RADIVOJEVIĆ 17/08/1959 Podgorac Serbian	<u>Municipal Court in Bor</u> P1. 819/05 of 19 July 2005
5.	54136/10 20/05/2010	Dejan VADOVIĆ 28/07/1977 Bor Serbian	<u>Municipal Court in Bor</u> P1. 827/05 of 5 September 2005
6.	54140/10 20/05/2010	Saša ALEKSIĆ 21/08/1979 Bor Serbian	<u>Municipal Court in Bor</u> P1. 816/05 of 5 September 2005
7.	54142/10 20/05/2010	Goran POPOVIĆ 25/08/1971 Bor Serbian	<u>Municipal Court in Bor</u> P1. 856/05 of 22 July 2005 P1. 961/02 of 3 June 2003
8.	54146/10 20/05/2010	Ljiljana POPOVIĆ 20/09/1950 Bor Serbian	<u>Municipal Court in Bor</u> P1. 378/03 of 3 June 2003
9.	54148/10 20/05/2010	Nebojša JANOŠEVIĆ 11/09/1970 Bor Serbian	<u>Municipal Court in Bor</u> P. 1399/02 of 9 April 2003 P1. 929/05 of 5 September 2005

No.	Application no. and date of introduction	Applicant name date of birth place of residence nationality	Final domestic decision (issuing authority / case no. / adopted on)
10.	54150/10 20/05/2010	Nebojša RADOSAVLJEVIĆ 30/05/1976 Bor Serbian	<u>Municipal Court in Bor</u> P1. 836/05 of 5 September 2005
11.	54152/10 20/05/2010	Dijana LEHPAMER 22/05/1979 Bor Serbian	<u>Municipal Court in Bor</u> P1. 832/05 of 5 September 2005
12.	54154/10 20/05/2010	Ljiljana MILUTINOVIĆ 01/03/1978 Bor Serbian	<u>Municipal Court in Bor</u> P1. 835/05 of 19 July 2005 P1. 384/03 of 03 June 2003
13.	54157/10 20/05/2010	Miloš ROVČANIN 05/12/1980 Bor Serbian	<u>Municipal Court in Bor</u> P1. 882/05 of 1 August 2005
14.	54158/10 20/05/2010	Dušanka MILUTINOVIĆ 10/06/1950 Bor Serbian	<u>Municipal Court in Bor</u> P1. 1380/02 of 14 April 2003
15.	54163/10 20/05/2010	Dušanka PAVLOVIĆ 20/05/2010 Bor Serbian	<u>Municipal Court in Bor</u> 1. P1. 1372/02 of 14 April 2003 2. P1. 974/05 of 12 October 2005
16.	54188/10 20/05/2010	Zvonko BEKIĆ 05/11/1968 Bor Serbian	<u>Municipal Court in Bor</u> P1. 908/02 of 7 May 2003