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

FOURTH SECTION

DECISION

Application no. 41285/19
Zlata STANKOVIĆ
against Serbia

The European Court of Human Rights (Fourth Section), sitting on 3 December 2019 as a Chamber composed of:

Jon Fridrik Kjølbro, *President,*
Faris Vehabović,
Iulia Antoanella Motoc,
Stéphanie Mourou-Vikström,
Georges Ravarani,
Jolien Schukking,
Péter Paczolay, *judges,*

and Marialena Tsirli, *Section Registrar,*

Having regard to the above application lodged on 17 July 2019,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Ms Zlata Stanković, is a Serbian national, who was born in 1954 and lives in Vranje. She was represented before the Court by Mr S. Nešić, a lawyer practising in the same town.

A. The circumstances of the case

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

3. The applicant was employed by Pamučni kombinat "Jumko", a socially/State-owned company based in Vranje.

4. On 16 July 2004, in court proceedings brought by the applicant, the Vranje Municipal Court (*Opštinski sud u Vranju*) ruled in her favour and in so doing ordered Pamučni kombinat "Jumko" to pay her specified amounts on account of salary arrears and work-related benefits, plus statutory

interest, as well as costs and expenses. On an unspecified date thereafter that judgment became final.

5. On 6 September 2004 the Vranje Municipal Court issued an enforcement order in relation to that judgment.

6. Despite the enforcement order, the judgment of 16 July 2004 was not actually enforced, and the applicant lodged complaints before various bodies over the years, all of which were unsuccessful, following which on 18 April 2016 the applicant lodged a formal complaint with the Vranje Court of First Instance (*Osnovni sud u Vranju*).

7. On 8 June 2016 that court held that there had been a breach of the applicant's right to a fair trial within a reasonable time. It also ordered that the enforcement proceedings in question be expedited.

8. On 6 April 2017 the Vranje Court of First Instance awarded the applicant 1,000 euros (EUR) for the non-pecuniary damage suffered as a consequence of the non-enforcement of the judgment rendered in her favour, plus default interest.

9. On 1 November 2017 the Vranje High Court (*Viši sud u Vranju*) reduced that amount to EUR 800.

10. Following a constitutional appeal (*ustavna žalba*) lodged by the applicant, wherein she complained that the amount awarded was inadequate, on 21 March 2019 the Constitutional Court (*Ustavni sud*) rendered its decision upholding the impugned ruling of the Vranje High Court.

11. In the meantime, on 13 April 2018, the Vranje Court of First Instance also issued a direct order to the respondent State requiring it to pay the sums awarded to the applicant in the final judgment at issue from its own funds.

12. On 19 December 2018 and 18 April 2019 the Vranje High Court and the Supreme Court of Cassation (*Vrhovni kasacioni sud*) upheld that decision as second and third-instance courts respectively.

13. The applicant stated that by May 2019 she had been paid the total amount awarded to her in the final judgment rendered in her favour, including the statutory interest (see paragraphs 11 and 12 above). She furthermore related, in her application lodged with the Court on 17 July 2019, that she had already been paid the EUR 800 on account of the non-pecuniary damage suffered (see paragraphs 8 to 10 above).

B. Relevant domestic law

14. The relevant provisions of domestic law have been summarised in, *inter alia*, *R. Kačapor and Others v. Serbia* (nos. 2269/06 and 5 others, §§ 71-76, 15 January 2008).

15. The Right to a Trial within a Reasonable Time Act (*Zakon o zaštiti prava na suđenje u razumnom roku*, published in the Official Gazette of the Republic of Serbia no. 40/15) provides for a mechanism aimed at, *inter alia*,

expediting enforcement proceedings and affording compensation for any damage suffered in that connection.

COMPLAINT

16. The applicant complained under Article 6 § 1 of the Convention about the delayed enforcement of the final judgment rendered in her favour.

THE LAW

17. The applicant complained that the judgment of 16 July 2004, rendered in her favour (see paragraph 4 above), had not been enforced within a reasonable time.

She relied on Article 6 § 1 of the Convention, which, in so far as relevant, reads as follows:

> "In the determination of his [or her] civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

18. The Court notes that the domestic courts granted the applicant a sum of money meant to compensate her for the damage she suffered (see paragraphs 8 to 10 above). It is therefore necessary to ascertain whether the applicant can still be considered a "victim", within the meaning of Article 34 of the Convention, of the facts complained of in the ambit of the present application.

19. According to the Court's settled case-law, a decision or measure favourable to the applicant, such as the enforcement of a judgment after substantial delay, is not in principle sufficient to deprive him of his status as a victim unless the national authorities have acknowledged the breach (at least in substance) and afforded redress for it (see *Burdov v. Russia (no. 2)*, no. 33509/04, § 56, ECHR 2009). It is further reiterated that redress afforded by the national authorities must be appropriate and sufficient, failing which a party can continue to claim to be a victim of the violation (see *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 181, ECHR 2006-V, and *Cocchiarella v. Italy* [GC], no. 64886/01, § 72, ECHR 2006-V).

20. In the present case, the domestic courts expressly acknowledged the breach, thereby effectively satisfying the first condition laid down in the Court's case law (see paragraph 7 above).

21. With regard to the second condition, the Court has already held in length-of-proceedings cases that one of the characteristics of such redress, which may remove a litigant's victim status, relates to the amount awarded as a result of using the domestic remedy (see *Cocchiarella*, cited above, § 93). The principles developed in the context of length-of-proceedings cases are also applicable in situations where applicants complain of the delayed enforcement of final judgments in their favour, as in the present

case (see *Kudić v. Bosnia and Herzegovina*, no. 28971/05, § 17, 9 December 2008). States which, like Serbia, have opted for a remedy designed to both expedite proceedings and afford compensation (see paragraph 15 above) are free to award amounts which – while being lower than those awarded by the Court – are still not unreasonable (see *Cocchiarella*, cited above, § 97).

22. In the present case, in addition to finding a violation (see paragraph 20 above), the domestic courts ordered that: (i) the impugned enforcement proceedings be expedited (see paragraph 7 above); (ii) the applicant be paid EUR 800 for the non-pecuniary damage suffered (see paragraphs 8-10 above); and (iii) the respondent State pay the applicant from its own funds the sums specified in the final judgment rendered in her favour (see paragraphs 11 and 12 above). According to the applicant's own submissions, by May 2019 she had been paid the total amount awarded to her in the final judgment of 16 July 2004, including the statutory interest (see paragraph 4 above), and the sum of EUR 800 had also been paid prior to 17 July 2019, that being the date when the present application was lodged (see paragraph 13 above). It should lastly be noted, in this connection, that the award made on 16 July 2004 was paid within a month of the adoption of the Supreme Court of Cassation's decision on the matter (see paragraphs 11-13 above), while the EUR 800 was paid within a period of less than four months following the Constitutional Court's decision in that regard (see paragraphs 9, 10 and 13 above).

23. Turning to the actual sum awarded to the applicant for the non-pecuniary damage suffered, the Court notes that the compensation granted in the domestic case was lower than the sums awarded for comparable delays in the Court's case-law. In particular, the Court has in the past, given the large number of unenforced domestic decisions rendered against socially/State-owned companies in Serbia, granted a lump-sum of EUR 2,000, which was meant to cover any non-pecuniary damage, as well as costs and expenses (see *Stošić v. Serbia*, no. 64931/10, §§ 66-68, 1 October 2013). The Court, however, would emphasise, in this context, that whether the amount awarded may be regarded as reasonable falls to be assessed in the light of all the circumstances of the case. These include not merely the duration of the proceedings in question but the value of the award judged in the context of the standard of living in the State concerned, and the fact that, under the national system, compensation will in general be awarded and paid more promptly than would be the case if the matter fell to be decided by the Court under Article 41 of the Convention (see, for example and among other authorities, *Vidaković v. Serbia* (dec.), no. 16231/07, § 31, 24 May 2011).

24. In view of the foregoing, and the circumstances of the present case, the Court considers that the sum of EUR 800 awarded to the applicant can be deemed sufficient and appropriate redress for the violation alleged. In

reaching this conclusion the Court has also had regard to the fact that during the relevant period the applicant's complaint about the delayed enforcement of the final judgment in question had been considered by several levels of jurisdiction and, crucially, that she was ultimately granted redress within the periods of one and four months of the adoption of the relevant decisions by the Supreme Court of Cassation and the Constitutional Court respectively (see paragraph 22 above).

25. The Court is therefore of the opinion that the applicant can no longer claim to be a "victim", within the meaning of Article 34 of the Convention, of the alleged violation concerning the delayed enforcement of the final judgment rendered in her favour. It follows that her application is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must as such be rejected in accordance with Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 19 December 2019.

Marialena Tsirli
Registrar

Jon Fridrik Kjølbro
President