



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

SECOND SECTION

CASE OF BAJKIĆ AND ŽIVKOVIĆ v. SERBIA

(Applications nos. 30141/19 and 4419/20)

JUDGMENT

STRASBOURG

16 December 2021

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

In the case of Bajkić and Živković v. Serbia,

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

Pauliine Koskelo, *President*,

Branko Lubarda,

Marko Bošnjak, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 25 November 2021,

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

PROCEDURE

1. The case originated in applications against Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The applicants were represented by Mr G. Stamenić, a lawyer practising in Čačak.

3. The Serbian Government (“the Government”) were given notice of the applications.

THE FACTS

4. The list of applicants and the relevant details of the applications are set out in the appended table.

5. The applicants complained of the excessive length of civil proceedings.

THE LAW

I. JOINDER OF THE APPLICATIONS

6. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

7. The applicants complained that the length of their respective civil proceedings had been incompatible with the “reasonable time” requirement. They relied on Article 6 § 1 of the Convention, which reads as follows:

Article 6 § 1

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

8. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicants and the relevant authorities and what was at stake for the applicants in the dispute (see *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

9. In the leading cases of *Scordino v. Italy (no. 1)* [GC], no. 36813/97, §§ 134-227, ECHR 2006-V, and *Savić and Others v. Serbia* [Committee], nos. 22080/09 and 7 others, 5 April 2016, the Court already found a violation in respect of issues similar to those in the present case.

10. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the proceedings at the national level. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

11. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. 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.”

13. Regard being had to the documents in its possession and to its case-law (see, in particular, *Scordino*, cited above, §§ 260-73, and *Savić and Others*, cited above), the Court considers it reasonable to award the sums indicated in the appended table and dismisses the remainder of the applicants’ claims for just satisfaction.

14. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that these applications disclose a breach of Article 6 § 1 of the Convention concerning the excessive length of civil proceedings;
4. *Holds*

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- (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
- (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.

5. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 16 December 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Pauliine Koskelo
President

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APPENDIX

List of applications raising complaints under Article 6 § 1 of the Convention
(excessive length of civil and/or administrative proceedings)

No.	Application no. Date of introduction	Applicant's name Year of birth	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Domestic award in respect of non-pecuniary damage (in euros)	Amount awarded for non-pecuniary damage per applicant (in euros) ^{1 2}	Amount awarded for costs and expenses per application (in euros) ³
1.	30141/19 27/05/2019	Danijel BAJKIĆ 1990	31/12/2010	02/07/2020	9 years, 6 months and 3 days 2 levels of jurisdiction	Smederevo Court of First Instance R4R.br.58/16 27 May 2016 (no violation)	2,100	250
2.	4419/20 20/12/2019	Slobodan ŽIVKOVIĆ 1967	14/07/2011	Pending	more than 10 years, 3 months and 14 days 2 levels of jurisdiction	Smederevo Court of First Instance R4R.br.9/2017 14 July 2017 (no violation)	2,100	250

¹ Plus any tax that may be chargeable to the applicants.

² Less any amounts which may have already been paid in that regard at the domestic level.

³ Plus any tax that may be chargeable to the applicants.