



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

THIRD SECTION

CASE OF BLAGOJEVIĆ v. SERBIA

(Application no. 63113/13)

JUDGMENT

STRASBOURG

28 March 2017

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

In the case of Blagojević v. Serbia,

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

Luis López Guerra, *President*,

Dmitry Dedov,

Branko Lubarda, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 7 March 2017,

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

PROCEDURE

1. The case originated in an application (no. 63113/13) against 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 Veroljub Blagojević (“the applicant”), on 25 September 2013.

2. The applicant was represented by Mr L. Uljarević, a lawyer practising in Kragujevac. The Serbian Government (“the Government”) were initially represented by their former Agent, Ms V. Rodić, being more recently substituted by their current Agent, Ms. N. Plavšić.

3. On 18 December 2014 the complaint concerning the length of criminal proceedings was communicated to the Government and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

4. The Government objected to the examination of the application by a Committee. After having considered the Government’s objection, the Court rejects it.

THE FACTS

5. The applicant was born in 1951 and lives in Kragujevac.

6. On 13 July 2006 the applicant filed a civil suit together with 18 other persons with the Kragujevac Municipal Court against his former employer *Telekom Srbija AD Beograd* requesting the payment of funds from profit made in 2005.

7. The applicant’s previous representative did not attend first preliminary hearing fixed for 15 November 2006, since he had been deleted from the register of the attorneys-at-law in May 2006. The applicant appointed the present representative on 25 January 2007.

8. The preliminary hearing was held on 13 February 2007.

9. On 27 August 2007 the proceedings were split to separate proceedings for each of the plaintiffs concerned.

10. The preliminary hearing was held on 21 March 2008.

11. Within the period from 21 October 2008 until 29 April 2011 seven out of eight hearings were postponed for various reasons, mainly because the representatives on the both sides provided new submissions and evidence and on the proposal of both sides due to the cost-efficiency of the proceedings.

12. On 29 April 2011 the Kragujevac First Instance Court ruled against the applicant.

13. On 20 February 2012 the Kragujevac Appeals Court upheld that judgment.

14. On 27 June 2013 the Constitutional Court rejected the applicant's appeal.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 6 § 1 AND 13 OF THE CONVENTION

15. The applicant complained that the length of the proceedings in question had been incompatible with the "reasonable time" requirement. He relied on Articles 6 § 1 and 13 of the Convention, which, in so far as relevant, read as follows:

Article 6 § 1

"In the determination of his civil rights and obligations or of any criminal charge against him... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

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."

16. The Government contested that argument claiming that in the specific circumstances of the case, namely the large number of plaintiffs, the complex legal issue and postponing of the hearing mainly because of the conduct of the representatives on both sides, the length of impugned proceedings cannot be deemed excessive.

17. The proceedings in question lasted for five years and seven months in two instances.

A. Admissibility

18. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

19. 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 applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

20. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

21. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the merits of the applicant's complaint. Having regard to its case-law on the subject (see *Nemet v. Serbia*, no. 22543/05, § 17, 8 December 2009), the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

22. Accordingly, there has been a breach of Article 6 § 1 of the Convention.

23. After reaching such a conclusion, the Court does not find it necessary to examine essentially the same complaint under Article 13 of the Convention (see *mutatis mutandis*, *Kin-Stib and Majkić v. Serbia*, no. 12312/05, § 90, 20 April 2010).

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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."

A. Damage

25. The applicant claimed 5,000 euros (EUR) in respect of non-pecuniary damage.

26. The Government considered the sum requested to be excessive.

27. The Court is satisfied that the applicant has undoubtedly suffered distress on account of the lengthy delay in the proceedings in question. It therefore awards the applicant EUR 1,500 in respect of the non-pecuniary damage suffered.

B. Costs and expenses

28. The applicant also claimed EUR 900 for the costs and expenses incurred before the domestic courts and EUR 765 for those incurred before the Court.

29. The Government contested these claims.

30. Regard being had to the documents in its possession and to its case-law, the Court considers it reasonable to award the sum of EUR 500 for costs and expenses for the proceedings before the Court.

C. Default interest

31. 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. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* that there is no need to examine separately the complaint under Article 13 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months the following amounts:
 - (i) EUR 1,500 (one thousand five hundreds euros), plus any tax that may be chargeable, in respect of non-pecuniary damage suffered, and
 - (ii) EUR 500 (five hundreds euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (b) that the amounts specified under (a) shall be converted into the national currency of the respondent State at the rate applicable at the date of settlement;

(c) 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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 28 March 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Luis López Guerra
President