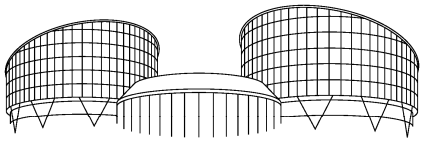

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

# CASE OF MATIĆ v. SERBIA

*(Application no. 41722/14)*

JUDGMENT

STRASBOURG

15 November 2016

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

**In the case of Matić v. Serbia,**

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

Pere Pastor Vilanova, *President,*
Branko Lubarda,
Georgios A. Serghides, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having deliberated in private on 18 October 2016,

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

# PROCEDURE

1. The case originated in an application (no. 41722/14) 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 Radosav Matić ("the applicant"), on 24 May 2014.

2. The applicant was represented by Ms M. Joksimović, a lawyer practising in Kragujevac. The Serbian Government ("the Government") were represented by their Agent at the time, Ms V. Rodić who was recently substituted by their current agent Ms N. Plavšić.

3. On 18 December 2014 the application was communicated to the Government.

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

## I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1936 and lives in Kragujevac.

6. On 13 December 2006 the applicant filed a civil claim in criminal proceedings as injured party.

7. On 18 November 2010 the Kragujevac Court of First Instance delivered the first instance judgment.

8. On 20 October 2011 the Kragujevac Appellate Court delivered the second instance judgment. This judgment was delivered to the applicant on 7 November 2011.

9. On 18 February 2014 the Constitutional Court of Serbia rejected the applicant's constitutional appeal.

# THE LAW

## I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

10. The applicant complained that the length of the proceedings in question had been incompatible with the "reasonable time" requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

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

11. The Government contested that argument claiming that in the specific circumstances of the case, namely the proceedings before two instances, the length of proceedings cannot be considered excessive.

12. The proceedings in question lasted for four years and eleven months in two instances.

### A. Admissibility

13. The Court notes that this application is neither manifestly ill-founded within the meaning of Article 35 § 3 of the Convention nor inadmissible on any other grounds. It must therefore be declared admissible.

### B. Merits

14. 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).

15. 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).

16. 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.

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

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

18. 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

19. The applicant claimed various sums in respect of pecuniary and non-pecuniary damage relating to the outcome of the domestic proceedings.

20. The Government considered that as the amounts sought by the applicant related to the outcome of the domestic proceedings rather than the length of the said proceedings those were therefore unfounded.

21. Given that the damages requested by the applicant related to the outcome of the domestic proceedings rather than the length of the said proceedings the Court does not discern any causal link between the violation found and the damages requested; it therefore rejects this claim.

### B. Costs and expenses

22. The applicant also claimed EUR 450 for the costs and expenses incurred before the Court.

23. The Government considered this amount to be excessive.

24. 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 450 for costs and expenses for the proceedings before the Court.

### C. Default interest

25. 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 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 450 (four hundred fifty euros) in respect of costs and expenses, plus any tax that may be chargeable to the applicant, which is 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 15 November 2016, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Pere Pastor Vilanova
President