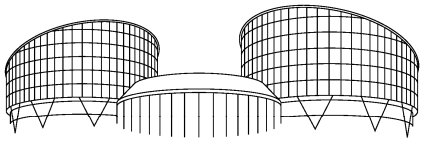

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF SKORIĆ v. SERBIA

(Application no. 14130/14)

JUDGMENT

STRASBOURG

28 June 2016

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

In the case of Skorić 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 7 June 2016,

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

PROCEDURE

1. The case originated in an application (no. 14130/14) 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 Janko Skorić ("the applicant"), on 10 February 2014.

2. The applicant was represented by Mr S. Gajić, a lawyer practising in Beograd. The Serbian Government ("the Government") were represented by their Agent at the time, Ms V. Rodić.

3. On 16 September 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 1948 and lives in Belgrade.

6. The applicant was employed by "*PIM – bagerovanje i vodni transport*", a socially-owned company based in Belgrade ("the debtor").

7. On 30 March 2005 the Belgrade Second Municipal Court (*Drugi opštinski sud u Beogradu*) ordered the debtor to pay the applicant specified sums in respect of salary arrears, social security contributions and procedural costs. This judgment became final on the same date.

8. On 22 June 2005 the Belgrade Fourth Municipal Court (*Četvrti opštinski sud u Beogradu*) issued an enforcement order with regard to the said judgement.

9. On 29 March 2012, acting upon the applicant's constitutional appeal, the Constitutional Court held that the applicant had suffered a breach of the "right to a trial within a reasonable time" with regard to the enforcement proceedings. The court ordered the acceleration of the proceedings and declared that the applicant was entitled to compensation for the non-pecuniary damage suffered in the amount of EUR 700, converted into the national currency at the rate applicable at the date of settlement.

10. The enforcement proceedings instituted on the basis of the judgment rendered by the Belgrade Second Municipal Court on 30 March 2005 continued and are still pending.

II. RELEVANT DOMESTIC LAW

11. For the relevant domestic law, see *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; *Crnišanin 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 and *Ferizović v. Serbia* (dec.) no. 65713/13, §§ 21-30.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL No. 1

12. The applicant complained about the respondent State's failure to enforce final judgments rendered in his favour against the debtor. This complaint falls to be examined under Article 6 of the Convention and Article 1 of Protocol No. 1 which, in so far as relevant, read as follows:

Article 6 § 1

"In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

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."

A. Admissibility

13. The Government submitted that the applicant had lodged his application with the Court outside the six-month time-limit. In particular, this time-limit had started to run when the applicant had received the decision of the Constitutional Court of 29 March 2012.

14. The applicant disputed these arguments.

15. Article 35 § 1 of the Convention provides that the Court may only deal with a complaint which has been introduced within six months of the date of the final decision rendered in the process of exhaustion of domestic remedies. Where the alleged violation constitutes a continuing situation against which no domestic remedy is available the six-month period starts to run from the end of the continuing situation (see, among other authorities, *Iatridis v. Greece* [GC], no. 31107/96, § 50, ECHR 1999-II and, *mutatis mutandis*, *Ječius v. Lithuania*, no. 34578/97, § 44, ECHR 2000-IX).

16. The Court notes that at the time when the applicant had received the decision of the Constitutional Court it had not yet been considered an effective domestic remedy (see *Ferizović v. Serbia* (dec.) no. 65713/13, § 26 November 2013). Furthermore, the Constitutional Court's decision did not bring the continuing situation to an end, as the enforcement proceedings in question are still pending. Finally, while the constitutional appeal was considered an effective domestic remedy at the time when the applicant had submitted his application, the Court considers that having already exhausted this remedy once, the applicant could not have reasonably been expected to make use of it again it being understood that the Government did not raise any objection concerning the exhaustion of domestic remedies.

17. In view of the above, the Government's objection must be dismissed.

B. Merits

18. The Court notes that the final judgment rendered in the applicant's favour remains unenforced to the present date.

19. The Court observes that it has frequently found violations of Article 6 of the Convention and/or Article 1 of Protocol No. 1 to the Convention in cases raising issues similar to those raised in the present case (see *R. Kačapor and Others*, cited above, §§ 115-116 and § 120; *Crnišanin and Others,* cited above, §§ 123-124 and §§ 133-134; and *Adamović* cited above, § 41).

20. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or convincing argument capable of persuading it to reach a different conclusion in the present case. There has, accordingly, been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

21. 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, costs and expenses

22. The applicant requested that the State be ordered to pay, from its own funds: (i) the sum awarded by the final judgment rendered in his favour; (ii) 3,000 euros (EUR) in respect of non-pecuniary damage; (iii) 568 (EUR) for the costs and expenses incurred before the Court.

23. The Government contested these claims.

24. Having regard to the violations found in the present case and its own case-law (see *R. Kačapor and Others,* cited above, §§ 123-126, and *Crnišanin and Others*, cited above, § 139), the Court considers that the applicant's claims for pecuniary damage concerning the payment of the outstanding judgment debt must be accepted. The Government shall therefore pay the applicant the sums awarded in the final domestic judgment adopted on 30 March 2005 as well as the costs of the enforcement proceedings, less any amounts which may have already been paid in respect of the said judgment.

25. The Court further takes the view that the applicant has suffered some non-pecuniary damage as a result of the violations found which cannot be made good by the Court's finding of a violation alone. Having regard to its case-law (*Stošić v. Serbia*, no. 64931/10, §§ 66-68, 1 October 2013), the Court awards EUR 2,000 to the applicant, less any amounts which may have already been paid on that basis. This sum is to cover non-pecuniary damage, costs and expenses.

B. Default interest

26. 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 have been violations of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention;

3. *Holds*
(a) that the respondent State is to pay the applicant, from its own funds and within three months, the sum awarded in the court judgment rendered in his favour, less any amounts which may have already been paid in this regard;
(b) that the respondent State is to pay the applicant, within the same period, EUR 2,000 (two thousand euros) in respect of non-pecuniary damage, costs and expenses, less any amounts which may have already been paid on that basis and 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;
(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 June 2016, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Pere Pastor Vilanova
President