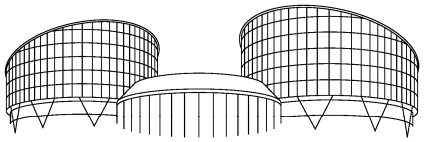

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF STOJKOVIĆ v. SERBIA

(Application no. 24899/15)

JUDGMENT

STRASBOURG

22 January 2019

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

In the case of Stojković 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 Stephen Phillips, *Section Registrar,*

Having deliberated in private on 18 December 2018,

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

PROCEDURE

1. The case originated in an application (no. 24899/15) 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, Ms Sunčica Stojković ("the applicant"), on 6 May 2015.

2. The applicant was represented by Mr Đ. Blagojević, a lawyer practising in Niš. The Serbian Government ("the Government") were represented by their Agent, Ms N. Plavšić.

3. On 28 June 2016 the complaint concerning the length of the proceedings was communicated to the Government, while the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of the Court.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1956 and lives in Bujanovac.

5. The applicant complains about the excessive length of administrative proceedings under Article 6 § 1 of the Convention.

6. The proceedings at issue began on 10 October 2005 when the applicant lodged an appeal against a first instance administrative decision of 28 September 2005 whereby her already recognised employment-related benefits were to be reduced. On 23 January 2006 this appeal was rejected at second instance and the applicant then decided to seek judicial review of this rejection. On 4 September 2008 the Administrative Court quashed the administrative decisions rendered at first and second instance. On 6 May 2009 a new administrative decision was thus issued at first instance but on 22 May 2009 the applicant again lodged an appeal against it. On 9 October 2009 the

impugned decision was quashed at second instance. On 19 October 2009 a third administrative decision was hence rendered at first instance but it was also appealed by the applicant. On 21 January 2010, however, this appeal was rejected at second instance. On 4 February 2010 the applicant sought further judicial review of the rejection. Ultimately, on 17 March 2011 the Administrative Court issued the final decision in the matter and in so doing ruled against the applicant.

7. The applicant thereafter attempted to obtain redress for the alleged breach of her right to a hearing within a reasonable time. On 4 November 2014, however, the Constitutional Court rejected her appeal. It found that the case had indeed not been complex, had, in fact, been very significant for the applicant, that the administrative authorities more or less had acted within the legally set timelines, but that the proceedings had been somewhat prolonged due to the conduct of the administrative authorities, but considered, regardless, that no violation of the Constitution could be established since the applicant could not have been uncertain at any point in time of the inevitably unfavourable outcome of her claim.

THE LAW

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

8. The applicant complained that the length of the administrative proceedings 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..."

9. The period to be taken into consideration began on 10 October 2005 (see *Pejčić v. Serbia*, no. 34799/07, § 69, 8 October 2013) and ended on 17 March 2011. It thus lasted for 5 years and 5 months at one instance.

A. Admissibility

10. 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

11. The Government maintained that the length of the proceedings in question was not unreasonably long and in so doing relied on the reasoning of the Constitutional Court.

12. The applicant reaffirmed her complaint.

13. 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 applicant 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). It is also noted that special diligence is necessary in employment-related disputes (see *mutatis mutandis Ruotolo v. Italy*, judgment of 27 February 1992, Series A no. 230-D, p. 39, § 17).

14. Indeed, 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).

15. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. In view of 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.

16. There has accordingly been a breach of Article 6 § 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

17. 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

18. The applicant claimed 2,500 euros (EUR) in respect of the non-pecuniary damage suffered.

19. The Government contested this claim.

20. The Court is satisfied that the applicant has undoubtedly suffered distress on account of the delay in the proceedings at issue. It, therefore, awards the applicant EUR 2,000 for the non-pecuniary damage suffered.

B. Costs and expenses

21. The applicant also claimed EUR 2,200 for the costs and expenses incurred before the domestic courts and those incurred before the Court.

22. The Government contested this claim.

23. In the present case, 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 (five hundred euros) covering costs under all heads.

C. Default interest

24. 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*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts:
      (i) EUR 2,000 (two thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 500 (five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (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;

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

Done in English, and notified in writing on 22 January 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips
Registrar

Pere Pastor Vilanova
President