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

SECOND SECTION

DECISION

Application no. 48137/21
Dušan ANTONIJEVIĆ
against Serbia
(see appended table)

The European Court of Human Rights (Second Section), sitting on 20 October 2022 as a Committee composed of:

Jovan Ilievski*, President*,
Gilberto Felici,
Diana Sârcu*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 23 September 2021,

Having regard to the observations submitted by the parties,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant was represented by Ms S. Pekez, a lawyer practising in Belgrade.

The applicant's complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the non-enforcement or delayed enforcement of a domestic decision given against a socially/State-owned company were communicated to the Serbian Government ("the Government").

THE LAW

The Government submitted that the domestic decision under consideration was not against a socially/State-owned, but against a private company. The applicant agreed.

The Court notes that the State responsibility for enforcement of a judgment against a private company extends no further than the involvement of State bodies in the enforcement procedures. Once the enforcement procedures were

closed by a court in accordance with domestic law, the responsibility of the State ended (see *Shestakov v. Russia* (dec.), no. 48757/99, 18 June 2002). The Court has further held that, when an applicant's debtor is a private person, a failure to enforce a judgment because of the debtor's indigence cannot be held against the State unless and to the extent that it is imputable to the domestic authorities, for example, to their errors or delay in proceeding with the enforcement (see *Omasta v. Slovakia* (dec.), no. 40221/98, 10 December 2002).

In the present case, on 5 May 2015 the competent commercial court made a winding-up order against the debtor. The applicant and 136 other creditors registered their claims with the liquidator. The commercial court accepted the applicant's claim on 20 October 2015. In accordance with the domestic law, one of the creditors applied for reorganisation of the debtor. The commercial court rejected that application on 16 May 2016. The creditors did not appoint their representatives until December 2017. The commercial court then held five auctions for the sale of the debtor (on 29 March, 17 May, 5 July and 17 August 2018, and on 4 April 2019). The company was sold on the last date. Soon thereafter, the debtor was dissolved and the proceeds from the sale were distributed among the creditors pursuant to the domestic law. The applicant thus received around 34% of his claim in February 2020. In the meantime, he complained about the length of the winding-up proceedings relying on the Right to a Trial within a Reasonable Time Act. The domestic courts dismissed his complaint, finding that there had been no errors or delays attributable to the State. The final decision in that regard was rendered by the Constitutional Court on 3 February 2021 and was served on the applicant on 23 March 2021.

Having examined all the material before it, the Court sees no reason to disagree with the finding of the domestic courts.

In view of the above, the Court finds that these complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 10 November 2022.

Viktoriya Maradudina Acting Deputy Registrar	Jovan Ilievski President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 (non-enforcement or delayed enforcement of domestic decisions given against socially/State-owned companies)

Application no. Date of introduction	Applicant's name Year of birth	Relevant domestic decision
48137/21 23/09/2021	**Dušan ANTONIJEVIĆ** 1988	Commercial Court in Belgrade, 20/10/2015