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

FIRST SECTION

DECISION

Application no. 29265/22
D.J.
against Slovenia

The European Court of Human Rights (First Section), sitting on 15 May 2025 as a Committee composed of:

Alena Poláčková*, President*,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 29265/22) against the Republic of Slovenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 8 June 2022 by a Slovenian national, D. J. ("the applicant"), who was born in 1978, lives in Maribor and was represented by Mr V. Cugmas, a lawyer practising in Slovenske Konjice;

the decision to give notice of the complaints concerning Articles 8 and 14 of the Convention to the Slovenian Government ("the Government"), represented by their Agent, Ms A. Grum, Senior State Attorney, and to declare the remainder of the application inadmissible;

the decision not to have the applicant's name disclosed;

the parties' observations;

the comments submitted by the European Trade Union Confederation, which was granted leave to intervene by the President of the Section;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns civil proceedings brought by the applicant against her former employer, for whom she had worked as an authorised signatory (*prokurist*), regarding the refusal to grant her protection as a pregnant worker against the termination of her employment.

A. Circumstances surrounding the termination of the applicant's contract

2. In 2000 a public institution founded by the municipality of Maribor established a private company ("company A."). On 14 October 2011 company A.'s supervisory board appointed the applicant as its authorised signatory. The applicant entered into a special type of employment contract regulated under section 72 of the Employment Relationships Act ("the ERA") for persons acting as directors or authorised signatories (*pogodba o zaposlitvi s poslovodnimi osebami ali prokuristi*). The contract was entered into for an indefinite period of time.

3. Article 16 § 2 of the applicant's contract stipulated that her employment would continue until the termination of her authority as company A.'s authorised signatory. Article 16 § 3 and 16 § 4 provided that, should her authority as authorised signatory be terminated, the parties could agree to continue their cooperation under a new employment contract. In the event of such a termination, the applicant would be offered a position within company A., corresponding to her education and qualifications.

4. On 31 January 2014 the applicant's authority as authorised signatory was terminated. The reasons for that decision were not given. By letter dated 4 February 2014, the board informed the applicant of that decision and stated that, in accordance with Article 16 of her contract, her employment had been terminated as of 31 January 2014. It also informed her that there were no vacant positions corresponding to her education and qualifications, and therefore, company A. was unable to offer her further employment. It further stated that she was entitled to severance pay under Article 19 of her contract, as the termination of her authority as authorised signatory had been through no fault of her own.

5. On 5 February 2014, after having received the letter, the applicant informed company A. that she was pregnant and that she had become aware of that fact on 27 January 2014.

6. On 7 February 2014 the applicant requested that her employer revoke its decision to terminate her employment, referring to the provisions of section 115 of the ERA, as it had been amended ("the ERA-1"), which provided that workers could not be dismissed during pregnancy, parental leave or while breastfeeding. She also referred to a clause in her contract requiring the employer to offer her another suitable position.

7. On 17 February 2014 the applicant suffered a miscarriage.

B. Proceedings before the domestic courts

8. The applicant brought a civil claim, arguing that her dismissal had been unlawful. She sought damages and reinstatement in her post. Alternatively,

she argued that company A. should offer her a position corresponding to her education and qualifications.

9. On 19 September 2017, following a remittal of the case by the Maribor Higher Labour and Social Court, the Maribor Labour Court allowed the applicant's claim in part, finding that her contract had been unlawfully terminated on 31 January 2014. That decision was upheld on appeal.

10. On 12 March 2019 the Supreme Court upheld an appeal on points of law by company A. and varied the first and second-instance courts' judgments, dismissing the applicant's claim in its entirety. The Supreme Court held that the applicant had entered into a contract in accordance with section 72 of the ERA. That provision governed the signing of employment contracts with persons acting as directors or authorised signatories, and allowed the parties to regulate the rights and obligations concerning, *inter alia*, working hours, renumeration, disciplinary responsibility and termination of the employment contract, in a manner less favourable to the employee than that provided for in the legislation regarding ordinary contracts. The Supreme Court further found that the applicant's contract had been terminated as a result of the termination of her authority as authorised signatory, in accordance with the specific provision in her contract (see paragraph 3 above) which linked the duration of the employment contract to the duration of that authority. According to the Supreme Court, section 115 of the ERA-1 (see paragraph 6 above) did not protect pregnant workers against any type of termination of employment, but only against dismissal (*odpoved pogodbe o zaposlitvi*), a specific way of terminating contracts. When entering into her contract the applicant had agreed to a provision allowing for her employment to be terminated "in a different manner" and that thus she would not enjoy the specific protection of pregnant workers under section 115 of the ERA-1.

11. On 12 April 2022 the Constitutional Court refused to accept a constitutional complaint brought by the applicant for consideration.

C. Complaints

12. The applicant complained that she had been treated less favourably than other pregnant workers because, by entering into her contract, she had been deprived of the protection afforded to pregnant workers under the ERA-1, EU law, and other relevant European and international legal instruments, in violation of Article 14 of the Convention.

THE COURT'S ASSESSMENT

13. The Government disputed that there had been any discrimination in the applicant's case. The applicant maintained her complaints.

14. The third-party intervener, the European Trade Union Confederation, presented the relevant international legal instruments on the protection of maternity, pregnant workers and women against discrimination, and emphasised the importance of the protection of pregnant workers against the termination of employment.

15. Having regard to the substance of the applicant's complaint, the Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018, and *Emel Boyraz v. Turkey*, no. 61960/08, § 33, 2 December 2014), considers it appropriate to examine the application from the standpoint of Article 14 of the Convention read in conjunction with Article 8.

16. The Court notes that the Government have not disputed the applicability of Articles 8 and 14 to the facts of the present case. It will therefore proceed on the assumption that these provisions are applicable (see *E.B. v. France* [GC], no. 43546/02, §§ 47-48, 22 January 2008; *V.C. v. Slovakia*, no. 18968/07, § 138, ECHR 2011 (extracts); and *Jurčić v. Croatia*, no. 54711/15, § 66, 4 February 2021, with further references).

17. The Court reiterates that in the enjoyment of the rights and freedoms guaranteed by the Convention, Article 14 affords protection against different treatment, without objective and reasonable justification, of individuals in analogous, or relevantly similar, situations (the general principles have been summarised in *Jurčić*, cited above, §§ 62-67).

18. The Court observes that it has not been disputed that the applicant's contract was terminated irrespective of her pregnancy. In fact, neither the public institution nor company A. were informed of the applicant's pregnancy at the time the decision was made to terminate her authority as authorised signatory, and consequently, her contract (see paragraph 5 above). This case, therefore, does not concern a situation where pregnancy may have been a factor underpinning the dismissal of a worker. The applicant's complaint concerns the fact that, by entering into her contract, she was denied the special protection against dismissal afforded to pregnant workers who had concluded standard employment contracts. Such protection would have ensured that she could not be dismissed on account of her pregnancy, even where the employer had been informed of that fact afterwards.

19. Assuming that the applicant can be considered to be in an analogous or relevantly similar situation to that of pregnant workers with a regular contract, and that the difference in treatment was based on an identifiable characteristic or "status" (see *Molla Sali v. Greece* [GC], no. 20452/14, §§ 133-34, 19 December 2018), the Court notes that the contractual parties themselves stipulated in the applicant's contract that the contract would come to an end upon the termination of the applicant's authority as authorised signatory (see paragraph 3 above). As explained by the Supreme Court, section 115 of the ERA-1 explicitly referred to "dismissal" and did not cover

other forms of termination of employment, such as that which had taken place in the applicant's case (see paragraph 10 above). The applicant's type of employment contract differed substantially from regular employment contracts. As submitted by the Government, this type of contract was entered into by managing staff and authorised signatories, whose positions within companies were non-subordinate and independent, in contrast to regular workers. According to the Supreme Court, the legislator had provided an option for the contractual parties to a contract to determine a broad range of rights and obligations concerning the employment, including its termination, differently from the general legal provisions regulating ordinary contracts (see paragraph 10 above). The applicant's contract, as noted above, linked the applicant's employment to her authority as authorised signatory. The Court does not find anything unreasonable in the Supreme Court's conclusion that the present case concerned a specific form of termination of employment linked to the termination of a related authority and therefore did not attract the protection in question.

20. In so far as the applicant disputes the above interpretation of section 115 of the ERA-1 and other relevant provisions of domestic law by the Supreme Court, the Court would emphasise that it is primarily for the national authorities, in particular the courts, to interpret and apply domestic law. The Court's role is confined to ascertaining whether the effects of such an interpretation are compatible with the Convention. In so doing, the Court has to satisfy itself that the national authorities based their decisions on an acceptable assessment of the relevant facts (see *Beizaras and Levickas v. Lithuania*, no. 41288/15, § 116, 14 January 2020). Considering the circumstances of the present case, particularly an authorised signatory's specific role within a company (see paragraph 19 above), the fact that the applicant's employment was not terminated due to her pregnancy (see paragraph 18 above), and the reasoning of the Supreme Court – the Court finds no grounds to suggest that the Supreme Court's interpretation of the domestic law was incompatible with Article 14 in conjunction with Article 8 of the Convention. Therefore, even assuming that the other criteria for relying on the protection guaranteed by Article 14 in conjunction with Article 8 of the Convention are met (see paragraph 19 above), the Court concludes that the difference in treatment of the applicant, compared to pregnant workers with a regular employment contract, was justified on objective and reasonable grounds.

21. The application must accordingly be rejected as manifestly ill-founded within the meaning of Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 5 June 2025.

Liv Tigerstedt Deputy Registrar	Alena Poláčková President