

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

THIRD SECTION

DECISION

Application no. 23076/11
Mirjana JEVTIĆ
against Serbia

The European Court of Human Rights (Third Section), sitting on 27 May 2014 as a Committee composed of:

Ján Šikuta, *President,*
Dragoljub Popović,
Iulia Antoanella Motoc, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 26 March 2011,

Having regard to the declaration submitted by the respondent Government on 23 September 2013 and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Ms Mirjana Jevtić, is a Serbian national, who was born in 1956 and lives in Sremčica.

The Serbian Government ("the Government") were initially represented by their former Agent, and subsequently by their Agent Ms V. Rodić.

On 23 April 2004 the Belgrade Fourth Municipal Court adopted a judgment in the applicant's favour according to which DP "Teleoptic-Žiroskopi", a socially-owned company based in Zemun, was ordered to pay her certain sums.

On 18 October 2004 the applicant lodged an application for the enforcement of the above judgment with the Belgrade Fourth Municipal Court.

On 20 October 2004 the court allowed the application and issued an enforcement order.

On 13 February 2013 the Constitutional Court of Serbia held that the applicant had suffered a breach of her "right to a trial within a reasonable time" and ordered the competent court to bring the impugned enforcement proceedings to a conclusion as soon as possible. The Constitutional Court, additionally, ordered the State to pay the applicant EUR 800 in respect of non-pecuniary damage, which would be converted into Serbian dinars at the rate applicable on the date of payment. However, the final court judgment rendered in the applicant's favour has yet to be enforced.

Relying on various articles of the Convention the applicant complained about the respondent State's failure to enforce the final domestic decision rendered in her favour against a socially-owned company.

THE LAW

After the failure of attempts to reach a friendly settlement, by a letter of 23 September 2013 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application.

The declaration provided as follows:

> "I declare that the Government of the Republic of Serbia is ready to accept that there had been a violation of the applicant's right under Article 6 paragraph 1 and Article 13 of the Convention, as well as Article 1 of Protocol No. 1 to the Convention and offer to pay to Ms Mirjana Jevtić, the amount of EUR 2,000, less any amounts which may have been already paid on the basis of the Constitutional Court's decision of 13 February 2013, to cover any and all non-pecuniary damage as well as the costs and expenses plus any tax that may be chargeable to the applicant in respect of the application registered under no. 23076/11 before the European Court of Human Rights.
>
> This sum, shall be payable within three months from the date of delivery of the decision of the Court.
>
> I further declare that within the same three-month period the Government offer to pay from their own funds, to the applicant the sums awarded in the domestic decision(s) under consideration in this case, less any amounts which may have already been paid on the basis of the said decision(s), plus costs of enforcement proceedings.
>
> These payments will constitute the final resolution of the case pending before the European Court of Human Rights.
>
> The Government regret the occurrence of the actions which have led to the bringing of the present application. "

By a letter of 18 November 2013, the applicant indicated that she was not entirely satisfied with the terms of the unilateral declaration.

The Court recalls that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified,

under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

> "for any other reason established by the Court, it is no longer justified to continue the examination of the application".

It also recalls that in certain circumstances, it may strike out an application under Article 37 § 1(c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

To this end, the Court will examine carefully the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey*, [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI); *WAZA Spółka z o.o. v. Poland* (dec.) no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.) no. 28953/03).

The Court has established in a number of cases, including those brought against Serbia, its practice concerning complaints about the non-enforcement of final domestic decision rendered against socially/State-owned companies (see, for example, *R. Kačapor and Others v. Serbia, nos. 2269/06, 3041/06, 3042/06, 3043/06, 3045/06 and 3046/06, 15 January 2008; Crnišanin and Others v. Serbia, nos. 35835/05, 43548/05, 43569/05 and 36986/06, 13 January 2009; Rašković and Milunović v. Serbia, nos. 1789/07 and 28058/07, 31 May 2011; Milunović and Čekrlić v. Serbia (dec.), nos. 3716/09 and 38051/09, 17 May 2011;* and *Stošić v. Serbia*, no. 64931/1, 1 October 2013).

Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1(c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

Further, the Court interprets the Government's declaration as meaning that in the event of failure to settle within the three-month period indicated in that declaration, simple interest shall be payable on the amount in question at a rate equal to the marginal lending rate of the European Central Bank plus three percentage points.

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration under Articles 6 and 13 of the Convention, as well as Article 1 of Protocol No. 1 to the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Marialena Tsirli	Ján Šikuta
Deputy Registrar	President