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

FIFTH SECTION

DECISION

Application no. 12420/21
Jiřina LOWÁKOVÁ
against the Czech Republic

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

Lətif Hüseynov, *President,*
Lado Chanturia,
Arnfinn Bårdsen, *judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 25 February 2021,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table. She was represented by Mr Z. Pokorný, a lawyer practising in Brno.

The applicant's complaints under Article 6 § 1 of the Convention concerning the excessive length of civil proceedings were communicated to the Czech Government ("the Government").

THE LAW

Complaints under Article 6 § 1 of the Convention (excessive length of civil proceedings)

The applicant complained about the length of the main proceedings on payment (no. 14 C 138/1999) which had lasted, before three levels of jurisdiction, from 18 June 1999 until 25 May 2009 when the Constitutional Court's judgment no. II. ÚS 1052/09 had been served on the applicant's lawyer; they had been stayed from 1 August 2000 until 7 December 2004. The applicant also challenged the length of the subsequent proceedings

(no. 17 C 38/2008) in which she had asked under the State Liability Act (Law no. 82/1998) for compensation in respect of the length of the main proceedings. The compensation proceedings had taken place, before four levels of jurisdiction, from 14 September 2007 until the service on 4 September 2020 of the Constitutional Court's decision no. III. ÚS 2217/20; they had ended with the award of approximately 4,500 euros (EUR) for the non-pecuniary damage sustained by the applicant.

The Government considered that the applicant abused her right of petition since she had failed to inform the Court about facts which were essential for the examination of the case. Indeed, the Government reported that on 14 October 2020, that is before having lodged her application with the Court, the applicant had filed another claim at the domestic level seeking compensation for the unreasonable length of the above-mentioned compensation proceedings. On 21 April 2021 the Ministry of Justice had granted her approximately EUR 3,515 on that account, which the Prague 2 District Court had increased by EUR 2,040 on 6 August 2021; at the time of the Government's submissions, the latter judgment could still be appealed against by the applicant.

The Court reiterates that an application may be rejected as abusive under Article 35 § 3 of the Convention if it was knowingly based on untrue facts (see, among others, *Jian v. Romania* (dec.), no. 46640/99, 30 March 2004, and *Keretchashvili v. Georgia* (dec.), no. 5667/02, 2 May 2006) or if incomplete and therefore misleading information was submitted to the Court (see, among others, *Hüttner v. Germany* (dec.), no. 23130/04, 9 June 2006, and *Basileo v. Italy* (dec.), no. 11303/02, 23 August 2011). Similarly, an application can be rejected as abusive if applicants – despite their obligation under Article 47 § 6 of the Rules of Court – fail to inform the Court about new important developments regarding their pending applications given that such conduct prevents the Court from ruling on the matter in full knowledge of the facts (see *Bekauri v. Georgia* (dec.), no. 14102/02, §§ 21-23, 10 April 2012).

The Court underlines that according to Rule 44 A of the Rules of Court "[t]he parties have a duty to cooperate fully in the conduct of the proceedings and, in particular, to take such action within their power as the Court considers necessary for the proper administration of justice...". The Court has repeatedly held that the rules of procedure laid down in national laws are intended to ensure the proper administration of justice and the principle of legal certainty and that the parties must be able to rely on their application. The same observation applies, *a fortiori*, to the Convention and the Rules of Court (see *Miroļubovs and Others v. Latvia*, no. 798/05, § 66, 15 September 2009).

Finally, the Court reiterates that it cannot be its task to deal with manifestly abusive conduct of applicants or their authorised representatives, which creates gratuitous work for the Court, incompatible with its real functions

under the Convention (see *Petrović v. Serbia* (dec.), no. 56551/11 and 10 others, 18 October 2011).

Having regard to the relevant circumstances of the present application the Court considers that they represent an example of an unprofessional and misleading conduct of the applicant's representative.

The Court notes that the applicant explicitly stated in her application of 25 February 2021 that she had received no compensation for the non-pecuniary damage caused by delays in the compensation proceedings. She omitted to inform the Court that, as of 14 October 2020, she had lodged a new compensation claim precisely on that account with the Czech Ministry of Justice. More importantly, she failed to inform the Court, before the communication of the application to the respondent Government on 27 May 2021 or even after it, that the Ministry had granted her compensation on 21 April 2021 and that she had decided to pursue her claim before a court.

The Court considers that this information concerns the very core of the case and that the applicant failed to give any explanation as to why she had not disclosed that information before the Government informed the Court in September 2021. The applicant's arguments advanced in her observations, in particular that her application concerned compensation for the length of the main proceedings and not for the length of the compensation proceedings, appear neither true nor convincing. Moreover, the applicant did not even inform the Court whether she decided to appeal against the judgment issued in the second compensation proceedings on 6 August 2021 or what was the final amount of compensation awarded to her in those proceedings.

In the light of the foregoing observations, the Court finds it appropriate to reject the present application as an abuse of the right of application pursuant to 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 February 2022.

Viktoriya Maradudina
Acting Deputy Registrar

Lətif Hüseynov
President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention (excessive length of civil proceedings)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Start of proceedings	End of proceedings	Total length Levels of jurisdiction
12420/21 25/02/2021	**Jiřina LOWÁKOVÁ** 1940	Zdeněk Pokorný Brno	Proceedings no. 1 14/09/2007	Proceedings no. 1 04/09/2020	Proceedings no. 1 12 years, 11 months and 22 days 4 levels of jurisdiction
			Proceedings no. 2 18/06/1999	Proceedings no. 2 25/05/2009	Proceedings no. 2 9 years, 11 months and 8 days 3 levels of jurisdiction