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

THIRD SECTION

DECISION

Application no. 45900/12
Dragica NIKOLIĆ
against Serbia

The European Court of Human Rights (Third Section), sitting on 22 November 2016 as a Committee composed of:

Helena Jäderblom, *President,*
Dmitry Dedov,
Branko Lubarda, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 10 July 2012,

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

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Dragica Nikolić, is a Serbian national, who was born in 1957 and lives in Vranje.

The Serbian Government ("the Government") were initially represented by their former Agent, Ms V. Rodić, who was recently substituted by their current Agent, Ms N. Plavšić.

The applicant is a former employee of *GIP "Nova Jugoslavija" AD*, a socially-owned company (hereinafter "the debtor").

On 15 May 2010 the Leskovac Commercial Court opened insolvency proceedings in respect of the debtor and the applicant duly reported her claims based on the debtor's official documentation.

On 29 October 2010 the Commercial Court partially recognised the applicant's claims.

The applicant had not received any payment since. The insolvency proceedings are still pending.

The applicant did not lodge a constitutional appeal.

COMPLAINTS

The applicant essentially complained about the non-enforcement of the final judgment rendered in her favour. These complaints fall to be examined under Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1.

THE LAW

The Government asked the Court to declare the application inadmissible for failure to exhaust domestic remedies, since the applicant had never lodged a constitutional appeal.

The applicant disagreed.

The Court has ruled that as regards the non-enforcement of final judgments rendered against socially-owned companies undergoing insolvency proceedings and/or those which have ceased to exist, a constitutional appeal should, in principle, be considered as an effective remedy in respect of all applications lodged from 22 June 2012 onwards (see *Marinković v. Serbia* (dec.), no. 5353/11, § 59, 29 January 2013).

In the present case, the Court notes that the insolvency proceedings in respect of the debtor were opened on 17 June 2010 and that the applicant lodged her application with the Court after 22 June 2012, that is on 10 July 2012.

The Court therefore agrees with the Government's position that the application should be dismissed in accordance with Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 15 December 2016.

Fatoş Aracı
Deputy Registrar

Helena Jäderblom
President