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

FIFTH SECTION

DECISION

Application no. 48987/16
Romāns SIŅICINS
against Latvia

The European Court of Human Rights (Fifth Section), sitting on 3 October 2024 as a Committee composed of:

Stéphanie Mourou-Vikström*, President*,
María Elósegui,
Artūrs Kučs*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 48987/16) against the Republic of Latvia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 15 August 2016 by a Latvian national, Mr Romāns Siņicins ("the applicant"), who was born in 1979, lives in Rotterdam and was represented by Mr A. Zvejsalnieks, a lawyer practising in Riga;

the decision to give notice of the complaints concerning the length of criminal proceedings and the right to an effective remedy in that regard to the Latvian Government ("the Government"), represented by their Agents Ms K. Līce and subsequently by Ms E. L. Vītola, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's complaints, under Articles 6 and 13 of the Convention, that the criminal proceedings against him had been excessive in length and that no effective domestic remedies had been available to him in that regard.

2. On 7 December 1994 the applicant was brought before the domestic authorities on suspicion of four counts of theft causing a total of

5,232.23 Latvian lati (LVL, approximately 7,444.16 euros (EUR)) in damage.

3. On 14 November 2017 a first-instance court acquitted the applicant on all counts. However, on 4 June 2021 the Riga Regional Court quashed that judgment and found him guilty on one count of theft and acquitted him on the remaining three counts. It held that the applicant's right to the completion of criminal proceedings within a reasonable time had been violated and discharged him from punishment owing to the length of the proceedings.

4. On 16 June 2022 the Senate of the Supreme Court remitted the case to the Riga Regional Court for a fresh examination of his guilty verdict. By a judgment of 8 June 2023 the Riga Regional Court acquitted the applicant on all counts. That judgment became final on 4 October 2023.

RELEVANT LEGAL FRAMEWORK

5. Article 92 of the Latvian Constitution (*Satversme*) provides that everyone has the right to defend his or her rights and lawful interests in a fair court, and that everyone whose rights are violated without justification has the right to commensurate compensation.

6. Section 4 of the Law on Compensation for Damage Caused in Criminal Proceedings and Administrative Offence Proceedings (*Krimināl*procesā *un administratīvo pārkāpumu lietvedībā nodarītā kaitējuma atlīdzināšanas likums* – hereinafter "the Law"), effective as of 1 March 2018, establishes the basis for the right to compensation for damage caused in criminal proceedings. One of the conditions providing a legal basis for compensation is that a court ruling has come into effect by which the person has been found innocent and acquitted on all charges brought against him or her. Section 17(1)(2) of the Law stipulates that the Ministry of Justice shall be the decision-making institution regarding compensation for damage caused in criminal proceedings if the judgment or decision, which is the basis for the right to compensation for damage, is delivered by a court. Under section 18(1) of the Law, an individual must submit his or her request for compensation to a decision-making institution. Pursuant to section 20 of the Law, such a request must be lodged no later than six months after the conditions for the right to compensation have been met.

THE COURT'S ASSESSMENT

7. The applicant alleged that the length of the criminal proceedings had breached the "reasonable time" requirement laid down in Article 6 § 1 of the Convention and, under Article 13, that he had not had an effective domestic remedy in that regard. In particular, the applicant argued that his main objective had been to ensure that the criminal proceedings against him were discontinued, but that the termination of criminal proceedings on grounds of

excessive length would only have been possible if he had pleaded guilty. Pleading guilty would have deprived him of the right to compensation for the lengthy proceedings and, therefore, he had no effective remedy in that regard.

8. The Government submitted that there were five domestic remedies available to the applicant regarding his complaint under Article 6 § 1 and that he had failed to exhaust them. The applicant contested that assertion, alleging that three of those remedies were ineffective. With regard to the two remaining remedies, the applicant submitted that recourse to them would only be useful once the criminal proceedings had ended. The use of those two remedies, which were merely compensatory, would not achieve his objective of ensuring the discontinuance of the criminal proceedings against him.

9. The Court does not consider it necessary to examine all of the objections raised by the Government because, for the reasons mentioned below, it considers that the applicant's complaint about the length of the criminal proceedings is inadmissible.

10. The Government also submitted that, after the criminal proceedings ended with the applicant's acquittal on all counts, it was open to him to submit a request for compensation in accordance with the Law. They provided examples to substantiate their argument and noted that the relevant judgments delivered by the domestic courts had been published in a public online database. As one of the examples, the Government submitted a judgment of the Administrative Regional Court of 30 June 2020 (case no. A420289618). In that case the claimant had been acquitted in criminal proceedings. He had then submitted a request for compensation to the Ministry of Justice on the basis of section 4 of the Law. The Ministry of Justice had refused it and the claimant had brought the case before the administrative courts. The Administrative Regional Court examined the case, and relying, *inter alia*, on the Court's case-law under Article 6 § 1 of the Convention, found a breach of the "reasonable time" requirement and awarded compensation for the unreasonable delay.

11. The Court reiterates that under Article 35 § 1 of the Convention it may only deal with a matter after all domestic remedies have been exhausted. The purpose of the rule on exhaustion of domestic remedies is to afford the Contracting States the opportunity of preventing or putting right the violations alleged against them before those allegations are submitted to the Court (see *Scoppola v. Italy (no. 2)* [GC], no. 10249/03, § 68, 17 September 2009, and the case-law cited therein).

12. With respect to the alleged breach of the "reasonable time" requirement in criminal proceedings, the Court has previously held that the Contracting States have a certain discretion as to the manner in which they provide relief (see *Kudła v. Poland* [GC], no. 30210/96, § 154, ECHR 2000-XI).

13. The Court reiterates that remedies available at domestic level for a complaint regarding the length of proceedings are "effective" within the

meaning of Article 13 of the Convention if they "[prevent] the alleged violation or its continuation, or [provide] adequate redress for any violation that [has] already occurred" (see *Kudła*, cited above, § 158). Article 13 therefore offers an alternative in that a remedy is "effective" if it can be used either to expedite a decision by the courts dealing with the case, or to provide the applicant with adequate redress for delays that have already occurred (see *Kudła*, cited above, § 159). The same is necessarily true of the concept of an "effective" remedy within the meaning of Article 35 § 1 (see *Mifsud v. France* (dec.) [GC], no. 57220/00, § 17, ECHR 2002-VIII).

14. The assessment of whether domestic remedies have been exhausted is normally carried out with reference to the date on which the application was lodged with the Court. However, as the Court has held on many occasions, this rule is subject to exceptions, which may be justified by the particular circumstances of each case (see *Demopoulos and Others v. Turkey* (dec.) [GC], nos. 46113/99 and 7 others, § 87, ECHR 2010, and the case-law cited therein).

15. The Court finds that the case-law examples submitted by the Government, particularly the judgment of the Administrative Regional Court of 30 June 2020 (see paragraph 10 above), show that the compensatory remedy provided for in section 4 of the Law is applicable to claims brought by acquitted persons concerning the length of criminal proceedings, and that such claims can succeed in practice. Thus, at the time when the final judgment in the applicant's case was adopted on 8 June 2023, there already existed an effective domestic remedy whose scope and application were clearly laid down and confirmed by the Administrative Regional Court's case-law.

16. The Court finds that the Government have sufficiently established the effectiveness and availability, in theory and in practice, of a compensatory remedy for the excessive length of criminal proceedings that have resulted in acquittal, in accordance with section 4 of the Law.

17. Therefore, the Court upholds the Government's objection that the applicant had an available remedy for his complaint regarding the length of the proceedings and should have availed himself of that opportunity. Furthermore, there do not appear to be any exceptional circumstances capable of exempting him from the obligation to exhaust domestic remedies.

18. Against this background, and bearing in mind its subsidiary role, the Court concludes that the complaint under Article 6 § 1 should be dismissed for non-exhaustion of domestic remedies, pursuant to Article 35 §§ 1 and 4 of the Convention. Accordingly, in so far as the applicant relied on Article 13 in conjunction with Article 6 § 1, this complaint must be rejected as being manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 24 October 2024.

Martina Keller Deputy Registrar	Stéphanie Mourou-Vikström President