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

THIRD SECTION

DECISION

Application no. 32509/12
Valentina STOJILJKOVIĆ
against Serbia

The European Court of Human Rights (Third Section), sitting on 20 September 2016 as a Committee composed of:

Pere Pastor Vilanova, *President,*
Branko Lubarda,
Georgios A. Serghides, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 4 May 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 Valentina Stojiljković, is a Serbian national, who was born in 1972 and lives in Razgojna.

The Serbian Government ("the Government") were represented by their Agent, Ms N. Plavšić.

On 9 November 2009 the Leskovac Municipal Court ordered a socially-owned company *DOO "Leteks"* (hereinafter "the debtor"), to pay the applicant a specified amount on account of salary arrears and social insurance contributions. This decision became final on 29 November 2009.

On 25 January 2011 the Leskovac Commercial Court opened insolvency proceedings in respect of the debtor.

On 20 December 2012 the applicant reported her claim in these insolvency proceedings.

On 10 January 2014 her claim was rejected within the insolvency proceedings by the Leskovac Commercial Court as belated, given that it was submitted more than 120 days after the opening of these proceedings.

The applicant never lodged a request for the enforcement of the said final judgment with the competent court.

COMPLAINTS

The applicant complained about the non-enforcement of the final judgment rendered in his favour. This complaint falls 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 an enforcement request in respect of the final judgment in question and, also, had her claim in the insolvency proceedings rejected as belated.

In response, the applicant maintained that the Serbian authorities remained responsible for the non-enforcement of the decision rendered in her favour.

The Court observes that the rule of exhaustion of domestic remedies contained in Article 35 § 1 of the Convention requires that normal recourse should be had by an applicant to remedies which are available and sufficient to afford redress in respect of the breaches alleged (see, among other authorities, *Akdivar and Others v. Turkey*, 16 September 1996, § 65, Reports of Judgments and Decisions 1996-IV). The applicants must comply with the applicable rules and procedures of domestic law, failing which their application is likely to fall foul of the condition laid down in Article 35 § 1 (see, for example, *Cardot v. France*, 19 March 1991, § 34, Series A no. 200; and *Akdivar*, cited above, § 66).

The Court has consistently held that when an applicant obtains a final judgment against a socially-owned company, he or she is only required to lodge a request for the enforcement of that judgment with the competent court or, in case of liquidation or insolvency proceedings against the debtor, to report his or her claims to the administration of the debtor (see *Lolić v. Serbia*, no. 44095/06, § 26, 22 October 2013 and *Nikolić-Krstić v. Serbia*, no. 54195/07, § 29, 14 October 2014). There is no reason to depart from that jurisprudence in the present case.

As the applicant failed to lodge a request for the enforcement of the above mentioned decision with the competent court and also failed to report

her claims in the insolvency proceedings against the debtor in a timely manner, the application must be rejected under 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 13 October 2016.

Fatoş Aracı
Deputy Registrar

Pere Pastor Vilanova
President