

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

SECOND SECTION

DECISION

Application no. 54689/12
Jovanka STOKIĆ
against Serbia

The European Court of Human Rights (Second Section), sitting on 12 February 2013 as a Committee composed of:

Paulo Pinto de Albuquerque, *President,*
Dragoljub Popović,
Helen Keller, *judges,*

and Françoise Elens-Passos, *Deputy Section Registrar,*

Having regard to the above application lodged on 24 July 2012,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Jovanka Stokić, is a Serbian national, who was born in 1955 and lives in Kušiljevo village. She was represented before the Court by Ms R. Dugošija, a lawyer practising in Žabari.

The facts of the case, as submitted by the applicant, may be summarised as follows.

On 10 March 2006 the applicant instituted civil proceedings against her employer seeking compensation of due salaries and related benefits.

On 21 January 2008 the Municipal Court (*Opštinski sud*) in Žabari, in an interim judgment ("*međupresuda*"), determined the applicant's right to the minimum wages for the period from 1 January 2003 to 23 December 2004. On 19 April 2008 the District Court (*Okružni sud*), on appeal, confirmed the interim judgment.

In the continued proceedings, by a partial judgment ("*delimična presuda*") issued on 25 August 2008, the Municipal Court ruled in the applicant's favour and ordered her employer to pay her the specified sums of the minimum wages for the said period. On 28 January 2009 the District Court confirmed the partial judgment.

On 2 September 2009 the Municipal Court ruled partly in the favour of the applicant with respect to the remainder of her claim and ordered the employer to pay her the employment benefits for a certain period, as well as the costs of the proceedings. On unspecified date thereafter, the District Court quashed the Municipal Court judgment of 2 September 2009 and remitted the case for reconsideration.

It would appear that the proceedings before the Municipal Court are ongoing.

On 1 March 2012 the Constitutional Court found the violation of the applicant's right to a hearing within reasonable time, awarded her the amount of EUR 500 (five hundred euros) on account of non-pecuniary damages and ordered the Municipal Court to expedite the proceedings.

COMPLAINTS

Relying on Article 6 of the Convention and Article 3 of Protocol No. 7, the applicant, in essence, complained that the amount of compensation for non-pecuniary damage awarded by the Constitutional Court is insufficient to deprive her of the status of the victim of a violation of the right to a hearing within reasonable time.

THE LAW

The Court recalls that an applicant's status as a "victim" depends on the fact whether the domestic authorities acknowledged, either expressly or in substance, the alleged infringement of the Convention and, if necessary, provided appropriate redress in relation thereto (see *Cocchiarella v. Italy* [GC], no. 64886/01, § 71, ECHR 2006-V; and *Cataldo v. Italy* (dec.), no. 45656/99, 3 June 2004). The Court, in this respect, notes that the Constitutional Court explicitly found a violation of the applicant's right to a hearing within a reasonable time thereby, effectively, satisfying the first condition laid down in the Court's case law. The applicant's victim status then depends on whether the redress afforded was adequate and sufficient having regard to just satisfaction as provided for under Article 41 of the Convention (see *Dubjakova v. Slovakia* (dec.), no. 67299/01, 19 October 2004).

In this connection, the Court recalls that in length-of-proceedings cases one of the characteristics of sufficient redress which may remove a litigant's victim status relates to the amount awarded. This amount depends, in particular, on the characteristics and effectiveness of the remedy. Thus, States which, like Serbia, have opted for a remedy designed both to expedite proceedings and afford compensation are free to award amounts which – while being lower than those awarded by the Court – are not unreasonable (see *Cocchiarella v. Italy*, cited above, §§ 96, 97; and *Vidaković v. Serbia* (dec.), 16231/07, § 29, 24 May 2011).

In the present case, the Constitutional Court, in addition to the said finding of a violation, ordered the competent courts to bring the impugned proceedings to a conclusion as soon as possible, and further declared that the applicant is entitled to the non-pecuniary damage in the amount of EUR 500.

It is observed that this Court has already held, in a case similar to this, that the amount of EUR 500 was not unreasonable having regard to the duration of the proceedings, the value of the award judged in the light of the standard of living in the Respondent State, and the fact that under the national system compensation will in general be awarded and paid more promptly than would be the case if the matter fell to be decided by the Court under Article 41 of the Convention (see, *Vidaković v. Serbia*, cited above, § 32). In the light of the material in the file and having regard to the particular circumstances of the case - the impugned proceedings lasted for almost six years at the time the Constitutional Court issued its decision, during which time the domestic courts considered the applicant's claims in two instances and issued six judgments on merits - the Court considers that the sum awarded to the applicant can be considered sufficient and therefore appropriate redress for the violation suffered.

The Court is thus of the opinion that the applicant can no longer claim to be a "victim" within the meaning of Article 34 of the Convention of the alleged violation of her right to a hearing within a reasonable time. It follows that the complaint to this effect is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Françoise Elens-Passos
Deputy Registrar

Paulo Pinto de Albuquerque
President