



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

## THIRD SECTION

### DECISION

Application no. 51112/16  
PTP SPIN KOMERC DOO  
against Serbia

The European Court of Human Rights (Third Section), sitting on 26 February 2019 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 5 August 2016,

Having regard to the observations submitted by the parties,

Having deliberated, decides as follows:

### THE FACTS

1. The applicant, PTP Spin Komerc DOO, is a limited liability company with its seat in Negotin. It was represented before the Court by Ms M. Zdravković, a lawyer practising in Negotin.

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

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

4. On 15 September 2003 the Negotin Municipal Court rendered its judgment ordering a certain S.S. to pay to the applicant company 17,226 euros. On 25 October 2003 this judgment became final.

5. On 9 February 2004 Vlasotince Municipal Court issued an enforcement order.

6. On 12 November 2013 the Constitutional Court found a breach of the right to a trial within a reasonable time and ordered that the enforcement proceedings be expedited. The Constitutional Court did not award the

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applicant any compensation for the non-pecuniary damage suffered, as the applicant had failed to claim it.

7. On 29 January 2015 the enforcement proceedings were discontinued since it was established that the debtor had no property left to cover the judgment debt.

8. The applicant again lodged an appeal with the Constitutional Court. On 6 May 2016 the Constitutional Court rejected it.

## COMPLAINT

9. The applicant company complains under Article 6 § 1 of the Convention about the failure by the national authorities to enforce the final court decision rendered in its favour.

## THE LAW

10. The applicant alleged a breach of his rights under Article 6 § 1 of the Convention which, in so far as relevant, reads as follows:

“In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

### **A. The parties’ submissions**

11. The Government submitted that the applicant company could no longer claim to be a “victim” within the meaning of Article 34 of the Convention for the reason that the Constitutional Court had acknowledged the alleged breach.

12. The applicant disagreed.

### **B. The Court’s assessment**

13. The Court has held on numerous occasions that the right to court includes a right to have a court decision enforced without undue delay (see *EVT COMPANY v. Serbia* [committee], no. 8024/08, § 32, 13 January 2015 and the authorities cited therein). However, State responsibility for non-enforcement of a judgment against a private person, like in the present case, extends no further than the involvement of State bodies in the enforcement procedures. Once the enforcement procedures were closed by a court in accordance with the national legislation, the responsibility of the State ended. In other words, whilst the State can be held responsible for any and

all procedural errors or delays imputable to the domestic authorities, a failure to enforce a judgment against a private person because the debtor has no means to satisfy the debt cannot be held against the State (ibid, § 32).

14. Turning to the present case, the Court notes that the enforcement proceedings lasted for almost eleven years, which is excessive. However, the Constitutional Court expressly acknowledged a breach of the right to a trial within a reasonable time (see paragraph 6 above). Since the applicant failed to claim compensation before the Constitutional Court, the acknowledgment of a violation was, in itself, appropriate and sufficient redress for the purposes of Article 34 of the Convention (see *Kahriman v. Bosnia and Herzegovina*, no. 4867/16, § 9, 17 October 2017, and the authorities cited therein).

15. In these circumstances, the applicant can no longer claim to be a “victim” within the meaning of Article 34 of the Convention. The application must therefore be rejected pursuant to Article 35 § 4.

For these reasons, the Court, by a majority,

*Declares* the application inadmissible.

Done in English and notified in writing on 21 March 2019.

Fatoş Aracı  
Deputy Registrar

Pere Pastor Vilanova  
President