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

THIRD SECTION

DECISION

Application no. 78886/16
Dejan ŽIVOJINOVIĆ
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 13 December 2016,
Having regard to the observations submitted by the parties,
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Dejan Živojinović, is a Serbian national, who was born in 1970 and lives in Velika Plana. He was represented before the Court by Ms R. Dugošija, a lawyer practising in Žabari.

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 20 September 2005 the applicant lodged a claim against his employer seeking some work-related payments before the Velika Plana Court of First Instance.

5. On 18 November 2005 the Velika Plana Court of First Instance decided that it lacked territorial jurisdiction and referred the case to the Žabari Court of First Instance.

6. During the next two years, the applicant had changed the subject of his initial claim, asked for standstill of the proceedings, until the end of the

pending administrative proceedings, hence seven months, another request for standstill for three months in July 2007 and three other requests for postponing the hearing, in order to examine the results of the expertise.

7. After the proceedings had been stayed on several occasions at the request of the applicant, the applicant finally consolidated his claim on 1 February 2008.

8. On 9 April 2010 the Požarevac Court of First Instance delivered a judgment in favour of the applicant and ordered his employer to pay him a certain amount in that respect.

9. On 2 November 2012 the Belgrade Court of Appeal reversed the judgment of 9 April 2010, and rejected the applicant's case.

10. On 13 May 2016 the Constitutional Court rejected the applicant's complaint about the length of those proceedings. It held that the applicant had contributed to the length of those proceedings by submitting his claim to a wrong court and by seeking that the proceedings be stayed on several occasions.

COMPLAINT

11. The applicant complains under Article 6 § 1 of the Convention about the length of labour related civil proceedings.

THE LAW

12. 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 ...hearing within a reasonable time by [a] ... tribunal ..."

A. The parties' submissions

13. The Government maintained that the length of the proceedings could not be considered excessive, given the complexity of the case and the applicant's contribution to their length. They essentially relied on the arguments set out in the Constitutional Court's decision (see paragraph 8 above).

14. The applicant disagreed.

B. The Court's assessment

15. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

16. Turning to the present case, the Court disagrees with the Government that the civil proceedings were complex. Indeed, they concerned the question whether the applicant and his colleague were entitled to some work-related payments. That being said, the Court does not see any reason to depart from the finding of the Constitutional Court that the applicant had contributed to the length of those proceedings (see paragraph 6 above). Once the applicant finally consolidated his claim (see paragraph 7 above), the proceedings lasted less than five years for two levels of jurisdiction (see paragraphs 8-9 above). While it is true that special diligence is necessary in employment disputes (see *Ruotolo v. Italy*, judgment of 27 February 1992, Series A no. 230-D, p. 39, § 17), this period cannot be considered excessive.

17. Accordingly, the application must be rejected as being manifestly ill-founded pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

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

Fatoş Aracı
Deputy Registrar

Pere Pastor Vilanova
President