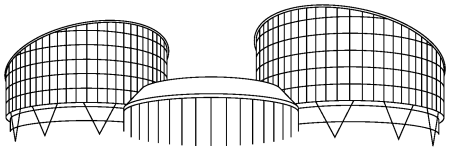

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

# CASE OF STOKIĆ v. SERBIA

*(Application no. 26308/15)*

JUDGMENT

STRASBOURG

17 October 2017

*This judgment is final but it may be subject to editorial revision.*

**In the case of Stokić v. Serbia,**

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

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

Having deliberated in private on 26 September 2017,

Delivers the following judgment, which was adopted on that date:

## PROCEDURE

1. The case originated in an application (no. 26308/15) against Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Serbian national, Mr Zoran Stokić ("the applicant"), on 11 May 2015.

2. The applicant was represented by Ms R. Dugošija, a lawyer practising in Žabari. The Serbian Government ("the Government") were represented by their Agent, Ms N. Plavšić.

3. On 25 April 2016 the complaint concerning the length of civil proceedings was communicated to the Government and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

4. The Government objected to the examination of the application by a Committee. After having considered the Government's objection, the Court rejects it.

## THE FACTS

5. The applicant was born in 1967 and lives in Smederevo.

6. On 26 March 2007 the applicant lodged a claim with the Žabari Municipal Court against his employer, the Ministry of Interior, seeking payment of certain benefits.

7. On 23 April 2012 the Požarevac First Instance Court the Žabari Court Unit ruled in favour of the applicant.

8. On 4 October 2012 the Belgrade Appellate Court revised the First Instance Court's judgment and rejected the applicant's claim. The applicant received the said judgment on 5 November 2012.

9. On 12 November 2014 the Constitutional Court rejected the applicant's constitutional appeal.

# THE LAW

## I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

10. The applicant complained that the length of the labour-related proceedings in question had been incompatible with the "reasonable time" requirement, as laid down in Article 6 § 1 of the Convention, which 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..."

11. The Government contested that argument claiming that in the specific circumstances of the case the length of proceedings could not be considered excessive.

12. The proceedings in question lasted for five years and six months in two instances.

### A. Admissibility

13. The Court notes that this applicant's complaint is neither manifestly ill-founded within the meaning of Article 35 § 3 of the Convention nor inadmissible on any other grounds. It must therefore be declared admissible.

### B. Merits

14. 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 applicants 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).

15. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

16. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the merits of the applicant's complaint. Having regard to its case-law on the subject (see *mutatis mutandis*, *Stanković v. Serbia*, no. 29907/05, 16 December 2008 and *Stevanović v. Serbia*, no. 26642/05, 9 October 2007), the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

17. Accordingly, there has been a breach of Article 6 § 1 of the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

18. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

### A. Damage

19. The applicant claimed 3,500 euros (EUR) in respect of pecuniary damage and EUR 5,000 in respect of non-pecuniary damage.

20. The Government contested these claims.

21. Given that the pecuniary damages requested by the applicant related to the outcome of the domestic proceedings rather than their length, the Court does not discern any causal link between the violation found and the pecuniary damage requested. Therefore, it rejects this claim. However, the Court is satisfied that the applicant has undoubtedly suffered distress on account of the delay in the proceedings in question. It therefore awards the applicant EUR 2,000 in respect of the non-pecuniary damage suffered.

### B. Costs and expenses

22. The applicant also claimed EUR 6,050 for the costs and expenses incurred before the domestic courts and before the Court.

23. The Government contested these claims.

24. Regard being had to the documents in its possession and to its case-law, the Court considers it reasonable to award the sum of EUR 500 covering costs under all heads, less any amounts which may have already been paid in that regard at the domestic level.

### C. Default interest

25. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the excessive length of civil proceedings admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months the following amounts:
      (i) EUR 2,000 (two thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage suffered, and
      (ii) EUR 500 (five hundreds euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that the amounts specified above shall be converted into the national currency of the respondent State at the rate applicable at the date of settlement;
   (c) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 17 October 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Pere Pastor Vilanova
President