



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

THIRD SECTION

CASE OF MIHAJLOVIĆ AND OTHERS v. SERBIA

*(Application no. 11362/17 and 9 others -
see appended list)*

JUDGMENT

STRASBOURG

3 October 2019

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

In the case of Mihajlović and Others v. Serbia,

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

Dmitry Dedov, *President*,

Alena Poláčková,

Gilberto Felici, *judges*,

and Liv Tigerstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 12 September 2019,

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

PROCEDURE

1. The case originated in applications against Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The applicants were represented by Ms T. Stojiljković, a lawyer practising in Leskovac.

3. The Serbian Government (“the Government”) were given notice of the applications.

THE FACTS

4. The list of applicants and the relevant details of the applications are set out in the appended table.

5. The applicants complained of the non-enforcement or delayed enforcement of domestic decisions given against socially/State-owned companies.

THE LAW**I. JOINDER OF THE APPLICATIONS**

6. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1

7. The applicants complained of the non-enforcement or delayed enforcement of domestic decisions given in their favour. They relied, expressly or in substance, on Article 6 § 1 of the Convention and on Article 1 of Protocol No. 1, which, in the relevant part, read as follows:

Article 6 § 1

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

Article 1 of Protocol No. 1

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. ...”

8. The Court reiterates that the execution of a judgment given by any court must be regarded as an integral part of a “hearing” for the purposes of Article 6. It also refers to its case-law concerning the non-enforcement or delayed enforcement of final domestic judgments (see *Hornsby v. Greece*, no. 18357/91, § 40, *Reports of Judgments and Decisions* 1997-II).

9. In the leading cases of *R. Kačapor and Others v. Serbia*, nos. 2269/06 and 5 others, §§ 97-99, 106-16 and 119-20, 15 January 2008, *Crnišaniin and Others v. Serbia*, nos. 35835/05 and 3 others, § 124, 13 January 2009, and *Stevanović and Others* [Committee], nos. 43815/17 and 15 others, 27 August 2019, the Court already found a violation in respect of issues similar to those in the present case.

10. The Court further notes that the decisions in the present applications ordered specific action to be taken. The Court therefore considers that the decisions in question constitute “possessions” within the meaning of Article 1 of Protocol No. 1.

11. 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 admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the authorities did not deploy all necessary efforts to enforce in due time the decisions in the applicants’ favour.

12. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. 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.”

14. Regard being had to the documents in its possession and to its case-law (see, in particular, *Stošić v. Serbia*, no. 64931/10, §§ 66-68, 1 October 2013), the Court considers it reasonable to award the sums indicated in the appended table and it dismisses the remainder of the applicants’ claims for just satisfaction.

15. 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. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that these applications disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the delayed enforcement of domestic decisions given against socially/State-owned companies;
4. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) 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.
5. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 3 October 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Acting Deputy Registrar

Dmitry Dedov
President

APPENDIX

List of applications raising complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 (non-enforcement or delayed enforcement of domestic decisions given against socially/State-owned companies)

No.	Application no. Date of introduction	Applicant's name Date of birth	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Domestic award (in euros)	Amount awarded for non-pecuniary damage and costs and expenses per applicant (in euros) ^{1 2}
1.	11362/17 27/01/2017	Tomislav Mihajlović 25/10/1950	Municipal Court in Leskovac, 16/06/1998	05/05/2006	30/01/2017 10 year(s) and 8 month(s) and 26 day(s)	170	2,000
2.	11366/17 27/01/2017	Bratislav Kostić 03/02/1961	Municipal Court in Leskovac, 03/06/2003	13/10/2004	02/03/2017 12 year(s) and 4 month(s) and 18 day(s)	85	2,000
3.	11387/17 27/01/2017	Slavica Zdravković 09/05/1959	Municipal Court in Leskovac, 25/12/2006	12/01/2007	02/03/2017 10 year(s) and 1 month(s) and 19 day(s)	0	2,000
4.	11481/17 31/01/2017	Jovan Nikolić 23/07/1961	Municipal Court in Leskovac, 25/03/2003	18/11/2004	10/04/2017 12 year(s) and 4 month(s) and 24 day(s)	85	2,000
5.	58011/17 31/07/2017	Žikica Stojiljković 12/11/1954	Municipal Court in Leskovac, 23/02/2004	11/02/2008	10/08/2017 9 year(s) and 6 month(s)	300	2,000
6.	58021/17 31/07/2017	Gordana Đorđević 22/12/1959	Municipal Court in Lesovac, 16/04/2003	09/01/2008	10/08/2017 9 year(s) and 7 month(s) and 2 day(s)	300	2,000

1. Plus any tax that may be chargeable to the applicants.

2. Less any amounts which may have already been paid in that regard at the domestic level.

MIHAJLOVIĆ AND OTHERS v. SERBIA JUDGMENT

5

No.	Application no. Date of introduction	Applicant's name Date of birth	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Domestic award (in euros)	Amount awarded for non-pecuniary damage and costs and expenses per applicant (in euros) ^{1 2}
7.	59990/17 04/08/2017	Slavica Mihajlović 19/11/1957	Municipal Court in Leskovac, 25/03/2003 Municipal Court in Leskovac, 31/01/2008	04/04/2008 17/07/2008	10/08/2017 9 year(s) and 4 month(s) and 7 day(s) 10/08/2017 9 year(s) and 25 day(s)	100	2,000
8.	68618/17 04/09/2017	Lena Krstić 15/12/1978	Municipal Court in Leskovac, 21/05/2003	17/03/2008	10/08/2017 9 year(s) and 4 month(s) and 25 day(s)	100	2,000
9.	71798/17 21/09/2017	Jasmina Marković 24/08/1954	Municipal Court in Leskovac, 19/03/2003	25/11/2004	10/08/2017 12 year(s) and 8 month(s) and 17 day(s)	255	2,000
10.	71930/17 21/09/2017	Mirjana Mitić 14/11/1960	Municipal Court in Leskovac, 16/05/2003	26/11/2007	10/08/2017 9 year(s) and 8 month(s) and 16 day(s)	255	2,000