FOURTH SECTION

DECISION

Applications nos. 41239/19 and 41280/19
Anđelka KOVAČEVIĆ and Ana Marija KOVAČEVIĆ

against Bosnia and Herzegovina and
Fata MEHMEDAGIĆ and Others against Bosnia and Herzegovina

(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 21 January 2021 as a Committee composed of:

 Armen Harutyunyan, *President,* Jolien Schukking, Ana Maria Guerra Martins, *judges,*

and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

1. FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants were represented by Mr O. Eterović, a lawyer practising in Sarajevo.

The applicants’ complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the non-enforcement or delayed enforcement of domestic decisions were communicated to the Government of Bosnia and Herzegovina (“the Government”) on 13 February 2020.

1. THE LAW
	* 1. Joinder of the applications

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

* + 1. Complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 (non-enforcement or delayed enforcement of domestic decisions)

The Government submitted that the applicants had failed to inform the Court of the fact that the final judgments in their favour had been enforced. They therefore requested the Court to reject the applications as an abuse of the right of individual application in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

The applicants did not dispute the facts as presented by the Government.

The Court reiterates that an application may be rejected as an abuse of the right of individual application within the meaning of Article 35 § 3 (a) of the Convention if, among other reasons, it was knowingly based on false information or if significant information and documents were deliberately omitted either where they were known from the outset or where new significant developments occurred during the proceedings. Incomplete and therefore misleading information may amount to an abuse of the right of application, especially if the information in question concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014; *S.A.S. v. France* [GC], no. 43835/11, § 67, ECHR 2014; and *Čaluk and Others v. Bosnia and Herzegovina* (dec.), [Committee], nos. 3927/15 and 63 others, §§ 18-19, 25 September 2018).

Turning to the present case, the Court observes that the final judgments in the applicants’ favour were enforced on different dates in 2019 (see the appended table). The applicants did not inform the Court about that development before notice of the applications was given to the Government and no convincing explanation for that omission was provided.

Having regard to the fact that the information withheld concerned the very core of the applications, the Court finds that such conduct was contrary to the purpose of the right of individual application. Lawyers must understand that, having due regard to the Court’s duty to examine allegations of human rights violations, they must show a high level of professional prudence and meaningful cooperation with the Court by sparing it the introduction of unmeritorious complaints and, both before proceedings have been instituted and thereafter, they must inquire diligently into all the details of the case, meticulously abide by all the relevant rules of procedure and must urge their clients to do the same. Otherwise, the wilful or negligent misuse of the Court’s resources may undermine the credibility of lawyers’ work in the eyes of the Court and even, if it occurs systematically, may result in particular individual lawyers being banned from representing applicants under Rule 36 § 4 (b) of the Rules of Court (see *Stevančević v. Bosnia and Herzegovina* (dec.), no. 67618/09, § 29, 10 January 2017).

In the light of the foregoing, the Court considers that the present applications constitute an abuse of the right of individual application within the meaning of Article 35 § 3 (a) *in fine* of the Convention. They must therefore be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

*Decides* to join the applications;

*Declares* the applications inadmissible.

Done in English and notified in writing on 11 February 2021.

 {signature\_p\_2}

 Liv Tigerstedt Armen Harutyunyan
 Acting Deputy Registrar 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)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| No. | Application no.Date of introduction | Applicant’s nameYear of birth | Relevantdomestic decision | Start date of non-enforcement period  | End date of non-enforcement periodLength of enforcement proceedings |
|  | 41239/1911/07/2019(2 applicants) | **Anđelka KOVAČEVIĆ**1963**Ana Marija KOVAČEVIĆ**1991 | Sarajevo Municipal Court, 16/10/2014 | 12/12/2016 | 14/11/20192 year(s) and 11 month(s) and 3 day(s) |
|  | 41280/1908/07/2019(5 applicants) | **Fata MEHMEDAGIĆ**1958**Amira SABLJICA**1970**Benjamin BEĆAR**1974**Bojan SABLJIĆ**1979**Alma GAŠEVIĆ-MUSLIĆ**1960 | Sarajevo Municipal Court, 12/02/2013 | 03/01/2016 | 26/09/20193 year(s) and 8 month(s) and 24 day(s) |