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

FOURTH SECTION

CASE OF RUNIĆ AND OTHERS v. BOSNIA AND HERZEGOVINA

(Applications nos. 28735/06, 44534/06, 48133/06, 1474/07, 48205/07, 48206/07, 48211/07, 48234/07, 48251/07, 55672/07, 4244/08, 4581/08, 9954/08, 14270/08, 14283/08, 17165/08, 17727/08, 20841/08, 30890/08, 34354/08, 34361/08, 37854/08, 39190/08, 39197/08, 39207/08, 47248/10 and 47314/10)

JUDGMENT

STRASBOURG

15 November 2011

FINAL

04/06/2012

This judgment has become final under Article 44 § 2 (c) of the Convention. It may be subject to editorial revision.

In the case of Runić and Others v. Bosnia and Herzegovina**,**

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Nicolas Bratza, *President,*
Lech Garlicki,
Ljiljana Mijović,
Päivi Hirvelä,
George Nicolaou,
Ledi Bianku,
Zdravka Kalaydjieva, *judges,*
and Lawrence Early, *Section Registrar,*

Having deliberated in private on 18 October 2011,

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

PROCEDURE

1. The case originated in 27 applications (nos. 28735/06, 44534/06, 48133/06, 1474/07, 48205/07, 48206/07, 48211/07, 48234/07, 48251/07, 55672/07, 4244/08, 4581/08, 9954/08, 14270/08, 14283/08, 17165/08, 17727/08, 20841/08, 30890/08, 34354/08, 34361/08, 37854/08, 39190/08, 39197/08, 39207/08, 47248/10 and 47314/10) against Bosnia and Herzegovina lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by 56 citizens of Bosnia and Herzegovina, Ms Dušanka Runić, Mr Miloš Runić, Ms Radmila Bjeljac, Mr Vahid Gačić, Mr Dušan Višekruna, Mr Pajo Manojlović, Ms Dušanka Manojlović, Mr Zoran Vučanović, Mr Nikola Šavija, Ms Dragica Pilipović, Mr Duško Pilipović, Ms Dobrila Pilipović, Mr Stojić Grujić, Ms Milica Grujić, Ms Jasminka Grujić, Ms Miladina Grujić, Mr Stanislav Brkić, Ms Rosanda Brkić, Mr Saša Brkić, Mr Lazo Babić, Ms Milica Pantić, Ms Slađana Pantić, Ms Rada Slijepčević, Mr Cvijetin Slijepčević, Mr Savo Slijepčević, Ms Branka Slijepčević, Ms Jovanka Savić, Mr Milenko Savić, Ms Mira Savić, Mr Milivoje Savić, Ms Božica Alempić, Ms Milijana Jurošević, Mr Milutin Jović, Ms Marija Jović, Mr Petar Jović, Ms Doka Ristanović, Mr Momo Ristanović, Ms Milica Ristanović, Ms Milica Ristanović, Ms Milanka Simić, Ms Milojka Simić, Ms Jelena Simić, Mr Ilija Avramović, Ms Gordana Šalipurević, Mr Milorad Šalipurević, Mr Miloš Šalipurević, Ms Zorica Mišić, Mr Jadranko Zlovolić, Mr Dušan Ćelić, Mr Milovan Borojević, Mr Mladen Bera, Mr Marko Stanković, Ms Danica Simendić, Ms Dragana Simendić, Mr Rade Simendić and Ms Ilinka Simendić ("the applicants"), between 12 July 2006 and 13 February 2009.

2. Mr Zoran Vučanović, Mr Nikola Šavija, Ms Dragica Pilipović, Mr Duško Pilipović, Ms Dobrila Pilipović, Mr Stojić Grujić, Ms Milica Grujić, Ms Jasminka Grujić, Ms Miladina Grujić, Mr Stanislav Brkić, Ms Rosanda Brkić and Mr Saša Brkić were represented by Ms Radmila Plavšić and Mr Ranko Vulić, lawyers practising in Banja Luka. Mr Ilija Avramović was represented by Ms Dušanka Macura-Avramović, a lawyer practising in Serbia. Mr Jadranko Zlovolić was represented by Mr Predrag Radulović, a lawyer practising in Banja Luka. Mr Dušan Ćelić, Mr Milovan Borojević, Mr Mladen Bera, Mr Marko Stanković, Ms Danica Simendić, Ms Dragana Simendić, Mr Rade Simendić and Ms Ilinka Simendić were represented by Mr Đorđe Marić, a lawyer practising in Banja Luka. The Government of Bosnia and Herzegovina ("the Government") were represented by their Agent, Ms M. Mijić.

3. This case is, like *Čolić and Others v. Bosnia and Herzegovina*, nos. 1218/07 *et al*., 10 November 2009, about the non-enforcement of final and enforceable domestic judgments awarding war damages to the applicants.

4. On 30 August 2010 the President of the Fourth Section decided to give notice of the applications to the Government. It was also decided to rule on the admissibility and merits of the applications at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants live in Bosnia and Herzegovina.

6. By 28 judgments of different courts of first instance (the application no. 47314/10 concerns the non-enforcement of two judgments) of 18 April 2000, 14 December 1999, 1 March 2000, 15 June 1999, 8 September 2000, 21 December 1999, 10 May 1999, 26 September 2000, 29 September 2000, 29 May 2003, 19 June 2001, 1 December 2000, 1 February 2001, 29 November 2000, 12 June 2001, 5 December 2000, 5 April 2001, 7 November 2000, 12 June 2001, 29 November 2000, 30 November 2000, 13 July 2000, 1 March 2000, 9 December 1999, 25 April 2001, 19 June 2003, 27 September 2000 and 16 October 2002, which became final on 3 October 2000, 24 December 2001, 1 December 2000, 1 June 2000, 7 October 2002, 14 December 2000, 21 February 2001, 7 May 2002, 2 October 2002, 1 August 2003, 3 August 2001, 16 June 2001, 22 March 2001, 17 February 2001, 11 July 2001, 16 June 2001, 9 May 2001, 5 January 2001, 4 July 2001, 7 March 2001, 22 May 2001,

1 November 2002, 13 October 2000, 12 October 2000, 15 July 2004, 13 June 2005, 11 January 2001 and 28 April 2003, respectively, the Republika Srpska (an Entity of Bosnia and Herzegovina) was ordered to pay, within 15 days, the following amounts in convertible marks (BAM)[1] in respect of war damage together with default interest at the statutory rate:

(i) BAM 20,000 in respect of non-pecuniary damage and BAM 2,000 in respect of pecuniary damage to the Runićs and Ms Bjeljac;

(ii) BAM 7,746 in respect of pecuniary damage and BAM 1,876 in respect of legal costs to Mr Gačić;

(iii) BAM 49,000 in respect of non-pecuniary damage and BAM 1,106 in respect of legal costs to Mr Višekruna;

(iv) BAM 16,000 in respect of non-pecuniary damage and BAM 2,460 in respect of pecuniary damage to the Manojlovićs;

(v) BAM 13,000 in respect of non-pecuniary damage and BAM 1,196 in respect of legal costs to Mr Vučanović;

(vi) BAM 7,200 in respect of non-pecuniary damage to Mr Šavija;

(vii) BAM 21,000 in respect of non-pecuniary damage, BAM 2,856 in respect of pecuniary damage and BAM 1,366 in respect of legal costs to the Pilipovićs;

(viii) BAM 26,000 in respect of non-pecuniary damage, BAM 2,000 in respect of pecuniary damage and BAM 1,514 in respect of legal costs to the Grujićs;

(ix) BAM 22,000 in respect of non-pecuniary damage, BAM 2,600 in respect of pecuniary damage and BAM 1,300 in respect of legal costs to the Brkićs;

(x) BAM 16,490 in respect of non-pecuniary damage to Mr Babić;

(xi) BAM 10,000 in respect of non-pecuniary damage and BAM 1,500 in respect of pecuniary damage to the Pantićs;

(xi) BAM 20,000 in respect of non-pecuniary damage and BAM 1,500 in respect of pecuniary damage to the Slijepčevićs;

(xiii) BAM 20,000 in respect of non-pecuniary damage and BAM 1,500 in respect of pecuniary damage to the Savićs;

(xiv) BAM 5,000 in respect of non-pecuniary damage and BAM 1,500 in respect of pecuniary damage to Ms Alempić;

(xv) BAM 5,000 in respect of non-pecuniary damage and BAM 1,500 in respect of pecuniary damage to Ms Jurošević;

(xvi) BAM 15,000 in respect of non-pecuniary damage and BAM 1,500 in respect of pecuniary damage to the Jovićs;

(xvii) BAM 20,000 in respect of non-pecuniary damage and BAM 1,500 in respect of pecuniary damage to the Ristanovićs;

1. The convertible mark uses the same fixed exchange rate to the euro that the German mark has: EUR 1 = BAM 1.95583.

(xviii) BAM 15,000 in respect of non-pecuniary damage and BAM 1,500 in respect of pecuniary damage to the Simićs;

(xix) BAM 22,000 in respect of non-pecuniary damage to Mr Avramović;

(xx) BAM 15,000 in respect of non-pecuniary damage and BAM 1,500 in respect of pecuniary damage to the Šalipurevićs;

(xxi) BAM 5,000 in respect of non-pecuniary damage and BAM 750 in respect of pecuniary damage to Ms Mišić;

(xxii) BAM 26,000 in respect of non-pecuniary damage and BAM 1,050 in respect of legal costs to Mr Zlovolić;

(xxiii) BAM 25,500 in respect of non-pecuniary damage and BAM 2,024 in respect of legal costs to Mr Ćelić;

(xxiv) BAM 21,100 in respect of non-pecuniary damage and BAM 3,150 in respect of legal costs to Mr Borojević;

(xxv) BAM 28,000 in respect of non-pecuniary damage and BAM 1,165 in respect of legal costs to Mr Bera;

(xxvi) BAM 18,000 in respect of non-pecuniary damage, BAM 4,100 in respect of pecuniary damage and BAM 1,039 in respect of legal costs to Mr Stanković; and

(xxvii) BAM 20,000 in respect of non-pecuniary damage, BAM 1,500 in respect of pecuniary damage and BAM 400 in respect of legal costs to the Simendićs (this is the total amount awarded by the domestic judgments of 27 September 2000 and 16 October 2002).

7. The Banja Luka Court of First Instance issued writs of execution (*rješenje o izvršenju*) on 5 December 2000, 28 May 2002, 1 February 2002, 18 October 2000, 17 February 2003, 15 March 2001, 17 August 2001, 6 February 2003, 7 February 2003, 2 May 2004, 24 October 2001, 29 August 2001, 12 November 2001, 16 August 2001, 27 August 2001, 28 August 2001, 6 November 2001, 29 August 2001, 14 December 2001, 12 February 2001, 1 April 2002, 9 May 2003, 9 April 2001, 26 February 2001, 5 October 2004, 24 October 2005, 22 July 2002 and 16 June 2004, respectively.

8. The applicants complained of non-enforcement to the Human Rights Chamber or to the Constitutional Court. On 9 November 2005 and 8 March 2006 the Human Rights Commission (the legal successor of the Human Rights Chamber) found a breach of Article 6 of the Convention and Article 1 of Protocol No. 1 in the cases of Mr Vučanović, Mr Šavija, the Pilipovićs, the Grujićs, the Brkićs and Mr Avramović. On 20 December 2005, 12 April 2006, 9 May 2006, 26 June 2007 and 13 December 2007 the Constitutional Court ruled likewise in the cases of the remaining applicants. The applicants did not claim compensation, but even if they had done so, their claim would have most likely been refused (see, for example, the Constitutional Court's decisions AP 774/04 of

20 December 2005, § 438; AP 557/05 of 12 April 2006, § 195; AP 1211/06 of 13 December 2007, § 79; and AP 244/08 of 8 December 2010, § 37).

9. After the extensive information campaign explaining the available options for the settlement of the Republika Srpska's public debt (including its debt arising from domestic judgments), between 7 April 2008 and 1 March 2010 the applicants informed the authorities that they agreed to be paid only the legal costs in cash and the principal debt and default interest in bonds. Government bonds were then issued on the following dates:

(i) on 15 December 2008 to the Runićs and Ms Bjeljac;
(ii) on 30 October 2009 to Mr Gačić;
(iii) 30 October 2009 to Mr Višekruna;
(iv) 30 October 2009 to the Manojlovićs;
(v) 30 October 2009 to Mr Vučanović;
(vi) 15 June 2010 to Mr Šavija;
(vii) 15 December 2008 to the Pilipovićs;
(viii) 30 October 2009 to the Grujićs;
(ix) 15 June 2010 to the Brkićs;
(x) 30 October 2009 to Mr Babić;
(xi) 15 December 2008 to the Pantićs;
(xi) 15 December 2008 to the Slijepčevićs;
(xiii) 30 June 2008 to the Savićs;
(xiv) 30 October 2009 to Ms Alempić;
(xv) 15 December 2008 to Ms Jurošević;
(xvi) 15 June 2010 to the Jovićs;
(xvii) 15 December 2008 to the Ristanovićs;
(xviii) 30 June 2008 to the Simićs;
(xix) 30 June 2008 to Mr Avramović;
(xx) 30 October 2009 to the Šalipurevićs;
(xxi) 15 December 2008 to Ms Mišić;
(xxii) 30 October 2009 to Mr Zlovolić;
(xxiii) 30 October 2009 to Mr Ćelić;
(xxiv) 15 December 2008 to Mr Borojević;
(xxv) 15 June 2010 to Mr Bera;
(xxvi) 30 June 2008 to Mr Stanković; and
(xxvii) 15 December 2008 to the Simendićs.

10. At least 20 applicants have already sold some or all of their bonds on the Stock Exchange (namely, Mr Dušan Višekruna, Mr Zoran Vučanović, Mr Nikola Šavija, Ms Dobrila Pilipović, Ms Milica Pantić, Ms Slađana Pantić, Ms Jovanka Savić, Mr Milenko Savić, Ms Mira Savić, Mr Milivoje Savić, Ms Božica Alempić, Ms Milijana Jurošević, Mr Milutin Jović, Ms Marija Jović, Ms Gordana Šalipurević, Mr Milorad Šalipurević, Ms Zorica Mišić, Mr Jadranko Zlovolić, Mr Dušan Ćelić and Ms Ilinka Simendić).

II. RELEVANT DOMESTIC LAW AND PRACTICE

11. Around 9,000 domestic judgments ordering the Republika Srpska to pay war damages (including those under consideration in the present case) became final by 29 November 2005. After a stay of several years on such civil actions under the War Damage Act 2005[2], a number of new judgments have been rendered since 2010. As pursuant to section 376 § 1 of the Civil Obligations Act 1978[3] and settled domestic case-law, such claims became statute-barred on 19 June 1999 (that is, three years from the cessation of the state of war), the total number of new judgments should not exceed 2,800 according to information provided by the Government in the context of the leading case concerning this matter (*Čolić and Others*, cited above). The thousands of cases, which were lodged after that date and were stayed between 2005 and 2010, would eventually be rejected as statute-barred.

Pursuant to the Domestic Debt Act 2004[4], only legal costs awarded by the domestic judgments in question are to be paid in cash, whereas principal debt and associated default interest are to be paid in government bonds which earn interest at an annual rate of 1.5%. There have thus far been five issues of bonds: on 30 June 2008 (to be amortised in ten annual instalments between 2014 and 2023)[5], on 15 December 2008 (to be amortised in ten annual instalments between 2014 and 2023)[6], on 30 October 2009 (to be amortised in ten annual instalments between 2014 and 2023)[7], on 15 June 2010 (to be amortised in ten annual instalments between 2015 and 2024)[8] and on 9 June 2011 (to be amortised in ten annual instalments between 2016 and 2025)[9]. If one is unable or unwilling to wait until the maturity of bonds, he or she may sell them on the Stock Exchange (their current price is around 40% of their nominal value). With the aim of making such bonds attractive, the Republika Srpska has accepted that they may be used to pay direct taxes accrued by 31 December 2007[10].

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2. *Zakon o ostvarivanju prava na naknadu materijalne i nematerijalne štete nastale u periodu ratnih dejstava od 20. maja 1992. do 19. juna 1996. godine*, Official Gazette of the Republika Srpska nos. 103/05, 1/09, 49/09 and 118/09.
3. *Zakon o obligacionim odnosima*, Official Gazette of the Socialist Federal Republic of Yugoslavia nos. 29/78, 39/85, 45/89 and 57/89, Official Gazette of the Republika Srpska nos. 17/93, 3/96, 39/03 and 74/04.
4. *Zakon o utvrđivanju i načinu izmirenja unutrašnjeg duga Republike Srpske (Prečišćeni tekst)*, Official Gazette of the Republika Srpska no. 7/10.
5. *Odluka o emisiji obveznica*, Official Gazette of the Republika Srpska no. 62/08.
6. *Odluka o emisiji obveznica*, Official Gazette of the Republika Srpska no. 113/08.
7. *Odluka o emisiji obveznica*, Official Gazette of the Republika Srpska no. 94/09.
8. *Odluka o emisiji obveznica*, Official Gazette of the Republika Srpska no. 50/10.
9. *Odluka o emisiji obveznica*, Official Gazette of the Republika Srpska no. 56/11.
10. *Uredba o izmirenju poreznih obaveza putem obveznica Republike Srpske*, Official Gazette of the Republika Srpska nos. 58/09 and 38/10.

THE LAW

12. The applicants complained of the non-enforcement of the judgments indicated in paragraph 6 above. The case was examined by the Court under Article 6 of the Convention and Article 1 of Protocol No. 1.

Article 6, in so far as relevant, provides:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

Article 1 of Protocol No. 1 to the Convention reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

I. JOINDER OF THE APPLICATIONS

13. Given their common factual and legal background, the Court decides that these 27 applications should be joined pursuant to Rule 42 § 1 of the Rules of Court.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

A. Admissibility

14. The Government submitted that the applicants could no longer claim to be victims within the meaning of Article 34 of the Convention after the domestic judgments in question had been enforced partly in cash (the legal costs) and partly in government bonds (the principal debt and the associated default interest). The applicants disagreed.

15. The Court recalls that in its leading judgment concerning this issue (*Čolić and Others*, cited above) it found a breach of Article 6 and of Article 1 of Protocol No. 1 regardless of the fact that those applicants had also been offered government bonds *in lieu* of cash as a means of enforcement. The respondent State enforced the judgments under consideration in that case in cash and undertook to so enforce a number of other similar judgments (see *Momić and Others v. Bosnia and Herzegovina* (dec.), no. 28730/06,

17 May 2011). However, it should be emphasised that none of the applicants in those cases, unlike the present applicants, had accepted government bonds. The present case must therefore be distinguished from the *Čolić and Others* jurisprudence. Given further the fact that many of the present applicants have already sold their bonds on the Stock Exchange (see paragraph 10 above) and that the legal costs awarded to them have already been paid in cash, the Court considers the impugned domestic judgments to have been enforced.

16. That being said, the Court has always held that a decision or measure favourable to an applicant is not in principle sufficient to deprive him of his victim status unless the national authorities have acknowledged the alleged breach and afforded appropriate and sufficient redress (see *Scordino v. Italy (no. 1)* [GC], no. 36813/97, §§ 180 and 193, ECHR 2006-V). One of the features of such redress is the amount awarded by the national authorities (see *Kudić v. Bosnia and Herzegovina*, no. 28971/05, § 17, 9 December 2008). While it is true that the national authorities expressly acknowledged the breach alleged in the present case, the applicants were not able to obtain any compensation in respect of the delayed enforcement of the judgments (see paragraph 8 above). Therefore, they may still claim to be victims within the meaning of Article 34 of the Convention in relation to the period during which the judgments remained unenforced (see *Dubenko v. Ukraine*, no. 74221/01, § 36, 11 January 2005). The Court thus rejects the Government's objection.

17. The Court further notes that the applications are neither manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor inadmissible on any other grounds. It accordingly declares them admissible.

B. Merits

18. The applicants essentially maintained that the principle of the rule of law, which Bosnia and Herzegovina undertook to respect when it ratified the Convention, required that every judgment be enforced without delay.

19. The Government argued that some delays in the enforcement of the domestic judgments in question were necessary given the number of similar domestic judgments and the size of the Republika Srpska's public debt.

20. The general principles relating to the non-enforcement of domestic judgments were set out in *Jeličić v. Bosnia and Herzegovina*, no. 41183/02, §§ 38-39, ECHR 2006-XII. Notably, the Court has held that it is not open to authorities to cite lack of funds as an excuse for not honouring a judgment debt (see also *R. Kačapor and Others v. Serbia*, nos. 2269/06 *et al.*, § 114, 15 January 2008).

21. The Court notes that the domestic judgments under consideration in the present case remained unenforced between three and almost eight years (the period before the ratification of the Convention by the respondent State

on 12 July 2002, being outside the Court's jurisdiction *ratione temporis*, has not been taken into account). Such delays were in the past considered to be excessive (*Jeličić*, cited above, § 40; *Kudić*, cited above, § 20; *Pralica v. Bosnia and Herzegovina*, no. 38945/05, 27 January 2009, § 16; and *Čolić and Others*, cited above, § 15). The Court does not see any reason to depart from that jurisprudence.

22. Accordingly, there has been a breach of Article 6 of the Convention and of Article 1 of Protocol No. 1 to the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

23. 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."

24. The Court generally considers that a State's failure to fully enforce a final domestic judgment causes distress for which the applicants concerned must be compensated (see *Čolić and Others*, cited above, § 21). However, since the present applicants did not submit a claim for just satisfaction in respect of the delayed enforcement of the impugned judgments, there is no call to award them any sum on that account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to join the applications;

2. *Declares* the applications admissible;

3. *Holds* that there has been a violation of Article 6 of the Convention;

4. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention.

Done in English, and notified in writing on 15 November 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early Registrar	Nicolas Bratza President