

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

FIRST SECTION

CASE OF NOVOSEL v. MONTENEGRO

(Application no. 51894/22)

JUDGMENT

STRASBOURG

13 February 2025

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



In the case of Novosel v. Montenegro,

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

Erik Wennerström*, President*,
Georgios A. Serghides,
Alain Chablais*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 23 January 2025,

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

PROCEDURE

1. The case originated in an application against Montenegro lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 27 October 2022.

2. The applicants were represented by Mr B. Čarmak, a lawyer practising in Podgorica.

3. The Montenegrin Government ("the Government") were given notice of the application.

THE FACTS

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

5. The applicants complained of the excessive length of the constitutional proceedings.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

6. The applicants complained that the length of the constitutional proceedings in question had been incompatible with the "reasonable time" requirement. They relied on Article 6 § 1 of the Convention.

A. As to Predrag Novosel, Zdravko Novosel and Vladimir Novosel

7. The Government submitted that Predrag Novosel, Zdravko Novosel and Vladimir Novosel could not claim to be victims of the alleged violation because they had not been parties to the impugned constitutional proceedings.

8. The applicants acknowledged that Predrag Novosel, Zdravko Novosel and Vladimir Novosel had not been parties to the proceedings in question, but maintained that they should nevertheless be considered "victims" within the

meaning of Article 34 of the Convention as heirs of the late Luka Vukanović, who had been a party to those proceedings.

9. The Court notes that the parties to the constitutional proceedings under consideration were Milodarka Novosel (one of the applicants in the present case) and Luka Vukanović. Luka Vukanović died more than two years before the end of the proceedings (on 22 October 2019). Predrag Novosel, Zdravko Novosel and Vladimir Novosel were entitled to continue the proceedings as heirs, but they failed to do so. Accordingly, these applicants, though heirs of a direct victim, have never been affected by the length of the proceedings and cannot be considered victims of the alleged breach (see, for example, *Bezzina Wettinger and Others v. Malta*, no. 15091/06, § 68, 8 April 2008).

10. It follows that the application is incompatible *ratione personae* within the meaning of Article 35 § 3 of the Convention and must be rejected pursuant to Article 35 § 4 of the Convention in respect of these three applicants.

B. As to Milodarka Novosel

11. 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 applicants in the dispute (see *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

12. In the leading cases of *Stakić v. Montenegro,* no. 49320/07, §§ 45-61, 2 October 2012, and *Siništaj v. Montenegro* [Committee], no. 31529/15, § 32, 23 September 2021, the Court already found a violation in respect of issues similar to those in the present case.

13. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the proceedings at the national level. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

14. The application is therefore admissible and discloses a breach of Article 6 § 1 of the Convention in respect of Milodarka Novosel.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. Regard being had to the documents in its possession and to its case-law (see, in particular, *Stakić,* cited above, §§ 45-61, and *Siništaj*, also cited above, § 37), the Court considers it reasonable to award the sums indicated in the appended table to Milodarka Novosel.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application inadmissible in respect of the applicants Predrag Novosel, Zdravko Novosel and Vladimir Novosel;

2. *Declares* the application admissible in respect of the applicant Milodarka Novosel;

3. *Holds* that this application discloses a breach of Article 6 § 1 of the Convention concerning the excessive length of constitutional proceedings in respect of the applicant Milodarka Novosel;

4. *Holds*
   (a) that the respondent State is to pay Milodarka Novosel, within three months, the amounts indicated in the appended table;
   (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.

Done in English, and notified in writing on 13 February 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina Acting Deputy Registrar	Erik Wennerström President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention
(excessive length of constitutional proceedings)

Application no. Date of introduction	Applicant's name Year of birth	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Amount awarded for non-pecuniary damage (in euros)[1]	Amount awarded for costs and expenses (in euros)[2]
51894/22 27/10/2022 (4 applicants)	**Milodarka NOVOSEL** 1946 ***** **Predrag NOVOSEL** 1971 **Zdravko NOVOSEL** 1979 **Vladimir NOVOSEL** 1973	14/03/2018	26/05/2022	4 year(s) and 2 month(s) and 13 day(s) 1 level(s) of jurisdiction	1,200, to be paid to Milodarka Novosel	250, to be paid to Milodarka Novosel

[1] Plus any tax that may be chargeable to the applicant.
[2] Plus any tax that may be chargeable to the applicant.