

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

SECOND SECTION

DECISION

Applications nos. 58944/18 and 58948/18
Milosav DENIĆ against Serbia
and Nada STAMENKOVIĆ against Serbia
(see appended table)

The European Court of Human Rights (Second Section), sitting on 5 November 2020 as a Committee composed of:

Carlo Ranzoni, *President,*
Branko Lubarda,
Pauliine Koskelo, *judges,*

and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on 30 November 2018,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

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

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

The applicants' complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the non-enforcement of domestic decisions given against a socially/State-owned company were communicated to the Serbian Government ("the Government") on 13 February 2020.

THE LAW

A. 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.

B. Complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 (non-enforcement of domestic decisions given against socially/State-owned companies)

The Government submitted that the applicants had failed to inform the Court that the national authorities had acknowledged the alleged breach and that the applicants had sought compensation for non-pecuniary damage suffered as a consequence of it. Moreover, the first applicant had already been awarded compensation in that connection. They therefore suggested that the Court 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 that fact, but considered it irrelevant.

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 *Mladenović and Others v. Serbia* (dec.) [Committee], nos. 41375/16 and 2 others, 29 August 2019).

Turning to the present case, the Court notes that the competent domestic court has acknowledged the alleged breach (see the appended table). The first applicant has been afforded redress for it and the proceedings in respect of the second applicant are pending. 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 this 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 view of the above, the Court finds that these applications constitute an abuse of the right of individual application and must be rejected in accordance with Article 35 §§ 3 (a) and 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 26 November 2020.

Liv Tigerstedt Acting Deputy Registrar	Carlo Ranzoni 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 Year of birth	Relevant domestic decision	Start date of non-enforcement period	Final domestic decision concerning the claim that the proceedings had been of excessive length
1.	58944/18 30/11/2018	**Milosav DENIĆ** 1949	Municipal Court in Leskovac, 25/03/2009	30/09/2010	Commercial Court in Leskovac 31/05/2019
2.	58948/18 30/11/2018	**Nada STAMENKOVIĆ** 1957	Municipal Court in Leskovac, 25/03/2009	07/10/2011	Commercial Court in Leskovac 03/06/2019