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

FOURTH SECTION

DECISION

Application no. 27722/17
Krsta GIGIĆ and Milka GIGIĆ
against Serbia

The European Court of Human Rights (Fourth Section), sitting on 14 May 2024 as a Committee composed of:

Anne Louise Bormann*, President*,
Branko Lubarda,
Sebastian Răduleţu*, judges*,
and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to the above application lodged on 6 April 2017,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicants, Mr Krsta Gigić and Ms Milka Gigić, are Serbian nationals, who were born in 1947 and 1949, respectively, and live in Koceljeva. They were represented before the Court by Mr B. Pajić, a lawyer practising in the same town.

2. The Serbian Government ("the Government") were represented by their Agent, Ms Z. Jadrijević Mladar.

3. The applicants complained under Articles 6, 8 and 9 of the Convention about a failure of the domestic courts, including the Constitutional Court, to recognise their right to compensation in respect of non-pecuniary loss related to damage of the gravestone of their daughter, while referring to an allegedly incorrect interpretation of Tort Law (*Zakon o obligacionim odnosima*).

4. On 15 August 2023 and 3 September 2023, the Court received friendly settlement declarations, signed by the parties, under which the applicants agreed to waive any further claims against Serbia in respect of the facts giving rise to this application against an undertaking by the Government to pay them, jointly, 4,500 euros to cover any non-pecuniary damage, as well as costs and

expenses. This amount will be converted into the currency of the respondent State at the rate applicable on the date of payment, plus any tax that may be chargeable to the applicants on these amounts, and will be payable within three months from the date of notification of the decision taken by the Court to strike the case out of its list of cases. In the event of failure to pay this sum within the said three-month period, the Government undertook to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

5. The Government further undertake to inform the domestic courts about the friendly settlement in the present case and to disseminate to them the domestic judicial practice on the correct application of Article 200 of the Tort Law to compensation claims for non-pecuniary damage in similar circumstances.

6. The payment and further measures set out in the above declarations will constitute the final resolution of the case.

THE LAW

7. The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application. In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases in accordance with Article 39 of the Convention.

Done in English and notified in writing on 6 June 2024.

Simeon Petrovski Deputy Registrar	Anne Louise Bormann President