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

THIRD SECTION

DECISION

Application no. 71271/12
Iljana MILOSAVLJEVIĆ
against Serbia

The European Court of Human Rights (Third Section), sitting on 20 September 2016 as a Committee composed of:

Pere Pastor Vilanova, *President,*
Branko Lubarda,
Georgios A. Serghides, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 12 August 2011,

Having regard to the observations submitted by the parties,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Iljana Milosavljević, is a Serbian national, who was born in 1946 and lives in Kruševac. She was represented before the Court by Mr Z. Cvetković, a lawyer practising in Kruševac.

The Serbian Government ("the Government") were initially represented by their former Agent, Ms V. Rodić, and subsequently by their current Agent, Ms N. Plavšić.

On 5 October 2004, the applicant was issued with an enforcement order against certain Z.B. based on a final judgment of 25 December 1990.

On 5 November 2009 the Constitutional Court found a violation of the applicant's Article 6 rights regarding the length of the enforcement proceedings and ordered the speeding up of the proceedings and awarded damages, the amount of which was to be established in separate proceedings.

On 22 November 2011, after a friendly settlement between the Respondent State and the applicant, the applicant's previous case

concerning the same non-enforcement issue was struck out from the list of cases.

In their observations, the Government informed the Court that on 28 August 2014, in the proceedings for protection of right to a trial within reasonable time before the Kruševac High Court, the said court found a violation of the applicant's Article 6 rights and awarded her EUR 800 in non-pecuniary damages.

COMPLAINT

The applicant essentially complained about the non-enforcement of the judgment rendered in her favour. This complaint falls to be examined under Articles 6 § 1 and 13 of the Convention.

THE LAW

The Government asked the Court to declare the application inadmissible as an abuse of the right of petition. They pointed out that the applicant had omitted to inform the Court that she had obtained compensation for the violation of her right to a trial within reasonable time before the Kruševac High Court.

The applicant did not dispute having obtained the said judgment, but argued that this was 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 (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014; and *S.A.S. v. France* [GC], no. 43835/11, § 67, ECHR 2014) 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 (see *Predescu v. Romania*, no. 21447/03, §§ 25-27, 2 December 2008; and *Tatalović and Dekić v. Serbia* (dec.), no. 15433/07, 29 May 2012). 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 *Predescu*, cited above, §§ 25-26; and *Komatinović v. Serbia* (dec.), no. 75381/10, 29 January 2013).

In the instant case the Court notes that the applicant complained that a final court judgment rendered in her favour against a private person had not been enforced. However, on 28 August 2014, in the proceedings for

protection of right to a trial within reasonable time before the Kruševac High Court, the said court found a violation of the applicant's Article 6 rights and awarded her EUR 800 in non-pecuniary damages.

The applicant's complete silence on the said proceedings cannot be interpreted, in the Court's view, as anything else but a failure to disclose information concerning the very core of the application.

Having regard to the importance of the applicant's failure to disclose this information for the proper determination of the present case, the Court finds that such conduct was contrary to the purpose of the right of individual petition, as provided for in Article 34 of the Convention (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014).

In view of the above, it is appropriate to reject the application as an abuse of the right of petition, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 13 October 2016.

Fatoş Aracı
Deputy Registrar

Pere Pastor Vilanova
President