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

SECOND SECTION

DECISION

Application no. 25494/20
Jovka MILOŠEVIĆ SIMOVIĆ
against Serbia
(see appended table)

The European Court of Human Rights (Second Section), sitting on 8 September 2022 as a Committee composed of:
Jovan Ilievski*, President,*
Gilberto Felici*,*
Diana Sârcu*, judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 12 June 2020,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant was represented by R. Čakara, a lawyer practising in Novi Pazar.

The applicant's complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the non-enforcement of a domestic decision given against a socially/State-owned company were communicated to the Serbian Government ("the Government") on 20 May 2021.

THE LAW

The Government submitted that the final domestic decision in the applicant's favour had actually been enforced. They therefore suggested that the Court reject the application as an abuse of the right of individual application in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

The applicant did not dispute that fact.

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 *Nikolić and Others v. Serbia* (dec.) [Committee], nos. 48162/18 and 8 others, 21 January 2021).

Turning to the present case, the Court observes that the sums awarded in the domestic decision at issue were fully paid by the State in accordance with domestic law on an unknown date, but no later than 30 April 2015 when the bankruptcy proceedings against the company at issue ended (see *Stevanović and Others v. Serbia*, nos. 43815/17 and 15 others, § 17, 27 August 2019). The applicant did not inform the Court about that development before notice of the application was given to the Government and no explanation for this omission was provided.

Having regard to the fact that the information withheld concerned the very core of the application, 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 this application constitutes 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,

Declares the application inadmissible.

Done in English and notified in writing on 29 September 2022.

Viktoriya Maradudina Acting Deputy Registrar	Jovan Ilievski President

APPENDIX

Application 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)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Relevant domestic decision	Start date of non-enforcement period or date of entry into force of the Convention in respect of Serbia (3 March 2004)	Date of enforcement of domestic decision
25494/20 12/06/2020	**Jovka MILOŠEVIĆ SIMOVIĆ** 1960	Čakara Rešat Novi Pazar	Commercial Court in Kraljevo, 27/11/2003	03/03/2004	No later than 30/04/2015