

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

SECOND SECTION

DECISION

Application no. 56551/11
Mihailo PETROVIĆ against Serbia
and 10 other applications
(see list appended)

The European Court of Human Rights (Second Section), sitting on 18 October 2011 as a Chamber composed of:

Françoise Tulkens, *President,*
Danutė Jočienė,
David Thór Björgvinsson,
Dragoljub Popović,
András Sajó,
Işıl Karakaş,
Guido Raimondi, *judges,*

and Stanley Naismith, *Section Registrar,*

Having regard to the above applications lodged on 24 May 2011, 9 June 2011, 10 June 2011, 9 April 2011, 19 May 2011, 10 May 2011, 10 May 2011, 14 June 2011, 15 April 2011, 13 April 2011 and 19 April 2011, respectively

Having deliberated, decides as follows:

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

THE FACTS

A. Relevant introductory information

The applicant, Mr Mihailo Petrović, is a Serbian national who was born in 1963 and lives in Gornji Milanovac. He is a licensed attorney and a member of the Belgrade Bar Association (*Advokatska komora Beograda*).

On 9 December 2010 the Court's Registry sent the following letter to the President of the said bar association:

> "As you will know, the European Court of Human Rights and its Registry are always looking to develop a relationship of trust with the community of legal professionals. Only through this mutual trust can the Court function to ensure the highest standards of protection of human rights. It is for this reason that the President of the Second Section considers it appropriate ... to inform you about the practices of one of your colleagues and a member of your distinguished association.
>
> You will certainly be well informed about the volume of cases being lodged before the European Court of Human Rights against the Republic of Serbia, which today amounts to more than 3,500. In about 400 of those cases, the applicants appeared to be represented by Mr Mihailo Petrović, an attorney registered with the Belgrade Bar Association, but ... [apparently] ... having an office and most of his clients in Gornji Milanovac. In the course of the examination of some of these cases, it transpired that on at least three occasions Mr Petrović had submitted applications on behalf of deceased persons (with the power of attorney signed on behalf of at least one of those persons after his death). In a number of other cases, the Court had doubts as to the authenticity of the powers of attorney supplied with the applications.
>
> As it is necessary for the Court to be able to rely on the veracity of the material submitted to it, the President of the Second Section, to which the cases at issue were assigned, decided, [on 3 March 2010 and] in the best interests of the applicants, to ban Mr Petrović from representing applicants before the Court[, at present and in the future,] ... [T]he Court informed Mr Petrović himself, as well as each of the applicants, about this development ... [A] letter ... [to this effect] ... was served upon Mr Petrović on 12 March 2010. Since he continued to act as the applicants' attorney [thereafter], the Court reminded him of the ban. This second letter was served upon Mr Petrović on 26 April 2010.
>
> Recently, Mr Petrović continued acting on behalf of the applicants, sometimes as their attorney and sometimes only by preparing [their] submissions for the Court, but each time requesting reimbursement of his fees, even though he is well aware that the Court will not take into consideration such requests.
>
> ... [Aware] ... of the importance of our [common] calling and the necessity of being led by the highest moral and professional standards[,] ... [we] ... address you on this delicate subject, being certain that you will know how best to approach this issue, and make sure that those standards continue to guide members of your association in [their] dealings with the Court."

In his correspondence of 18 January 2011, received by the Court on 1 February 2011, the President of the Belgrade Bar Association responded as follows:

> "I am hereby informing you that, ... I have[,] with utmost seriousness[, taken] into consideration ... [the contents of your letter, particularly given] ... the fact that in the ... [conduct of Mr] ... Mihailo Petrović there are elements ... [indicating a breach of the Attorneys'] ... [P]rofessional [E]thics ... [Code] ... I [have also] forwarded ... [your] ... letter to the Disciplinary bodies of the Bar Association of Belgrade.
>
> ... [Further,] ... your ... letter will be considered at the meeting of the Managing Board of the Bar Association of Belgrade ... [which shall] ... be held at the end of January 2011.
>
> You will be ... notified ... [in a timely manner of] ... the ... [measures which] ... will be taken by the Disciplinary bodies of the Bar Association of Belgrade and the Managing Board.
>
> [Since] ... the European Court of Human Rights[,] as well as the legal profession[,] both protect the same values, i.e. human rights, I share your opinion that attorneys-at-law[,] in their professional engagement[s,] should fulfil the highest moral standards."

The Court has received no further information from the Belgrade Bar Association.

B. The circumstances of the cases here at issue

The facts, as submitted by the applicant, may be summarised as follows.

1. As regards application no. 56551/11

On six separate occasions, between 1998 and 2000, the police confiscated foreign currency from Mr A, who had been suspected of illegal currency trading.

In 2001 Mr A passed away, leaving behind a wife and two children (B and C).

2. As regards application no. 56650/11

In 2005 Ms D's employment with a public corporation was terminated.

Less than two months thereafter Ms D filed a civil claim, seeking salary arrears.

It is unclear as to whether these proceedings are still pending.

3. As regards application no. 56669/11

In 1999 Mr E was involved in a traffic accident with a bus belonging to a "socially-owned company" (see *R. Kačapor and Others v. Serbia*, nos. 2269/06, 3041/06, 3042/06, 3043/06, 3045/06 and 3046/06, §§ 71-76,

15 January 2008). In order to avoid a collision, he apparently swerved off the road and sustained injuries.

4. As regards application no. 56671/11

In 1987 Mr F was injured in a traffic accident.

In 1988 Mr G, driver of the socially-owned vehicle who had caused the accident, was convicted, fined, and ordered to pay litigation costs. Mr F was advised by the competent court to seek pecuniary and/or non-pecuniary damages in a separate civil suit. This judgment became final several months thereafter.

There is no information in the case file as to whether the said civil suit was ever initiated.

5. As regards application no. 56692/11

In 2003, in a reinstatement and personal injury case, the competent court ruled partly in favour of Mr H.

Several months later, this judgment was partially quashed on appeal and remitted to the competent court of first instance for re-examination.

It remains unclear as to what happened in this suit thereafter.

6. As regards application no. 56744/11

In 2004 the competent court ruled in favour of Mr I, ordering his former employer to pay him the accrued salary arrears. On an unspecified date thereafter this judgment apparently became final.

7. As regards application no. 56826/11

In 1994 the competent court ruled in favour of Mr J and Mr K, ordering an agricultural cooperative to pay them a certain amount of compensation on account of the land confiscated by the former communist authorities. This decision became final several months thereafter.

It would appear that in 1999 insolvency proceedings were instituted in respect of the agricultural cooperative in question.

In 2001 Mr J passed away and was succeeded by his son and legal heir, Mr L.

8. As regards application no. 56827/11

In 1987 a civil case concerning, *inter alia*, the re-possession of a vehicle was filed against Ms M.

Shortly thereafter the competent court ordered Ms M to return the truck at issue to the plaintiff for “safekeeping”, until the conclusion of the civil suit.

By 1989 the proceedings were concluded, the final decision being partly in favour of Ms M. The plaintiff's claim as regards the re-possession of the truck was rejected.

In the meantime, however, the plaintiff had apparently sold the truck to third persons.

9. As regards application no. 56831/11

In 2001 Mr N filed an employment-related claim with the competent court, seeking salary arrears.

In 2004 the court ruled partly in favour of Mr N, and in 2005 this judgment was confirmed on appeal.

In 2006 the Supreme Court rejected Mr N's appeal on points of law as inadmissible.

10. As regards application no. 56833/11

In 2001 Mr O filed an employment-related personal injury claim.

Within a month the competent court ruled in favour of Mr O, but this judgment was subsequently quashed on appeal.

In 2003 the competent court of first instance once again ruled in favour of Mr O.

There is no information in the case file as to what happened in the proceedings thereafter.

11. As regards application no. 56834/11

Ms P was employed with a socially-owned company between 1989 and 1991. It would appear that during this time her employer had, *inter alia*, failed to fully cover her social security contributions.

C. Other applications filed by the same applicant

In addition to the present eleven applications, the applicant has filed more than 500 separate applications with the Court against Serbia, Croatia, Slovenia, Montenegro, Bosnia and Herzegovina, as well as the Former Yugoslav Republic of Macedonia. Most of these applications have yet to be assigned to a decision body. Of the said 500 applications, more than 400 correspond in character to the applications at issue in the present case, whilst as regards the remainder the applicant appears as the legal representative of his clients, who have themselves been identified as applicants.

COMPLAINTS

The applicant complained under various provisions of the Convention, as well as the Protocols thereto.

A. As regards each application separately

1. Application no. 56551/11

The applicant complained that Mr A's foreign currency had been unlawfully confiscated by the police and that Ms C, notwithstanding the fact that she was his daughter and one of his legal heirs, was never provided with any compensation therefor.

2. Application no. 56650/11

The applicant complained about Ms D's wrongful dismissal, and requested that she be awarded damages by the respondent State for the harm sustained in this connection.

3. Application no. 56669/11

The applicant complained about the respondent State's failure to provide Mr E with satisfaction for the damage suffered due to the life-threatening accident in question.

4. Application no. 56671/11

The applicant complained that Mr F was never provided with any compensation by the respondent State for the pecuniary and/or non-pecuniary damage sustained as a result of the accident.

5. Application no. 56692/11

The applicant complained about the unlawful decision adopted on appeal in the civil proceedings brought by Mr H, as well as the underlying events giving rise to this suit, and requested that Mr H be adequately compensated by the respondent State.

6. Application no. 56744/11

The applicant complained about the respondent State's failure to enforce the final judgment rendered in favour of Mr I or pay the latter the sums awarded therein.

7. Application no. 56826/11

The applicant complained about the respondent State's failure to enforce the final decision rendered, *inter alia*, in favour Mr J or, subsequently, pay Mr L the sums in question.

8. Application no. 56827/11

The applicant complained about the fact that Ms M's truck had been sold by the plaintiff before the conclusion of their civil case, and sought that adequate compensation be paid to the latter by the respondent State.

9. Application no. 56831/11

The applicant complained about the breach of Mr N's right of access to the Supreme Court, and requested that Mr N be paid adequate compensation by the Serbian authorities.

10. Application no. 56833/11

The applicant complained about the quashing of the first instance judgment rendered in favour of Mr O, as well as the length of the proceedings in question.

11. Application no. 56834/11

The applicant complained about the failure of the respondent State to cover Ms P's social security contributions, as well as the resulting harm suffered by the latter.

B. As regards all applications

The applicant further complained that the respondent State has failed to provide him personally with compensation for the lost earnings incurred whilst he was preparing the applications in the present cases, specifically the loss suffered due to his "inability to represent other clients during this time".

THE LAW

A. Joinder of the applications

The Court considers that, in accordance with Rule 42 § 1 of the Rules of Court, the applications should be joined, given the similar context in which

they were all brought, as well as the underlying nature of the complaints contained therein.

B. As regards the applicant's complaints outlined above

The relevant provisions of the Convention read as follows:

Article 34

"The Court may receive applications from any person ... claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto ..."

Article 35 § 3

"The Court shall declare inadmissible any individual application submitted under Article 34 ... [which] ... it considers ... an abuse of the right of individual application."

The relevant provisions of the Rules of Court provide as follows:

Rule 36 § 4(b)

"In exceptional circumstances and at any stage of the procedure, the President of the Chamber may, where he or she considers that the circumstances or the conduct of the advocate ... so warrant, direct that the latter may no longer represent or assist the applicant and that the applicant should seek alternative representation."

Rule 44D

"If the representative of a party makes abusive, frivolous, vexatious, misleading or prolix submissions, the President of the Chamber may exclude that representative from the proceedings, refuse to accept all or part of the submissions or make any other order which he or she considers it appropriate to make, without prejudice to Article 35 § 3 of the Convention."

The Court recalls that Article 34 of the Convention requires that an individual applicant should claim to have been actually affected by the violation he alleges. That Article does not institute for individuals a kind of *actio popularis* for the interpretation of the Convention; it does not permit individuals to complain against the state of law or any particular decision *in abstracto* simply because they consider that it contravenes the Convention. Nor, in principle, does it suffice for an applicant to claim that the mere existence of a law violates his rights under the Convention; it is necessary that the law should have been applied to his detriment (*Klass and Others v. Germany* judgment of 6 September 1978, § 33, Series A no. 28). The Court has accepted that an applicant may be a potential victim. However, in order to be able to claim to be a victim in such a situation, an applicant must produce reasonable and convincing evidence of the likelihood that a

violation affecting him personally will occur; mere suspicion or conjecture is insufficient (see generally *Senator Lines GMBH v. Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom* (dec.), no. 56672/00, 10 March 2004, with further references, in particular to the above-mentioned *Klass and Others* judgment).

As regards the concept of "abuse", within the meaning of Article 35 § 3 of the Convention, it must be understood in its ordinary sense according to general legal theory – namely, the harmful exercise of a right for purposes other than those for which it is designed. Accordingly, any conduct of an applicant that is manifestly contrary to the purpose of the right of individual application as provided for in the Convention and impedes the proper functioning of the Court or the proper conduct of the proceedings before it constitutes an abuse of the right of application (see *Miroļubovs and Others v. Latvia*, no. 798/05, §§ 62 and 65, 15 September 2009). The Court further recalls that such abuse may consist in the object one wishes to attain with the application (see, although in a very different factual context, *Koch v Germany*, no. 1270/61, Commission decision of 8 March 1962, Yearbook 5, pp. 134-136), and notes that "vexing manifestations of irresponsibility and a frivolous attitude towards the Court", amounting to contempt, may also lead to the rejection of an application as abusive (see *The Georgian Labour Party v. Georgia* (dec.), no. 9103/04, 22 May 2007). Lastly, it cannot be the task of the Court, a body which was set up under the Convention to ensure the observance of the engagements undertaken by the High Contracting Parties with respect to the Convention, to deal with a succession of ill-founded and querulous complaints, creating unnecessary work which is incompatible with its real functions (see, *mutatis mutandis*, as regards the former Commission, *M v. the United Kingdom*, no. 13284/87, Commission decision of 15 October 1987, Decisions and Reports (DR) 54, p. 214).

Turning to the applications here at issue, the Court notes that: (a) on 3 March 2010 the President of the Second Section decided to ban the applicant, a licensed lawyer, from representing clients before the Court, at that time and in the future; (b) the reason for so doing was, *inter alia*, that the applicant in the present case, who had acted as legal counsel in hundreds of other cases, had submitted applications on behalf of deceased persons, with a power of attorney signed on behalf of at least one of them after his death; (c) despite being informed of the said ban, the applicant in the present case continued acting on behalf of the applicants, sometimes as their representative and sometimes only by preparing their submissions for the Court, but each time requesting reimbursement of his fees, even though he was well aware that the Court would not take into consideration such requests; (d) on 9 December 2010 the Court's Registry addressed a letter to the Belgrade Bar Association, informing them of the applicant's conduct; (e) in his letter of 18 January 2011, the President of the said association,

inter alia, noted that the applicant may have breached the applicable professional ethics standards, which was why the association's disciplinary bodies were to be informed; (f) the applicant has since then continued bringing hundreds of new cases to the Court, each time identifying himself as the applicant, but referring in the facts to/complaining about events and proceedings clearly related to other persons; and (g) in an apparent attempt to maintain a semblance of his own "victim status", the applicant included an additional complaint concerning the loss of his personal earnings, albeit in the vaguest of terms and in the absence of any substantiation.

In view of the above and quite apart from the fact that the applicant's complaints about other persons are blatantly incompatible with the Convention, as well as any of the Protocols thereto, *ratione personae*, the fact remains that his conduct as of 3 March 2010 was primarily aimed at circumventing the Court's decision to restrict his ability to represent clients before it, which of itself amounts to a contempt of court and must, as such, be considered as a brazen abuse of the right of individual petition. At a time when the Court is called upon to deal with many cases raising particularly serious human rights issues, it cannot afford to waste its efforts on matters obviously outside of the scope of its real mission, which is to ensure the observance of the solemn, Convention-related, engagements undertaken by the States Parties.

In these circumstances, it is appropriate to reject the applications at issue in the present case, in their entirety, 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.

Stanley Naismith
Registrar

Françoise Tulkens
President

1. 56551/11 Petrović (VIII) v. Serbia
2. 56650/11 Petrović (IX) v. Serbia
3. 56650/11 Petrović (X) v. Serbia
4. 56650/11 Petrović (XI) v. Serbia
5. 56650/11 Petrović (XII) v. Serbia
6. 56650/11 Petrović (XIII) v. Serbia
7. 56650/11 Petrović (XIV) v. Serbia
8. 56650/11 Petrović (XV) v. Serbia
9. 56650/11 Petrović (XVI) v. Serbia
10. 56650/11 Petrović (XVII) v. Serbia
11. 56650/11 Petrović (XVIII) v. Serbia