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

FOURTH SECTION

DECISION

Application no. 27296/22
Slaviša ŠIMETIĆ
against Serbia

The European Court of Human Rights (Fourth Section), sitting on 15 October 2024 as a Committee composed of:

Tim Eicke*, President*,
Ana Maria Guerra Martins,
Mateja Đurović*, judges*,

and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to:

the application (no. 27296/22) against Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 25 May 2022 by a Serbian national, Mr Slaviša Šimetić ("the applicant"), who was born in 1957, lives in Belgrade and was represented by Mr J. Zejak, a lawyer practising in Leskovac;

the decision to give notice of the application to the Serbian Government ("the Government"), represented by their Agent, Ms Z. Jadrijević Mladar;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the failure of the Serbian authorities to enforce the applicant's contact rights with his children, born in 2006 and 2008 respectively, as established by a final judgment of the First Belgrade Court of First Instance of 27 May 2016.

2. On 30 September 2019, 20 December 2022, and 11 September 2023, the First Belgrade Court of First Instance issued decisions acknowledging that the applicant's right to a trial within a reasonable time, regarding the enforcement of the said final judgment, had been violated.

3. On 26 December 2019 and 28 October 2021 the Constitutional Court found that the applicant's contact rights had been breached. It held that the relevant domestic authorities had failed to act adequately and promptly in the course of the enforcement proceedings, resulting in an irreversible deterioration of the applicant's relationship with his children. The applicant was also awarded a total of 1,500 euros (EUR) in respect of non-pecuniary damage.

4. On 3 June 2021 the Belgrade High Court adopted a final judgment awarding the applicant EUR 700 for the violation of his right to a trial within a reasonable time, plus EUR 160 for legal costs.

5. On 2 June 2023 the Second Belgrade Court of First Instance adopted a judgment, awarding the applicant EUR 2,000 for the breach of his right to a trial within a reasonable time.

6. On 6 October 2023 the applicant lodged a civil suit with the First Belgrade Court of First Instance, seeking EUR 3,000 in compensation for the violation of his right to a trial within a reasonable time.

7. Relying on numerous provisions of the Convention, the applicant essentially complained under Article 8 thereof that as a consequence of the domestic authorities' failure to enforce the final judgment rendered on 27 May 2016 he was deprived of contact with his children and could not thus effectively exercise his parental rights.

THE COURT'S ASSESSMENT

8. The Government submitted that the applicant had failed to inform the Court about the judgment adopted in his favour of 3 June 2021, as well as two other civil proceedings which he had initiated domestically (see paragraphs 4-6 above). Accordingly, they argued that the Court should reject the application as an abuse of the right of individual petition in accordance with Article 35 § 3 (a) of the Convention.

9. The applicant did not contest these facts but deemed them irrelevant, as the proceedings in question did not result in him reestablishing contact with his children.

10. 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, for example and among many other authorities, *Gross*

v. Switzerland [GC], no. 67810/10, § 28, ECHR 2014, and *S.A.S. v. France* [GC], no. 43835/11 § 67, ECHR 2014 (extracts), ECHR 2014).

11. Turning to the present case, the Court notes that the applicant failed to disclose that, before notice of the application was given to the Government, he had indeed initiated three domestic civil proceedings – one of which had been finalised and two of which were still pending (see paragraphs 4-6 above). Since the Court did not learn of those civil proceedings until the Government's observations, the Court finds that the applicant did indeed fail to inform it of all the relevant facts in the present case. The Court furthermore considers the applicant's explanation for this omission unsatisfactory.

12. Having regard to the fact that the information withheld by the applicant also concerned the very core of his complaint before it, the Court cannot but find that such conduct was contrary to the purpose of the right of individual application (see *Lazarov v. Serbia* (dec.), no. 42571/06, §§ 26-28, 3 May 2016).

13. It follows that there has been an abuse of the right of individual petition in the present case which is why the application in its entirety must be rejected in accordance with Article 35 § 3 (a) of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 7 November 2024.

Simeon Petrovski Deputy Registrar	Tim Eicke President