



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

## THIRD SECTION

### DECISION

Application no. 8615/10  
Dušanka MILOŠEVIĆ against Serbia  
and 11 other applications  
(see list appended)

The European Court of Human Rights (Third Section), sitting on 10 June 2014 as a Committee composed of:

Ján Šikuta, *President*,

Dragoljub Popović,

Iulia Antoanella Motoc, *judges*,

and Marialena Tsirli, *Deputy Section Registrar*,

Having regard to the above applications lodged between 28 January and 8 June 2010,

Having deliberated, decides as follows:

## THE FACTS

The applicants are all Serbian nationals, and their further personal details are set out in the Annex.

The Serbian Government (“the Government”) were represented by their successive Agents, Mr S. Carić and Ms V. Rodić.

### A. The circumstances of the case

The applicants were former employees of “*Društveno preduzeće Industrija mesa ‘Crvena zvezda’*” Kragujevac (hereinafter “the debtor”), which was, at the relevant time, a company predominantly comprised of socially-owned capital.

On 15 October 2002 the Commercial Court (*Trgovinski sud*) in Kragujevac opened insolvency proceedings in respect of the debtor (St. 1079/02).

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The applicants duly submitted their claims for the payment of due salary arrears and related employment benefits.

On the dates specified in the Annex, the Commercial Court accepted some of the applicants' claims. As regards the remainder of their claims, it instructed them to initiate a regular civil suit. None of the applicants did so. These court decisions became final on an unspecified date.

On 20 February 2009 the Commercial Court terminated the insolvency proceedings. This decision was published in the Official Gazette of the Republic of Serbia on 27 March 2009 (no. 21/09) and became final on 16 July 2009.

On 26 February 2010 the debtor ceased to exist.

The final court decisions rendered in the applicants' favour remain only partly enforced to the present day.

## **B. Relevant domestic law**

The domestic law concerning the status of socially/State-owned companies and insolvency proceedings is outlined in the cases of *Marčić and Others v. Serbia*, no. 17556/05, § 29, 30 October 2007; *R. Kačapor and Others v. Serbia*, nos. 2269/06 et al., §§ 68-76, 15 January 2008; *Adamović v. Serbia*, no. 41703/06, §§ 17-21, 2 October 2012; and *Sokolov and Others v. Serbia* (dec.), nos. 30859/10, § 20, 14 January 2014.

## COMPLAINT

The applicants complained under Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1 about the inability to enforce their claims, payments having been ordered by the Commercial Court's final decisions specified in the Annex.

## THE LAW

### **A. Joinder of the applications**

The Court considers that, in accordance, with Rule 42 § 1 of the Rules of the Court, the applications should be joined, given their common factual and legal background.

## **B. The applicants' complaints under Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1**

As noted above, the applicants complained about the non-enforcement of the final court decisions rendered in their favour.

The relevant provisions of Articles 6 § 1 and 13 of the Convention, as well as Article 1 of Protocol No. 1 read as follows:

### **Article 6 § 1**

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing within a reasonable time by [a] ... tribunal ...”

### **Article 1 of Protocol No. 1**

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

### **Article 13**

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

The Government submitted, *inter alia*, that the applicants' complaints should be rejected for non-observance of the six-month rule. According to the Government, in the circumstances of the present cases, this time-limit had started to run when the decision on the termination of the insolvency proceedings against the debtor company had been published in the Official Gazette and/or became final.

The applicants disagreed.

The Court has held that, in the context of the non-enforcement of domestic court decisions against insolvent socially-owned companies, the applicants should lodge their applications, at the latest, within six months as of the date when the decision on the termination of the insolvency proceedings had become final (see *Sokolov and Others*, cited above, § 34). In the present cases, the Court notes that the decision terminating the insolvency proceedings against the debtor became final on 16 July 2009. As the applicants lodged their applications between 28 January and 8 June 2010, the Court considers that the applicants had not acted diligently. It therefore agrees with the Government's position that the applications were introduced outside the six-month time-limit set out in Article 35 § 1 of the Convention.

It follows that the applications were introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention, there being no need for the Court to examine the remainder of the Government's admissibility objections.

For these reasons, the Court, unanimously,

*Decides* to join the applications;

*Declares* the applications inadmissible.

Marialena Tsirli  
Deputy Registrar

Ján Šikuta  
President

## ANNEX

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by	Date of the Final Domestic Decision
1.	8615/10	30/01/2010	<b>Duška MILOŠEVIĆ</b> 31/01/1959 Kragujevac		25/08/2003 11/10/2004
2.	8642/10	02/02/2010	<b>Miodrag MARINKOVIĆ</b> 24/05/1961 Kragujevac		25/08/2003
3.	8690/10	04/02/2010	<b>Nada MILOJEVIĆ</b> 17/01/1960 Kragujevac		25/08/2003 11/10/2004
4.	8692/10	28/01/2010	<b>Dostana TARANOVIĆ</b> 18/06/1956 Kragujevac		25/08/2003 11/10/2004
5.	8695/10	28/01/2010	<b>Vesna SIMONOVIĆ</b> 16/08/1959 Kragujevac		25/08/2003 11/10/2004
6.	11458/10	04/02/2010	<b>Snežana RADOVIĆ</b> 01/07/1965 Kragujevac	Nataša RADOVIĆ	25/08/2003 11/10/2004
7.	11465/10	04/02/2010	<b>Slavko RADOVIĆ</b> 20/05/1961 Kragujevac	Nataša RADOVIĆ	25/08/2003 11/10/2004

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by	Date of the Final Domestic Decision
8.	11474/10	01/02/2010	<b>Dragana OBRADOVIĆ</b> 11/04/1959 Kragujevac		25/08/2003 11/10/2004
9.	14693/10	03/03/2010	<b>Biserka MILIVOJEVIĆ</b> 14/08/1959 Kragujevac		25/08/2003 11/10/2004
10.	17271/10	17/02/2010	<b>Radmila MARINKOVIĆ</b> 13/11/1953 Kragujevac		25/08/2003
11.	19815/10	31/03/2010	<b>Javorka OBRENOVIĆ</b> 29/01/1955 Kragujevac		25/08/2003
12.	34486/10	08/06/2010	<b>Nadica MILOŠEVSKI</b> 21/01/1960 Kragujevac		25/08/2003 11/10/2004