



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

## SECOND SECTION

### DECISION

Application no. 48176/18  
Stojanka SMILJKOVIĆ  
against Serbia  
(see appended table)

The European Court of Human Rights (Second Section), sitting on 18 February 2021 as a Committee composed of:

Carlo Ranzoni, *President*,

Branko Lubarda,

Pauliine Koskelo, *judges*,

and Liv Tigerstedt, *Acting Deputy Section Registrar*,

Having regard to the above application lodged on 29 September 2018,

Having regard to the observations submitted by the parties,

Having deliberated, decides as follows:

### FACTS AND PROCEDURE

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

The applicant was represented by Ms J. Mitić, a lawyer practising in Leskovac.

The applicant's complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the delayed enforcement of domestic decisions given against a socially/State-owned company were communicated to the Serbian Government ("the Government") on 19 March 2020.

### THE LAW

The Government submitted that the applicant had failed to inform the Court that the national authorities had acknowledged the alleged breach and had awarded her 400 euros in respect of non-pecuniary damage. 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, but considered it 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 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 *Mladenović and Others v. Serbia* (dec.) [Committee], nos. 41375/16 and 2 others, 29 August 2019).

Turning to the present case, the Court observes that the domestic courts acknowledged the alleged breach in 2018 and afforded redress for it in 2019 (see the appended table). The applicant did not inform the Court about that development before notice of the application was given to the Government and no convincing 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 the application constitutes an abuse of the right of individual application and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

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For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 11 March 2021.

Liv Tigerstedt  
Acting Deputy Registrar

Carlo Ranzoni  
President

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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	Relevant domestic decision	Start date of non- enforcement period	End date of non-enforcement period Length of enforcement proceedings	Final domestic decision concerning the claim that the proceedings had been of excessive length	Final domestic decision concerning the claim for compensation for non-pecuniary damage Amount awarded
48176/18 29/09/2018	<b>Stojanka SMILJKOVIĆ</b> 1949	Commercial Court in Leskovac 19/07/2004  Municipal Court in Leskovac 21/09/2006  Municipal Court in Leskovac 02/04/2007	23/11/2004  16/12/2010  16/12/2010	21/09/2018 13 year(s) and 9 month(s) and 30 day(s)  21/09/2018 7 year(s) and 9 month(s) and 6 day(s)  21/09/2018 7 year(s) and 9 month(s) and 6 day(s)	Commercial Court in Leskovac 22/06/2018	Leskovac Court of First Instance, 06/02/2019  400 euros