



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

SECOND SECTION

**CASE OF LILIĆ AND OTHERS v. SERBIA**

*(Applications nos. 16857/19 and 43001/19)*

JUDGMENT

STRASBOURG

14 January 2021

*This judgment is final but it may be subject to editorial revision.*

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



**In the case of Lilić and Others v. Serbia,**

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

Carlo Ranzoni, *President*,

Branko Lubarda,

Pauliine Koskelo, *judges*,

and Liv Tiggerstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 3 December 2020,

Delivers the following judgment, which was adopted on that date:

## PROCEDURE

1. The case originated in two applications against Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 15 March 2019 and 24 July 2019, respectively.

2. The applicants were represented by Mr R. Kojić, a lawyer practising in Belgrade.

3. The Serbian Government (“the Government”) were given notice of the applications on 18 June 2020.

## THE FACTS

4. The list of applicants and the relevant details of the applications are set out in the appended table.

5. The applicants complained of the non-enforcement of domestic decisions given against a socially/State-owned company.

## THE LAW

### I. JOINDER OF THE APPLICATIONS

6. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

### II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND OF ARTICLE 1 OF PROTOCOL NO. 1

7. The applicants complained of the non-enforcement of domestic decisions given in their favour. They relied, expressly or in substance, on Article 6 § 1 of the Convention and on Article 1 of Protocol No. 1, which read as follows:

**Article 6 § 1**

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... 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.”

8. The Court reiterates that the execution of a judgment given by any court must be regarded as an integral part of a “hearing” for the purposes of Article 6. It also refers to its case-law concerning the non-enforcement or delayed enforcement of final domestic judgments (see *Hornsby v. Greece*, no. 18357/91, § 40, *Reports of Judgments and Decisions* 1997-II).

9. In the leading case of *R. Kačapor and Others v. Serbia*, nos. 2269/06 and 5 others, 15 January 2008, the Court already found a violation in respect of issues similar to those in the present case.

10. The Court further notes that the decisions in the present applications ordered specific action to be taken. The Court therefore considers that the decisions in question constitute “possessions” within the meaning of Article 1 of Protocol No. 1.

11. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Notably, the Court has noted the Government’s argument that the length of the period of non-enforcement under consideration in this case was reasonable given the complexity of the insolvency proceedings against the debtor company. The Court reiterates, however, that it has held in this type of cases that the period of up to one year of non-enforcement of a final domestic decision complied with the requirements of the Convention (see *Bugarić v. Serbia* (dec.), no. 39694/10, 6 December 2016). It has found a violation whenever that period was longer than one year (see, among many other authorities, *Crnišanić and Others v. Serbia*, nos. 35835/05 and 3 others, § 124, 13 January 2009, in which the relevant period was between one year and five months and four years and eight months), irrespective of whether the final domestic decision at issue was being enforced through enforcement proceedings or insolvency proceedings (see, for example, *R. Kačapor and Others*, cited above, § 115). There is no reason to depart from that case-law in the present case. It should be added, however, that the Court could accept a much longer enforcement time frame, if the respondent State opts for a comprehensive solution (see *Muhović and Others v. Bosnia and Herzegovina* (dec.),

nos. 40841/13 and 12 others, §§ 29-34, 15 September 2020). Having regard to its case-law on the subject, the Court considers that in the instant case the authorities did not deploy all necessary efforts to enforce fully and in due time the decisions in the applicants' favour.

12. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

### III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

14. Regard being had to the documents in its possession and to its case-law (see, in particular, *R. Kačapor and Others*, cited above, and *Stanković v. Serbia* (dec.), no. 41285/19, 19 December 2019), the Court considers it reasonable to award the sums indicated in the appended table. Although the applicants were represented by a lawyer, there is no award for costs and expenses in the present case because the applicants' lawyer failed to inform the Court that the domestic decisions under consideration had been partly enforced (12-17%) in respect of six applicants (Predrag Lilić, Mirko Marković, Milorad Đorđević, Zoran Kocevski, Radmila Umićević and Dragan Večerinović) in 2018. The Court learned that fact only from the Government's observations. No explanation for this omission was provided. In this connection, the Court reiterates that 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 the proceedings have been instituted and thereafter, they must inquire diligently into all details of the case, meticulously abide by all the relevant rules of procedure and must urge their clients to do the same (see *Stevančević v. Bosnia and Herzegovina* (dec.), no. 67618/09, § 29, 10 January 2017).

15. The Court further notes that the respondent State has an obligation to pay any outstanding judgment debt from its own funds.

16. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the applications admissible;
3. *Holds* that these applications disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the non-enforcement of domestic decisions given against a socially/State-owned company;
4. *Holds* that the respondent State shall ensure, within three months, the enforcement of the pending domestic decisions referred to in the appended table by paying any outstanding judgment debt from its own funds;
5. *Holds*
  - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
6. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 14 January 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.  

Liv Tigerstedt  
Acting Deputy Registrar

Carlo Ranzoni  
President

## APPENDIX

List of applications raising complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1  
(non-enforcement of domestic decisions given against a socially/State-owned company)

No.	Application no. Date of introduction	Applicant's name Date of birth	Relevant domestic decision	Start date of non-enforcement period	Length of enforcement proceedings	Amount awarded for non-pecuniary damage per applicant (in euros) <sup>1 2</sup>
1.	16857/19 15/03/2019 (6 applicants)	<b>Predrag LILIĆ</b> 03/04/1966 <b>Stana STANKOVIĆ</b> 08/08/1951 <b>Miladinka RADOVANOVIĆ</b> 29/06/1945 <b>Radosav PAVLOVIĆ</b> 08/09/1949 <b>Lidija BANOVIĆ</b> <b>BAŠARAGIN</b> 27/02/1970 <b>Nemanja KATIĆ</b> 22/04/1945	Commercial Court in Belgrade, 06/08/2014	06/08/2014	pending More than 6 year(s) and 2 month(s) and 15 day(s)	1,000
2.	43001/19 24/07/2019 (30 applicants)	<b>Mara BJELIČIĆ</b> 20/05/1947 <b>Mirko MARKOVIĆ</b> 26/06/1958 <b>Ratomir PUNOŠEVAC</b> 10/04/1943 <b>Milorad ĐORĐEVIĆ</b> 09/08/1949 <b>Ljiljana KAPETANOVIĆ</b> 21/12/1947	Commercial Court in Belgrade, 06/08/2014	06/08/2014	pending More than 6 year(s) and 2 month(s) and 15 day(s)	1,000

<sup>1</sup> Plus any tax that may be chargeable to the applicants.

<sup>2</sup> Less any amounts which may have already been paid in that regard at the domestic level.

## LILIĆ AND OTHERS v. SERBIA JUDGMENT

No.	Application no. Date of introduction	Applicant's name Date of birth	Relevant domestic decision	Start date of non-enforcement period	Length of enforcement proceedings	Amount awarded for non-pecuniary damage per applicant (in euros) <sup>1 2</sup>
		<b>Predrag NENADOVIĆ</b> 24/05/1943 <b>Jasmina SAMARDŽIĆ</b> 07/12/1958 <b>Radomir LAZIĆ</b> 25/07/1947 <b>Ratomir STANKOVIĆ</b> 09/07/1941 <b>Aca IGIĆ</b> 24/08/1953 <b>Živojin FLIDER</b> 03/05/1950 <b>Svetlana BRAJOVIĆ</b> 07/11/1953 <b>Zora ZEC</b> 19/10/1957 <b>Pavle BOGDANOVIĆ</b> 23/10/1944 <b>Milorad JOVANOVIĆ</b> 09/06/1954 <b>Nenad MILJEVIĆ</b> 30/03/1956 <b>Grade KOSTIĆ</b> 20/09/1954 <b>Milovan STANOJEVIĆ</b> 28/03/1946 <b>Svetlo MARKOVIĆ</b> 06/02/1952 <b>Risto KOLAK</b> 26/04/1954 <b>Živorad BAJIĆ</b> 21/06/1943 <b>Ljiljana DOBROSAVLJEVIĆ</b> 21/01/1959 <b>Ljubica BULATOVIĆ</b>				

## LILIĆ AND OTHERS v. SERBIA JUDGMENT

No.	Application no. Date of introduction	Applicant's name Date of birth	Relevant domestic decision	Start date of non-enforcement period	Length of enforcement proceedings	Amount awarded for non-pecuniary damage per applicant (in euros) <sup>1 2</sup>
		12/09/1948 <b>Mirjana MILOSAVLJEVIĆ</b> 15/08/1947 <b>Nada VLAHOVIĆ</b> 12/02/1951 <b>Zoran KOCEVSKI</b> 20/10/1965 <b>Radmila UMIĆEVIĆ</b> 28/10/1954 <b>Dušan JOVANOVIĆ</b> 13/06/1951 <b>Dragan DOBRIĆ</b> 11/01/1953 <b>Dragan VEČERINOVIĆ</b> 29/11/1952				