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Meeting: 1531st meeting (June 2025) (DH)

Item reference: Action Report (27/05/2025)

Communication from Serbia concerning the case of Dimovic and Others v. Serbia (Application No. 40238/16)

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Réunion : 1531^e réunion (juin 2025) (DH)

Référence du point : Bilan d'action (27/05/2025)

Communication de la Serbie concernant l'affaire Dimovic et autres c. Serbie (requête n° 40238/16) (**anglais uniquement**)

DGI

27 MAI 2025

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Belgrade, 27 May 2025

ACTION REPORT

DIMOVIĆ and Others v. Serbia

Applications no. 40238/16, Judgment of 19 November 2024

I CASE DESCRIPTION

1. This case concerns unfair proceedings before the Court of Appeal in 2013 on account of its failure to inform the applicants of the written observations of the Higher Public Prosecutor submitted in reply to defence statements of appeal in proceedings before it (Article 6 § 1).

2. The Court found that the procedure followed did not enable the applicants to participate properly in the proceedings before the Court of Appeal and thus deprived them of a fair hearing within the meaning of Article 6 § 1 of the Convention (§ 9). Thus, the Court found that their Convention-guaranteed right to a fair trial had been violated (§ 10).

II INDIVIDUAL MEASURES

3. The authorities have taken steps to ensure that the violation at hand ceased and that the applicants were redressed for the negative consequences of the violation found by the European Court.

4. The European Court awarded the applicants just satisfaction in respect of non-pecuniary damage in the amount of EUR 900 each. The payment has been made on 29 January 2025.

5. In view of the above, the authorities consider that the applicants have been fully redressed for the damage sustained and that no further individual measures are possible in the present case. Namely, to the best of the authorities' knowledge, the applicants did not ask for the reopening of these proceedings after this Court's judgement.

III GENERAL MEASURES

6. In response to the European Court's findings, the authorities have taken measures aimed at preventing similar violations as set out below.

A. Convention-compliant practice before the Courts of Appeal

7. The authorities would like to highlight that the Courts of Appeal aligned their work with the Convention standards.

8. At its session held on 9 May 2025, the Criminal Division of the Supreme Court of Serbia reviewed the judgment in *Dimović and Others v. Serbia* and the related conclusions concerning the respect for the principle of adversarial proceedings in appellate cases. The Court concluded that domestic courts have already aligned their practice with the European Court's findings, particularly by ensuring that the defence is given a genuine opportunity to respond to the prosecutor's submissions in appeal proceedings.

9. Namely, in criminal appellate proceedings, appellate courts in Serbia ensure that the defence is given an opportunity to respond to the written observations of the Appellate Public Prosecutor either by:

- formally delivering the observations in written form; or
- presenting its content orally during the panel session before the appellate court. Specifically, either the public prosecutor or the reporting judge presents the content of the Appellate Public prosecutor's opinion at the panel session, after which the accused and defence counsel are given the opportunity to respond to

the Appellate Public prosecutor's observations concerning the defence's grounds of appeal.

10. This practice guarantees the adversarial nature of the proceedings and allows the defence to effectively exercise their procedural rights before a decision is taken.

11. Although the Criminal Procedure Code does not explicitly regulate such communication at the appellate level, appellate courts have filled this normative gap through consistent judicial practice that fully adheres to Convention standards.

12. It follows from the above that the Courts of Appeal aligned its approach and practice with the newly established Convention-compliant case law in entirety.

B. Publication and dissemination measures

13. In 2024, the authorities ensured that publication and dissemination of the present judgment were taken to draw the attention of the relevant domestic authorities on the European Court's findings in this case. To this end, the European Court's judgment was translated into Serbian and published in the Official Gazette and on the Government Agent's official web page. The European Court's findings have therefore been made easily accessible to judges and the legal community nationwide.

14. The Government Agent furthermore prepared [an analysis of the European Court's findings in this judgment and ensured its dissemination together with the translated judgment](#)¹ to all relevant domestic authorities.

15. The above-mentioned measures ensured the awareness of the Court's findings and the need to comply with the Convention requirements in similar cases.

¹ <https://www.zastupnik.gov.rs/en/case-law/judgments-and-decisions/dimovic-et-al-against-serbia>

IV JUST SATISFACTION

16. The authorities ensured that just satisfaction awarded by the European Court has been disbursed to the applicants on 29 January 2025.

V CONCLUSIONS

17. The authorities consider the individual measures taken ensured that the applicants were redressed for the damage sustained.

18. The authorities furthermore consider the general measures taken are capable of preventing similar violations.

19. The authorities therefore consider that the Republic of Serbia has complied with its obligations under Article 46 § 1 of the Convention and respectfully propose to the Committee of Ministers to close its examination of the case *Dimović and Others*.