



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

THIRD SECTION

**CASE OF JOVIČIĆ v. SERBIA**

*(Application no. 65474/16)*

JUDGMENT

STRASBOURG

3 October 2019

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



**In the case of Jovičić v. Serbia,**

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

Dmitry Dedov, *President*,

Alena Poláčková,

Gilberto Felici, *judges*,

and Liv Tigerstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 12 September 2019,

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

**PROCEDURE**

1. The case originated in an application against Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 4 November 2016.

2. The applicant was represented by Ms I. Krunić, a lawyer practising in Čačak.

3. The Serbian Government (“the Government”) were given notice of the application.

**THE FACTS**

4. The applicant’s details and information relevant to the application are set out in the appended table.

5. The applicant complained of the non-enforcement or delayed enforcement of a domestic decision given against a socially/State-owned company.

**THE LAW****I. ALLEGED VIOLATION OF ARTICLES 6 § 1 AND 13 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1**

6. The applicant complained of the non-enforcement or delayed enforcement of a domestic decision given in his favour. He relied, expressly or in substance, on Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1, which, in the relevant part, 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 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.”

**Article 1 of Protocol No. 1**

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. ...”

7. 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).

8. In the leading cases of *R. Kačapor and Others v. Serbia*, nos. 2269/06 and 5 others, §§ 97-99, 106-16 and 119-20, 15 January 2008, *Crnišaniin and Others v. Serbia*, nos. 35835/05 and 3 others, § 124, 13 January 2009, and *Stevanović and Others* [Committee], nos. 43815/17 and 15 others, 27 August 2019, the Court already found a violation in respect of issues similar to those in the present case.

9. The Court further notes that the decision in the present application ordered specific action to be taken. The Court therefore considers that the decision in question constitutes “possessions” within the meaning of Article 1 of Protocol No. 1.

10. 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. 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 in due time the decision in the applicant’s favour.

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

12. The Court does not find it necessary in the circumstances of this case to examine essentially the same complaint under Article 13 of the Convention (see *Radovanović and Others v. Serbia* [Committee], nos. 55003/16 and 11 others, § 24, 27 August 2019).

**II. 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, *Stošić v. Serbia*, no. 64931/10, §§ 66-68, 1 October 2013), the Court considers it reasonable to award the sum indicated in the appended table and it dismisses the remainder of the applicant’s claim for just satisfaction.

15. 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. *Declares* the application admissible;
2. *Holds* that it discloses a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the delayed enforcement of a domestic decision given against a socially/State-owned company;
3. *Holds* that there is no need to examine the complaint under Article 13 of the Convention;
4. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months, the amount 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
5. *Dismisses* the remainder of the applicant’s claim for just satisfaction.

Done in English, and notified in writing on 3 October 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt  
Acting Deputy Registrar

Dmitry Dedov  
President

## 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 Date of birth	Relevant domestic decision	Start date of non-enforcement period	End date of non- enforcement period Length of enforcement proceedings	Domestic award (in euros)	Amount awarded for non-pecuniary damage and costs and expenses per applicant (in euros) <sup>1 2</sup>
65474/16 04/11/2016	<b>Milutin Jovičić</b> 21/07/1950	Municipal Court in Čačak, 12/03/2008	13/08/2008	01/08/2016  7 year(s) and 11 month(s) and 20 day(s)	200	2,000

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1. Plus any tax that may be chargeable to the applicant.
  2. Less any amounts which may have already been paid in that regard at the domestic level.