

ACTION REPORT

Krsta Gigić and Milka Gigić v. Serbia

Application no. 27722/17, Decision of 14 May 2024

I CASE DESCRIPTION

1. This case concerns a friendly settlement with undertaking on account of alleged lack of fairness of civil proceedings concerning the right to compensation in respect of non-pecuniary loss related to damage of the gravestone of the applicants' daughter.

2. In addition to the payment of the amount of EUR 4,500 (jointly) to cover any non-pecuniary damage, as well as costs and expenses, the Government undertook "to inform the domestic courts about the friendly settlement in the present case and to disseminate to them the domestic judicial practice on the correct application of Article 200 of the Tort Law to compensation claims for non-pecuniary damage in similar circumstances".

3. The European Court took note of the friendly settlement reached between the parties. The European Court furthermore indicated that it was satisfied that the settlement was based on respect for human rights as defined in the Convention and its Protocols and found no reasons to justify a continued examination of the application. In view of this, the European Court considered that it was appropriate to strike this case out of the list.

II MEASURES TAKEN IN RESPECT OF SPECIAL UNDERTAKINGS

4. The authorities would like to indicate that in response to the above-mentioned European Court's decision they have taken necessary measures to comply with the special undertakings provided in the friendly settlement.

5. In this respect, the Government ensured that publication and dissemination measures were taken. To this end, the European Court's decision was translated into Serbian and published in the Official Gazette and on the official web page of the Office of the Government Agent. The European Court's findings have, therefore, been made easily accessible to judges and the legal community nationwide.

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

7. The Government further ascertained that the present case was an isolated case in the judicial practice of Serbian courts. The right to piety is regularly recognized as a special right under the auspices of the right to personal dignity and, as such, it is awarded protection before the domestic courts in the way of the right to compensation of non-pecuniary damage (see, for example, judgment Gž3 1/2018¹ of the Appellate Court in Belgrade). This well-established case law is further supported by the Supreme court of Serbia, when relevant cases fall under its jurisdiction (see, for example, judgment Rev 4687/2020², in which the Supreme court upheld the judgment of the Appellate court in Belgrade awarding compensation for non-pecuniary damage in regards to the violation of the right to piety of the applicant concerning his deceased father).

III JUST SATISFACTION IN RESPECT OF NON-PECUNIARY DAMAGE

8. The authorities ensured the payment of just satisfaction stipulated in the friendly settlement concluded with the applicants. The relevant details are set out below in Annex 1.

IV CONCLUSION

9. In view of the above, the authorities consider that the terms of the friendly settlement have been complied.

10. The authorities therefore consider that they exercised its obligations under Article 39 § 4 of the Convention in this case.

¹ <https://www.sudskapraksa.sud.rs/sudska-praksa/download/id/45572/file/odluka>

² <https://www.vrh.sud.rs/sr-lat/rev-46872020-31211-naknada-%C5%A1tete-31214-objavljivanje-presude>

Annex 1

Payment of just satisfaction in respect of non-pecuniary damage and costs and expenses

Application	Case	Sum awarded	Payment deadline	Date of payment	Default interest
27722/17	<i>Krsta Gigić and Milka Gigić</i>	EUR 4.500	6 September 2024	7 October 2024	/