



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

FIFTH SECTION

**CASE OF JOVAŠEVIĆ AND OTHERS v. MONTENEGRO**

*(Application no. 41809/14)*

JUDGMENT

STRASBOURG

10 February 2022

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



**In the case of Jovašević and Others v. Montenegro,**

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

Lətif Hüseyinov, *President*,

Lado Chanturia,

Arnfinn Bårdsen, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 20 January 2022,

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

## PROCEDURE

1. The case originated in an application against Montenegro lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 14 May 2014.

2. The applicants were represented by Mr D. Milošević, a lawyer practising in Belgrade.

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

## THE FACTS

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

5. The applicants complained of the excessive length of administrative proceedings.

## THE LAW

### I. DEATH OF SOME APPLICANTS

6. The applicants’ representative informed the Court that four applicants (see the appended table for further details) had died during the proceedings before it. The representative, however, failed to submit authority forms signed by their heirs.

7. In these circumstances, the Court concludes that none of the deceased applicants’ heirs have expressed a wish to pursue the application within the meaning of Article 37 § 1 (a) of the Convention.

8. Accordingly, the case should be struck out of the list in respect of the four applicants whose dates of death are mentioned in the appended table.

## II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

9. The applicants complained that the length of the administrative proceedings in question had been incompatible with the “reasonable time” requirement. They relied on Article 6 § 1 of the Convention, which reads as follows:

### Article 6 § 1

“In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ...”

10. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicants and the relevant authorities and what was at stake for the applicants in the dispute (see *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

11. In the leading case of *Živaljević v. Montenegro*, no. 17229/04, §§ 72-78, 8 March 2011, the Court already found a violation in respect of issues similar to those in the present case.

12. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the proceedings at the national level. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

13. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention.

## III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. 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.”

15. Regard being had to the documents in its possession and to its case-law (see, in particular, *Živaljević*, cited above, § 85), the Court considers it reasonable to award the sums indicated in the appended table and dismisses the remainder of the applicants’ claim for just satisfaction.

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 strike out the application in so far as it had been lodged by the four applicants indicated in the appended table under numbers 1, 3, 5 and 7 and declares the remainder of the application admissible;
2. *Holds* that this application discloses a breach of Article 6 § 1 of the Convention concerning the excessive length of the administrative proceedings;
3. *Holds*
  - (a) that the respondent State is to pay the applicants, excluding the deceased ones, within three months, the amounts indicated in the appended table, 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.
4. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 10 February 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina  
Acting Deputy Registrar

Lətif Hüseynov  
President

## APPENDIX

Application raising complaints under Article 6 § 1 of the Convention  
(excessive length of administrative proceedings)

Application no. Date of introduction	Applicant's name Year of birth	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Amount awarded for non-pecuniary damage per applicant (in euros) <sup>1</sup>	Amount awarded for costs and expenses per application (in euros) <sup>2</sup>
41809/14 14/05/2014 (12 applicants)	<b>1. Milica JOVAŠEVIĆ</b> Year of birth: 1929 Date of death: 14/03/2015  <b>2. Nikola JOVAŠEVIĆ</b> 1983  <b>3. Miroljub JOVAŠEVIĆ</b> 1962 Date of death: 17/12/2015  <b>4. Stevan JOVAŠEVIĆ</b> 1934  <b>5. Ljubica MARKOVIĆ</b> Year of birth: 1933 Date of death: 15/04/2021  <b>6. Branislava MATOVIĆ</b> 1941	28/06/2010	pending	more than 11 years, 3 months and 22 days  1 level of jurisdiction	2,500, excluding applicants  Milica JOVAŠEVIĆ, Miroljub JOVAŠEVIĆ, Ljubica MARKOVIĆ and Branko DŽAKOVIĆ	250

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

<sup>2</sup> Plus any tax that may be chargeable to the applicants.

## JOVAŠEVIĆ AND OTHERS v. MONTENEGRO JUDGMENT

Application no. Date of introduction	Applicant's name Year of birth	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Amount awarded for non-pecuniary damage per applicant (in euros) <sup>1</sup>	Amount awarded for costs and expenses per application (in euros) <sup>2</sup>
	<b>7. Branko DŽAKOVIĆ</b> Year of birth: 1939 Date of death: 13/10/2019  <b>8. Zoran ŠILJAK</b> 1957  <b>9. Vesna PALEOCHORITU MITROVIĆ</b> 1952  <b>10. Dragoljub MILOŠEVIĆ</b> 1949  <b>11. Nebojša CUCIĆ</b> 1962  <b>12. Mirjana TRIFUNOVIĆ</b> 1958					