

EVOPSKI SUD ZA LJUDSKA PRAVA

ČETVRTI ODJEL

PREDMET AVDIĆ I DRUGI PROTIV BOSNE I HERCEGOVINE

*(aplikacije br. 47345/15 i 40 drugih -
vidjeti listu u prilogu)*

PRESUDA

STRASBOURG

7. februara 2019.

Ova presuda je konačna, ali može biti predmetom redakcijskih izmjena.

U predmetu Avdić i drugi protiv Bosne i Hercegovine,

Evropski sud za ljudska prava (Četvrti odjel), zasijedajući kao Odbor u sastavu:

Georges Ravarani, *predsjednik*,

Marko Bošnjak,

Péter Paczolay, *sudije*,

i Liv Tigerstedt, *v.d. zamjenik Registrara Odjela*,

Nakon vijećanja zatvorenog za javnost, održanog 17. januara 2019.

Donosi slijedeću presudu, koja je usvojena istoga dana:

POSTUPAK

1. Ovaj slučaj temelji se na aplikacijama podnesenim Sudu protiv Bosne i Hercegovine u skladu sa članom 34. Konvencije za zaštitu ljudskih prava i temeljnih sloboda ("Konvencija") na različite datume navedene u tabeli koja se nalazi u dodatku.

2. Aplikante je zastupala gđa H. Kapetan, advokat iz Travnika.

3. Vlada Bosne i Hercegovine je obaviještena o ovim aplikacijama ("Vlada").

ČINJENICE

4. Lista aplikanata i relevantni podaci o aplikacijama navedeni su u tabeli koja se nalazi u dodatku.

5. Aplikanti su se žalili zbog neizvršavanja ili kašnjenja u izvršenju domaćih odluka.

PRAVO**I. SPAJANJE APLIKACIJA**

6. S obzirom da se ove aplikacije odnose na sličan predmet, Sud smatra primjerenim da ih ispita zajedno u jednoj presudi.

II. NAVODNA POVREDA ČLANA 6. stav 1. KONVENCIJE I ČLANA 1 PROTOKOLA br. 1

7. Aplikanti se žale zbog neizvršavanja ili kašnjenja u izvršenju domaćih odluka donesenih u njihovu korist. Oni se pozivaju, izričito ili u biti, na član 6. stav 1. Konvencije i na član 1 Protokola br. 1 koji glasi:

Član 6. stav 1.

„Prilikom odlučivanja o njegovim građanskim pravima i obavezama ... svako ima pravo na ...suđenje u razumnom roku....pred ...sudom...“

Član 1. Protokola br. 1

„Svaka fizička i pravna osoba ima pravo na neometano uživanje svoje imovine. Niko ne može biti lišen njegove imovine osim kada je to u javnom interesu i u skladu s uvjetima propisanim zakonom i općim načelima međunarodnog prava.

Prethodne odredbe, međutim, ni na koji način ne umanjuju pravo države da primijeni zakone koje smatra potrebnim kako bi regulirala korištenje imovine u skladu s općim interesom ili kako bi osigurala plaćanje poreza ili drugih doprinosa ili kazni.“

8. Sud ponovno ističe da se izvršenje presude koju je donio bilo koji sud mora smatrati sastavnim dijelom „suđenja“ u smislu člana 6. Sud se također poziva na svoju praksu u pogledu neizvršavanja ili kašnjenja u izvršenju konačnih domaćih presuda (vidi *Hornsby protiv Grčke*, br. 18357/91, tačka 40., *Izveštaji o presudama i odlukama 1997-II*).

9. U vodećim predmetima *Spahić i drugi protiv Bosne i Hercegovine*, br. 20514/15 i 15 drugih, tačke 25.-31., 14.11.2017., i *Kunić i drugi protiv Bosne i Hercegovine* br. 68955/12 i 15 drugih, tačke 26.-31., 14.11.2017., Sud je već utvrdio povredu u odnosu na pitanja slična onima u predmetnom slučaju.

10. Sud dalje napominje da je odlukama iz predmetnih aplikacija naređeno poduzimanje određene mjere. Sud stoga smatra da odluke o kojima je riječ predstavljaju „imovinu“ u smislu člana 1. Protokola br. 1.

11. Nakon što je ispitaio sve materijale koji su mu podneseni, Sud nije našao niti jednu činjenicu ili argument koji bi ga mogao uvjeriti da donese drugačiji zaključak o dopuštenosti i meritumu ovih pritužbi. Imajući u vidu svoju praksu o ovom pitanju, Sud smatra da u predmetnom slučaju vlasti nisu uložile sve potrebne napore kako bi u potpunosti i blagovremeno izvršile odluke donesene u korist aplikanata.

12. Ove pritužbe su stoga dopuštene i ukazuju na povredu člana 6. stav 1. Konvencije i člana 1. Protokola br. 1.

III. PRIMJENA ČLANA 41. KONVENCIJE

13. Član 41. Konvencije propisuje:

„Ukoliko Sud utvrdi da je došlo do povrede Konvencije ili njenih Protokola, te ukoliko zakonodavstvo visoke ugovorne strane o kojoj je riječ omogućuje samo djelomično obeštećenje, Sud će, po potrebi, odrediti pravičnu naknadu oštećenoj strani.“

14. Imajući u vidu dokumente koje ima u svom posjedu, kao i svoju praksu (vidi, naročito, *Spahić i drugi protiv Bosne i Hercegovine*, br. 20514/15 i 15 drugih, tačke 36.-43., 14.11.2017., te *Kunić i drugi protiv Bosne i Hercegovine*, br. 68955/12 i 15 drugih, tačke 37.-46., 14.11.2017.), Sud smatra opravdanim dosuditi iznose navedene u tabeli koja se nalazi u dodatku.

15. Sud dalje napominje da odgovorna država ima obavezu izvršiti presude koje su i dalje izvršne.

16. Sud smatra primjerenim da se zatezna kamata zasniva na najnižoj kreditnoj stopi Evropske centralne banke uvećanoj za tri postotna boda.

IZ NAVEDENIH RAZLOGA, SUD JE JEDNOGLASNO,

1. *Odlučio* spojiti ove aplikacije;
2. *Proglasio* aplikacije dopuštenima;
3. *Utvrдио* da ove aplikacije ukazuju na povredu člana 6. stav 1. Konvencije, te člana 1. Protokola br. 1 u odnosu na neizvršavanje ili kašnjenje u izvršenju domaćih odluka;
4. *Utvrдио* da tužena država mora u roku od tri mjeseca osigurati odgovarajućim sredstvima izvršenje neizvršenih domaćih odluka navedenih u tabeli koja se nalazi u dodatku;
5. *Utvrдио*
 - (a) da tužena država, u roku od tri mjeseca, ima aplikantima isplatiti iznose navedene u tabeli koja se nalazi u dodatku, pretvorene u valutu tužene države prema tečaju na dan izmirenja;
 - (b) da će se od isteka navedenog roka od tri mjeseca do izmirenja, na navedene iznose plaćati obična kamata po stopi jednakoj najnižoj kreditnoj stopi Evropske centralne banke u periodu neplaćanja, uvećanoj za tri postotna boda.

Sačinjeno na engleskom jeziku i dostavljeno u pisanoj formi dana 7. februara 2019. godine u skladu s pravilom 77. st. 2. i 3. Pravila Suda.

Liv Tigerstedt
vršitelj dužnosti zamjenika registrara

Georges Ravarani
predsjednik

APPENDIX

List of applications raising complaints under Article 6 § 1 of the Convention and Article 1 of the Protocol No. 1
(non-enforcement or delayed enforcement of domestic decisions)

No.	Application no. Date of introduction	Applicant's name Date of birth	Relevant domestic decision	Start date of non-enforcement period or date of entry into force of the Convention in respect of Bosnia and Herzegovina (12 July 2002)	End date of non-enforcement period Length of enforcement proceedings	Amount awarded for non-pecuniary damage per applicant (in euros) ¹	Amount awarded for costs and expenses per application (in euros) ²
1.	47345/15 14/09/2015	Edita Avdić 02/03/1970	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
2.	47413/15 14/09/2015	Radenka Šito 23/11/1952	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
3.	47416/15 14/09/2015	Melika Zitouni-Perenda 20/03/1977	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
4.	47981/15 03/09/2015	Ferid Jašarević 15/10/1950	Novi Travnik Cantonal Court, 24/08/2007 Travnik First Instance Court, 24/06/2009	23/01/2008 28/09/2012	pending More than 10 year(s) and 10 month(s) and 13 day(s) pending More than 6 year(s) and 2 month(s) and 8 day(s)	1,000	350

1. Plus any tax that may be chargeable to the applicants.

2. Plus any tax that may be chargeable to the applicants.

No.	Application no. Date of introduction	Applicant's name Date of birth	Relevant domestic decision	Start date of non-enforcement period or date of entry into force of the Convention in respect of Bosnia and Herzegovina (12 July 2002)	End date of non-enforcement period Length of enforcement proceedings	Amount awarded for non-pecuniary damage per applicant (in euros) ¹	Amount awarded for costs and expenses per application (in euros) ²
5.	48916/15 14/09/2015	Esref Tarakčija 06/10/1958	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
6.	48918/15 14/09/2015	Mehmed Hadžić 07/04/1977	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
7.	49017/15 19/09/2015	Tehvida Fifić 28/05/1958	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
8.	49326/15 14/09/2015	Elma Pašalić 27/11/1972	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
9.	49332/15 14/09/2015	Naza Muslimović 01/11/1976	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
10.	49340/15 14/09/2015	Lamija Bradić 15/04/1973	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
11.	49342/15 14/09/2015	Fatima Musić 19/08/1969	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
12.	49365/15 14/09/2015	Vanesa Baltić 17/09/1972	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350

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13.	49370/15 14/09/2015	Seima Duraković 15/05/1962	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
14.	49371/15 14/09/2015	Nusret Tarakčija 06/10/1964	Novi Travnik Cantonal Court, 22/04/2009	27/05/2009	pending More than 9 year(s) and 6 month(s) and 9 day(s)	1,000	350
15.	55799/15 30/10/2015	Muamera Ciljević 31/07/1960	Novi Travnik Cantonal Court, 06/12/2007 Novi Travnik Cantonal Court, 28/05/2009	06/03/2008 15/06/2009	pending More than 10 year(s) and 9 month(s) pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
16.	55806/15 30/10/2015	Adela Gaši 12/10/1977	Novi Travnik Cantonal Court, 06/12/2007 Novi Travnik Cantonal Court, 28/05/2009	06/03/2008 15/06/2009	pending More than 10 year(s) and 9 month(s) pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
17.	55809/15 30/10/2015	Salem Jašarević 31/05/1971	Novi Travnik Cantonal Court, 06/12/2007 Novi Travnik Cantonal Court, 28/05/2009	06/03/2008 15/06/2009	pending More than 10 year(s) and 9 month(s) pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350

No.	Application no. Date of introduction	Applicant's name Date of birth	Relevant domestic decision	Start date of non-enforcement period or date of entry into force of the Convention in respect of Bosnia and Herzegovina (12 July 2002)	End date of non-enforcement period Length of enforcement proceedings	Amount awarded for non-pecuniary damage per applicant (in euros) ¹	Amount awarded for costs and expenses per application (in euros) ²
18.	55813/15 30/10/2015	Elvedina Hrustanović-Šehić 03/08/1979	Novi Travnik Cantonal Court, 28/05/2009	15/06/2009	pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
19.	55815/15 30/10/2015	Đuma Arnautović 09/06/1949	Novi Travnik Cantonal Court, 06/12/2007 Novi Travnik Cantonal Court, 28/05/2009	06/03/2008 15/06/2009	pending More than 10 year(s) and 9 month(s) pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
20.	55816/15 30/10/2015	Emina Kulagić 24/02/1947	Novi Travnik Cantonal Court, 06/12/2007 Novi Travnik Cantonal Court, 28/05/2009	06/03/2008 15/06/2009	pending More than 10 year(s) and 9 month(s) pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
21.	55818/15 30/10/2015	Bahra Purić 19/10/1965	Novi Travnik Cantonal Court, 06/12/2007 Novi Travnik Cantonal Court, 28/05/2009	06/03/2008 15/06/2009	pending More than 10 year(s) and 9 month(s) pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
22.	55820/15 30/10/2015	Aida Kasumović 09/11/1980	Novi Travnik Cantonal Court, 06/12/2007	06/03/2008	pending More than 10 year(s) and 9 month(s)	1,000	350

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			Novi Travnik Cantonal Court, 28/05/2009	15/06/2009	pending More than 9 year(s) and 5 month(s) and 21 day(s)		
23.	55826/15 30/10/2015	Danica Gazdić 28/12/1947	Novi Travnik Cantonal Court, 06/12/2007	06/03/2008	pending More than 10 year(s) and 9 month(s)	1,000	350
24.	56016/15 30/10/2015	Alma Arnautović 21/01/1978	Novi Travnik Cantonal Court, 28/05/2009	15/06/2009	pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
25.	56020/15 30/10/2015	Sabaheta Husanović 10/11/1954	Novi Travnik Cantonal Court, 06/12/2007 Novi Travnik Cantonal Court, 28/05/2009	06/03/2008 15/06/2009	pending More than 10 year(s) and 9 month(s) pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
26.	56025/15 30/10/2015	Adem Abazović 30/03/1959	Novi Travnik Cantonal Court, 06/12/2007 Novi Travnik Cantonal Court, 28/05/2009	06/03/2008 15/06/2009	pending More than 10 year(s) and 9 month(s) pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
27.	56026/15 30/10/2015	Seada Abazović 20/05/1962	Novi Travnik Cantonal Court, 06/12/2007	06/03/2008	pending More than 10 year(s) and 9 month(s)	1,000	350

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			Novi Travnik Cantonal Court, 28/05/2009	15/06/2009	pending More than 9 year(s) and 5 month(s) and 21 day(s)		
28.	56027/15 30/10/2015	Maliha Kasumović 19/11/1960	Novi Travnik Cantonal Court, 06/12/2007 Novi Travnik Cantonal Court, 28/05/2009	06/03/2008 15/06/2009	pending More than 10 year(s) and 9 month(s) pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
29.	56030/15 30/10/2015	Fadila Karahodža 24/09/1977	Novi Travnik Cantonal Court, 06/12/2007 Novi Travnik Cantonal Court, 28/05/2009	06/03/2008 15/06/2009	pending More than 10 year(s) and 9 month(s) pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
30.	56031/15 30/10/2015	Salko Gazdić 15/02/1945	Novi Travnik Cantonal Court, 06/12/2007 Novi Travnik Cantonal Court, 28/05/2009	06/03/2008 15/06/2009	pending More than 10 year(s) and 9 month(s) pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
31.	56033/15 30/10/2015	Sefija Husanović 02/04/1964	Novi Travnik Cantonal Court, 06/12/2007	06/03/2008	pending More than 10 year(s) and 9 month(s)	1,000	350

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			Novi Travnik Cantonal Court, 28/05/2009	15/06/2009	pending More than 9 year(s) and 5 month(s) and 21 day(s)		
32.	56037/15 30/10/2015	Husein Kasumović 25/01/1970	Novi Travnik Cantonal Court, 28/05/2009	15/06/2009	pending More than 9 year(s) and 5 month(s) and 21 day(s)	1,000	350
33.	4686/16 30/12/2015	Zihinja Aganović 29/09/1957	Travnik First Instance Court, 02/06/2010 Travnik First Instance Court, 30/04/2012 Travnik First Instance Court, 28/01/2014	20/12/2010 29/11/2012 12/09/2014	pending More than 7 year(s) and 11 month(s) and 16 day(s) pending More than 6 year(s) and 7 day(s) pending More than 4 year(s) and 2 month(s) and 24 day(s)	1,000	350
34.	4714/16 30/12/2015	Nusret Jahić 23/10/1961	Travnik First Instance Court, 02/06/2010 Travnik First Instance Court, 30/04/2012 Travnik First Instance Court, 28/01/2014	20/12/2010 29/11/2012 12/09/2014	pending More than 7 year(s) and 11 month(s) and 16 day(s) pending More than 6 year(s) and 7 day(s) pending More than 4 year(s) and 2 month(s) and 24 day(s)	1,000	350

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35.	54201/17 19/07/2017	Jelka Vasić 18/05/1963	Travnik First Instance Court, 01/07/2009 Travnik First Instance Court, 20/05/2010	16/02/2010 06/12/2010	pending More than 8 year(s) and 9 month(s) and 20 day(s) pending More than 8 year(s)	1,000	350
36.	25938/18 28/05/2018	Enver Duranović 07/08/1958	Travnik First Instance Court, 12/12/2012	21/09/2015	pending More than 3 year(s) and 2 month(s) and 15 day(s)	1,000	350
37.	25939/18 28/05/2018	Sejad Biogradlija 21/07/1970	Novi Travnik Cantonal Court, 22/12/2010	25/04/2011	pending More than 7 year(s) and 7 month(s) and 11 day(s)	1,000	350
38.	26579/18 25/05/2018	Mustafa Tihak 26/10/1979	Travnik First Instance Court, 02/09/2011 Travnik First Instance Court, 31/01/2013	21/11/2011 13/02/2015	pending More than 7 year(s) and 15 day(s) pending More than 3 year(s) and 9 month(s) and 23 day(s)	1,000	350
39.	26585/18 25/05/2018	Drago Milinović 16/07/1970	Travnik Cantonal Court, 22/12/2010	25/04/2011	pending More than 7 year(s) and 7 month(s) and 11 day(s)	1,000	350
40.	26590/18 25/05/2018	Mesud Agić 24/07/1948	Bugojno First Instance Court, 12/09/2014	15/12/2015	pending More than 2 year(s) and 11 month(s) and 21 day(s)	1,000	350

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41.	26599/18 31/05/2018	Alvedina Pajić 16/06/1975	Travnik First Instance Court, 02/12/2013	24/09/2014	pending More than 4 year(s) and 2 month(s) and 12 day(s)	1,000	350