

SECRETARIAT / SECRÉTARIAT

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRÉTARIAT DU COMITÉ DES MINISTRES

COMMITTEE
OF MINISTERS
COMITÉ
DES MINISTRES



Contact: Ireneusz Kondak
Tel: 03.90.21.59.86

Date: 11/10/2024

DH-DD(2024)1141

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1514th meeting (December 2024) (DH)

Item reference: Action Plan (10/10/2024)

Communication from Montenegro concerning the group of cases of Dedic and Others v. Montenegro (Application No. 4847/20) - *The appendices in Montenegrin are available upon request to the Secretariat.*

* * * * *

Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1514^e réunion (décembre 2024) (DH)

Référence du point : Plan d'action (10/10/2024)

Communication du Monténégro concernant le groupe d'affaires Dedic et autres c. Monténégro (requête n° 4847/20) (**anglais uniquement**) - *Les annexes en monténégrin sont disponibles sur demande au Secrétariat.*

Podgorica, 10 October 2024

DGI

10 OCT. 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

ACTION PLAN

Dedić and Others group of cases v. Montenegro

***Dedić and Others* (Application no. 4847/20)
leading judgment of 11 April 2024, final on 11 April 2024
and
five clones**

***Adrović and Others* (Application no. 8318/20)
judgment of 11 April 2024, final on 11 April 2024;
Bešović and Others (Application no. 21601/20)
judgment of 11 April 2024, final on 11 April 2024;
Božović and Others (Application no. 42403/20)
judgment of 25 April 2024, final on 25 April 2024;
Boljević and Others (Application no. 21609/20)
judgment of 25 April 2024, final on 25 April 2024;
Abdović and Others (Application no. 42403/20)
judgment of 25 April 2024, final on 25 April 2024**

I CASE DESCRIPTION

1. These cases concern violations of the applicants' right to a fair trial and the peaceful enjoyment of their property due to the non-enforcement of domestic judicial decisions rendered since 2006 in the applicants' favour against a State-owned company (violations of Article 6 § 1 and Article 1 of Protocol No. 1).

II INDIVIDUAL MEASURES

2. The authorities undertook the measures to ensure that the violations at hand ceased by enforcing the relevant domestic decisions and redressing the applicants for the negative consequences of the violations found by the European Court of Human Rights (hereinafter: „the European Court“). These measures are set out below.

A. Measures aimed at enforcing the relevant domestic decisions and providing redress for the applicants

3. The European Court in all above-mentioned six judgments held that the State of Montenegro should ensure, by appropriate means, within three months, the enforcement of the pending domestic decisions given in the applicants' favour against the State-owned company „Radoje Dakić“ AD Podgorica - in bankruptcy.

4. In response to the European Court's findings, the State of Montenegro took steps to enforce the relevant domestic decisions which remained still to be enforced at the time when the European Court's judgments were rendered. Namely, the State of Montenegro paid the applicants from its own budget, within the time limit set out by the European Court, the amounts awarded to the applicants in the relevant domestic decisions. The total amount paid the applicants from all six European Court's judgments on that basis is EUR 4.752.893,88. Thus, the relevant domestic decisions were enforced within the time limit set out by the European Court.

5. On the other hand, the European Court in all above-mentioned six judgments considered it reasonable not to award the applicants compensation in respect of non-pecuniary damage resulting from the violations found on account of the non-enforcement of domestic decisions, because the applicants had already been awarded domestically EUR 2,000 each in non-pecuniary damage and therefore the European Court dismissed that part of the applicants' claim for just satisfaction.

6. Furthermore, the European Court in all above-mentioned six judgments held that the State of Montenegro was to pay the applicants jointly, within three months, the amounts indicated in the appended tables in respect of costs and expenses (EUR 250 per judgment plus any tax that may be chargeable to the applicants).

7. In that regard the State of Montenegro from its own budget and within the time limit set out by the European Court paid the applicants from all six judgments in respect of costs and expenses the total amount of EUR 1,815 (6 x EUR 250 + VAT).

8. The applicants raised objections relating to the execution (individual measures) of the five judgments *Adrović and Others v. Montenegro*, *Bešović and Others v. Montenegro*, *Božović and Others v. Montenegro*, *Abdović and Others v. Montenegro* and *Boljević and Others v. Montenegro*, which objections the Government of

Montenegro consider unfounded and to which the Government of Montenegro provided detailed and substantiated responses.¹

9. In view of the above, the authorities fully and timely complied with the individual measures ordered by the European Court in the said six judgments and thus ensured that the applicants were redressed for the negative consequences sustained.

B. Conclusion on individual measures

10. Taking into account all the above, the authorities invite the Committee of Ministers to close the supervision on individual measures in these six cases.

III GENERAL MEASURES

11. In response to the European Court's findings, the authorities have taken a number of measures aimed at preventing similar violations. These measures are set out below.

A. Measures to ensure enforcement of domestic decisions given against the State-owned company „Radoje Dakić“ AD Podgorica - in bankruptcy

12. The key issue in this group of cases is enforcement of domestic decisions ordering the above-mentioned State-owned company to pay salary arrears.

(a) Ensuring Convention-compliant compensation at domestic level

13. It is of particular importance that the domestic authorities have established an appropriate legal mechanism that guarantees the award of adequate monetary compensation in respect of non-pecuniary damage due to failure to enforce or significant delays in enforcement of domestic decisions given against State-owned companies.

14. In May and June 2019 the Constitutional Court of Montenegro (hereinafter: „the Constitutional Court“) found a violation of the applicants' rights under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention on account of the non-enforcement of domestic decisions given in their favour against the said State-owned company and awarded each of them EUR 2,000 in non-pecuniary

¹ [https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22DH-DD\(2024\)1106E%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22execidentifier%22:%5B%22DH-DD(2024)1106E%22%5D%7D)

damage. The said decisions of the Constitutional Court are annexed to this Action plan.

15. In addition, on 24 October 2023 the Constitutional Court rendered decision in favour of 736 other former employees of the said State-owned company, in which it found a violation of their rights under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention on account of the non-enforcement of domestic decisions given in their favour against the said State-owned company and awarded each of them EUR 2,000 in non-pecuniary damage. The said decision of the Constitutional Court is annexed to this Action plan.

16. According to the above, the domestic authorities believe that within the legal system of Montenegro there is an effective legal remedy ensuring that the amount of compensation for non-pecuniary damage due to an excessive length in enforcing domestic decisions given against State-owned companies is in accordance with the European Court's case-law.

(b) Efforts aimed at reducing the number of similar applications before the European Court

17. On 10 May 2024, the Government of Montenegro at their 28th session adopted the Conclusion with respect to other former employees of the company „Radoje Dakić“ AD Podgorica - in bankruptcy whose claims based on final domestic decisions have not been paid yet, by which Conclusion the Government of Montenegro charged the Ministry of Finance and the Ministry of Justice, both within their competences, with drafting a proposal for an Action Plan (Payment scheme) which would include the total number of unenforced final decisions of national courts given in favour of other former employees of the company "Radoje Dakić" AD Podgorica - in bankruptcy and the fixed time framework for their comprehensive enforcement, in which manner the conditions would be met that the Government of Montenegro fulfill their positive obligation to enforce specific, undisputed, final and enforceable courts decisions given in favour of other former employees of the company "Radoje Dakić" AD Podgorica - in bankruptcy.

18. The above-mentioned ministries formed the competent Working Group which has been working on drafting the aforementioned Action Plan (Repayment scheme).

19. In order to fulfill the general measures, which imply a systematic and comprehensive resolution of the issue of enforcement of national courts' decisions in which State-owned companies appear as debtors, the Government of Montenegro furthermore on 3 October 2024 adopted the Conclusion by which the Ministry of Justice was charged with:

- forming the Register/Records which would, in a clear, centralised and transparent manner, include the exact number of the unenforced final decisions of national courts given against companies which used to be socially/State-owned, and they are now majority or minority State-owned, and the total amount of unpaid claims upon those decisions, which claims were acknowledged in the List of acknowledged and disputed claims in the bankruptcy proceedings;
- analysing, on the basis of those data, whether, for the purpose of a more effective resolving of those bankruptcy proceedings, would be necessary to amend the Law on the Protection of the Right to a Trial within Reasonable Time or other laws or it would be necessary to undertake other measures.

20. In relation to this Government's Conclusion, the Minister of Justice, the Representative of Montenegro and the President of the Commercial Court of Montenegro will hold a meeting during October 2024.

21. Furthermore, it should be noted that in one case pending before the European Court concerning the non-enforcement of domestic decisions given against the same State-owned company, the Government of Montenegro submitted to the European Court the unilateral declaration in which they proposed to enforce relevant domestic decisions in a manner to pay the applicant from the State budget, within three months, the sum awarded to the applicant in the domestic decisions.

22. Taking into account all the above, the Government of Montenegro have clearly shown their commitment to resolving this issue at national level and thus reducing the number of such applications before the European Court.

B. Awareness-raising measures

23. The authorities highlight that the continuous trainings not only of judges and judicial advisers but also of bankruptcy administrators on the European Court's

case-law regarding the protection of the right to trial within a reasonable time and the protection of the right to property continue to be implemented on a regular basis. Emphasis is being put to the issue of prompt enforcement of final domestic decisions with a particular emphasis on enforcement of domestic decisions given against State-owned companies.

24. The Centre for Training of Judiciary and State Prosecutor's Office, as a key institution for the initial and continuous training and improvement of knowledge of judges and prosecutors, as well as judicial and prosecutorial advisers, in its professional development programme for 2024 foresees the holding of training courses for judges and judicial advisers on the subject of applying the Law on the Protection of the Right to Trial within a Reasonable Time and the case-law of the European Court concerning the right to a fair trial and the right to peaceful enjoyment of property under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention.

25. It is particularly important to point out that on 25 July 2024, the Centre for Training of Judiciary and State Prosecutor's Office, with the cooperation of the Office of the Representative of Montenegro, the Commercial Court of Montenegro and the Court of Appeal of Montenegro organised a [round table](#) in Podgorica, on the topic „Efficiency of bankruptcy proceedings and enforcement proceedings with emphasis on the practical application of the Bankruptcy Act, current issues and challenges in practice“.

26. The lecturers at the aforementioned round table were Ms Katarina Peković, Representative of Montenegro, Mr Marko Radović, bankruptcy judge and President of the bankruptcy department of the Commercial Court in Belgrade, Mr Mladen Nikolić, retired judge of the Commercial Court of Appeal of Serbia and Ms Danijela Vukčević, judge of the Court of Appeal of Montenegro.

27. The round table was attended by the President and judges of the Court of Appeal of Montenegro, who act in commercial cases, the President and judges of the Commercial Court of Montenegro, bankruptcy administrators, the Deputy of the Protector of Property and Legal Interests of Montenegro, advisers from the Commercial Court of Montenegro and the Office of the Representative of Montenegro. In conclusion, the round table was attended by 35 participants (17 judges, 4 judicial

advisers, 11 bankruptcy administrators, the Deputy Protector of Property and Legal Interests of Montenegro and 2 advisers at the Office of the Representative of Montenegro).

28. At the aforementioned round table, the Representative of Montenegro held a lecture on the topics „Accountability of the State and obligation to award compensation due to non-enforcement of decisions of national courts“ and „Obligations of the State to undertake individual and general measures in the execution of the European Court's judgments by which the State is obliged to ensure the enforcement of the national courts' decisions“.

29. During her lecture, the Representative of Montenegro paid particular attention to the execution of 7 (seven) judgments of the European Court, rendered upon the applications of 605 former employees of the State-owned company "Radoje Dakić" AD Podgorica - in bankruptcy, who complained principally of the non-enforcement of domestic decisions given in their favour and against the above-mentioned company. The Representative of Montenegro indicated to the necessity of a more efficient approach by bankruptcy judges and bankruptcy administrators in bankruptcy proceedings in compliance with the Bankruptcy Act and the European Court's case-law.

30. Mr Marko Radović held a lecture on the topic "Efficiency of the bankruptcy proceedings with an emphasis on the role and a relation between a bankruptcy judge and a bankruptcy administrator - experiences of the Republic of Serbia", Mr Mladen Nikolić held a lecture on the topics „Experiences of the Republic of Serbia - inefficiency of the enforcement proceedings“, „Violation of Article 6 of the ECHR (non-enforcement of decisions of national courts)“ and „The relation between enforcement proceedings and bankruptcy proceedings (obligations of the bankruptcy estate)“, while Ms Danijela Vukčević held a lecture on the topic „Application of the principles of bankruptcy proceedings in courts practice“.

31. All lecturers pointed out at the necessity of taking efficient actions by bankruptcy judges and bankruptcy administrators in bankruptcy proceedings, in order to ensure full respect of the parties' right to a trial within a reasonable time.

32. On 23 and 24 July 2024, the Centre for Training of Judiciary and State Prosecutor's Office, within the Programme for training of judicial and prosecutorial advisers, organised a [training](#) in Podgorica on the topic „Article 6 of the European Convention on Human Rights - right to a fair trial“. The training was attended by 24 participants (17 judicial advisers and 7 prosecutorial advisers).

33. On 11 June 2024, the Centre for Training of Judiciary and State Prosecutor's Office, within the Programme for continuous training of judges and state prosecutors for 2024, organised a [training](#) on the topic „Article 1 of Protocol No. 1 to the Convention - protection of property“. The training was attended by 29 participants (28 judges and 1 prosecutor).

34. On 27 March 2024, the Centre for Training of Judiciary and State Prosecutor's Office, within the Programme for continuous training of judges and state prosecutors for 2024, organised a [training](#) on the topic „Bankruptcy“. The training was attended by 13 participants (6 judges, 3 candidates for a judge and 4 judicial advisers).

35. On 12 December 2023, the Centre for Training of Judiciary and State Prosecutor's Office, within the process of implementation of the theoretical part of the initial training programme for candidates for judges of the Commercial Court of Montenegro, held the [training](#) on the topics related to the bankruptcy proceedings. The training was attended by 4 candidates for judges of the Commercial Court of Montenegro.

36. On 17 March 2023, the Centre for Training of Judiciary and State Prosecutor's Office, in cooperation with the EUROL3 project, within the Programme for continuous training of judges and state prosecutors for 2023, organised a [training](#) on the topic „Bankruptcy“. The training was attended by 12 participants (11 judges and 1 judicial adviser).

37. From 18 to 20 September 2024, the U.S. Department of Commerce and U.S. Embassy Podgorica, within the Commercial Law Development Program (CLDP), organised Regional Western Balkans Judicial Capacity Building [Workshop](#) in Tivat on the topic „Best Practices in Commercial Dispute Resolution“. The workshop was focused on best practices in commercial dispute resolution, from both a litigation and mediation perspective. This workshop featured a US federal judge, 2 Croatian judges,

4 Montenegrin judges and a DC Circuit mediator as speakers. The workshop gave participants an opportunity to present on current successes and challenges and exchange best practices. The workshop brought together approximately 48 judges from across the region.

38. From 3 to 6 September 2024, four judges from the Commercial Court of Montenegro participated at the XXXI [Conference](#) of Judges of the Commercial Courts of the Republic of Serbia which was held in Zlatibor. The aim of the Conference was to discuss *inter alia* the most current and disputed issues in the field of bankruptcy, privatisation, enforcement proceedings, the Law on Companies and the Law on Civil Proceedings.

C. Publication and dissemination measures

39. The European Court's judgments were promptly translated into Montenegrin language, published in the Official Gazette of Montenegro and widely disseminated in order to prevent similar violations. Their translations into Montenegrin language are available electronically at the websites of the [Supreme Court of Montenegro](#), [the Office of the Representative of Montenegro before the European Court of Human Rights](#), [Hudoc](#) database and also in a legal base "Catalogue of regulation", which are electronically accessible to all legal professionals and the wider public.

40. The European Court's judgments were also widely disseminated among the legal community in the country. In particular, the Representative of Montenegro addressed the judgments together with the explanatory note on the violation found to all judges of: the Constitutional Court of Montenegro, the Supreme Court of Montenegro, the Court of Appeal of Montenegro and the Commercial Court of Montenegro, as well as to the Centre for Training of Judiciary and Public Prosecutor's Office, the Protector of Property and Legal Interests of Montenegro and the Bar of bankruptcy administrators.

IV JUST SATISFACTION

41. The authorities ensured that the outstanding amounts awarded by the relevant domestic decisions were paid to the applicants within the time limit set out by the European Court.

Case	Application no.	Sum paid	Payment deadline	Date of payment
Dedić and Others	4847/20	11,801.88 €	11 July 2024	11 July 2024
Adrović and Others	8318/20	934,505.65 €	11 July 2024	11 July 2024
Bešović and Others	21601/20	1,245,076.05 €	11 July 2024	11 July 2024
Božović and Others	42403/20	228,932.94 €	25 July 2024	19 July 2024
Boljević and Others	21609/20	1,530,003.53 €	25 July 2024	19 July 2024
Abdović and Others	21614/20	802,573.83 €	25 July 2024	19 July 2024

42. The authorities ensured that the costs and expenses awarded by the European Court were paid to the applicants within the time limit set out by the European Court.

Case	Application no.	Sum paid (including VAT)	Payment deadline	Date of payment
Dedić and Others	4847/20	302.50 €	11 July 2024	5 July 2024
Adrović and Others	8318/20	302.50 €	11 July 2024	5 July 2024
Bešović and Others	21601/20	302.50 €	11 July 2024	5 July 2024
Božović and Others	42403/20	302.50 €	25 July 2024	5 July 2024
Boljević and Others	21609/20	302.50 €	25 July 2024	5 July 2024
Abdović and Others	21614/20	302.50 €	25 July 2024	5 July 2024

V CONCLUSIONS

43. The authorities consider that the individual measures taken ensured that the violations at hand ceased and provided full redress to the applicants for the consequences sustained in all the cases.

44. The authorities invite the Committee of Ministers to close the supervision on individual measures in these six cases.

45. The authorities consider that the general measures taken and planned to be taken will be capable of preventing similar violations.

46. The authorities will keep the Committee of Ministers duly informed about development of the general measures in these six cases.

**Representative of Montenegro
before the European Court of Human Rights
Katarina Peković**

Katarina Peković