

## **ACTION REPORT**

### **Atanasije Ristić v. Serbia**

Application no. 38336/21, Judgment of 26 August 2025, final on 26 November 2025

## **I CASE DESCRIPTION**

1. This case concerns the unlawful arrest and detention of the applicant in a hospital for ninety hours in 2016 after he had swallowed a plastic bag containing drugs which necessitated his placement there under medical supervision (violation of Article 5 §§ 1, 2, 3 and 4 of the Convention).

2. The Court found that the applicant's detention was affected by fundamental procedural deficiencies, including: the absence of an arrest and ensuing detention record from 19 to 23 November 2016; the failure to inform the applicant of the reasons for his arrest; the lack of a real opportunity for the applicant to be brought before a court of law to assess the lawfulness of his detention; and, lastly, the lack of the opportunity for the applicant to seek judicial review of his detention (§ 44).

## **II INDIVIDUAL MEASURES**

3. The Serbian authorities have taken steps to ensure that the violation at hand ceased and that the applicant has been redressed for the negative consequences of the violations found by the European Court. These measures are set out below.

4. The European Court awarded the applicant just satisfaction in respect of non-pecuniary damage in the amount of EUR 6,000 and EUR 1,726 in respect of costs and

expenses. The payments have been made on 2 February 2026, within the deadline set out by the European Court.

5. The authorities would also like to highlight that the domestic legislation provides the applicant with a concrete and practical avenue to claim pecuniary damage should the applicant considered to have suffered it. Pursuant to the domestic legislation, this claim could be raised within three years after the European Court's judgment finding a violation of the Convention becomes final. In this case, this timeframe will expire on 26 November 2028. To the best of the authorities' knowledge, the applicant has not raised any claim for pecuniary damage before domestic courts and has not availed itself of the avenue available in the domestic legislation to this effect.

6. In view of the above, the authorities consider that the applicant has been fully redressed for the damage sustained.

### **III GENERAL MEASURES**

7. In response to the European Court's findings, the authorities have taken measures aimed at preventing similar violations as set out below.

#### **A. Convention-compliant case law of the Constitutional Court**

8. It is recalled that in the present case the Constitutional Court had already correctly found that the applicant's stay in hospital had amounted to deprivation of liberty, that there had been no order authorizing the applicant's detention, nor had the applicant been informed of his rights when taken into custody. However, it incorrectly held that those omissions had been justified by the urgency of the situation (§ 15). Following the facts of the present case, the authorities would like to highlight the evolving case law of the Constitutional Court, which is increasingly aligned with the principles established by the European Court under Article 5 of the Convention.

9. A notable example is Decision [Už-3576/2016](#) of 4 March 2021. In this case, the Constitutional Court adopted a constitutional appeal and found a violation of the right to liberty and security because the police failed to issue a formal detention order, while the individual was *de facto* detained at a police station. The Constitutional Court, while citing the relevant practice of the European Court of Human Rights, underscored that detention must be both based on legal grounds and conducted according to the prescribed procedure to avoid arbitrariness. It specifically identified procedural failures, such as the failure to inform the person of their rights and the absence of a written detention order, which subsequently deprived the applicant of their right to appeal.

10. Furthermore, following the notification of the *Atanasije Ristić* judgment, judges and legal advisors of the Constitutional Court have been formally familiarized with its contents to ensure consistent application of these standards in future cases.

## **B. Institutional and regulatory measures within the Ministry of Internal Affairs**

11. Following the *Atanasije Ristić* judgment, the Ministry of Internal Affairs (MUP) took immediate steps to ensure that the European Court's standards regarding Article 5 are integrated into police practice. The judgment was disseminated to all organizational units of the Police Directorate. Along with the judgment, in April 2026, a mandatory instruction was issued to all police officers, emphasizing the Court's stance that any individual under police supervision in a hospital setting is considered deprived of their liberty and must be afforded all procedural guarantees under the Criminal Procedure Code.

12. Regarding the regulatory framework, the authorities highlight that the Rulebook on the Application of Police Powers (Official Gazette, nos. 41/19 and 93/22) explicitly addresses the treatment of sick or injured persons:

- Article 36(1) prohibits holding persons in need of medical assistance in standard detention cells and mandates immediate transport to a health institution.
- Article 36(2) obliges police officers to maintain supervision during transport and hospitalization to prevent escape or self-harm, which underscores the "deprivation of liberty" status that requires formal records.

13. Furthermore, on 31 October 2024, the Ministry of Internal Affairs and the Ministry of Health signed a Cooperation Agreement. This agreement is of paramount importance as it establishes clear protocol for the treatment of persons deprived of liberty who require medical supervision or hospitalization. Key operational safeguards include:

- Mandatory Notification of the Prosecutor: The police are strictly obliged to notify the competent public prosecutor immediately whenever a person, who is being detained in accordance with the Criminal Procedure Code, is hospitalized in a health institution.
- Independence of Medical Examinations: To ensure the integrity of medical findings, police officers are generally prohibited from attending medical examinations. Presence is allowed only exceptionally, upon the explicit request of medical staff for security reasons, and even then, the officer must be of the same sex as the patient and act in a manner that preserves the confidentiality of the doctor-patient relationship.
- Standardization of Medical Records: The Ministry of Health is tasked with creating specific procedures for all levels of healthcare (emergency, secondary, and tertiary) to identify and record injuries of persons brought in by the police. Medical reports must contain a detailed

status praesens and anamnesis, and must be made available to the detained person or their legal counsel.

14. The authorities emphasize that these measures directly address the procedural deficiencies identified in case *Atanasije Ristić*. By formalizing the obligation to involve the prosecutor during hospitalization and guaranteeing independent medical documentation, the State has created a framework that prevents unrecorded *de facto* detention and ensures that every moment of a person's presence in a hospital under police supervision is legally accounted for.

15. The authorities consider that the existing provisions of the Criminal Procedure Code (Article 294), which mandate the delivery of a detention order immediately, and at the latest within two hours of deprivation of liberty, combined with the aforementioned mandatory instruction, Rulebook, and Cooperation Agreement, provide a sufficient legal mechanism to prevent the recurrence of unrecorded *de facto* detention in hospitals.

### **C. Training and awareness raising measures**

16. The authorities would like to note that the Judicial Academy organized specialized training sessions to ensure that the standards of Article 5 are fully integrated into domestic practice.

17. Specifically, in 2025, four training sessions titled "Application of Article 5 of the European Convention on Human Rights – Right to Liberty and Security" were conducted for 46 judges from the criminal departments of basic and higher courts across Belgrade, Novi Sad, Kragujevac, and Niš.

18. Additionally, with a view to preventing procedural violations and ensuring accountability, the Judicial Academy conducted 14 training sessions between 2018 and 2023 on the topic of "Conducting Investigations in Cases of Abuse by the Police". These sessions were attended by 345 participants, including 189 police officers and public

prosecutors. The curriculum addressed the definition of ill-treatment under international law, the criteria for effective investigation, the role of internal police control mechanisms, and the evaluation of evidence in light of the European Court's case law.

19. Complementing the efforts of the judicial authorities, MUP has consistently implemented massive, systematic professional training programs to embed the standards of Article 5 of the Convention and the protection of human rights of persons deprived of liberty into the daily work of the police force.

20. In 2018, a specialized train-the-trainer seminar on the "Application of Police Powers" was conducted for 188 police instructors. Following this, large-scale training sessions on the "Treatment of Brought-in and Detained Persons" were rolled out, reaching 20,696 police officers across the country. Additionally, 79 officers completed a seminar on the "Implementation of the Instruction on the Treatment of Brought-in and Detained Persons".

21. In 2019, within the framework of the joint Council of Europe and European Union project "Strengthening the Protection of Human Rights of Persons Deprived of Liberty and Convicted Persons in the Republic of Serbia", a seminar on the "Application of Police Powers with the Aim of Protecting Human Rights of Persons Deprived of Liberty and Police Officers" was organized for 198 police instructors. Concurrently, 85 officers completed training on the "Implementation of the Instruction on the Treatment of Brought-in and Detained Persons".

22. In 2021, following a temporary suspension of training programs in 2020 due to the COVID-19 pandemic and the associated state of emergency, MUP resumed its training activities. A specialized seminar on "Application of Police Powers with the Aim of Protecting Human Rights of Persons Deprived of Liberty and Police Officers" was attended by 31 police officers, while a broader training program on the "Protection of Human Rights of Persons Deprived of Liberty and Police Officers" was completed by 16,529 police officers.

23. In 2022, the training program on the "Protection of Human Rights of Persons Deprived of Liberty and Police Officers" was successfully completed by 22,032 police officers.

24. In 2023, MUP introduced a mandatory theoretical training module titled "Procedures of Police Officers during the Bringing-in of Persons", which was completed by 28,626 police officers. In parallel, 15,642 police officers attended the training on the "Protection of Human Rights of Persons Deprived of Liberty and Police Officers".

25. In 2024, high-intensity training continued, with 27,639 police officers completing the theoretical module on "Procedures of Police Officers during the Bringing-in of Persons", and 27,842 police officers completing the module on "Protection of Human Rights of Persons Deprived of Liberty and Police Officers".

26. In 2025, following the European Court's judgment in the Atanasije Ristić case, MUP maintained this extensive educational drive, training 24,897 police officers on "Procedures of Police Officers during the Bringing-in of Persons" and 24,802 police officers on "Protection of Human Rights of Persons Deprived of Liberty and Police Officers".

27. The primary defined outcome of the "Treatment of Brought-in and Detained Persons" curriculum is to ensure that police officers have the necessary skills and knowledge to fully respect the standards established by the European Convention on Human Rights, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the European Code of Police Ethics, and other key international instruments.

#### **D. Publication and dissemination measures**

28. In 2025, the authorities ensured that publication and dissemination of the present judgment were taken to draw the attention of the relevant domestic authorities, including

the police (see paragraph 17 above) on the European Court's findings in this case. To this end, the European Court's judgment was translated into Serbian and published in the Official Gazette and on the Government Agent's official web page. The European Court's findings have therefore been made easily accessible to judges and the legal community nationwide.

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

30. The above-mentioned measures ensured that all domestic courts and relevant bodies are now aware of the Court's findings and the need to comply with the Convention requirements in similar cases.

#### **IV JUST SATISFACTION**

31. The authorities ensured that just satisfaction awarded by the European Court has been disbursed to the applicant on 2 February 2026. The payment has thus been made within the deadline set out by the European Court.

#### **V CONCLUSIONS**

32. The authorities consider the individual measures taken ensured that the applicant was redressed for the damage sustained.

33. The authorities furthermore consider that the general measures taken and envisaged are capable of preventing similar violations.

34. The authorities therefore consider that the Republic of Serbia has complied with its obligations under Article 46 § 1 of the Convention and respectfully propose to the Committee of Ministers to close its examination of the case *Atanasije Ristić*.