



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

THIRD SECTION

DECISION

Application no. 34146/20
Almir BILALović
against Serbia

The European Court of Human Rights (Third Section), sitting on 21 January 2025 as a Committee composed of:

Peeter Roosma, *President*,

Diana Kovatcheva,

Mateja Đurović, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the application (no. 34146/20) against the Republic of Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 23 July 2020 by a Serbian national, Mr Almir Bilalović (“the applicant”), who was born in 1978, lives in Novi Pazar and was represented by Mr B. Roglić, a lawyer practising in Novi Pazar;

the decision to give notice of the complaints under Article 6 § 1 of the Convention, concerning legal certainty, and under Article 1 of Protocol No. 1, regarding the applicant’s right to peaceful enjoyment of possessions, to the Serbian Government (“the Government”), represented by their Agent, Ms Z. Jadrijević Mladar, Representative of Serbia to the European Court of Human Rights, and to declare the remainder of the application inadmissible;

the parties’ observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the alleged infringement of the principle of legal certainty resulting from the quashing of an enforcement order and the *de facto* annulment of a final judgment made in the applicant’s favour.

2. On 21 March 2017 the Novi Pazar Basic Court allowed a claim lodged by the applicant against his employer for payment of certain benefits,

provided for in the Government Decision on the remuneration of civil servants. The judgment became final on 9 August 2017, and it was fully enforced on 29 September 2017 on the basis of the enforcement order of 18 September 2017.

3. In the meantime, following a request for a review of the constitutionality of the above-mentioned Government Decision, on 22 June 2017 the Constitutional Court declared it unconstitutional. That decision was published on 15 August 2017 and took effect on 19 August 2017.

4. Subsequently, on 27 February 2018 the Novi Pazar Higher Court quashed the enforcement order (which was based on the judgment of 21 March 2017) in the applicant's case, referring to section 60 of the Constitutional Court Act, which provided that the enforcement of judgments based on regulations that had been declared unconstitutional was no longer possible.

5. As the enforcement had already been carried out, new counter-enforcement proceedings were instituted against the applicant for the return of the amount he had received in the enforcement of the judgment of 21 March 2017. On 24 May 2018 a new enforcement order was issued. An appeal by the applicant against that decision was dismissed on 11 October 2018 by the Novi Pazar Higher Court.

6. On 9 July 2018 the applicant lodged a constitutional appeal against the decision of 27 February 2018. On 5 November 2019 the Constitutional Court rejected the appeal as out of time.

7. On 4 June 2020 the Constitutional Court dismissed a second constitutional appeal lodged by the applicant as unsubstantiated. The Constitutional Court also noted that whereas the applicant's second constitutional appeal had been formally lodged against the decision of 11 October 2018, his grievances concerned in substance the decision of 27 February 2018, which could not be the subject of a constitutional review.

8. The applicant complained under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention that the impossibility of enforcement of the final civil-court judgment that had been given in his favour breached the principle of legal certainty and his right to peaceful enjoyment of possessions.

THE COURT'S ASSESSMENT

9. The Government submitted that the applicant had failed to notify the Court of the decision given by the Constitutional Court on 5 November 2019 on appeal which the applicant had lodged out of time against the second-instance court's decision of 27 February 2018 quashing the enforcement order of 18 September 2017.

10. The applicant did not dispute that fact.

11. The Court reiterates that an application may be rejected as an abuse of the right of individual application within the meaning of Article 35 § 3 (a) of the Convention if, among other reasons, it was knowingly based on false information or if significant information and documents were deliberately omitted, either where they were known from the outset or where new significant developments occurred during the proceedings. Incomplete and therefore misleading information may amount to an abuse of the right of application, especially if the information in question concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014; *S.A.S. v. France* [GC], no. 43835/11, § 67, 1 July 2014; and *Markišić v. Serbia* (dec.) [Committee], no. 45825/15, 14 May 2019).

12. Turning to the present case, the Court notes that on 5 November 2019 the Constitutional Court rejected the applicant's constitutional appeal as out of time. The applicant did not inform the Court of that decision before notice of the application was given to the Government and no explanation for this omission was provided.

13. Having regard to the fact that the information withheld concerned the very core of the application, the Court finds that such conduct was contrary to the purpose of the right of individual application.

14. In view of the above, the Court finds that the present application constitutes an abuse of the right of individual application and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 13 February 2025.

Olga Chernishova
Deputy Registrar

Peeter Roosma
President