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

# THIRD SECTION

# DECISION

Application no. 10772/19
Iskender ĆOROVIĆ
against Serbia

The European Court of Human Rights (Third Section), sitting on 7 July 2026 as a Committee composed of:

Lətif Hüseynov, *President,*
Mateja Đurović,
Canòlic Mingorance Cairat, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 10772/19) against Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 19 February 2019 by a Serbian national, Mr Iskender Ćorović ("the applicant"), who was born in 1943, lives in Novi Pazar and was represented by Ms S. Ristić, a lawyer practising in Kraljevo;

the decision to give notice of the complaints under Article 6 of the Convention and Article 1 of Protocol No. 1, concerning the nationalisation of property and the subsequent refusal of the applicant's request for restitution in kind, to the Serbian Government ("the Government"), represented by their Agent, Ms Z. Jadrijević Mladar, 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 nationalisation of property belonging to the applicant's late father, consisting of a plot of land and buildings constructed upon it, by the former communist regime. It also concerns subsequent proceedings wherein, after administrative and judicial reviews,

the national authorities ruled that the applicant, despite being his late father's legal heir, was not entitled to the restitution of the property in kind.

2. The Restitution Agency, the Ministry of Finance and the Administrative Court dismissed the applicant's claim as the nationalised property had in the meantime been converted into a museum (*Muzej Ras u Novom Pazaru*) and had formally become a part of national heritage. Furthermore, restitution in kind, as requested by the applicant, would have significantly hindered the functioning and operation of the institution. The administrative and judicial authorities also referred to Article 18 § 1(3) of the Restitution Act, as in force at the material time (*Zakon o vraćanju oduzete imovine i obeštećenju* – see paragraph 7 below).

3. On 3 October 2018 the Constitutional Court ruled against the applicant and endorsed the reasoning of the Administrative Court.

4. On 25 February 2019 the Restitution Agency adopted an additional decision whereby the applicant was granted the right to compensation for the nationalisation of the property in question, and on 1 June 2023 the Ministry of Finance upheld that decision on appeal. The applicant pursued no further judicial review and, on 24 July 2023, informed the Restitution Agency that he was "abandoning further proceedings" in that connection. Accordingly, the Restitution Agency issued no follow-up decision wherein it would have determined the exact amount of compensation to be paid to the applicant and the specific modalities and deadlines for this payment.

5. In the meantime, on 15 January 2020, the applicant had lodged a separate civil claim, seeking recognition of his continued ownership over the nationalised property on the basis of his allegation that the original deprivation of his late father's property had not been carried out in accordance with the law at the material time. According to the information contained in the case file, those proceedings are currently still pending on appeal after several remittals.

6. Article 4 and Article 8 § 1 of the Restitution Act provided, *inter alia*, that nationalised property would be restored in kind or by means of compensation, but that the latter option was only appropriate where restitution in kind was not possible under the provisions of the Act.

7. Article 18 § 1(3) of the Restitution Act provided that the right of ownership in respect of immovable property would not be "restored" – that is, the property would not be returned in kind – where it was used by institutions in the fields of health, education, culture, or science, or by other institutions providing public services and established by holders of public property, and where restitution in kind would significantly hinder the functioning and operation of those services.

8. The applicant complained, under Article 1 of Protocol No. 1, about the "deprivation" of the said "property in the absence of any public interest" for doing so. The applicant further complained, under Article 6 of the Convention and Article 1 of Protocol No. 1, that the decisions adopted in the

administrative, judicial review and constitutional proceedings, in response to his request for restitution in kind, had been arbitrary. In that regard, he referred to, in particular, other nationalised properties which had been converted into museums but were then returned to their original owners' legal heirs in kind, as requested by them.

## THE COURT'S ASSESSMENT

9. The Government contended that the applicant's complaints were essentially limited to the proceedings instituted by his request for restitution in kind, and did not address any other issues. They further argued that, in the appeal which he had lodged with the Constitutional Court, the applicant had not raised the matter of allegedly inconsistent domestic practices with regard to the restitution in kind of other properties that had been nationalised by the former communist authorities. The Government lastly maintained that the applicant's property-related complaint was incompatible with Protocol No. 1 *ratione temporis*, but that, in any event, the decisions and judgments dismissing the applicant's request for restitution in kind had all been properly reasoned and fully based on the applicable domestic legislation.

10. The applicant contested the Government's objections in general terms. He also argued that he could not have referred to the inconsistent practices involving restitution in kind in his constitutional appeal since he had only become aware of them subsequently. The refusal of the applicant's request for restitution in kind had, at any rate, been arbitrary.

11. The Court reiterates that the guarantees enshrined in Article 6 § 1 include the obligation for courts to give sufficient reasons for their decisions. A reasoned decision shows the parties that their case has truly been heard, and thus contributes to a greater acceptance of the adjudication. Article 6 § 1, however, cannot be understood as requiring a detailed answer to every argument. The extent to which this duty to give reasons applies may vary according to the nature of the decision and can only be determined in the light of the circumstances of the case in question (see, for example, *Paun Jovanović v. Serbia*, no. 41394/15, §§ 100-01, 7 February 2023, with further references).

12. The Court also notes that Article 1 of Protocol No. 1 cannot be interpreted as imposing any general obligation on the Contracting States to return property which was transferred to them before they ratified the Convention. Nor does Article 1 of Protocol No. 1 impose any restrictions on the Contracting States' freedom to determine the scope of property restitution and to choose the conditions under which they agree to restore property rights of former owners (see, for example, *Kopecký v. Slovakia* [GC], no. 44912/98, § 35, ECHR 2004-IX). On the other hand, once a Contracting State, having ratified the Convention and Protocol No. 1 thereto, enacts legislation providing for the full or partial compensation for or restoration of the property

confiscated under a previous regime, such legislation may be regarded as generating a new property right protected by Article 1 of Protocol No. 1 for persons satisfying the requirements for entitlement (see, for example, *Von Maltzan and Others v. Germany* (dec.) [GC], nos. 71916/01 and 2 others, § 74 *in fine*, 2005-V, with further references).

13. Turning to the present case, the Court considers that the decisions given by the Restitution Agency, the Ministry of Finance, the Administrative Court and the Constitutional Court, when examined under Article 6 of the Convention and Article 1 of Protocol No. 1, were indeed based on reasons which were coherent, relevant and sufficient, and were rooted in the applicable domestic legislation which was applied in pursuit of the public interest (see paragraphs 2, 3 and 7 above).

14. Furthermore, the applicant contended that the museum, including its exhibits and collections, could have been safely moved to other suitable premises. At the same time, an expert's report, submitted by the applicant, specifically stated, *inter alia*, that there were in fact no other State-owned buildings in the centre of Novi Pazar which were relevantly similar to the premises used by the museum. There was, admittedly, one architecturally similar State-owned building but it was built during a later period. In the expert's opinion, however, there were a number of relevantly similar privately-owned buildings, but that, in the Court's view, is irrelevant for the adjudication of the present case since a State-owned museum could not, clearly, have been moved to any of those buildings.

15. It was argued by the Government and not convincingly disputed by the applicant, that the museum itself did not have any alternative premises at its disposal. The Court notes, in this connection, that the museum's premises were used for its stated purpose, and that a part of the museum complex was apparently also used as its storage facility. Moreover, while yet another part of the museum's premises was ostensibly used by a museum guard as his residence, the applicant domestically only sought restitution in kind of the entire nationalised property.

16. The applicant also submitted that even where certain immovable property had been formally classified as part of cultural heritage it could still be returned in kind to a private owner while keeping its official designation. In this context, however, the Court notes that, in any event, for restitution in kind to take place, regardless of the said designation, the relevant conditions as set out in the Restitution Act would still have to be fulfilled (see paragraph 7 above).

17. Lastly, the Government submitted information concerning a number of restitution proceedings involving various public institutions in Serbia. In some sets of proceedings, property was returned in kind, but in most the claims in question were dismissed. All of those cases, however, were examined on their individual merits and decided on the basis of the applicable legal criteria. In two of them (which likewise concerned museums), the

buildings were returned in kind; however, unlike in the present case, it was found that such restitution would not have significantly hindered the functioning and operation of the institutions concerned. In particular, the premises in question in those cases had, *inter alia*, been used for administrative purposes, housed temporary or private collections, and/or the institutions had themselves had access to additional premises.

18. In view of the foregoing, and quite apart from the non-exhaustion and *ratione temporis* objections raised by the Government (see paragraphs 9 and 10 above), the Court considers, regarding the applicant's complaints related to his request for restitution in kind under Article 6 of the Convention and Article 1 of Protocol No. 1, that this part of the application is manifestly ill-founded and must, as such, be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

19. With respect to the applicant's additional complaint under Article 1 of Protocol No. 1 concerning the "deprivation" of the aforementioned "property in the absence of any public interest" (see paragraph 8 above), and even assuming that this relates to the original nationalisation of his father's real estate (see paragraph 1 above), the Court considers that, irrespective of any issues concerning its compatibility *ratione temporis*, this complaint must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention for failure to exhaust domestic remedies. Specifically, the relevant civil proceedings are still pending before the domestic courts (see paragraph 5 above).

20. The Court lastly notes that the applicant never complained before it about the compensation-related restitution proceedings (see paragraphs 8 and 4 above, in that order), which is why this matter cannot be examined (see, for example and in this context, *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018).

For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 27 August 2026.

Olga Chernishova
Deputy Registrar

Lətif Hüseynov
President