



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

FOURTH SECTION

CASE OF BEGIĆ v. BOSNIA AND HERZEGOVINA (No. 2)

(Application no. 16613/23)

JUDGMENT

Art 1 P12 • General prohibition of discrimination • Ineligibility to stand for election to the position of President/Vice-President of the Federation of Bosnia and Herzegovina without declaring affiliation with constitutionally defined “constituent peoples” • No objective and reasonable justification

Prepared by the Registry. Does not bind the Court.

STRASBOURG

3 February 2026

FINAL

03/05/2026

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Begić v. Bosnia and Herzegovina (no. 2),

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Lado Chanturia, *President*,
Jolien Schukking,
Lorraine Schembri Orland,
Anja Seibert-Fohr,
Ana Maria Guerra Martins,
Anne Louise Bormann, *ad hoc judge*,
Sebastian Rădulețu, *judges*,

and Simeon Petrovski, *Deputy Section Registrar*,

Having regard to:

the application (no. 16613/23) against Bosnia and Herzegovina lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a citizen of Bosnia and Herzegovina, Mr Zlatan Begić (“the applicant”), on 13 April 2023;

the decision to give notice to the Government of Bosnia and Herzegovina (“the Government”) of the complaints under Articles 14 and 17 of the Convention and Article 3 of Protocol No. 1 and Article 1 of Protocol No. 12 to the Convention, and to declare the remainder of the application inadmissible;

the parties’ observations.

Considering that Mr Faris Vehabović, the judge elected in respect of Bosnia and Herzegovina, was unable to sit in the case (Rule 28 of the Rules of Court) and that the President of the Chamber decided to appoint Ms Anne Louise Bormann to sit as an *ad hoc* judge (Rule 29),

Having deliberated in private on 27 January 2026,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The applicant complained under Articles 14 and 17 of the Convention and Article 3 of Protocol No. 1 and Article 1 of Protocol No. 12 to the Convention about his ineligibility to stand for election to the position of President/Vice-President of the Federation of Bosnia and Herzegovina (“the Federation”)¹.

¹ Bosnia and Herzegovina consists of two Entities: the Federation of Bosnia and Herzegovina and the Republika Srpska.

THE FACTS

2. The applicant was born in 1975 and lives in Tuzla. The applicant was represented by Ms S. Razić, a lawyer practising in Tuzla.

3. The Government were represented by Ms M. Mijić, their acting Agent.

4. The facts of the case may be summarised as follows.

5. The applicant is a high-ranking official of the Democratic Front and a member of the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina. He does not declare affiliation with any “constituent people” (persons who declare affiliation with Bosniacs, Croats and Serbs) and thus belongs to the constitutional category of “Others” (for more information about those categories, see *Sejdić and Finci v. Bosnia and Herzegovina* [GC], nos. 27996/06 and 34836/06, § 11, ECHR 2009).

6. Three delegates to the House of Peoples of the Federation belonging to the category of “Others” nominated the applicant for the position of President/Vice-President of the Federation. On 2 February 2023 the Central Election Commission rejected his nomination because it did not fulfil statutory requirements (see paragraph 11 below). Notably, the applicant had not been nominated by 11 delegates belonging to the constituent people caucuses of the House of Peoples of the Federation and the applicant himself did not declare affiliation with any of the constituent peoples.

7. On 8 February 2023 the Court of Bosnia and Herzegovina upheld that decision.

8. On 20 February 2023 the applicant and the three delegates who had nominated him (see paragraph 6 above) lodged constitutional appeals.

9. On 23 January 2025 the Constitutional Court joined their cases and delivered a decision. It found that the President and Vice-Presidents of the Federation were clearly not a “legislature” within the meaning of Article 3 of Protocol No. 1 to the Convention and, therefore, declared the complaints under that Article, taken alone and in conjunction with Article 14 of the Convention, inadmissible. It relied on *Boškoski v. the former Yugoslav Republic of Macedonia* ((dec.), no. 11676/04, 2 September 2004); *Paksas v. Lithuania* ([GC], no. 34932/04, § 72, ECHR 2011 (extracts)); and *Anchugov and Gladkov v. Russia* (nos. 11157/04 and 15162/05, §§ 55-56, 4 July 2013). At the same time, it found a breach of Article 1 of Protocol No. 12 to the Convention. Relying on the case-law of this Court (notably, *Sejdić and Finci*, cited above), it held that the different treatment of the appellants in relation to the election for the President and Vice-Presidents of the Federation, for the sole reason of their ethnicity, lacked an objective and reasonable justification. As a general measure, the Constitutional Court indicated that the relevant domestic authorities should adopt necessary measures aimed at eliminating discrimination against those who belonged to the constitutional category of “Others” in standing for the election for the

position in issue and thus put an end to the incompatibility of the domestic law with the Convention and the Court's case-law in that regard.

The relevant part of that decision reads as follows:

“28. In the present case, nothing indicates that the President and Vice-Presidents of the Federation could be considered to be a “legislature” within the meaning of the European Court's case-law ... The Constitutional Court notes that the President and Vice-Presidents of the Federation do not have the power to initiate and adopt legislation and do not enjoy wide powers to control the passing of legislation or the power to censure the principal legislation-setting authorities. Accordingly, Article 3 of Protocol No. 1 to the Convention is not applicable to the election for the positions of President and Vice-Presidents of the Federation.

...

36. ... In view of the above, the Constitutional Court considers that Article IV.B.2 of the Constitution of the Federation and sections 9.13-9.15 of the Election Act, which do not allow those who belong to the category of ‘Others’ – as opposed to those who belong to the constituent peoples – to take part in the election for the positions of President and Vice-Presidents of the Federation, clearly constitute a difference in the treatment of persons in similar (or identical) situations on the grounds of ethnic origin.

...

38. Furthermore, as to whether there was an objective and reasonable justification for that treatment – in other words, whether the only way to achieve the legitimate aim and preserve peace was still the exclusion of ‘Others’ from standing for election to the positions of President and Vice-Presidents of the Entities – the Constitutional Court held in case no. U-14/12: ‘When one considers, the principles of the rule of law, the standards of human rights and the obligation of non-discrimination in their enjoyment and protection, the positive development made by Bosnia and Herzegovina ever since the signing of the Dayton Agreement, the international obligations it assumed also in the area of exercising and protecting human rights, and the clear commitment to the further democratic development, the exclusion of ‘Others’ from exercising one of the human rights which constitutes the foundation of a democratic society can no longer represent the only way in which to achieve the legitimate aim of preservation of peace. Particularly so when one bears in mind that such an exclusion was established expressly on ethnic affiliation, which cannot be objectively justified in the contemporary democratic societies built on the principles of pluralism and respect for different cultures, which the Bosnian-Herzegovinian society is and to which it aspires. This transpires also from the Preamble to the Constitution, according to which the Constitution of Bosnia and Herzegovina is based on respect for human dignity, liberty, and equality, and indicates that democratic governmental institutions and fair procedures best produce peaceful relations within a pluralist society’ (§ 71). The Constitutional Court further held that ‘the exclusion of the possibility for the members of ‘Others’, who are, as well as the constituent peoples, citizens of Bosnia and Herzegovina who are guaranteed by law the right to stand for election without discrimination or restrictions in running for the positions of President and Vice-Presidents of the Entities, no longer represents the only way to achieve the legitimate goal, which is the reason why it cannot have a reasonable and objective justification’ (§ 72).

39. Therefore, in accordance with its own earlier case-law and the case-law of the European Court, the Constitutional Court concludes that the different treatment of the appellants for the sole reason of their ethnic origin lacked an objective and reasonable

justification. It follows that there has been a violation of Article 1 of Protocol No. 12 to the Convention.

40. ... The Constitutional Court also notes that although more than nine years have passed since the adoption of decision no. U-14/12 on 26 March 2015, the Constitution of Bosnia and Herzegovina and the Constitution of the Federation have not yet been amended to allow the members of ‘Others’ to stand for election for the positions of President and Vice-Presidents of the Federation. In this regard, the Constitutional Court emphasises that it is the duty of the public authorities, including the Parliamentary Assembly of Bosnia and Herzegovina and the Parliament of the Federation, to take all necessary measures within their mandate, and in accordance with a procedure prescribed by law, in order to harmonise the Constitution of Bosnia and Herzegovina, the Constitution of the Federation, the Election Act and other relevant domestic law with the Convention and the European Court’s case-law. Accordingly, the Constitutional Court has ordered that the present decision be submitted to the Parliamentary Assembly of Bosnia and Herzegovina and the Parliament of the Federation.

...”

RELEVANT LEGAL FRAMEWORK

I. POLITICAL RIGHTS OF THE CITIZENS OF THE FEDERATION

10. Pursuant to Article II.A.2 § 2 of the Constitution of the Federation², all citizens enjoy the political rights to participate in public affairs, to have equal access to public service and to vote and stand for election.

II. ELECTION OF THE PRESIDENT AND VICE-PRESIDENTS OF THE FEDERATION

11. The Parliament of the Federation (the House of Representatives and the House of Peoples) elects the President and Vice-Presidents of the Federation. The relevant part of Article IV.B.2 of the Constitution of the Federation reads as follows:

“(1) Any group of 11 delegates in each caucus of constituent peoples of the House of Peoples may nominate a candidate from the corresponding constituent people, provided that each delegate may only support 1 candidate. All candidates may be elected pursuant to this Article as either President or Vice-President of the Federation.

...

(4) The election for the President and two Vice-Presidents of the Federation shall require the approval of a list composed of three candidates including one candidate from among each constituent peoples, each nominated in the relevant constituent people caucus, in the House of Representatives and then in the House of Peoples.

...

² Official Gazette of the Federation nos. 1/94, 13/97, 16/02, 22/02, 52/02, 63/03, 9/04, 20/04, 33/04, 71/05, 72/05, 32/07, 88/08, 79/22, 80/22 and 31/23.

(13) The three candidates elected pursuant to this Article shall decide among themselves who shall occupy the post of President. If no agreement is reached, the House of Representatives shall decide.

(14) The President and two Vice-Presidents of the Federation shall be elected for a four-year term of office. The same person may not be elected to one of the positions of either President or Vice-President more than twice consecutively.”

12. In the House of Peoples of the Federation each constituent people has 23 members with 11 members for the category of “Others” (see Article IV.A.6 of the Constitution of the Federation).

III. POWERS OF THE PARLIAMENT AND THE PRESIDENT AND VICE-PRESIDENTS OF THE FEDERATION

13. Article IV.A of the Constitution of the Federation provides that the legislative power in the Federation is exercised by the two Houses of the Parliament. Article IV.B.1 of the Constitution of the Federation provides that the President represents the Federation and is the head of the executive power. The President of the Federation has two Vice-Presidents who are from different constituent peoples.

14. The Parliament of the Federation elects the Government and judges of the Constitutional Court of the Federation at the proposal of the President and Vice-Presidents (see Articles IV.B.5 and IV.C.6 of the Constitution of the Federation).

15. The President and Vice-Presidents of the Federation have the power to propose draft laws (see Article 155 § 2 of the Rules of Procedure of the House of Peoples of the Federation³), but only the Parliament has the power to adopt laws. The laws adopted by the Parliament are signed by the President of the Federation, who may refuse to sign a law only if it has not been approved by the requisite majorities in both Houses of the Parliament (see Articles IV.A.17-19 and IV.B.7 of the Constitution of the Federation and Article 148 § 2 of the Rules of Procedure of the House of Peoples of the Federation).

16. The President of the Federation has the power to sign international treaties on behalf of that Entity, but they enter into force only if ratified by the Parliament (see Article VII.4 of the Constitution of the Federation).

17. Pursuant to Article IV.A.15 of the Constitution of the Federation, each House of the Parliament of the Federation is expected to reject or approve necessary legislation within 45 days of its approval in the other House. If the deadline is not met, the law will be included on the agenda of the relevant House following the expiry of the 45-day deadline and no later than 30 days after the expiry of that deadline. In accordance with Article IV.A.16 of the Constitution of the Federation, if the President decides that the Parliament is

³ Official Gazette of the Federation nos. 27/03, 21/09, 24/20 and 60/24.

unable to enact necessary legislation, he or she may, with the agreement of the Vice-Presidents, dissolve either or both Houses of the Parliament, provided that a House may not be dissolved within one year of being first convened. In addition, the President must dissolve the Parliament if it fails to adopt the budget of the Federation before the start of the budgetary period.

18. The President of the Federation also has the power to grant amnesties for certain offences (see Article IV.B.7 of the Constitution of the Federation).

THE LAW

I. PRELIMINARY ISSUE

19. The applicant challenged the authority of the acting Agents of the respondent Government, including Ms M. Mijić (see paragraph 3 above), to represent the latter before the Court. On the basis of information obtained from the Official Gazette of Bosnia and Herzegovina, he stated that all acting Agents had been appointed by the Council of Ministers of Bosnia and Herzegovina on 29 December 2020, for a period of three months. Following the expiry of that period, on 20 May 2021 the Council of Ministers had appointed the same individuals for another period of three months, effective as of 30 March 2021. The applicant argued that under the relevant domestic law, the mandate of an “acting” official was limited in duration to three months, with the possibility of one extension only. He asserted on that basis that as of 30 June 2021, those acting Agents had no legal authority to represent the respondent Government before the Court. The Government contested the applicant’s assertions.

20. The Court has recently addressed and dismissed the objection to the authority of the acting Agents in *Kovačević v. Bosnia and Herzegovina* [GC], no. 43651/22, 25 June 2025. The relevant part of that judgment (§ 101) reads as follows:

“Matters such as the methods for the appointment of Agents or acting Agents before the Court, their terms of office, and the length and scope of their mandate are left to the Contracting Parties to regulate in accordance with their domestic rules and procedures. In accordance with the Court’s well-established practice, it is the responsibility of the Contracting Parties to inform the Court of the appointment of the Agents or acting Agents representing them, and also of the termination of their mandates (see, for instance, *Panioglu v. Romania*, no. 33794/14, § 62, 8 December 2020, and *Beg S.p.a. v. Italy*, no. 5312/11, §§ 52-53, 20 May 2021). Accordingly, in the conduct of the proceedings before it, the Court proceeds on the basis of the assumption that the Agents or acting Agents of whose appointment it has been notified will continue to perform their duties unless and until the Government inform the Court otherwise (see *Beg S.p.a.*, cited above, § 55); the Court is not called upon to assess the lawfulness of the designation or the continuation of the mandate of the Agent or acting Agent where it has been duly informed thereof by a Contracting Party. Nor is there a provision in the Convention or the Rules of Court that lays down a specific procedure for the determination of the lawful representatives of a Contracting Party in proceedings pending before the Court.”

Given that Ms M. Mijić formally maintained her status as Government representative for the purposes of Rule 35 of the Rules of Court at the time of the lodging of the Government’s observations in the present case, the Court dismisses the applicant’s objection in this regard. Any actual procedural irregularity pertaining to the status of the acting Agents under domestic law remains an internal matter that falls to be resolved within the domestic legal system (see *Kovačević*, cited above, § 107).

II. ALLEGED VIOLATION OF ARTICLE 3 OF PROTOCOL No. 1 TO THE CONVENTION, TAKEN ALONE AND IN CONJUNCTION WITH ARTICLE 14 OF THE CONVENTION

21. The applicant complained that his ineligibility to stand for election to the position of President/Vice-President of the Federation was contrary to Article 3 of Protocol No. 1 to the Convention, taken alone and in conjunction with Article 14 of the Convention. Article 14 of the Convention reads as follows:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

Article 3 of Protocol No. 1 to the Convention provides:

“The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.”

22. The Government maintained that this part of the application was incompatible *ratione materiae* with the provisions of the Convention because the President and Vice-Presidents of the Federation could not be considered to be a “legislature” within the meaning of Article 3 of Protocol No. 1 to the Convention.

23. The applicant disagreed, referring to the wide powers of the President and Vice-Presidents of the Federation.

24. The Court reiterates that the obligations imposed on the Contracting States by Article 3 of Protocol No. 1 are limited to “the choice of legislature” and do not normally apply to presidential elections, unless it is established in the light of the constitutional structure of the State in question – which the Court has not concluded in any previous case – that the latter could arguably be considered to be a “legislature”, being given the power to initiate and adopt legislation or to enjoy wide powers to control the passage of legislation or the power to censure the principal lawmaking authorities (see *Guliyev v. Azerbaijan* (dec.), no. 35584/02, 27 May 2004; *Boškoski*, cited above; *Georgian Labour Party v. Georgia* (dec.), no. 9103/04, 22 May 2007; *Paksas*, cited above, § 72; and *Krivobokov v. Ukraine* (dec.), no. 38707/04,

19 February 2013; see also, for illustrative purposes, *Georgescu v. Romania* (dec.) [Committee], no. 37327/24, 11 February 2025).

25. In the present case, the Constitutional Court found that the President and Vice-Presidents of the Federation could not be considered to be a “legislature” within the meaning of Article 3 of Protocol No. 1 (see paragraph 9 above). In view of the powers of the Parliament and the President and Vice-Presidents of the Federation (see paragraphs 13-18 above), the Court does not see any reason to disagree with the finding of the Constitutional Court. Notably, in accordance with Article IV.A of the Constitution of the Federation, the legislative power in the Federation is exercised by the Parliament and not by the President of that Entity (see paragraph 13 above). It is true that the President of the Federation has the formal power to initiate legislation, but this power is not accompanied by a power to adopt it. Neither does the President of the Federation enjoy wide powers to control the passage of legislation or the power to censure the principal lawmaking authorities.

26. It follows that the applicant’s complaint under Article 3 of Protocol No. 1 is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected pursuant to Article 35 § 4 of the Convention. Given that the applicant’s complaint under Article 3 of Protocol No. 1 is incompatible *ratione materiae*, the complaint under Article 14 in conjunction with that Article is equally incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected pursuant to Article 35 § 4 of the Convention (see, for example, *Guliyev*, cited above).

III. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 12 TO THE CONVENTION

27. The applicant alleged that his ineligibility to stand for election to the position of President/Vice-President of the Federation was also contrary to Article 1 of Protocol No. 12 to the Convention, which reads as follows:

“1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.”

A. Admissibility

1. The parties’ submissions

28. The Government maintained that this complaint was incompatible *ratione personae* with the provisions of the Convention on the grounds that

the applicant, as a member of parliament, did not have the right to apply to the Court under Article 34 of the Convention. They noted that under that Article, only natural persons, non-governmental organisations and groups of individuals could make applications. The Government further submitted that the applicant's nomination had been rejected not only on ethnic grounds but also because the applicant had not been nominated by 11 delegates to the House of Peoples of the Federation, as required by the Constitution (see paragraphs 6 and 11 above). Furthermore, being a member of parliament, he could have initiated legislative changes aimed at eliminating discrimination against those who, like himself, belonged to the category of "Others". For those reasons, the Government argued that the applicant could not claim to be a victim of the alleged violation. They also contended that the applicant had abused the right of application by making personal attacks against the acting Agent of the Government during a television programme on 21 September 2023. In particular, the applicant had publicly accused her of unlawful conduct and usurpation of power. The Government also noted that the applicant had lodged no fewer than three applications before the Court regarding various aspects of the electoral system and that his political party (the Democratic Front), as well as a political adviser to the leader of his party (see *Kovačević*, cited above), had also lodged applications concerning similar matters. In that connection, the Government asserted that the applicant and his political party were pursuing political aims through the Court. Lastly, the Government maintained in their submissions of October 2023 that the application was premature because, at that time, the case was still pending before the Constitutional Court.

29. The applicant replied that he had lodged his application in his private capacity and not on behalf of any public authority. He further argued that it was clearly not open to him to change the provisions of the Constitution of the Federation concerning the election of the President and Vice-Presidents of that Entity, notably because the Parliamentary Assembly of Bosnia and Herzegovina, of which he was a member, did not have the power to change the Entity constitutions. In the applicant's view, it was irrelevant that only three delegates to the House of Peoples of the Federation had nominated him for the position of President or Vice-President of the Federation, given that those who did not declare affiliation with any "constituent people", like himself, could simply never be nominated for that position. As regards the Government's objection that he had abused the right of application, the applicant repeated that the acting Agent of the Government did not have the power to represent the Government and that it was his duty to point out any unlawful conduct. The fact that he had lodged three applications before the Court concerning various aspects of the domestic electoral system and that his political party and an adviser to the leader of his political party had also lodged applications before the Court were irrelevant in his opinion. Lastly, in his submissions of November 2023, the applicant maintained that his

constitutional appeal, which was still pending at that time, was doomed to fail and that it was therefore not an effective remedy in the present case.

2. *The Court's assessment*

(a) *Locus standi*

30. There is no doubt that government bodies cannot lodge applications through the individuals who make them up or represent them (see *Demirbaş and Others v. Turkey* (dec.), nos. 1093/08 and 18 others, 9 November 2010). That being said, the Court considers that the rights and freedoms relied upon by the present applicant concern him individually and are not attributable to the Parliamentary Assembly of Bosnia and Herzegovina as an institution (see *Forcadell i Lluís and Others v. Spain* (dec.), no. 75147/17, § 19, 7 May 2019). The applicant, accordingly, had standing to lodge this complaint.

31. It follows that this complaint is compatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) of the Convention. The Court dismisses the objection raised by the Government in this regard.

(b) *Victim status (grounds raised by the Government)*

32. In accordance with the Court's well-established case-law, in order to claim to be a "victim" of a violation of the rights set forth in the Convention or the Protocols thereto, a person must be "directly affected" by the disputed measure. The Convention does not, therefore, provide for the bringing of an *actio popularis* for the interpretation of the rights set out therein or permit applicants to complain about a provision of national law simply because they consider, without having been directly affected by it, that it may contravene the Convention. It is, however, open to applicants to contend that a law violates their rights, in the absence of an individual measure of implementation, if they belong to a class of people who risk being directly affected by the legislation or if they are required either to modify their conduct or risk being prosecuted. That being said, in order for an applicant to be able to claim to be a victim in such circumstances, he or she must produce reasonable and convincing evidence of the likelihood that a violation affecting him or her personally will occur; mere suspicion or conjecture is insufficient in this respect (see *Kovačević*, cited above, §§ 166-71, with further references).

33. Turning to the present case, while it is true that the Central Election Commission rejected the applicant's nomination relying on various grounds (see paragraph 6 above), the Constitutional Court considered the applicant's ethnicity to be decisive in this regard (see paragraph 9 above). Indeed, the domestic law excludes, by design, those who do not declare affiliation with any of the constituent peoples, such as the applicant, from participating in the election for the positions of President and Vice-Presidents of the Federation.

The text of Article IV.B.2 of the Constitution of the Federation leaves no doubt in this regard (see paragraph 11 above). The Court therefore sees no reason to depart from the finding of the Constitutional Court.

34. As to the Government's argument that the applicant, as a member of parliament, could have initiated any legislative changes he considered to be necessary, the Court considers it irrelevant. Even assuming that members of the State Parliament, such as the applicant, had the power to initiate changes of the Entity constitutions, the applicant would clearly not be able to adopt any such amendments on his own (contrast *Paşa and Erkan Erol v. Turkey*, no. 51358/99, §§ 19-22, 12 December 2006, in which the Court held that the applicant could not claim to be a victim because he was partly responsible for the alleged violation).

35. The Court concludes that the applicant may claim to be a victim of the alleged violation within the meaning of Article 34 of the Convention. It therefore dismisses the objection raised by the Government in this regard.

(c) Abuse of the right of individual application

36. Article 35 § 3 (a) of the Convention allows the Court to declare inadmissible any individual application that it considers to constitute "an abuse of the right of individual application", but the implementation of this provision amounts to an "exceptional procedural measure" (see *Zambrano v. France* (dec.), no. 41994/21, § 33, 21 September 2021). The Court has held that for such "abuse" to be established on the part of an applicant, the conduct in question must not only be manifestly contrary to the purpose of the right of application but also impede the proper functioning of the Court or the proper conduct of the proceedings before it (*ibid.*, § 34).

37. Turning to the Government's specific assertions, the Court has already considered that an application motivated by publicity or political propaganda does not, by that very fact alone, constitute an abuse of the right of application (see *Lawless v. Ireland*, no. 332/57, Commission's report of 19 December 1959, Series B, 1960-61, p. 50, and *Miroļubovs and Others v. Latvia*, no. 798/05, § 65, 15 September 2009; see also *Kovačević*, cited above, § 111, where the Court emphasised that it had never refused to decide a case brought before it merely because it had political implications). More importantly, nothing indicates that the applicant has had an irresponsible and frivolous attitude towards the proceedings that are pending before the Court (see *Georgian Labour Party v. Georgia* (dec.), no. 9103/04, 22 May 2007), or that he has been deliberately seeking to undermine the machinery of the Convention and the functioning of the Court (contrast *Zambrano*, cited above, § 38).

38. As regards the applicant's remarks that the acting Agent did not have the formal power to represent the Government, the Court reiterates that an application may indeed be rejected as an abuse of the right of petition within the meaning of Article 35 § 3 (a) of the Convention if the applicant has used

particularly vexatious, contemptuous, threatening or provocative language – whether this be against the respondent Government, their Agent, the authorities of the respondent State, the Court itself, its judges, its Registry or members thereof. However, it does not suffice that the applicant’s language was sharp, polemical or sarcastic; to be considered an abuse, it must exceed the limits of normal, civic and legitimate criticism (see *Zhdanov and Others v. Russia*, nos. 12200/08 and 2 others, § 80, 16 July 2019). The Court considers that the applicant’s remarks did not overstep acceptable limits to an extent that would justify rejecting the application on that ground. As in *Kovačević* (cited above, § 136), the Court does not see a problem as such with the applicant’s challenges to the legal status of the acting Agents, given that the authority of the acting Agents has been the subject of litigation before the domestic courts and has been contested by various high-level public officials or bodies. The Government also referred, in this connection, to remarks made by other persons (notably, the applicant in *Kovačević*, cited above). However, the applicant himself cannot be held responsible for them. The Court reiterates that an applicant’s direct responsibility must always be established with sufficient certainty, a mere suspicion not being sufficient to reject an application as an abuse of the right of individual application under Article 35 § 3 of the Convention (see *Zambrano*, cited above, § 33).

39. Lastly, the three applications lodged with the Court by the applicant are not vexatious and have clearly not created gratuitous work for the Court, incompatible with its real functions under the Convention (contrast *Petrović v. Serbia* (dec.), no. 56551/11, 18 October 2011).

40. In view of the above, this objection raised by the Government must also be dismissed.

(d) Proceedings before the Constitutional Court

41. In their submissions of October 2023, the Government maintained that the application was premature because the case was still pending before the Constitutional Court at that time. However, the Constitutional Court has subsequently delivered its decision in that case (see paragraph 9 above). The objection raised by the Government in this regard has thus become moot. At the same time, in view of the fact that the Constitutional Court has ruled in the applicant’s favour, the Court must examine whether he may still claim to be a victim of the alleged violation for the purposes of Article 34 of the Convention. The Court has held that it is not prevented from examining of its own motion an applicant’s victim status since it concerns a matter which goes to the Court’s jurisdiction (see *Sejdić and Finci*, cited above, § 27, and *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, § 70, 5 July 2016).

42. In accordance with the Court’s well-established case-law, a decision or measure favourable to an applicant is not in principle sufficient to deprive him or her of his or her victim status unless the national authorities have acknowledged, either expressly or in substance, the alleged breach and

afforded appropriate and sufficient redress. Only where both these conditions have been satisfied does the subsidiary nature of the protective mechanism of the Convention preclude examination of the application (see *Scordino v. Italy* (no. 1) [GC], no. 36813/97, §§ 180 and 193, ECHR 2006-V).

43. In the present case, the Court observes that the Constitutional Court has expressly acknowledged the alleged breach (see paragraph 9 above). However, since the general measure indicated by that court has not yet been implemented, the applicant is still ineligible to take part in the election for the President and Vice-Presidents of the Federation on account of his ethnicity. Accordingly, he can still claim to be a victim of the alleged breach (see, to the same effect, *Hadžimejlić and Others v. Bosnia and Herzegovina*, nos. 3427/13 and 2 others, § 40, 3 November 2015).

(e) Applicability of Article 1 of Protocol No. 12

44. Although the Government did not raise any objection as to the applicability of Article 1 of Protocol No. 12 to this complaint, the Court considers that it has to address this issue of its own motion (see *Pinkas and Others v. Bosnia and Herzegovina*, no. 8701/21, § 51, 4 October 2022).

45. Article II.A.2 § 2 of the Constitution of the Federation provides that all citizens of that Entity enjoy the rights to participate in public affairs, to have equal access to public service, and to vote and stand for election (see paragraph 10 above). In this case, the applicant complained that he had been discriminated against in the enjoyment of his political rights. Accordingly, this complaint clearly concerns a “right set forth by law” within the meaning of Article 1 of Protocol No. 12. This Article is therefore applicable.

(f) Conclusion

46. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

47. The applicant argued that his ineligibility to stand for election to the position of President/Vice-President of the Federation constituted discrimination on the grounds of his ethnic/national origin.

48. The Government submitted that the Constitutional Court had held in 2015 that the impugned provisions were contrary to Article 1 of Protocol No. 12 to the Convention. However, the relevant stakeholders, including the applicant’s political party, had failed to find a solution to that complicated issue and had thus failed to put an end to the incompatibility of the domestic law with the Convention and the Court’s case-law. The Government added that political negotiations were ongoing.

49. The Court reiterates that the meaning of “discrimination” in Article 1 of Protocol No. 12 was intended to be identical to that in Article 14 of the Convention (see *Sejdić and Finci*, cited above, § 55). That being the case, it sees no reason to depart from the interpretation of “discrimination”, as developed in the case-law concerning Article 14 of the Convention, in applying the same term under Article 1 of Protocol No. 12.

50. For an issue to arise under Article 14 of the Convention, there must be a difference in the treatment of persons in analogous or relevantly similar situations (see, among many other authorities, *Molla Sali v. Greece* [GC], no. 20452/14, § 133, 19 December 2018). A difference in the treatment of persons in analogous or relevantly similar situations will be deemed discriminatory only if it has no objective and reasonable justification – in other words, if it does not pursue a “legitimate aim” or if there is not a “reasonable relationship of proportionality between the means employed and the aim sought to be realised” (ibid., § 135). The scope of a Contracting Party’s margin of appreciation in this sphere will vary according to the circumstances, the subject matter and the background (ibid., § 136).

51. Discrimination on account of a person’s ethnic origin is a particularly egregious kind of discrimination and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction (see *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 145, ECHR 2005-VII, and *Sejdić and Finci*, cited above, § 43). For that reason, where a difference in treatment is based on ethnicity, the notion of objective and reasonable justification must be interpreted as strictly as possible. The Court has also held that no difference in treatment which is based exclusively or to a decisive extent on a person’s ethnic origin is capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures (see *Sejdić and Finci*, cited above, § 44, with further references).

52. In the present case, the Constitutional Court held that the applicant’s ineligibility to take part in the election for the President and Vice-Presidents of the Federation constituted a difference on the ground of ethnic origin and lacked an objective and reasonable justification (see paragraph 9 above). The Court does not see any reason to disagree with the Constitutional Court’s finding. Indeed, it has found a breach of Article 1 of Protocol No. 12 in a number of similar cases (see, for example, *Sejdić and Finci*, cited above, §§ 52-56, and *Zornić v. Bosnia and Herzegovina*, no. 3681/06, §§ 34-37, 15 July 2014).

53. The foregoing considerations are sufficient to enable the Court to conclude that there has been a violation of Article 1 of Protocol No. 12 to the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 17 OF THE CONVENTION

54. Lastly, the applicant relied on Article 17, which provides:

“Nothing in [the] Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.”

55. The Government submitted that this complaint was manifestly ill-founded.

56. The applicant disagreed.

57. Apart from general and unsubstantiated complaints, the applicant did not offer any evidence in support of his allegations.

58. It follows that this complaint is manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected pursuant to Article 35 § 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

59. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

60. The applicant claimed 30,000 euros (EUR) in respect of non-pecuniary damage.

61. The Government maintained that the claim was unjustified.

62. The Court considers that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage suffered by the applicant (see *Sejdić and Finci*, cited above, § 63).

B. Costs and expenses

63. The applicant also claimed EUR 14,400 for the costs and expenses incurred before the Court (180 hours worked by his counsel at EUR 80 per hour in preparing the observations and just satisfaction claim).

64. The Government maintained that the claim was excessive.

65. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI). Pursuant to an invoice submitted by the applicant, he has paid or is bound to pay EUR 14,400 to his counsel. Costs and expenses are only recoverable to the extent that they relate to the violation found (see *Murray v. the Netherlands* [GC], no. 10511/10, § 134, ECHR 2016). In this regard the Court notes that the applicant's complaints were only partially successful and that a substantial portion of his pleadings concerned an inadmissible part of the application. In such circumstances the Court may find it appropriate to reduce the award in respect of costs and expenses (see, for example, *Bykov v. Russia* [GC], no. 4378/02, § 114, 10 March 2009, and *Bayatyan v. Armenia* [GC], no. 23459/03, § 135, ECHR 2011). Regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 10,000 for the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 1 of Protocol No. 12 to the Convention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 1 of Protocol No. 12 to the Convention;
3. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 10,000 (ten thousand euros), to be converted into the currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 3 February 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Simeon Petrovski
Deputy Registrar

Lado Chanturia
President