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

FIRST SECTION

DECISION

Applications nos. 36578/22 and 38154/22
Jozo BAZINA against Croatia
and Ivica MEDAK against Croatia

The European Court of Human Rights (First Section), sitting on 18 June 2026 as a Committee composed of:

Artūrs Kučs*, President*,
Davor Derenčinović,
Anna Adamska-Gallant*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the applications (nos. 36578/22 and 38154/22) against the Republic of Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by the applicants listed in the appended table ("the applicants"), on the dates indicated therein;

the decision to give notice of the complaint concerning the fairness of criminal proceedings to the Croatian Government ("the Government"), represented by their Agent, Ms Š. Stažnik, and to declare the remainder of the applications inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the fairness of criminal proceedings against the applicants, who were convicted in relation to a fatal train accident.

2. On 24 July 2009 a train travelling from Zagreb to Split derailed, resulting in a fatal accident in which six passengers were killed and many others injured.

3. Following an investigation, criminal proceedings were instituted against several persons, including the applicants.

4. The domestic courts established the cause of the accident on the basis of a multidisciplinary expert report prepared by the Ministry of the Interior's Forensic Science Centre Ivan Vučetić ("the Centre"), which was obtained during the pre-trial investigation and supplemented multiple times during the trial. The experts found that the accident had occurred owing to the train tracks having been treated with a flame retardant shortly before the train had passed, leading to the train being unable to brake on the slippery tracks and therefore derailing at a high speed while moving downhill. The domestic courts further emphasised that two other trains which had been passing on the same tracks shortly after the tragic event had also experienced difficulties: one locomotive had been unable to brake and had also derailed, whereas another train (which had been going in the opposite direction) had slid and been unable to go uphill, where the tracks had also been treated with the flame retardant. The courts also noted that this was the first time the flame retardant in question had been used in Croatia.

5. By a judgment of the Split County Court dated 3 May 2013, the applicants were found guilty of a serious criminal offence against public safety owing to "unconscious negligence" ("*nesvjesni nehaj*") and given prison sentences of three and four years respectively. All the other accused were acquitted.

6. On 22 January 2019 the Supreme Court upheld the applicants' conviction on appeal, and on 29 March 2022 the Constitutional Court dismissed a constitutional complaint which they had lodged. The applicants received that decision on 13 and 15 April 2022, respectively.

7. Relying on Article 6 of the Convention, the applicants complained before the Court of the unfairness of the proceedings against them. In particular, they complained of their alleged inability to effectively challenge the Centre's expert opinion and about the domestic courts' refusal to examine numerous items of evidence proposed by them and to obtain another multidisciplinary expert opinion.

THE COURT'S ASSESSMENT

8. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

9. According to the Court's well-established case-law, the appointment of experts is relevant in assessing whether the principle of equality of arms has been respected (see *Gaggl v. Austria*, no. 63950/19, § 49, 8 November 2022). The general principles concerning equality of arms in criminal proceedings have been summarised in *Khodorkovskiy and Lebedev v. Russia* (nos. 11082/06 and 13772/05, § 574, 25 July 2013, and the cases cited therein).

10. In the present case, the applicants complained that the only expert opinion obtained in the proceedings had been prepared by the Centre, which

formed part of the Ministry of the Interior, and that they had been unable to effectively challenge its conclusions. At the same time, the trial court had refused to commission another multidisciplinary expert opinion in the case and to examine numerous items of evidence proposed by the applicants.

11. The Court reiterates that the mere fact that experts whose reports are used in proceedings were appointed by one of the parties – accused persons or prosecutors – does not suffice to render those proceedings unfair. Although this fact may give rise to apprehension as to the neutrality of such experts, what is decisive is the position occupied by the experts throughout the proceedings, the manner in which they performed their functions and the way the judges assessed the expert opinion, and whether the doubts raised by appearances can be held to be objectively justified (see *Poletan and Azirovik v. the former Yugoslav Republic of Macedonia*, nos. 26711/07 and 2 others, §§ 94 and 98, 12 May 2016).

12. In this connection, the Court notes that throughout the proceedings the applicants raised numerous questions and objections concerning the expert opinion, all of which were reviewed and extensively answered by the Centre's experts, who subsequently added to their opinion on a number of occasions. The applicants were also able to ask the experts questions directly at the hearings before the trial court while benefiting from the assistance of two experts of their own choosing (contrast *Avagyan v. Armenia*, no. 1837/10, §§ 46-47, 22 November 2018). They were further able to raise their doubts concerning the Centre's independence and impartiality before the trial court (see, by contrast, *Danilov v. Russia*, no. 88/05, §§ 111 and 120, 1 December 2020). The domestic courts examined the Centre's expert report, the experts' credibility, the authenticity of the material and the methods they had used to prepare the report, and explained in detail why they had no doubts about the objectivity and quality of the expert report and its findings.

13. In such circumstances, it cannot be concluded that the applicants were not provided with an opportunity – as required by Article 6 of the Convention – to effectively challenge the Centre's expert opinion during the criminal proceedings against them. Furthermore, in the light of the domestic courts' reasoning and the elements before it, the Court does not consider the applicants' apprehensions concerning the Centre's independence and impartiality to be objectively justified.

14. Turning to the applicants' complaint that the refusal of the trial court to admit evidence proposed by them had rendered their trial unfair, the Court reiterates that the requirement of a fair trial does not impose on a trial court an obligation to order an expert opinion or any other investigative measure merely because a party has requested it. Where the defence insists on the court hearing a witness or taking other evidence (such as an expert report, for instance), it is for the domestic courts to decide whether it is necessary or advisable to accept that evidence for examination at the trial. The domestic court is free, subject to compliance with the terms of the Convention, to refuse

to call witnesses proposed by the defence, for instance on the grounds that the court considers their evidence unlikely to assist in ascertaining the truth (see *Poletan and Azirovik*, cited above, § 95, and the cases cited therein).

15. In the present case the applicants requested that the trial court hear several witnesses, read out certain reports and newspaper articles and, most importantly, perform another reconstruction of the event and commission a fresh multidisciplinary expert opinion. They maintained that the investigation had from the outset targeted the use of the retardant, completely ignoring other possible causes such as the improper functioning of the train and its braking system, which had apparently also proved problematic in other countries. While their requests were amply reasoned, the trial court rejected them very succinctly as either irrelevant to ascertaining the cause of the accident or aimed at establishing facts which had already been established.

16. The applicants had also submitted to the trial court a report prepared by the University of Ljubljana on the effects of the retardant on the train's braking system, which came to the opposite conclusion to that of the Centre's experts. The Court takes note that the trial court forwarded that report to the Centre for review, and its experts explained why they stood by their conclusion that the retardant had made the train tracks slippery and prevented the train from braking (compare *C.B. v. Austria*, no. 30465/06, §§ 43-44, 4 April 2013).

17. It is not the Court's task to determine whether the conclusions of one or the other expert opinion were correct, as this was for the competent trial court to decide. The trial court took into account all the relevant arguments put before it and explained in well-reasoned decisions why it considered the Centre's expert reports reliable and convincing.

18. Turning to whether the refusal to admit the remaining evidence proposed by the applicants undermined the overall fairness of the proceedings, the Court reiterates that it is only in exceptional circumstances that it will be led to conclude that the failure to hear a witness was incompatible with Article 6 of the Convention (see *Guliyev v. Azerbaijan* (dec.), no. 6383/15, § 22, 5 September 2023).

19. In the present case, the Court considers that there was enough corroborating evidence – including the testimony of witnesses, as well as the relevant expert opinion and its numerous supplements – and that the applicants, who were assisted by lawyers and experts of their own choosing, were able to conduct their defence effectively, confront and examine the witnesses testifying against them, comment without hindrance on the incriminating evidence and the expert findings, and present their account of the events to the domestic courts.

20. The Court notes, in particular, that the trial court explained that the effects of the retardant on the train's ability to brake had not only been established by the Centre's expert opinion, but also by the fact that two other

trains had experienced similar braking problems as the train which had been involved in the fatal accident (see paragraph 4 above).

21. Having regard to the above circumstances, the Court is satisfied that there were sufficient counterbalancing factors to conclude that the domestic courts' decision not to take the evidence proposed by the applicants, and in particular not to obtain another expert opinion, did not undermine the overall fairness of the proceedings (compare *Isgandarov v. Azerbaijan*, no. 77612/11, § 18, 17 March 2022).

22. In the light of all the above, the Court considers that the applicants' complaints do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

23. They must therefore be declared inadmissible for being manifestly ill-founded in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 9 July 2026.

Liv Tigerstedt Deputy Registrar	Artūrs Kučs President

APPENDIX

List of cases

No.	Application no.	Case name	Lodged on	Applicant Year of birth Place of residence Nationality	Represented by
1.	36578/22	Bazina v. Croatia	18/07/2022	**Jozo BAZINA** 1951 Pula Croatian	Višnja DRENŠKI LASAN
2.	38154/22	Medak v. Croatia	02/08/2022	**Ivica MEDAK** 1958 Lekenik Croatian	Siniša ŠTIMAC