

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

THIRD SECTION

CASE OF ČOLOVIĆ v. SERBIA

(Application no. 2806/20)

JUDGMENT

STRASBOURG

30 September 2025

This judgment is final but it may be subject to editorial revision.



In the case of Čolović v. Serbia,

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

Darian Pavli*, President*,
Úna Ní Raifeartaigh,
Mateja Đurović*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 2806/20) 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 20 December 2019 by a Serbian national, Mr Radisav Čolović ("the applicant"), who was born in 1950, lives in Priboj and was represented by Mr I. Tešić, a lawyer practising in Užice;

the decision to give notice of the application to the Serbian Government ("the Government"), represented by their Agent, Ms Zorana Jadrijević Mladar,

the parties' observations;

Having deliberated in private on 9 September 2025,

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

SUBJECT MATTER OF THE CASE

1. The applicant complained under Article 5 § 5 of the Convention about the decision of the Constitutional Court not to award him compensation for the breach of his rights guaranteed by Article 5 § 4.

2. On 10 March 2016 the applicant was detained by the police at 4 p.m. on suspicion of having committed fraud. His appeal contesting the detention order was submitted to the police at 9 p.m. It was subsequently forwarded to the Užice Basic Court at 8.15 a.m. the following morning. After review, the Užice Basic Court rejected the appeal as unfounded. The applicant's lawyer was served with the decision at 11.55 a.m. On the same day, the detention order was suspended at 7 p.m. by the police. On 29 June 2016 the Užice Basic Court found the applicant guilty of fraud and sentenced him to a suspended sentence and a fine.

3. On 4 July 2019 the Constitutional Court found a violation of the applicant's right to have his detention reviewed speedily as it took the competent court around fifteen instead of four hours as prescribed by Article 294 § 3 of the Criminal Procedure Code to decide on his appeal against the detention order. The Constitutional Court ordered the publishing of its decision finding it a sufficient just satisfaction and awarded no financial award to the applicant.

4. Relying on Article 5 § 5 of the Convention the applicant complained that the domestic courts failed to award him the compensation to which he is

entitled as a result of the established violation of Article 5 § 4 of the Convention.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 5 § 5 OF THE CONVENTION

A. Admissibility

1. Abuse of the right of individual application

5. The Government objected to the admissibility of the application on the ground that the applicant abused the right to individual application within the meaning of Article 35 § 3 (a) of the Convention by failing to inform the Court that, following police detention, criminal proceedings were instituted against him, which resulted in his conviction.

6. 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, significant information and documents were deliberately omitted. However, not every omission of the information will amount to abuse; the information in question must concern the very core of the case (see, among other authorities, *Mitrović v. Serbia*, no. 52142/12, §§ 33-34, 21 June 2017, with further references).

7. Turning to the present case, the Court notes that the applicant indeed failed to inform the Court about the outcome of the proceedings in question. The Court observes, however, that the applicant's conviction could not be considered relevant for the Court's assessment of alleged failure of the domestic courts to award non-pecuniary damages for the violation already found.

8. The Court, therefore, dismisses the Government's objection regarding the abuse of the right to individual application.

2. Victim status

9. The Government also argued that the applicant could no longer claim to be a victim for the purposes of Article 34 of the Convention given that the Constitutional Court had found a breach of the right guaranteed by Article 5 § 4 of the Convention and that the acknowledgement of the breach presents sufficient satisfaction in the circumstances of the present case.

10. The Court notes that the question whether the acknowledgement of the alleged breach by the Constitutional Court and mere publication of its decision deprive the applicants of their status as victims for the purposes of Article 34 of the Convention has already been examined in *Radonjić and Romić v. Serbia*, no. 43674/16, §§ 49-51, 4 April 2023. Namely, the Court reiterated that a decision or measure favourable to the applicant is not, in

principle, sufficient to deprive him of his status as a "victim" for the purposes of Article 34 of the Convention unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention. Moreover, the redress afforded by the national authorities must be appropriate and sufficient (ibid., § 48). Turning to the present case, the Court observes that the Constitutional Court indeed expressly acknowledged the alleged breach of the Convention. However, it decided not to award the applicant any compensation for non-pecuniary damage.

11. The Court considers that the question of redress should be joined to the merits since it is closely linked to the substance of the applicant's complaint that the enforceable right to compensation guaranteed by Article 5 § 5 of the Convention was breached in his case.

3. Conclusion

12. 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

13. The Government stated that the acknowledgement of the breach presents sufficient satisfaction in the circumstances of the present case because the detention caused no harm warranting compensation.

14. Taking into consideration the recent case-law of the Court (see *Radonjić and Romić*, § 49, cited above), which underlines that non-pecuniary damage must be awarded in situations of this nature, the fact that the Constitutional Court chose not to award any compensation leads the Court to conclude that the mere acknowledgement of the alleged breach does not in itself constitute sufficient redress for that violation. Compensation in respect of non-pecuniary damage in an adequate amount would be required to that end (ibid., § 48). In the determination of the adequacy of compensation the Court has had regard to its own practice under Article 41 of the Convention in similar cases and also to the factual elements of the case, such as the duration of the applicant's detention (see, among other authorities, *Vasilevskiy and Bogdanov v. Russia*, nos. 52241/14 and 74222/14, § 23, 10 July 2018). Thus, the applicant's enforceable right to compensation, as guaranteed under Article 5 § 5 of the Convention, was violated.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. The applicant claimed 10,000 euros (EUR) in respect of non-pecuniary damage and 2,000 euros (EUR) in respect of costs and expenses incurred before the Court.

16. The Government considered the applicant's claim unfounded and unsubstantiated.

17. Having regard to all the circumstances of the present case, the Court accepts that the applicant has suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation. Making its assessment on an equitable basis, the Court awards the applicant EUR 800 in respect of non-pecuniary damage, plus any tax that may be chargeable.

18. 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 were also reasonable as to their quantum. That is, the applicant must have paid them or be bound to pay them pursuant to a legal or contractual obligation, and they must have been unavoidable in order to prevent the violation found or to obtain redress (see, among other authorities, *Đurić v. Serbia*, no.24989/17, § 95, 6 May 2024, with further references). In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the applicant the sum of EUR 1,200 covering costs and expenses incurred before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Joins* to the merits the Government's objection concerning the alleged lack of a "victim status" and dismisses it;

2. *Declares* the application admissible;

3. *Holds* that there has been a violation of Article 5 § 5 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 800 (eight hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,200 (one thousand two hundred euros), 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 amounts 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 30 September 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Darian Pavli President