

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

FIRST SECTION

DECISION

Application no. 44644/21
Valentīns JEREMEJEVS
against Latvia

The European Court of Human Rights (First Section), sitting on 19 February 2026 as a Committee composed of:

Erik Wennerström*, President*,
Raffaele Sabato,
Artūrs Kučs*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 44644/21) against the Republic of Latvia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 1 September 2021 by a Latvian national, Mr Valentīns Jeremejevs ("the applicant"), who was born in 1976 and lives in Riga, and was represented by Mr A. Zvejsalnieks, a lawyer practising in Riga;

the decision to give notice of the complaint concerning the effect of the criminal proceedings on the applicant's right to freedom of expression to the Latvian Government ("the Government"), represented by their Agents, Ms K. Līce and, subsequently, Ms E.L. Vītola, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's complaint that he had been subjected to criminal investigation in relation to videos he had published on Facebook and that the criminal proceedings against him had violated his right to freedom of expression.

2. On 8 December 2020 the State Police (*Valsts policija*) instituted criminal proceedings (case no. 11816013320) regarding the criminal offence

of hooliganism under section 231(1) of the Criminal Law (*Krimināllikums*) in relation to the dissemination of fake news on Facebook related to the Covid-19 pandemic that posed a threat to public safety.

3. On 9 December 2020 the applicant – a social and political activist who regularly posted on social media – was arrested and taken into custody. He was declared a suspect (*aizdomās turētais*) in view of a police report concerning two videos he had posted on Facebook on 2 and 4 December 2020 and an application submitted by a hospital that characterised those videos as aggressive fake news concerning the Covid-19 pandemic. On 10 December 2020 he was placed in detention on remand for one month.

4. On 21 December 2020 the applicant was released on bail (in the amount of 50,000 euros). Subsequently, he was subjected to police supervision, prohibited from leaving the country and from contacting the persons whom he had interviewed in the above-mentioned videos, and prohibited from working for the foundation People's Power Front (*Tautas varas fronte*).

5. The applicant's request to have the criminal proceedings terminated and the subsequent appeals which he lodged were dismissed.

6. On 6 September and 23 November 2021 the classification of the criminal offence was changed to section 231(2) of the Criminal Law (hooliganism by a group of persons) and the video of 4 December 2020 was excluded from the charges against the applicant.

7. On 7 March 2022 the pre-trial investigation was concluded and the case was transferred to the prosecution for the bringing of charges. On 8 March 2022 a prosecutor established that charges could not be brought, as the elements of the criminal offence were not present ("direct intent" and a "gross disturbance of the public order") and referred the case to the police for further investigation.

8. On appeals from the head of the department of the State Police, the decision of 8 March 2022 was set aside by a higher-ranking prosecutor as unsubstantiated and the case was remitted back to the prosecution for a decision on bringing charges.

9. On 29 April 2022 the criminal proceedings were discontinued owing to the lack of statutory elements (*corpus delicti*) of the offence of hooliganism in the activities investigated. That decision was upheld by a final decision of 17 May 2022.

10. Under Article 10 of the Convention the applicant complained that he had been subjected to criminal investigation in view of the videos he had published on Facebook. In particular, he alleged that his actions could not constitute *corpus delicti* of the criminal offence of hooliganism and that the fact that the criminal proceedings had been instituted against him had violated his right to freedom of expression.

THE COURT'S ASSESSMENT

11. The Government raised two objections, including that by failing to lodge a constitutional complaint, the applicant had failed to exhaust domestic remedies. They argued that it followed from the applicant's submissions to the Court that he considered that section 231 of the Criminal Law was incompatible with Article 100 of the Constitution (the right to freedom of expression).

12. The applicant disagreed. He emphasised that by publishing the videos on Facebook he had not committed a criminal offence of hooliganism within the meaning of section 231 of the Criminal Law and that the legal provision had been applied incorrectly.

13. The relevant principles as regards the subsidiary nature of the machinery of protection established by the Convention and the requirement to exhaust domestic remedies have been summarised in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014) and, more recently, in *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC], no. 21881/20, §§ 138-46, 27 November 2023).

14. As regards the burden of proof, it is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one, available in theory and in practice at the relevant time. However, once this burden has been satisfied, it falls to the applicant to establish that the remedy advanced by the Government was in fact made use of or was for some reason inadequate and ineffective in the particular circumstances of the case, or that there existed special circumstances absolving him from that requirement (see *Vučković and Others*, cited above, § 77). The existence of mere doubts as to the prospects of a particular remedy which is not obviously futile is not a valid reason for failing to exhaust that remedy (ibid., § 74).

15. The Court observes that it has already examined the scope of the Constitutional Court's review in Latvia (see *Larionovs and Tess v. Latvia* (dec.), nos. 45520/04 and 19363/05, §§ 141-43, 25 November 2014, with further references). The Court has noted that the Constitutional Court examined, *inter alia*, individual complaints challenging the constitutionality of a legal provision or its compliance with a provision that has superior legal force. An individual constitutional complaint can only be lodged against a legal provision and not against a judicial or an administrative decision as such. Therefore, recourse to the Constitutional Court can only be had in a situation in which the alleged violation of the Convention resulted from the application of a legal provision which is called into question as being contrary to the Constitution (ibid., §§ 142 and 148).

16. The Court would add that such legal provision must constitute the direct legal basis for the individual decision in respect of which the violation is alleged. An individual constitutional complaint cannot therefore serve as

an effective remedy if the alleged violation resulted only from an erroneous application or interpretation of a legal provision, the content of which is not unconstitutional (see *Larionovs and Tess*, cited above, § 148, and *Latvijas Jauno Zemnieku Apvienība v. Latvia* (dec.), no. 14610/05, § 45, 17 December 2013).

17. The Court notes that the Government have submitted examples of domestic court case-law attesting that the criminal offence of hooliganism proscribed by section 231 of the Criminal Law was applicable to statements published on social media platforms on the internet and that that provision has been applied by the domestic courts in criminal proceedings related to online publications (they cited the judgment of 30 July 2020 by the Riga City Latgale District Court in case no. 11816002020 and the judgment of 20 September 2021 by the Riga Regional Court in case no. 11817001020). The Court further notes that in the present case the domestic authorities applied section 231 of the Criminal Law in the criminal proceedings against the applicant in such context.

18. The Court observes that in the present case the alleged violation of the applicant's right to freedom of expression in the context of the criminal proceedings stemmed from the legal provision itself, which served as a direct legal basis for the criminal proceedings against him. Moreover, the text of the legal provision criminalising hooliganism is so closely linked to its interpretation and application that it cannot be artificially separated and examined in isolation. Thus, the Court finds that the scope of the offence of hooliganism could be challenged before the Constitutional Court as being contrary to the constitutional right to freedom of expression.

19. Moreover, the Court takes note that the case-law of the Constitutional Court (specifically the judgment of 23 September 2002 in case no. 2002-08-01, the judgment of 29 June 2018 in case no. 2017-25-01, the judgment of 11 May 2011 in case no. 2010-55-0106, and the judgment of 24 September 2020 in case no. 2019-22-01) submitted by the Government indicates that the Constitutional Court, in their assessment of whether a legal provision was compatible with the right to freedom of expression enshrined in the Constitution, would follow a similar approach to that of the Court. The Court also notes that proceedings before the Constitutional Court could be instituted even in the absence of criminal charges (see the Constitutional Court's judgment in case no. 2003-05-01 of 29 October 2003).

20. Against this background, and bearing in mind its subsidiary role, the Court finds that by failing to bring a constitutional complaint before the Constitutional Court prior to lodging his complaint before the Court, the applicant failed to exhaust domestic remedies.

21. It follows that the application must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 19 March 2026.

Liv Tigerstedt Deputy Registrar	Erik Wennerström President