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

SECOND SECTION

DECISION

Application no. 319/19
Neđeljko KALEMBER against Croatia
and 2 other applications
(see appended list)

The European Court of Human Rights (Second Section), sitting on 20 May 2025 as a Committee composed of:

Jovan Ilievski*, President*,
Péter Paczolay,
Davor Derenčinović*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicants, Mr Neđeljko Kalember ("the first applicant"), Ms Nedjeljka Brozović ("the second applicant") and Mr Dušan Trifunović ("the third applicant"), are Croatian nationals whose personal details and representatives are set out in the appendix.

2. The Croatian Government ("the Government") were represented by their Agent, Ms Š. Stažnik.

3. The facts of the case, as submitted by the parties, may be summarised as follows.

A. Civil proceedings instituted by the applicants

1. The first and second applicants (applications nos. 319/19 and 1161/19)

4. In 2004 the first and second applicants instituted civil proceedings for damages against the State, submitting that their parents had been killed

in 1996 by two former Croatian soldiers and arguing that the killing had amounted to a terrorist act, for which the State was liable.

5. The domestic courts, including the Supreme Court, dismissed the first and second applicants' claim, finding that the killing of their parents did not amount to a terrorist act, as required for obtaining damages under the Act on Liability for Damage Resulting from Terrorist Acts and Public Demonstrations (the relevant provisions and related domestic case-law are outlined in *Cindrić and Bešlić v. Croatia*, no. 72152/13, §§ 48-49, 6 September 2016).

6. The first and second applicants were ordered to pay the State 30,000 Croatian kunas (HRK; approximately 4,000 euros (EUR)) in costs, comprising the fees chargeable for the State's representation by the State Attorney's Office.

7. On 28 June 2018 the Constitutional Court dismissed as unfounded the first and second applicants' constitutional complaint lodged against the Supreme Court's judgment, in which they had *inter alia* complained about the domestic courts' decision ordering them to pay for the State's representation. The decision was served on their representative on 10 July 2018.

8. On 11 December 2023 the claim constituting of costs of the proceedings awarded to the State was collected from the first and second applicants by way of enforcement.

2. The third applicant (application no. 54501/20)

9. In 2008 the third applicant and his mother instituted civil proceedings for damages against the State, submitting that two of their family members had been killed in 1995 by members of the Croatian army, for which the State was liable pursuant to the Act on the liability of the Republic of Croatia for damage caused by members of the Croatian army and police in the performance of their duties during the Homeland War (the relevant provisions are outlined in *Bursać and Others v. Croatia*, no. 78836/16, § 32, 28 April 2022).

10. The domestic courts, including the Supreme Court, dismissed the claim, finding that it had been lodged outside the statutory time-limit.

11. The third applicant and his mother were ordered to pay the State HRK 33,750 (approximately EUR 4,500) in costs, comprising the fees chargeable for the State's representation by the State Attorney's Office.

12. On 28 May 2020 the Constitutional Court dismissed as unfounded the third applicant's and his mother's subsequent constitutional complaint lodged against the Supreme Court's judgment, in which they had *inter alia* complained about the domestic courts' decision ordering them to pay for the State's representation. The decision was served on their representative on 10 June 2020.

13. The third applicant and his mother did not pay the costs of the proceedings awarded to the State. In February 2021 the competent State Attorney's office attempted to collect the claim by seizing money from the third applicant's bank accounts; without success, as there were no funds on his bank accounts.

B. Complaints to the Court and their communication to the Government

14. On 24 December 2018 and 1 December 2020 respectively, the applicants lodged their applications with the Court, complaining, *inter alia*, that the impugned decisions concerning the costs of proceedings violated their right of access to a court guaranteed by Article 6 § 1 of the Convention and their right to the peaceful enjoyment of possessions under Article 1 of Protocol No. 1 to the Convention.

15. On 26 March 2020 and 14 December 2022 respectively, the Government were given notice of those complaints whereas the remainder of the applications was declared inadmissible.

16. In their observations of 14 December 2020 and 7 June 2023 respectively, the Government disputed the admissibility of the applications, arguing that all three applicants had failed to exhaust domestic remedies, and further arguing that the third applicant did not suffer any significant disadvantage because he had never paid the costs of the proceedings, as the costs order could not be enforced owing to the lack of funds on his bank accounts. They also argued that there had been no violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 thereto in the applicants' cases.

C. Subsequent developments

17. On 28 December 2023 the Government of Croatia adopted a decision, which entered into force on the same day, writing off unpaid costs and reimbursing paid costs awarded to the State in civil proceedings in which parties sought compensation for the damage sustained during the war in Croatia (*Odluka o otpisu tražbina troškova parničnog postupka dosuđenih Republici Hrvatskoj, tražbina s naslova naknade štete i drugih tražbina dosuđenih Republici Hrvatskoj, u određenim postupcima*, unpublished). The plaintiffs had one year to submit requests for reimbursement of paid costs. The competent State Attorney's offices were instructed not to institute enforcement proceedings to collect such costs and to withdraw applications for enforcement in enforcement proceedings that had already been instituted.

18. On the basis of that decision, on 31 January 2024 the first and second applicants were reimbursed the sum collected from them for the costs of proceedings awarded to the State (see paragraphs 6 and 8 above). On

3 February 2025 the competent State Attorney's office withdrew the application for enforcement lodged against the third applicant with a view to collecting the costs of proceedings awarded to the State (see paragraphs 11 and 13 above).

19. Following the latter events, the Government invited the Court to either (a) declare the three applicants' complaints inadmissible on the ground that they were no longer victims of the violations complained of, (b) find that the three applicants did not suffer any significant disadvantage, or (c) strike the first and second applicants' applications out of its list of cases in that the matter had been resolved and, as for the third applicant, either reject his complaints as being premature (in that he had not yet asked for the write-off pursuant to the Government's decision), or reject his application on the ground of abuse of petition under Article 35 § 3 (a) of the Convention (in that the Court had been misled into believing that the third applicant had paid the costs of proceedings, whereas he had not).

20. In reply to the Government's inadmissibility objections, the first and second applicants contended that, even though they had been reimbursed the sum they had paid for costs of proceedings, they had not been compensated for the costs incurred on account of the violation of their rights. They thus asked the Court to continue the examination of their cases. The third applicant contended that the assessment of whether domestic remedies had been exhausted should be carried out with reference to the date on which the application had been lodged with the Court, adding that he had introduced his application in December 2020, whereas the decision of the Government of Croatia was adopted in December 2023.

THE LAW

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

22. The Court reiterates that, under Article 37 § 1 (b) of the Convention, it may "... at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that ... the matter has been resolved ...". In order to ascertain whether that provision applies, the Court must examine, firstly, whether the circumstances complained of directly by an applicant still obtain and, secondly, whether the effects of a possible violation of the Convention on account of those circumstances have also been redressed (see, for example, *Vadalà v. Italy* (dec.), no. 14656/15, § 29, 7 November 2023, and the cases cited therein).

23. The Court further reiterates that for the purposes of Article 37 § 1 (b) of the Convention it is not required that the national authorities acknowledge a violation of the Convention or that the applicant, in addition to having obtained a resolution of the matter, is also granted compensation (ibid., § 36, and the cases cited therein).

24. In the present case the Court notes that, after the Government of Croatia adopted on 28 December 2023 the decision writing off unpaid costs and reimbursing paid costs awarded to the State in civil proceedings in which parties sought compensation for the damage sustained during the war in Croatia (see paragraph 17 above), the first and second applicants were reimbursed the costs of proceedings which had earlier been collected from them by way of enforcement (see paragraph 18 above). As for the third applicant, the Court notes that he never voluntarily paid the costs awarded to the State, that the attempt to collect them by seizing the funds on his bank accounts in 2021 remained unsuccessful, and that on 3 February 2025 the competent State Attorney's office withdrew the application for enforcement previously lodged against him (see paragraphs 11, 13 and 18 above).

25. Hence, even though the domestic courts' decisions ordering the applicants to pay the costs of proceedings to the State still obtain, after the Government of Croatia's decision of 28 December 2023 writing off unpaid costs and reimbursing paid costs awarded to the State in civil proceedings concerning damage sustained during the war, the applicants no longer run any risk that they would have to pay those costs or that the State will seek enforcement of the costs orders (compare *Milašinović v. Croatia* (dec.), no. 26659/08, 28 June 2011).

26. It follows that the circumstances complained of by the applicants no longer obtain and that the effects of possible violations of the Convention and its Protocols on account of those circumstances have been redressed. Therefore, both conditions for the application of Article 37 § 1 (b) of the Convention have been met (see paragraph 22 above).

27. Consequently, the matter giving rise to the applicants' complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 thereto can be considered to have been "resolved" within the meaning of Article 37 § 1 (b) of the Convention.

28. Lastly, the Court finds that no reason relating to the respect for human rights as defined in the Convention and its Protocols requires it to continue the examination of the applications under Article 37 § 1 *in fine*.

29. Accordingly, the cases should be struck out of the Court's list of cases.

30. In view of this conclusion, the Court does not find it necessary to examine any of the Government's objections on grounds of inadmissibility (compare *Milašinović*, cited above).

For these reasons, the Court, unanimously,

Decides to join the applications;

Decides to strike the applications out of its list of cases.

Done in English and notified in writing on 12 June 2025.

Dorothee von Arnim Deputy Registrar	Jovan Ilievski President

APPENDIX

List of cases:

No.	Application no.	Case name	Lodged on	Applicant Year of Birth Place of Residence Nationality	Represented by
1.	319/19	Kalember v. Croatia	24/12/2018	**Neđeljko KALEMBER** 1952 Melton, Victoria (Australia) Croatian	Mirjana OREDIĆ
2.	1161/19	Brozović v. Croatia	24/12/2018	**Nedjeljka BROZOVIĆ** 1949 Plitvička jezera (Croatia) Croatian	Mirjana OREDIĆ
3.	54501/20	Trifunović v. Croatia	01/12/2020	**Dušan TRIFUNOVIĆ** 1961 Inđija (Serbia) Croatian	Slađana ČANKOVIĆ