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

FOURTH SECTION

DECISION

Application no. 33805/20
Hristo KRUŠARSKI
against Serbia

The European Court of Human Rights (Fourth Section), sitting on 15 October 2024 as a Committee composed of:

Tim Eicke*, President*,
Ana Maria Guerra Martins,
Mateja Đurović*, judges*,
and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to:

the application (no. 33805/20) 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 21 July 2020 by a Bulgarian national, Mr Hristo Krušarski ("the applicant"), who was born in 1957, lives in Sofia, and was represented by Mr V. Ivanović, a lawyer practising in Kruševac;

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

the decision of the Bulgarian Government not to make use of their right to intervene in the proceedings (Article 36§ 1 of the Convention);

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The applicant is a prominent businessman and a football club owner. He was managing director of Trayal Corporation, the largest private company in Kruševac, from 2009 to 2011. The applicant brought defamation claims against a local politician, S., for statements made at a press conference on 28 November 2013 in which he had accused Trayal Corporation of corrupt business practices under the applicant's management. The claims were granted in part. The domestic courts acknowledged that some of S.'s

statements had been damaging to the applicant's honour, dignity and reputation. Having examined the applicant's personal and professional situation and the impact of the defamatory statements, the courts awarded him 35,000 Serbian dinars. Referring to the partial acceptance of the applicant's claims against S., the courts ruled that each party to the proceedings should bear its own costs and expenses. The final decision on the matter was taken by the Kruševac High Court on 31 August 2017. On 8 June 2020 the Constitutional Court dismissed the applicant's complaints as unsubstantiated.

2. Referring to Articles 6, 8 and 13 of the Convention and Article 1 of Protocol No. 1, the applicant complained that: (a) by having to pay the costs and expenses, which had been higher than the amount awarded in respect of non-pecuniary damage, he had suffered a violation of his right of access to court and a breach of his property rights; (b) the practice of the Serbian courts had been flagrantly inconsistent when it came to amounts awarded for non-pecuniary damage in comparable civil defamation contexts and, more generally, the proportion between the amounts awarded and the costs and expenses which had to be paid by the claimants; (c) the judgments of the Kruševac High Court and the Constitutional Court in his case had not been properly reasoned and had provided him with no effective redress for the wrongs suffered; and (d) as a consequence of the above, and, in particular, because of the unacceptably low amount of the award in respect of non-pecuniary damage, he remained a victim of a violation of his right to the protection of his reputation.

THE COURT'S ASSESSMENT

3. The applicant alleged a violation of Article 8 of the Convention, as regards the domestic courts' refusal (1) to grant his defamation claims in full and (2) to reimburse his legal costs and expenses. The Court does not consider it necessary to examine the Government's inadmissibility objections that the applicant did not suffer a significant disadvantage, that he could no longer claim to be a victim or that he failed to exhaust effective domestic remedies since the application is in any event inadmissible for the following reasons.

4. The general principles concerning the right to protection of reputation, provided for in Article 8, are well established in the Court's case-law (see, among other authorities, *Egill Einarsson v. Iceland (no. 2)*, no. 31221/15, §§ 31-37, 17 July 2018).

5. In the present case, the domestic courts partially granted the applicant's claims. They found some of the statements made by S. defamatory and awarded the applicant non-pecuniary damage given his personal situation and the impact of the defamatory statements. In such circumstances, the Court is unable to conclude that the protection afforded to the applicant by the Serbian courts was not effective or sufficient with regard to the State's positive obligations or that the decision to grant his claims for damages in part

deprived the applicant of his right to protection of his reputation and thereby emptied the right under Article 8 of the Convention of its effective content. Similar considerations apply to the manner in which the domestic courts handled the issue of legal costs. Indeed, their decision that the applicant bear his legal costs and expenses, the amount of which the applicant did not substantiate with appropriate evidence, was prompted by the fact that his claims were not granted in full, and cannot be regarded unreasonable or disproportionate.

6. Lastly, the Court considers that, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the remainder of the applicant's complaints under Articles 6 and 13 of the Convention and Article 1 of Protocol No. 1 do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

7. It follows that the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 7 November 2024.

Simeon Petrovski	Tim Eicke
Deputy Registrar	President