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

FIRST SECTION

DECISION

Application no. 24660/07
Zlatan LUKEŽIĆ
against Croatia

The European Court of Human Rights (First Section), sitting on 10 September 2013 as a Chamber composed of:

Isabelle Berro-Lefèvre, *President,*
Elisabeth Steiner,
Khanlar Hajiyev,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Ksenija Turković,
Dmitry Dedov, *judges,*

and Søren Nielsen, *Section Registrar,*

Having regard to the above application lodged on 26 May 2007,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Zlatan Lukežić, is a Croatian national, who was born in 1962 and lives in Rijeka. He was represented before the Court by Mr A. Bilić, a lawyer practising in Viškovo.

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

A. The circumstances of the case

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

4. The applicant was an employee of the Service for the Protection of the Constitutional Order (*Služba za zaštitu ustavnog poretka* – hereinafter referred to as "the SPCO"), a Croatian intelligence agency which was abolished in 2003 following a reorganisation of the intelligence services. Its employees were taken over by the newly-formed Counter-Intelligence Agency (*Protuobavještajna agencija* – hereinafter referred to as "the CA").

5. On 15 May 2003 the Government of Croatia enacted a decree on the internal organisation of the CA and its rules of engagement. These regulations provided, *inter alia*, guidelines for the assessment of the criteria for integrating former SPCO employees into the structure of the CA, since the number of employees taken over from the SPCO was greater than the number of available posts. The new criteria included, in particular, knowledge of relevant laws, respect for duty and the rating of the employee's appraisal.

6. On 29 August 2003 the CA, acting pursuant to section 103(1) and (2) of the Civil Service Act (see paragraph 33 below), placed the applicant at the disposal of the Government of Croatia with effect from 1 September 2003. He had the right to remain in civil service, placed at the disposal of the Government of Croatia, for a further four months until 2 January 2004, after which time his employment would be terminated. The relevant part of the decision reads as follows:

> "Zlatan Lukežić was in active service until 1 June 2003. The said rules [of engagement] provide additional professional and other criteria, namely a higher level of professional knowledge and the ability to adapt to the new standards of engagement of the CA, which the said person does not meet.
>
> Therefore, it was not possible to reassign him to a different post within three months of the new organisation coming into effect ... "

7. On 1 October 2003 the applicant lodged an appeal with the head of the CA (*Ravnatelj Protuobavještajne agencije*), arguing that he was better qualified than other employees who had been reassigned to different posts. He also contended that he had not seen the new regulations and that the first-instance decision lacked relevant reasoning as to why he had not met the required criteria.

8. On 29 October 2003 the head of the CA dismissed the applicant's appeal as ill-founded. The relevant part of the decision reads as follows:

> " ... [Zlatan Lukežić] worked [as a SPCO agent] for eleven years, during which time he demonstrated average professional knowledge of the relevant laws concerning national security, passive knowledge of a foreign language and average professional commitment. It was also found that he had performed his tasks hurriedly and had made a number of mistakes. He routinely worked without proactively applying the relevant working methods and it also occurred that he had exceeded his official authority. In carrying out his tasks, he did not demonstrate the necessary respect for his superiors and had certain problems communicating with his colleagues, as can be seen from his appraisal report for 2001. Specifically, he was not appraised with the highest rating (his rating was successful). For the year 2002 he was not appraised,

since he had been on sick leave for over six months and during that year an investigation had been opened into him, and he had been detained on suspicion of having committed criminal offences under Article 345 §§ 1 and 3 and Article 287 of the Criminal Code.

The CA's letter ... of 26 September 2003 shows that he has been allowed to inspect the CA's rules of engagement."

9. On 1 December 2003 the applicant lodged an administrative action with the Administrative Court (*Upravni sud Republike Hrvatske*), arguing that the second-instance decision was not sufficiently reasoned, that he had been unable to examine the rules of engagement at the time he had lodged his appeal, and that he had demonstrated better results than other employees who had been reassigned to different posts.

10. On 27 May 2004 the Administrative Court dismissed the applicant's administrative action as ill-founded, on the grounds that the material submitted before it, and the relevant parties' arguments, showed that the CA had correctly applied the relevant domestic law, and that it was not for the Administrative Court to substantiate its views to the one of the relevant State bodies as to whether an employee satisfied the requirements of a post or service.

11. On 25 September 2004 the applicant lodged a constitutional complaint with the Constitutional Court (*Ustavni sud Republike Hrvatske*), reiterating his previous arguments. He also lodged a further constitutional complaint on 23 October 2006 concerning the same matter.

12. On 8 July 2005 the applicant requested the head of the CA to reopen the administrative proceedings, on the grounds that there had been flaws in the procedure for placing him at the disposal of the Government of Croatia and that therefore all decisions in that regard had been unlawful.

13. On 18 August 2005 the head of the CA declared the applicant's request inadmissible, on the grounds that he had had an opportunity to put forward all his arguments in the administrative proceedings, and that all his new arguments had been irrelevant as regards reopening the proceedings.

14. On 23 September 2005 the applicant lodged an administrative action with the Administrative Court against that decision, reiterating his previous arguments.

15. On 12 January 2006 the Administrative Court dismissed the action as ill-founded, endorsing the arguments of the head of the CA.

16. On 26 October 2006 the Constitutional Court dismissed the applicant's constitutional complaint of 25 September 2004 (see paragraph 11 above) as ill-founded and declared his additional complaint of 23 October 2006 inadmissible as being lodged outside the thirty-day time-limit.

17. In its decision the Constitutional Court endorsed the findings of the Administrative Court and noted:

> " ... the Constitutional Court finds that the right to equality before the law was not breached in the present case. The impugned judgment is based on the relevant substantive law and the Administrative Court provided sufficient reasons for its findings, and there is nothing to suggest any arbitrariness.
>
> ... The Constitutional Court finds that [the right to appeal] was not breached in the present case since the applicant had used that remedy and had instituted administrative proceedings, and the competent authorities decided his complaints on the merits, providing relevant reasons for their decisions.
>
> ...
>
> In view of all the established facts in the proceedings, and the manner in which the relevant substantive and procedural laws were applied, the Constitutional Court does not find that the applicant's right to work and to enjoy the freedom of work was violated by placing him at the disposal of the Government of Croatia."

18. In the meantime, the applicant obtained reports by the Parliamentary Committee for Supervision of the Intelligence Services (*Hrvatski Sabor, Vijeće za nadzor sigurnosnih službi*) and the Ombudsman (*Pučki pravobranitelj*), which found certain flaws in the procedure for placing him at the disposal of the Government of Croatia.

19. On 21 February 2008 the applicant, relying on the two reports, requested the Central State Administration Office (*Središnji državni ured za upravu* – hereinafter referred to as "the Central Office") to quash the CA's decision of 29 August 2003 by which he had been placed at the disposal of the Government of Croatia.

20. Since the Central Office had failed to decide the applicant's request within the required time-limit, the applicant lodged an administrative action before the Administrative Court, complaining of inactivity on the part of the administrative bodies and requesting that the CA's decision of 29 August 2003 be quashed.

21. Meanwhile, on 5 May 2009 the applicant lodged a request for the administrative proceedings to be reopened with the Administrative Court (see paragraph 10 above), arguing that in another case, which had raised similar legal and factual issues, the Administrative Court had ruled in favour of the claimant. He also contended that, at the relevant time, the Central Office had failed to take the necessary actions concerning his placement at the disposal of the Government of Croatia.

22. On 16 September 2009 the Administrative Court accepted the part of the applicant's administrative action concerning inactivity on the part of the Central Office (see paragraph 20 above) and ordered the latter to decide the applicant's request within a time-limit of thirty days. The Administrative Court however dismissed the part of the applicant's action in which he requested that the decision placing him at the disposal of the Government of Croatia be quashed.

23. On 18 December 2009, the Ministry of the Administration (*Ministarstvo uprave Republike Hrvatske*), acting as the successor of the

Central Office (which in the meantime had ceased to exist) and complying with the Administrative Court's decision, dismissed the applicant's request to quash the CA's decision of 29 August 2003, by which he had been placed at the disposal of the Government of Croatia.

24. The Ministry of the Administration found that there might have been certain flaws in the decisions of the CA concerning the procedure by which the applicant had been placed at the disposal of the Government of Croatia, but they did not warrant the decisions being quashed. Specifically, the Ministry of the Administration found that nothing had prevented the applicant from taking the initiative, had he considered it appropriate, in seeking reassignment to another post in the civil service during the period in which he had been placed at the disposal of the Government of Croatia.

25. On an unspecified date in 2010 the applicant lodged an administrative action with the Administrative Court against the Ministry of the Administration's decision, reiterating his previous arguments.

26. On 22 October 2009 the Administrative Court declared the applicant's request of 5 May 2009 for reopening the administrative proceedings (see paragraph 21 above) inadmissible. It held that reopening the proceedings before the Administrative Court had only been possible where the Administrative Court itself had established the relevant facts, and that in the applicant's case the Administrative Court had accepted the factual findings of the lower administrative bodies. Therefore, the reasons relied on by the applicant could only be grounds for reopening the proceedings before the lower administrative bodies.

27. On 2 December 2009 the applicant lodged a constitutional complaint before the Constitutional Court against that decision, arguing that the Administrative Court lacked impartiality, since the same judges had decided both his administrative action against the decisions of the CA and his request for reopening the proceedings. He also contended that the Administrative Court had accepted the administrative action in another similar case, whereas his own administrative action had been dismissed.

28. On 27 January 2010 the Constitutional Court declared the applicant's constitutional complaint inadmissible as incompatible *ratione materiae* with the provisions of the Constitution, since the proceedings at issue had concerned proceedings for reopening the proceedings before the Administrative Court.

29. On 24 October 2010 the Administrative Court dismissed the applicant's administrative action against the Ministry of the Administration's decision of 18 December 2009 (see paragraphs 23-25 above) as ill-founded.

30. The applicant lodged a constitutional complaint before the Constitutional Court against the Administrative Court's decision, but on 16 February 2012 it was dismissed as ill-founded.

B. Relevant domestic law and practice

1. Constitution

31. The relevant provisions of the Constitution of the Republic of Croatia (*Ustav Republike Hrvatske*; Official Gazette nos. 56/1990, 135/1997, 8/1998 (consolidated text), 113/2000, 124/2000 (consolidated text), 28/2001, 41/2001 (consolidated text), and 55/2001 (corrigendum), 76/2010, 85/2010) read as follows:

Article 19

"Individual decisions of State administration and bodies vested with public powers shall be based in law.

Judicial review of the legality of individual decisions of administrative authorities and bodies vested with public powers shall be guaranteed."

Article 29

"In the determination of his rights and obligations or of any criminal charge against him, everyone is entitled to a fair hearing within a reasonable time by an independent and impartial court established by law.

2. Constitutional Court Act

32. The relevant part of section 62 of the Constitutional Court Act (Official Gazette no. 49/2002, of 3 May 2002, *Ustavni zakon o Ustavnom sudu Republike Hrvatske*) reads as follows:

Section 62

"1. Anyone may lodge a constitutional complaint with the Constitutional Court if he or she deems that the individual decision of a State body, a body of local and regional self-government, or a legal person with public authority, concerning his or her rights and obligations, or a suspicion or an accusation of a criminal act, has violated his or her human rights or fundamental freedoms or his or her right to local and regional self-government guaranteed by the Constitution (hereinafter a constitutional right) ...

2. If another legal remedy exists in respect of the violation of the constitutional right [complained of], a constitutional complaint may be lodged only after that remedy has been used."

3. Civil Service Act

33. The relevant provisions of the Civil Service Act (*Zakon o državnim službenicima i namještenicima*, Official Gazette no. 27/2001), in force at the material time, read as follows:

Section 103

"(1) Civil servants of an abolished State body shall be assigned to the State body to which the functions of the abolished body have been transferred, unless otherwise provided by specific legislation ...

(2) If civil servants are not assigned to posts in the State body to which they have been assigned or in another State body on the grounds that there are no available posts or that those civil servants have not met the required professional and other criteria for assignment to available posts, they shall be placed at the disposal of the Government of the Republic of Croatia by a decision of the head of the body to which they have been assigned.

...

(4) If individual posts in a State body are abolished the civil servants shall be assigned to other posts appropriate to their professional qualifications in that or another State body within three months of the day of abolition of their previous posts at the latest. Until they are assigned to new posts, civil servants have the right to remuneration and other benefits in line with their previous posts.

..."

Section 104

"(1) Civil servants who have not been assigned to new posts within the time-limit set out in section 103 of this Act shall be placed at the disposal of the Government of the Republic of Croatia with a notice period and [shall be granted] a severance allowance.

..."

Section 107

"(1) A decision placing a civil servant at [the Government's] disposal shall be served on a Ministry which has jurisdiction over general administrative affairs or, in the case of civil servants of judicial bodies, to the Ministry of Justice..."

Section 118

"The employment of a civil servant is terminated by operation of law [in the following situations]:

(i) on expiration of the period in which they were placed at [the Government's] disposal ..."

4. Intelligence Services Act

34. The relevant provisions of the Intelligence Services Act (*Zakon o sigurnosnim službama Republike Hrvatske*, Official Gazette nos. 32/2002 and 38/2002) read:

Section 90

"(1) With the enactment of this Act, the Intelligence Agency (IA) and the Counter-Intelligence Agency (CA) shall commence operations, and the Service for Protection of the Constitutional Order and the National Security Bureau shall cease to exist.

(2) With the enactment of this Act, the employees of the National Security Bureau shall become employees of the Intelligence Agency (IA) and the employees of the Service for Protection of the Constitutional Order shall become employees of the Counter-Intelligence Agency (CA), and shall be reassigned in accordance with the relevant internal regulations."

Section 93

"(1) The employees referred to in section 90(2) ... of this Act, shall continue with their work on the posts on which they were assigned prior to the enactment of this Act, and they shall continue to receive their salaries and other benefits until their reassignment to other posts in accordance with the internal regulations, or until their placement at the disposal [of the Government of Croatia].

(2) The employees referred to in section 90 ... of this Act, who would not be reassigned [to other posts] ... shall be placed at the disposal of the Government of Croatia and shall have all rights under the Civil Service Act."

5. The Constitutional Court's practice

(a) Relevant case-law concerning the placement of civil servants at the disposal of the Government of Croatia

35. In case no. U-III-581/2003, concerning the placement of a police officer at the disposal of the Government of Croatia, the Constitutional Court on 1 June 2006 quashed decisions of the Administrative Court and remitted the case to it, on the grounds that the decisions of the administrative bodies were not sufficiently reasoned and in fact amounted to a termination of service.

36. In memorandum no. SuE-EC-22/2012-3 of 20 June 2012, the Constitutional Court explained that the above case-law concerned the constitutional complaints of police officers who had been placed at the disposal of the Government of Croatia during an internal reorganisation of the Ministry of the Interior (*Ministarstvo unutarnjh poslova Republike Hrvatske*. Therefore, the distinct feature of those cases was that they concerned situations in which a particular post had been abolished, but the State body continued to exist. The relevant principles established in this regard were as follows:

(i) the placement of a civil servant at the disposal of the Government of Croatia under section 103(4) of the Civil Service Act served a legitimate purpose which the State bodies and courts should respect and obey;

(ii) its purpose was to place a civil servant, whose post had been abolished and who had not been reassigned to another post, at the disposal of the Government of Croatia, so he could be temporarily or permanently reassigned to another post in the civil service;

(iii) the answer to the question whether in the concrete case a post had been abolished was within the competence of the administrative bodies and the Administrative Court, and not the Constitutional Court. Therefore, an applicant could not raise such a complaint in his constitutional complaint as grounds for claiming that section 103(4) of the Civil Service Act applied;

(iv) civil service employment terminated *ex lege* on the first day after the expiry of the period in which the individual had been placed at the Government's disposal, but only if the competent bodies had been unable to reassign him to another post or service;

(v) the termination of civil service employment depended on circumstances which could not have been foreseen at the moment when the individual had been placed at the [Government's] disposal, and therefore it was unacceptable to categorically determine the day of the termination of his civil service employment at that moment;

(vi) the decision regarding the placement of the individual at the Governments' disposal which unconditionally determined the day of the termination of his civil service employment might in given circumstances have raised doubts that it had only been used to terminate his civil service employment;

(vii) decisions regarding the placement of an individual at the [Government's] disposal should not be adopted in summary administrative proceedings and should be sufficiently reasoned.

37. The Constitutional Court followed the same approach in a series of cases concerning the placement of the civil servants at the disposal of the Government of Croatia in situations where an internal reorganisation of a State body was taking place (see, for example, decision nos. U-III-3011/2002 and U-III-456/2003 of 1 June 2006; U-III-807/2003 of 1 June 2006; U-III-3398/2005 of 19 December 2006; U-III-3440/2003 and U-III-3447/2003 of 21 March 2007; U-III-1992/2005 of 15 November 2007; U-III-3063/2007 of 4 October 2011).

(b) Relevant case-law concerning the placement of agents of the intelligence services at the disposal of the Government of Croatia

38. As regards agents of the intelligence services who were placed at the disposal of the Government of Croatia, after the reorganisation and abolition of certain intelligence agencies in 2003, the Constitutional Court adopted leading decision no. U-III-2413/2004 on 9 March 2005, by which it dismissed an applicant's constitutional complaint against administrative decisions placing him at the disposal of the Government of Croatia.

39. In memorandum no. SuE-EC-22/2012-3 of 20 June 2012 the Constitutional Court explained that between 2004 and 2007 it had received a total of thirteen constitutional complaints from former agents of the intelligence services, including from the applicant in the present case (no. U-III-3459/2004), concerning their placement at the disposal of the Government of Croatia following the reorganisation of the intelligence services.

40. In this series of cases, all constitutional complaints were dismissed since all the cases had three features distinct from those concerning the placement of other civil servants at the disposal of the Government of Croatia in situations where an internal reorganisation of a State body had been taking place (see paragraphs 36-37 above):

(i) the administrative decisions placing agents of the intelligence services at the disposal of the Government of Croatia were based on specific reasons pertaining to the individual's particular situation;

(ii) the Constitutional Court appreciated the specific nature and requirements of the intelligence services;

(iii) the specific legal basis for placing agents of the intelligence services at the disposal of the Government of Croatia, pertaining to the fact that the State body in which they had worked ceased to exist.

41. In addition to the above-mentioned leading case no. U-III-2413/2004 and the applicant's case, the Constitutional Court followed the same approach in the following cases: U-III-2412/2004, decision of 5 May 2005; U-III-829/2005, decision of 30 June 2005; U-III-518/2002, decision of 12 October 2005; U-III-1802/2005, decision of 12 October 2005; U-III-2786/2004, decision of 8 June 2006; U-III-2353/2004, decision of 28 June 2006; U-III-2355/2004, decision of 11 October 2006; U-III-3082/2004, decision of 19 October 2006; U-III-3175/2004, decision of 19 October 2006; U-III-2354/2004, decision of 2 November 2006; and U-III-830/2005, decision of 25 November 2007.

COMPLAINTS

42. The applicant complained under Article 6 § 1 of the Convention that he had not had a fair trial, as the Constitutional Court had departed from its settled case-law concerning the requirements for the placement of civil servants at the disposal of the Government in his case, and had thus failed to observe the principle of legal certainty.

43. He also made numerous other complaints, relying on Article 6 of the Convention, concerning the proceedings before the domestic authorities. He complained, in particular, that he had not had an opportunity to be heard in the proceedings before the Administrative Court, that the decisions of the administrative bodies had not been substantiated as regards the reasons for his being placed at the Government's disposal and the subsequent termination of his employment, that the Administrative Court had lacked impartiality in the proceedings for reopening the administrative proceedings, and that the domestic authorities had erred in its factual and legal findings in his case.

44. The applicant also complained, relying on Article 13 of the Convention, that there had been no effective remedy available to him at domestic level. He further complained, relying on Article 14 of the Convention, that he had been discriminated against in comparison to other civil servants who had been reassigned to other posts. Finally, he cited Article 17 of the Convention, without any relevant substantiation.

THE LAW

1. The applicant's complaint concerning the inconsistency of the Constitutional Court's case-law

45. The applicant relied on Article 6 § 1 of the Convention which, in so far as relevant, reads as follows:

> "In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

(a) The parties' arguments

46. The applicant contended that in case no. U-III-581/2003 (see paragraphs 35 and 36 above), the Constitutional Court had accepted a constitutional complaint from a civil servant who had been placed at the disposal of the Government of Croatia by an administrative decision which had the same wording in its operative part as the decision by which he had been placed at the disposal of the Government. However, in his own case, the Constitutional Court had dismissed his constitutional complaint as ill-founded. In the applicant's view, there had been no reason for the Constitutional Court to depart from its case-law in his case, particularly as the Constitutional Court had accepted constitutional complaints from a number of civil servants who had been placed at the disposal of the Government of Croatia (he cited cases U-III-3398/2005 of 19 December 2006; U-III-3440/2003 and U-III-3447/2003 of 21 March 2007; see paragraph 37).

47. The difference in treatment of the different categories of civil servants by the Constitutional Court had had no justification or basis in the relevant domestic law. This had followed from the obvious erroneous interpretation of the Constitutional Court's decision no. U-III-581/2003 of 1 June 2006, given by the Constitutional Court in its memorandum no. SuE-EC-22/2012-3 of 20 June 2012 (see paragraph 36 above). The applicant further argued that the Constitutional Court had failed to provide relevant reasons for its decision in his case and had merely limited itself to endorsing the findings of the Administrative Court. Furthermore, he pointed out that certain agents of the intelligence services had never brought their cases before the Constitutional Court since the Administrative Court had ruled in their favour. Therefore, in his case, it had been expected that the Constitutional Court would quash the decisions of the lower administrative bodies and the Administrative Court, since they had obviously adopted unlawful decisions by erroneously applying the relevant domestic substantive and procedural law.

48. The Government firstly pointed out that the Constitutional Court's case-law in the case no. U-III-581/2003 contrasted with the situation applicable to the applicant's case. Referring to the Constitutional Court's

memorandum no. SuE-EC-22/2012-3 of 20 June 2012 (see paragraph 36 above), the Government argued that case no. U-III-581/2003 concerned a situation in which a police officer had been placed at the disposal of the Government of Croatia after his post had been abolished, but the State body (in that case the Ministry of the Interior) had continued to exist. Therefore, the relevant legal basis had differed from that in the applicant's case. Furthermore, the Government submitted that the alleged flaws in a given case could not lead in itself to administrative decisions being quashed, since the Constitutional Court always examined cases as a whole. In the applicant's case, the Constitutional Court had specifically examined the legal basis for the administrative decisions, the quality of their reasoning, and the specific requirements of the intelligence services.

49. The Government specifically pointed out three distinct features of the applicant's case which had distinguished it from the above-examined case. Firstly, the intelligence agency in which the applicant had worked, the SPCO, had been abolished and he had been placed at the disposal of the Government of Croatia after not having been reassigned to a different post in the newly-formed intelligence agency, the CA, whereas the above-mentioned case had only concerned the internal reorganisation of the State body where a particular post had been abolished, but the body itself continued to exist. Secondly, the head of the CA (see paragraph 8 above) had indicated specific reasons for the applicant's placement at the disposal of the Government of Croatia, whereas in the above-mentioned case the decision had contained only stereotyped reasoning. Lastly, the Constitutional Court had taken into account the specific requirements and nature of the intelligence services and the relevant authorities' wide margin of appreciation in that regard. The Government also pointed out that in the thirteen cases brought by the agents of the intelligence services, which had included the applicant's case, the Constitutional Court had applied the same principles established in its leading decision no. U-III-2413/2004 of 9 March 2005 (see paragraph 38 above).

(b) The Court's assessment

50. The Court reiterates, in accordance with Article 19 of the Convention, that its only task is to ensure the observance of the obligations undertaken by the Parties to the Convention. In particular, the Court is not competent to deal with an application alleging that errors of law or fact have been committed by the domestic courts, except when it considers that such errors might have involved a possible violation of any of the rights and freedoms set out in the Convention (see *Schenk v. Switzerland*, 12 July 1988, § 45, Series A no. 140).

51. It is not the task of the Court to take the place of the domestic courts. It is primarily for the national authorities, notably the courts, to resolve problems of interpretation of domestic legislation (see *Brualla Gómez de la*

Torre v. Spain, 19 December 1997, § 31, *Reports of Judgments and Decisions* 1997-VIII; *Waite and Kennedy v. Germany* [GC], no. 26083/94, § 54, ECHR 1999-I; and *Saez Maeso v. Spain*, no. 77837/01, § 22, 9 November 2004). The Court's role is to verify whether the effects of such interpretation are compatible with the Convention (see *Kuchoglu v. Bulgaria*, no. 48191/99, § 50, 10 May 2007, and *Işyar v. Bulgaria*, no. 391/03, § 48, 20 November 2008). That being so, save in the event of evident arbitrariness, it is not the Court's role to question the interpretation of domestic law by the national courts (see, for example, *Ādamsons v. Latvia*, no. 3669/03, § 118, 24 June 2008).

52. As regards the applicant's complaint regarding legal inconsistency in the practice of the Constitutional Court, the Court reiterates that its assessment of such allegations includes establishing whether "profound and long-standing differences" exist in the relevant case-law, whether the domestic law provides for machinery for overcoming these inconsistencies, whether that machinery has been applied and, if appropriate, to what effect (see *Nejdet Şahin and Perihan Şahin v. Turkey* [GC], no. 13279/05, § 53, 20 October 2011).

53. The Court notes in the present case that the applicant's specific allegations about legal inconsistency concern the fact that in case no. U-III-581/2003 the Constitutional Court accepted the constitutional complaint of a civil servant who had been placed at the disposal of the Government of Croatia, whereas the same court dismissed his own constitutional complaint, and then subsequently, in other cases brought before it, returned to the approach taken in the above-mentioned case.

54. The Court notes at the outset that the applicant referred to the Constitutional Court's case-law concerning the placement of civil servants at the disposal of the Government of Croatia in situations in which a post had been abolished, but the State body continued to exist. Therefore, the applicant's situation differed in at least two ways; he had been placed at the disposal of the Government of Croatia after the body in which he had worked, namely the SPCO, had been abolished, and he had been an employee of intelligence agencies, whose services were regulated by specific legislation (see paragraph 34 above).

55. The Court further notes that in the applicant's case the Constitutional Court followed the principles of its case-law established in its leading case (no. U-III-2413/2004) concerning the placement of agents of the intelligence services at the disposal of the Government of Croatia after the reorganisation of the intelligence services in 2003, and that the relevant legal analysis in the applicant's case does not differ in any respect from other cases dealt with by the Constitutional Court in the same context (see paragraphs 38-41 above).

56. Therefore, the Court does not see any relevant let alone "profound and long-standing" differences in the case-law of the Constitutional Court in

respect of the allegations raised by the applicant, nor does it find any evidence of arbitrariness in the Constitutional Court's interpretation of the relevant domestic law.

57. Against the above background, the Court considers that the applicant's complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

2. Other alleged violations of the Convention

58. As to the applicant's complaint under Article 6 § 1 of the Convention that he did not have an opportunity to be heard in the proceedings before the Administrative Court, it is to be noted from the documents submitted before the Court that the applicant did not request an oral hearing to be held before the Administrative Court either in his administrative action of 1 December 2003 or at any relevant time after that, even though he was entitled to do so under the relevant domestic law (see *Juričić v. Croatia*, no. 58222/09, § 88, 26 July 2011).

59. Therefore, the applicant's complaint must be rejected as manifestly ill-founded in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

60. With respect to the applicant's complaint concerning the lack of reasoning in the decisions of the domestic authorities and their establishment of the relevant facts and interpretation of the relevant domestic law, the Court notes that the domestic authorities have indicated with sufficient clarity the reasons for their decisions and that there is nothing in their decisions to suggest any arbitrariness or unfairness. Furthermore, the Court reiterates that it is not its function to deal with errors of fact or law allegedly committed by the national courts, as it is not a court of appeal – or, as is sometimes said, a court of "fourth instance" – for these courts (see, among many other authorities, *Kemmache v. France (no. 3)*, 24 November 1994, § 44, Series A no. 296-C; *Melnychuk v. Ukraine* (dec), no. 28743/03, ECHR 2005-IX; and *Het Financieele Dagblad B.V. v. the Netherlands* (dec.), no. 577/11, 28 June 2011).

61. It follows that the applicant's complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

62. As to the applicant's complaint under Article 6 of the Convention concerning the proceedings for reopening the proceedings before the Administrative Court in his employment dispute, the Court reiterates its settled case-law that the proceedings for reopening civil proceedings which have terminated by a final decision do not fall within the scope of Article 6 of the Convention (see, among many other authorities, *J.F. v. France* (dec.), no. 39616/98, 20 April 1999).

63. It follows that this complaint is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

64. As to the applicant's complaint under Article 13 of the Convention that he did not have an effective remedy at domestic level, the Court notes that the applicant did have an opportunity to bring all his complaints before more levels of national jurisdiction, including the Constitutional Court, and that all his complaints were duly examined on their merits.

65. It follows that the applicant's complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

66. As regards the applicant's complaint under Article 14 of the Convention that he was discriminated against in comparison to other civil servants who were reassigned to different posts, the Court notes at the outset that, in so far as the applicant's complaint concerns discrimination with respect to his right to work, the Convention does not guarantee such a right (see *Sobczyk v. Poland*, nos. 25693/94 and 27387/95, (dec.), 10 February 2000; *Dragan Čakalić v. Croatia*, (dec.), no. 17400/02, 15 September 2003; and *Torri and Others v. Italy and Bucciarelli v. Italy* (dec.), nos. 11838/07 and 12302/07, 24 January 2012). Therefore, since the Court is unable to discern any evidence that the applicant was discriminated against on any ground, it follows that the applicant's complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

67. As to the applicant's complaint under Article 17 of the Convention, the Court notes that the applicant merely cited this provision of the Convention without any further relevant substantiation.

68. Therefore, in accordance with Article 35 §§ 3 (a) and 4 of the Convention, the Court rejects the applicant's complaint as manifestly ill-founded.

For these reasons, the Court unanimously

Declares the application inadmissible.

Søren Nielsen Registrar	Isabelle Berro-Lefèvre President