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

FIFTH SECTION

DECISION

Application no. 30633/23
José PÉREZ LÓPEZ
against Spain

The European Court of Human Rights (Fifth Section), sitting on 5 March 2026 as a Committee composed of:

Andreas Zünd*, President*,
María Elósegui,
Mykola Gnatovskyy*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 30633/23) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 26 July 2023 by a Spanish national, Mr José Pérez López ("the applicant"), who was born in 1960, lives in Huercal de Almería and was represented by Mr D. Romera Gómez, a lawyer practising in Huercal de Almería;

the decision to give notice of the application to the Spanish Government ("the Government"), represented by their co-Agent, Ms H.E. Nicolás Martínez;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the alleged failure to inform the applicant of a set of civil proceedings against him.

2. In June 1993 the applicant and his then wife entered into a contract under which they committed to act as joint guarantors in connection with a business and credit agreement between a company and a bank (Banco Meridional). The contract stated that all notifications, including those required under the Civil Procedure Act, were to be addressed to the house he was sharing with his wife at that time in Benahadux (Almería).

3. In June 1998 Banco Bilbao Vizcaya, having acquired Banco Meridional, lodged a civil claim against the company, the applicant and the other guarantors, requesting payment of a debt of more than 22 million pesetas (approximately 130,000 euros).

4. On 29 June 1998 the Almería Court of First Instance no. 2 gave a ruling (*exhorto*) requesting the applicant and his wife to pay the relevant sums of money and ordering the seizure of their assets in the absence of payment.

5. On 7 November 1998 the decision of the Court of First Instance was served, through the Benahadux Justice of the Peace Court (*Juzgado de Paz*), at the address indicated in the contract. It was received by a relative of the applicant's wife, who was present in the house at the time. The decision stated that the defendants could lodge a complaint against the enforcement of the debt within three days, failing which they would be declared in default. In the absence of any payment, on 17 November 1998 the Court of First Instance ordered the withholding of the applicant's tax rebate and the seizure of his bank accounts. On 4 January 1999, the Court of First Instance declared that the applicant and his wife were in default (*rebeldía*).

6. On 14 January 1999 the Court of First Instance delivered a judgment ordering the enforcement of the debt. The judgment was served on the applicant's former wife on 15 March 1999. An attempt by the postal service to notify the applicant at the same address was unsuccessful because the applicant "had left without a trace" (*sin dejar señas*). The judgment was published in the Province Official Gazette and on the court's notice board in November 1999. In the absence of any appeal against it, the judgment became final.

7. In 2017 a new decision was given ordering the seizure of specified sums of money from the defendants (namely from their bank accounts and tax rebates). On 7 May 2021 the Court of First Instance again ordered the enforcement of the debt through the seizure of specified sums of money from the defendants' bank accounts.

8. On 14 June 2021 the applicant lodged an action for the annulment of the proceedings, arguing that he had been made aware of the existing proceedings against him only after the seizure of his bank accounts in May 2021. He stated that he had never been informed of the proceedings, in so far as the summons had been served at the address where he had previously lived with his former wife, from whom he had separated in 1994. He argued that the court should have looked for an alternative address for him, which would have been readily available in public registers. He lodged an application to reinstate the proceedings so that he could object to the enforcement.

9. On 6 April 2022 the Court of First Instance dismissed the applicant's action, stating that the documents in the case file demonstrated that the decision had been served at the address indicated in the contract, that it had been noted that the applicant had been absent at the time, and that a notice of

service had been left. It also found that it had been for the applicant to inform the bank of any change of address.

10. The Constitutional Court declared an *amparo* appeal lodged by the applicant inadmissible for lack of constitutional relevance. The applicant was notified of that decision on 28 March 2023.

THE COURT'S ASSESSMENT

A. Alleged violation of Article 6 of the Convention

11. The applicant alleged that there had been a violation of his right to a fair trial under Article 6 of the Convention, arguing that since he had not been duly informed of the proceedings, he had not been given an effective opportunity to participate in them. He stated in that regard that the decision in question had been served at the address of his former home, which he had left following his separation from his wife in 1994, and that she had never informed him of the proceedings. He also submitted that the domestic courts should have verified his address through the mechanisms available under domestic law – that is, by consulting the records available in public registers held by, *inter alia*, the municipality, the tax authorities, the social security authorities and the traffic authorities. The failure to ascertain his current address had deprived him of the opportunity to participate in the proceedings against him.

12. The Government argued that the applicant had not submitted, either to the domestic courts or to the Court itself, any evidence demonstrating his address at the time the first-instance court had served its decision. The applicant did not submit any arguments or documents to challenge that assertion.

13. The relevant domestic law has been summarised in *Immoterra International Denia S.L. v. Spain* ((dec.) [Committee], no. 60484/16, § 18, 26 May 2020) and *Klopstra v. Spain* ([Committee], no. 65610/16, §§ 27-28, 19 January 2021).

14. The relevant general principles have been summarised in *Schmidt v. Latvia* (no. 22493/05, §§ 86-90, 27 April 2017) and *Klopstra* (cited above, § 43).

15. The Court observes, firstly, that the first-instance court's decision was served on the applicant at the address indicated in the contract and that the court's notice was received by the person present at that address without any objections being raised (contrast *Klopstra*, cited above, § 15, where service had been unsuccessful owing to "insufficient address details", and *Karesvaara and Njie v. Spain* [Committee], no. 60750/15, § 10, 15 December 2020, where the summons was not served on any individual, but left in the letterbox). In the present case the applicant acknowledged that his former wife had been aware of the proceedings but had not informed him.

16. The applicant's main complaint is that the domestic courts should have realised that he no longer lived at that address following his separation from his wife, and that they ought to have exercised due diligence by serving notice at a different address, which would have been available in public registers.

17. However, as pointed out by the Government, there is no evidence in the case file confirming the applicant's address on the date on which the summons was served or on the date of notification of the judgment, including by public notice, namely between November 1998 and November 1999 (contrast *Karesvaara and Njie*, cited above, § 18).

18. The only document submitted to the Court indicating the applicant's address is a divorce agreement dated 3 April 2000 submitted to the Almería Court of First Instance no. 6. However, that document was issued more than one year after the summons of November 1998 and the judgment of January 1999. Although the applicant's separation from his wife had been recorded in the civil register in 1995, there was no indication of the applicant's new address.

19. Accordingly, the Court does not have sufficient information to conclude that the domestic courts should have been aware of the applicant's change of address or that the information concerning the applicant's current or alternative address was available to them. As the summons had been validly served, there was no reason for the domestic courts to attempt service at a different address.

20. In view of the foregoing, the Court considers that the applicant has failed to show that the domestic authorities did not act with the requisite diligence when informing him of the proceedings against him.

21. It follows that this complaint is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4 of the Convention.

B. Other alleged violations of the Convention

22. The applicant also alleged that there had been a violation of Article 1 of Protocol No. 1 to the Convention, arguing that the seizure of his bank accounts had constituted an unlawful and disproportionate interference with his property rights. He further complained under Article 13 of the Convention that he had had no effective remedy at his disposal to challenge the seizure.

23. As pointed out by the Government, the applicant raised these complaints for the first time in his observations of 14 June 2025, after the Court had given notice to the Government of the applicant's application. The Court notes that those new complaints cannot be considered to concern a particular aspect of his initial complaint under Article 6 relating to the alleged failure to properly inform him of the proceedings against him.

24. The Government did not expressly object to the applicant's failure to comply with the four-month rule in that regard. Nevertheless, since that rule serves the interests not only of the respondent Government but also of legal certainty as a value in itself, it is not open to the Court to dispense with the application of that rule and it must examine the issue of compliance with the rule of its own motion (see *Fu Quan, s.r.o. v. the Czech Republic* [GC], no. 24827/14, § 168, 1 June 2023).

25. The Court therefore considers that the complaints concerning the applicant's property rights and the lack of an effective remedy, which the applicant raised on 14 June 2025, were submitted more than four months after the domestic proceedings ended on 28 March 2023, when the Constitutional Court's inadmissibility decision was served on him (see *Grosam v. the Czech Republic* [GC], no. 19750/13, §§ 96-100, 1 June 2023).

26. It follows that those complaints are inadmissible under Article 35 § 1 of the Convention for non-compliance with the four-month rule, and that they must therefore be rejected pursuant to Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 26 March 2026.

Martina Keller Deputy Registrar	Andreas Zünd President