

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

THIRD SECTION

DECISION

Application no. 15419/17
REJTING CENTAR SRBIJE
against Serbia

The European Court of Human Rights (Third Section), sitting on 3 June 2025 as a Committee composed of:

Darian Pavli*, President*,
Úna Ní Raifeartaigh,
Mateja Đurović*, judges*,

and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 15419/17) 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 14 February 2017 by Rejting Centar Srbije ("the applicant organisation"), a non-governmental organisation, founded in 2012 under the laws of Serbia with a registered office in Belgrade, which was represented by Ms N. Deskovski, a lawyer practising in Novi Sad;

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

the parties' observations;

the fact that on 11 April 2023 the Government informed the Court that in December 2018 the applicant organisation had changed its registered name to the Komparativni Centar Serbije and that on 15 November 2023 the applicant organisation confirmed the change of name; the Court will continue processing the application under the case name of *Rejting Centar Srbije v. Serbia*, which corresponds to the applicant organisation's name as referred to in the domestic court proceedings and in its application lodged with the Court;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. According to the applicant organisation, the purpose of its activities is to verify and to rank higher educational institutions in Serbia. On 24 February 2014 the applicant organisation asked a public utility company to submit information concerning the educational background of the company's employees. In particular, the company was asked to disclose the number of its employees who had a higher education, their job titles and the names of the higher educational institutions they had graduated from. The information was sought by the applicant organisation for "comparative analysis". No response followed.

2. On an unspecified date the applicant organisation requested the Misdemeanour Court in Požarevac to institute misdemeanour proceedings against the director of the public utility company for denying access to information.

3. On 15 July 2015 the Misdemeanour Court rejected the applicant organisation's request as being submitted by an unauthorised party.

4. On 8 October 2015 the Appellate Misdemeanour Court upheld the judgment of 15 July 2015. The applicant organisation appealed to the Constitutional Court.

5. On 18 October 2016 the Constitutional Court rejected the applicant organisation's complaints in their entirety. The court noted that the applicant organisation had not had a right to institute misdemeanour proceedings, nor did the court discern any other violations of the applicant organisation's constitutional rights in the course of the misdemeanour proceedings.

6. The applicant organisation complained under Article 6 § 1 of the Convention of (1) the domestic courts' refusal to institute misdemeanour proceedings, (2) divergent case-law on the issue and (3) the domestic courts' failure to respect the principle of legal certainty when dismissing its request. Relying on Article 14 of the Convention, the applicant organisation further complained that it had been a victim of discrimination in the enjoyment of its rights under Article 6 of the Convention. Lastly, the applicant organisation alleged a violation of its right to receive information as provided for in Article 10 of the Convention.

THE COURT'S ASSESSMENT

A. Preliminary remarks

7. The Government submitted that the applicant organisation's request for information had been submitted in bad faith and that their complaints before the Court should be rejected as an abuse of the right of application. They further argued that the applicant organisation had failed to exhaust available domestic remedies. In particular, it had been incumbent on the applicant

organisation to apply to the Commissioner – the official State body responsible for ensuring access of the public to State-held information. On the contrary, the misdemeanour courts, which the applicant organisation had tried to engage, had not had the power to compel the State body to provide information to the applicant organisation.

8. The Court considers that it is not necessary to rule on the Government's objections, since the application is in any event inadmissible for the reasons stated below.

B. Article 6 § 1 of the Convention taken alone or in conjunction with Article 14 of the Convention

9. As to the complaints under Article 6 § 1 of the Convention taken alone or in conjunction with Article 14 of the Convention, the Government argued that they were incompatible *ratione materiae* with the provisions of the Convention. The purpose of the misdemeanour proceedings the applicant organisation had sought to institute had been to hold the director of the public utility company liable for failure to submit the information requested. However, the Convention did not confer any right, as such, to have third parties prosecuted or sentenced in respect of a criminal offence. They further asserted that the applicant organisation had not lodged a civil claim for compensation of damage either. The misdemeanour proceedings, therefore, had not concerned the determination of the applicant organisation's civil rights or obligations.

10. The applicant organisation did not comment.

11. The Court notes that, as indicated by the Government and not contested by the applicant organisation, the sole purpose of the misdemeanour proceedings was to establish the responsibility of a state body in respect of the imputed misdemeanour. Accordingly, the proceedings in question did not concern a determination of the applicant organisation's civil rights and obligations or a criminal charge against it. It follows that Article 6 § 1 of the Convention does not apply in the present case.

12. As to the complaint under Article 14 of the Convention, having regard to the fact that this provision is not autonomous, and concluding that the facts of the case do not fall within the ambit of Article 6, the Court considers that Article 14 cannot apply in the instant case.

13. This part of the application is therefore incompatible *ratione materiae* with the provisions of the Convention and the Protocols thereto within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4 of the Convention.

C. Article 10 of the Convention

14. As to the applicant organisation's grievances under Article 10 of the Convention, the Court reiterates that this provision does not grant an individual the right to access information held by a public authority, nor does it compel the domestic authorities to impart such information. Nonetheless, a right or obligation may emerge in instances where access to information is instrumental for an individual's exercise of their right to freedom of expression, particularly "the freedom to receive and impart information" and where denial of access constitutes interference with that right (see *Magyar Helsinki Bizottság v. Hungary* [GC], no. 18030/11, §§ 155-56, 8 November 2016).

15. In determining the applicability of Article 10, the Court is guided by the principles laid down in *Magyar Helsinki Bizottság* (cited above, §§ 157-70). The Court will assess the specific circumstances of the case in the light of the following criteria: (a) the purpose of the information request; (b) the nature of the information being sought; (c) the role of the applicant organisation; and (d) the readiness and availability of the information in question (ibid., §§ 157-70). These criteria are in principle cumulative (see *Saure v. Germany* (dec.), no. 6106/16, § 34, 19 October 2021).

16. Having examined the circumstances of the present case, the Court is unable to conclude that the denial of access to information to the applicant organisation constituted an interference with its rights set out in Article 10 of the Convention.

17. As regards the purpose of the information request, the Court reiterates that in order for that criterion to be satisfied, it is not sufficient for an applicant to make an abstract point to the effect that certain information should be made accessible as a matter of the general principle of transparency (see *Centre for Democracy and the Rule of Law v. Ukraine* (dec.), no. 75865/11, § 54, 3 March 2020). It is incumbent on the seeker of information to explain the exact purpose of the request by specifying, *inter alia*, how his or her particular role in receiving and imparting information to the public is compatible with the nature of the information sought and why access to it is instrumental for the exercise of his or her right to freedom of expression (compare *Namazli v. Azerbaijan* (dec.), no. 28203/10, § 33, 7 June 2022, with further references).

18. The applicant organisation stated in its letter to the public utility company that it needed the information by way of comparative analysis. No further detail was provided either to the domestic authorities or to the Court. The Court, however, is unable to attach weighty significance to such vague and unspecific submissions.

19. As to the role of the applicant organisation, the Court discerns nothing in the materials submitted to clarify this issue either. The Court cannot but conclude that the applicant organisation did not demonstrate that it was acting

in the capacity of a "public watchdog" in this particular case or that it actually had any special role in receiving and imparting information concerning higher education in Serbia. It therefore considers that the applicant organisation failed to specify why access to the information was instrumental for the exercise of its right to freedom of expression (see *Mitov and Others v. Bulgaria* (dec.), no. 80857/17, § 34, 28 February 2023).

20. Having regard to the considerations above, the Court finds that, even leaving aside the question of whether the information sought related to a matter of public interest or was ready and available, it cannot establish that access to the requested information was instrumental for the exercise of the applicant organisation's right to freedom of expression and that its denial constituted an interference with that right.

21. It follows that Article 10 does not apply and that this complaint must be rejected as being incompatible *ratione materiae* with the provisions of the Convention, pursuant to 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 26 June 2025.

Olga Chernishova
Deputy Registrar

Darian Pavli
President