

## Lawyer fined for insulting Serbian judge loses case in Strasbourg

In today's **Chamber judgment**<sup>1</sup> in the case of [Backović v. Serbia \(no. 2\)](#) (application no. 47600/17) the European Court of Human Rights held, by 5 votes to 2, that there had been:

**no violation of Article 10 (freedom of expression) of the European Convention on Human Rights.**

The case concerned a fine imposed on Mr Backović – a lawyer – for contempt of court in election-related proceedings, in which he sought an acknowledgement that he, and six other individuals, were still city councillors. Among other things, he had called the decision “a supreme nonsense” and the judges in the case “legal geniuses”.

The Court noted that the terms used by Mr Backović – such as “legal giants” and legal “ingenuity” – had ridiculed the professionalism of the judge in question and the court. It found that sufficient reasons had been given for the fine, and it had not been disproportionate.

### Principal facts

The applicant, Čedomir Backović, is a Serbian national who was born in 1956 and lives in Sombor (Serbia). He is a lawyer.

In a decision of 13 October 2008 the Sombor District Court held that the terms of office of Sombor city councillors – at the time Mr Backović was among their number – had ended. However, in September 2011 the Constitutional Court of Serbia instructed the Administrative Court to amend the judgment as it had been a breach of Mr Backović's and the other plaintiffs' rights. This was done in November that year by the Novi Sad Administrative Court.

Mr Backović along with and as legal counsel for some other councillors sought enforcement of that new judgment, that is to say confirmation that they were still city councillors. He was unsuccessful at first instance and appealed. In his submissions he stated that it was “a kind of ‘pen-pushing’ [*šaltersko*] restrictive ‘interpretation’ of the Enforcement Procedure Act” and called the enforcement-court judges “legal geniuses and legal giants [*gromade*]”. He continued that “the finding of [the Administrative Court] is supreme nonsense, which simply is not worth any further comment. Whether it was written out of malice ... or owing to a lack of knowledge, such a decision and its reasoning are incompatible with the actions of a professional judiciary in a State characterised by the rule of law that Serbia professes to be”.

As a result of these statements, he was fined 100,000 Serbian dinars ((RSD) – approximately 910 euros at the time) by the first-instance judge, who considered the content to have been aimed at insulting the court. The fine was later reduced to RSD 50,000. A subsequent constitutional appeal was rejected.

\*\*\*

Mr Backović had previously had an unrelated application before the European Court, in which [judgment was given](#) on 7 February 2012.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

## Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression), Mr Backović complained about the fine imposed on him, arguing that his submissions had not been insulting.

The application was lodged with the European Court of Human Rights on 21 June 2017.

Judgment was given by a Chamber of seven judges, composed as follows:

Ioannis **Ktistakis** (Greece), *President*,  
Peeter **Roosma** (Estonia),  
Lətif **Hüseynov** (Azerbaijan),  
Darian **Pavli** (Albania),  
Oddný Mjöll **Arnardóttir** (Iceland),  
Úna Ní **Raifeartaigh** (Ireland),  
Mateja **Đurović** (Serbia),

and also Milan **Blaško**, *Section Registrar*.

## Decision of the Court

The parties did not dispute that the fine had been an interference with Mr Backović's freedom of expression. The Court agreed. That interference had had a basis in law, specifically Article 46 of the Constitution, and Articles 33 and 51 of the Enforcement Procedure Act (*Zakon o izvršenju i obezbeđenju*). It was satisfied that the fine had had the legitimate aim of maintaining the authority of the judiciary.

The national court's found in issuing the fine that the statements had been insulting, and that they had not been designed to challenge the enforcement decision, but to imply a lack of professionalism, knowledge and dignity on the part of the court and the judge. The Court noted that the decision in question had been described by Mr Backović as "pen-pushing" and a "legal nonsense", the result of either a malice or ignorance, and certainly unprofessional; he ridiculed the professionalism of the judges by calling them "legal geniuses" and "legal giants", by referring to their "ingenuity"; he had implied that their conduct had amounted to an abuse; and as the decision had been delivered in a single-judge procedure the remarks had therefore had a personal aspect, directed solely at the judge sitting in his case.

Overall, the Court held that the remarks had had the aim of belittling the Serbian court and attacking the professionalism of the judge involved. It noted that the decision to fine Mr Backović had been subject to effective judicial review, and the fine had been at the lower end of the permitted scale.

The reasons given by the national courts for the fine had been "relevant and sufficient" and the action had not been disproportionate. The Court therefore found no violation of Article 10 of the Convention.

## Separate opinions

Judges Hüseyinov and Pavli expressed a joint dissenting opinion, which is annexed to the judgment.

*The judgment is available only in English.*

---

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on X (Twitter) [@ECHR\\_CEDH](https://twitter.com/ECHR_CEDH) and Bluesky [@echr.coe.int](https://bsky.app/profile/echr.coe.int).

**Press contacts**

[echrpess@echr.coe.int](mailto:echrpess@echr.coe.int) | tel.: +33 3 90 21 42 08

**We are happy to receive journalists' enquiries via either email or telephone.**

**Neil Connolly (tel: + 33 3 90 21 48 05)**

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Jane Swift (tel: + 33 3 88 41 29 04)

**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.