



## Belgrade COVID19 protestor's conviction in 2020 decided in unfair proceedings

In today's **Chamber** judgment<sup>1</sup> in the case of [Iskrenović v. Serbia](#) (application no. 39427/23) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 6 §§ 1 and 3 (d) (right to a fair trial / right to obtain attendance and examination of witnesses) of the European Convention on Human Rights.**

The case concerned Mr Iskrenović's conviction in 2020 in minor-offence proceedings for insulting the police, amid social unrest sparked by governmental restrictions during the COVID-19 pandemic.

The Court found that the whole case had hinged on the credibility of the arresting police officer's account which had differed from the one given by Mr Iskrenović. Mr Iskrenović's request that the Serbian courts hear an eyewitness and obtain video footage from surveillance cameras had therefore been neither unreasonable nor vexatious. Such evidence could have shed light on whether Mr Iskrenović had been near enough to the police officers to insult them or whether it had been the officers who had noticed him and then trailed him. The national courts had, however, failed to properly consider the relevance of such evidence and had not provided sufficient reasons for refusing to obtain and examine it. Mr Iskrenović's conviction had ultimately been based essentially on the testimony of the arresting police officer, making it impossible for the defence to effectively challenge the prosecution's case which had undermined the overall fairness of the proceedings.

### Principal facts

The applicant, Jovan Iskrenović, is a Serbian national who was born in 1986 and lives in Belgrade.

On the evening of 11 July 2020 Mr Iskrenović was arrested in central Belgrade and placed in detention, in the context of protests against measures taken to reduce the spread of the COVID19 virus-related pandemic. At the time there was a ban on public gatherings and a curfew was in place.

The next day he was convicted in minor-offence proceedings for insulting the police. The Belgrade Minor Offences Court heard evidence from Mr Iskrenović and the arresting officer, whose accounts differed. The officer testified that Mr Iskrenović had made a series of offensive and insulting remarks at him and a colleague while walking past them in the street, and had then run away despite an order to stop. Mr Iskrenović denied this version of events, maintaining that the officers had forced him to the ground and that he had not insulted them at any point. He says that he was told he was being taken into custody because he was wearing a *V for Vendetta* or Anonymous mask, widely used as a symbol of protest and anti-establishment movements.

All his challenges to his conviction were subsequently unsuccessful. He also lodged a constitutional appeal, which was rejected in 2023.

Throughout these proceedings he requested that the courts obtain video footage from surveillance cameras and hear an eyewitness to the incident. His requests were all rejected, as were his complaints about the courts' failure to provide reasons for rejecting them.

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).

He was sentenced to 60 days' imprisonment which he served in part, while the remainder was converted into a fine.

## Complaints, procedure and composition of the Court

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial / right to obtain attendance and examination of witnesses) of the European Convention, Mr Iskrenović alleged that the proceedings against him had been unfair because the Serbian courts had refused to hear the eyewitness or to obtain video evidence – which he believed would have corroborated his side of the story and proved his innocence. He also alleged a breach of Article 1 of Protocol No. 1 (protection of property) with regard to the fine he had been ordered to pay.

The application was lodged with the European Court of Human Rights on 23 October 2023.

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

Ioannis **Ktistakis** (Greece), *President*,  
Lətif **Hüseynov** (Azerbaijan),  
Darian **Pavli** (Albania),  
Úna **Ní Raifeartaigh** (Ireland),  
Mateja **Đurović** (Serbia),  
Canòlic **Mingorance Cairat** (Andorra),  
Vasilka **Sancin** (Slovenia),

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

## Decision of the Court

Firstly, the Court could not accept the Government's argument that the context of the case – social unrest – had justified a more lenient approach in assessing compliance with the equality-of-arms requirements under Article 6.

Given the conflicting versions of events, the Court found that Mr Iskrenović's requests themselves had been neither unreasonable nor vexatious. Indeed, the eyewitness testimony and video footage from surveillance cameras could have shed light on whether Mr Iskrenović had been near enough to the police officers to insult them.

The Serbian courts, on the other hand, had not provided relevant reasons for dismissing Mr Iskrenović's requests. They had not carried out any substantive assessment of the evidence. They had based their reasoning on assumptions, namely that Mr Iskrenović had been walking alone, that he had been near to the police officers, and that the eyewitness could not have heard the alleged verbal exchange.

Ultimately, Mr Iskrenović's conviction had essentially been based on the testimony of the arresting police officer. That had prevented the defence from challenging the prosecution case effectively. The courts had therefore failed to properly consider the relevance of the proposed evidence and had not provided sufficient reasons for refusing to obtain and examine it, thereby undermining the overall fairness of the proceedings.

There had therefore been a violation of Article 6 §§ 1 and 3 (d) of the Convention.

The Court considered that they had already examined the main legal questions raised by the case and that there was therefore no need to give a separate ruling on the complaint under Article 1 of Protocol No. 1.

### Just satisfaction (Article 41)

The Court held that Serbia was to pay Mr Iskrenović 3,600 euros (EUR) in respect of non-pecuniary damage.

*The judgment is available only in English.*

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