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La CEDU sulla violazione dell'art. 2 sotto il profilo procedurale
(CEDU, sez. III, sent. 17 febbraio 2026, ric. n. 30749/22)

Con la sentenza in commento, la Corte Edu si è pronunciata sul ricorso proposto da un cittadino croato che si doleva dell'inefficacia delle indagini condotte dalle autorità serbe con riferimento alla morte di suo padre, ucciso durante il conflitto armato scoppiato a seguito della dissoluzione della Repubblica Socialista Federale di Jugoslavia.
Secondo la Corte, la forma che l'indagine deve assumere per soddisfare i requisiti dell'articolo 2 CEDU può variare. Indipendentemente dal metodo impiegato, tuttavia, perché i procedimenti volti a chiarire le circostanze della morte di una persona possano dirsi efficaci, le autorità, oltre a dover agire d'ufficio una volta che la questione sia giunta alla loro attenzione, devono operare con tempestività. L'eccessiva durata dei procedimenti può essere invero sintomatica del mancato rispetto, da parte degli Stati, degli obblighi procedurali imposti dall'art. 2 CEDU, salvo che la stessa non sia giustificata da ragioni plausibili e fortemente convincenti.
Poiché, nel caso di specie, il Governo convenuto non ha fornito ragioni idonee a spiegare il notevole ritardo, la Corte ha ravvisato una violazione dell'articolo 2 della Convenzione, nel suo profilo procedurale.

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

THIRD SECTION

CASE OF XXX v. SERBIA
(Application no. 30749/22)

JUDGMENT
STRASBOURG
17 February 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of XXX v. Serbia,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Ioannis Ktistakis, *President*,
Peeter Roosma,
Lətif Hüseynov,
Diana Kovatcheva,
Mateja Đurović,
Canòlic Mingorance Cairat,
Vasilka Sancin, *judges*,
and Milan Blaško, *Section Registrar*,
Having regard to:
the application (no. 30749/22) against Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Croatian national, OMISSIS ("the applicant"), on 17 June 2022;
the decision to give notice to the Serbian Government ("the Government") of the complaint under Article 2 concerning a lack of an effective investigation into the death of the applicant's father and to declare the remainder of the application inadmissible;
the parties' observations;
the comments submitted by the Government of Croatia who had exercised their right to intervene pursuant to Article 36 § 1 of the Convention;
Having deliberated in private on 20 January 2026,
Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The application concerns the applicant's complaint under Article 2 of the Convention that the Serbian authorities failed to carry out an effective official investigation into the death of his father, P.Đ.

THE FACTS

2. The applicant was born in 1957 and lives in Lovas, Croatia. He was represented by Mr M. Pavlović, a lawyer practising in Belgrade.
3. The Government were represented by their Agent, Ms Z. Jadrijević Mladar.
4. The facts of the case may be summarised as follows.

I. killing of the applicant's father

5. The incident in question took place in the Croatian village of Lovas during the armed conflict which lasted from 1991 until 1995 and which occurred in the context of war that followed the dissolution of the Socialist Federal Republic of Yugoslavia.
6. On 10 October 1991 the Yugoslav People's Army, together with a certain number of locally recruited "territorial defence" forces, local police and volunteer forces, shelled and subsequently captured the village of Lovas, where P.Đ. lived. He was shot and killed during the assault.

II. first set of Criminal proceedings (K.Po2 1/2014)

7. On 28 November 2007 the War Crimes Prosecutor of Serbia indicted 14 individuals for war crimes against the civilian population under Article 142 of the Criminal Code of the Federal Republic of Yugoslavia. This was in relation to various acts committed in October 1991 during and after the

capture of Lovas. Four of the accused were charged with, *inter alia*, the killing of P.Đ., while the remaining ten were charged with various crimes committed following the capture of the village.

8. On 28 December 2011 the indictment was amended. The charges against three of the four individuals initially charged with the killing of P.Đ. were dropped in respect of that particular offence, although they remained accused of other crimes. Only Ž.K., who at the relevant time had been serving as commander of the local police station, remained charged with the killing of P.Đ. He was charged for his role in organising and participating in an attack on the village of Lovas and its civilian population on the morning of 10 October 1991. It was alleged that he had acted on the orders of a commander in the Yugoslav People's Army in directing the assault on the civilian population of Lovas. According to the indictment, the attack had been carried out by an armed group comprising volunteers, members of the local police station and the local "territorial defence" forces. Without specific targets and in the absence of any military necessity, the group had engaged in indiscriminate gunfire using rifles, thrown grenades into courtyards, houses, basements and other premises, killed civilians at those locations and forcibly removed others from their homes before executing them in the streets and elsewhere. Those acts had caused widespread destruction to residential and other civilian buildings and had resulted in the deaths of seven individuals, including P.Đ. The remaining 13 accused were charged in relation to offences committed after that date and following the killing of the applicant's father.

9. At an unspecified point during the first-instance proceedings, the acting Deputy War Crimes Prosecutor recorded in an official note that certain acts and omissions by D.L. – the commander in the Yugoslav People's Army alleged to have ordered the attack on the village, who was not among the indictees – gave rise to serious concerns regarding his criminal liability. It was considered, however, that that issue should be addressed following the conclusion of the proceedings against the direct perpetrators, a position supported by the then War Crimes Prosecutor.

10. On 20 June 2019 the Belgrade High Court convicted eight individuals of war crimes committed against civilians in October 1991. Seven convictions related to events unconnected to the killing of the applicant's father. Ž.K. was found guilty in relation to the events of 10 October 1991. The court established that he had acted on the orders of D.L. in directing the assault on Lovas, during which seven civilians, including P.Đ., had been killed.

11. On 20 November 2020 the Belgrade Court of Appeal amended the first-instance judgment by reducing the sentences in respect of six of the accused and overturned it in respect of Ž.K. and another defendant, acquitting them both.

III. The applicant's criminal complaint

12. On 2 November 2016 the Humanitarian Law Centre (*Fond za humanitarno pravo* – hereinafter "the HLC") lodged a criminal complaint on behalf of the applicant with the Office of the War Crimes Prosecutor of Serbia against D.L. for war crimes against the civilian population under Article 142 of the Criminal Code of the Federal Republic of Yugoslavia. The complaint alleged that D.L. had ordered an attack on Lovas on 9 October 1991 and directed the involvement of auxiliary forces in operations targeting both armed and civilian persons deemed hostile. It further alleged that he had ordered an artillery assault on 10 October 1991, followed by ground attacks carried out under his command. Those attacks had resulted in the killing of 21 civilians, including P.Đ. The HLC submitted that a reasonable suspicion that D.L. had committed the said acts arose, among other

things, from testimonies and other evidence contained in case file K Po2 1/2014 (see paragraphs 7-11 above).

13. On 20 December 2016 the Office of the War Crimes Prosecutor of Serbia informed the HLC that a preliminary investigation was under way and that the allegations raised in the criminal complaint were being reviewed.

14. Between 2 February 2017 and 25 October 2018, the HLC submitted five written prompts to the Office of the War Crimes Prosecutor of Serbia, urging progress in relation to the criminal complaint and requesting information concerning the status of the investigation.

15. On 1 March 2017 the Office of the War Crimes Prosecutor of Serbia informed the HLC that it was in the process of gathering information from relevant State authorities and that a decision regarding further procedural steps would be taken once that process was complete.

16. On 25 October 2018 the HLC submitted a formal objection to the conduct of the Office of the War Crimes Prosecutor of Serbia, alleging that its investigation was ineffective and requesting that the proceedings be expedited.

17. On 5 November 2018 the Office of the War Crimes Prosecutor of Serbia dismissed the objection as unfounded.

18. On 8 November 2018 the HLC submitted a further objection to the Public Prosecutor of Serbia concerning the conduct of the Office of the War Crimes Prosecutor, reiterating its allegation that the investigation into the criminal complaint was ineffective.

19. On 22 November 2018 the Office of the Public Prosecutor of Serbia dismissed the objection as unfounded.

IV. Proceedings before the Constitutional Court

20. On 3 December 2018 the applicant lodged a constitutional appeal, alleging, among other things, a violation of his right to an effective investigation as guaranteed under Article 2 of the Convention. The applicant complained that, two years after lodging a criminal complaint, the War Crimes Prosecutor's Office had taken no action in the pre-investigation phase, as no injured party or suspect had been questioned, no evidence had been collected, and no order to open an investigation had been issued. The applicant stated that the case was not complex, involving only one accused and evidence already available in another ongoing war crimes case (K Po2 1/2014, see paragraphs 7-11 above). He further maintained that the War Crimes Prosecutor's Office had failed to respond to his requests for information. Referring to the Court's case-law, the applicant contended that such prolonged inactivity failed to meet the requirement of an effective investigation as recognised by the Constitutional Court and the Convention.

21. On 30 March 2022 the Constitutional Court dismissed the applicant's constitutional appeal. In its reasoning, the Constitutional Court referred to the response of the War Crimes Prosecutor's Office to the applicant's allegations of inactivity, noting that immediately after receiving the criminal complaint, the Deputy War Crimes Prosecutor had collected statements from D.L. and from several retired military officers, while some proposed witnesses had in the meantime passed away. The prosecutor had also examined case file K Po2 1/2014, which concerned the same criminal events in the village of Lovas (see paragraph 7-11 above), and reviewed a case file TRZ Ktr 45/14, opened following a criminal complaint by one of the accused in case K Po2 1/2014, against D.L. That file contained an official note by the Acting Deputy War Crimes Prosecutor indicating that certain

actions and omissions of D.L. required serious consideration of his criminal liability, but that it would be appropriate to assess this after the conclusion of the main Lovas case (K Po2 1/2014) against the direct perpetrators, a position approved by the then War Crimes Prosecutor. The Constitutional Court found that, following receipt of the applicant's criminal complaint of 2 November 2016, the Office of the War Crimes Prosecutor had conducted a preliminary investigation and, on 5 February 2021, had formally opened an investigation against D.L. for a war crime against the civilian population in connection with events that included, among other matters, the killing of P.Đ. It therefore held that the applicant's complaint concerning the lack of an effective investigation was unfounded. The decision was served on the applicant's representative on 2 June 2022.

V. Second set of criminal proceedings

22. On 12 September 2022 the Office of the War Crimes Prosecutor indicted D.L. for war crimes against the civilian population under Article 142 of the Criminal Code of the Federal Republic of Yugoslavia, in connection with the events in Lovas on 9 and 10 October 1991. The indictment concerned, among other things, the killing of 21 civilians, including P.Đ. The trial commenced on 14 December 2022. The criminal proceedings are currently ongoing at first instance before the Belgrade High Court, with 19 hearings having been scheduled, of which 14 have been held and five have been postponed as of 20 January 2026.

23. The applicant was summoned to testify as a witness in those criminal proceedings on two occasions, in April and July 2024, by means of requests transmitted to the Croatian authorities. On the first occasion, the Croatian Ministry of Justice indicated that it was unable to organise a video link. On the second occasion, the applicant declined to testify on account of illness.

RELEVANT LEGAL FRAMEWORK

Criminal Code of the Federal Republic of Yugoslavia

24. The Criminal Code of the Federal Republic of Yugoslavia (published in the Official Gazette of the SFRY no. 44/76, with amendments published in the Official Gazette nos. 36/77, 34/84, 37/84, 74/87, 57/89, 3/90, 38/90, 45/90 and 54/90, and the Official Gazette of the FRY nos. 35/92, 16/93, 31/93, 37/93 and 24/94) was in force at the relevant time. The relevant provisions thereof read as follows:

Article 142 - War crime against the civilian population

"Anyone who, acting in violation of the rules of international law applicable in time of war, armed conflict or occupation, orders that a civilian population be subjected to killing, torture, inhuman treatment, biological experiments, immense suffering or violation of their bodily integrity or health; dislocation or displacement or forcible conversion to another nationality or religion; forcible prostitution or rape; application of measures of intimidation and terror, hostage-taking, imposition of collective punishment, unlawful transfer to concentration camps or other illegal arrests and detention, deprivation of rights to a fair and impartial trial; forcible service in the armed forces of the enemy's army or in its intelligence service or administration; forced labour, starvation of the population, property confiscation, pillaging, illegal and intentional destruction or large-scale theft of property that is not justified by military needs, illegal and disproportionate contribution or requisition, devaluation of domestic currency or the unlawful issuance of currency; or who personally commits one of the aforementioned actions, shall be punished by not less than five years' imprisonment or the death penalty."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

25. The applicant complained that the Serbian authorities had failed to carry out an effective investigation into the killing of his father. He relied on Article 2 of the Convention, the relevant part of which reads as follows:

"1. Everyone's right to life shall be protected by law."

A. Admissibility

1. The Government's objection of abuse of the right of individual application

(a) The parties' submissions

26. The Government submitted that the applicant had failed to inform the Court that, following the lodging of his application with it, the War Crimes Prosecutor of Serbia had indicted D.L. for war crimes, including the killing of the applicant's father. Those proceedings are currently ongoing at first instance before the Belgrade High Court (see paragraphs 22-23 above). According to the Government, that omission had not been inadvertent but rather had constituted a "deliberate failure to provide the Court with all relevant information related to the applicant's case". The applicant had also failed to inform the Court of his own refusal to testify in the criminal proceedings (see paragraph 23 above). Had he informed the Court of those facts, his application "would probably not have been communicated to the Respondent". The applicant had thus attempted to conceal the true facts regarding the progress of the investigation and his own contribution to the delays in the criminal proceedings. Accordingly, he had abused his right of individual application within the meaning of Article 35 § 3 (a) of the Convention.

27. The applicant disagreed. He submitted that his legal representative had ceased cooperation with the HLC in July 2023 and that he had therefore been unaware of any subsequent developments in the criminal proceedings, rendering the Government's allegation of intentional non-disclosure unfounded. He maintained that he had been unable to testify owing to his poor health and not because of any unwillingness on his part. He further emphasised that his testimony was not of decisive importance for the continuation of the proceedings, as he had not been a direct witness to the events in question. His involvement was neither essential to the conduct nor determinative of the outcome of the criminal process. He submitted that the domestic court's refusal to examine other available evidence, while attributing procedural delays to him, only served to reinforce his argument that the Serbian judicial authorities lacked the will to conclude the proceedings.

(b) The Court's assessment

(i) Relevant principles

28. The Court reiterates that an application may be rejected as an abuse of the right of application under Article 35 § 3 (a) of the Convention if, *inter alia*, it was knowingly based on untrue facts and false declarations (see, for example, *Minić v. Serbia* (dec.), no. 18415/20, § 29, 22 October 2024, and the authorities cited therein).

29. The submission of incomplete and thus misleading information may also amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation has been provided for the failure to disclose that information (ibid., § 30). The same applies if important new developments have occurred during the proceedings before the Court

and if, despite being expressly required to do so by Rule 47 § 7 of the Rules of Court, the applicant has failed to disclose that information to the Court, thereby preventing it from ruling on the case in full knowledge of the facts. However, even in such cases, the applicant's intention to mislead the Court must always be established with sufficient certainty (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, with further references).

(ii) Application of those principles to the present case

30. The Court observes that on 12 September 2022, less than three months after the lodging of the present application, the War Crimes Prosecutor of Serbia initiated a second set of criminal proceedings in respect of war crimes, including the killing of P.Đ. (see paragraph 22 above). It further notes that the applicant did not inform the Court of the commencement of or subsequent progress in those proceedings. The Court is not persuaded by the applicant's explanation that he was unaware of any developments in the domestic investigation between 12 September 2022 and 25 September 2024, when the respondent Government were given notice of the application. In particular, the Court notes that the applicant was himself summoned on two occasions in 2024 to testify in those proceedings. Nevertheless, the Court considers that the applicant's complaint concerns the overall effectiveness of an ongoing investigative process. In that context, the opening of a second set of criminal proceedings formed part of a broader investigative framework, encompassing not only proceedings against direct perpetrators but also the examination of the responsibility of D.L. in his capacity as a commander (see *Jelić v. Croatia*, no. 57856/11, §§ 88, 90, 94; 12 June 2014, *Borojević and Others v. Croatia*, no. 70273/11, § 63, 4 April 2017; and *mutatis mutandis*, *Lutsenko and Verbytskyy v. Ukraine*, nos. 12482/14 and 39800/14, § 68, 21 January 2021). While the initiation of those proceedings was clearly relevant and should have been brought to the Court's attention, it did not alter the substance of the applicant's complaint, which concerns the alleged ineffectiveness of the investigation as a whole, in particular the fact that, more than 34 years after the killing of his father, the criminal investigation into that killing remains pending. The Court therefore concludes that, although the applicant should have brought the relevant information to its attention, there is no indication that he intended to mislead the Court regarding any matter central to the case or that his application was knowingly based on false information (see the case-law cited in paragraphs 28-29 above).

31. As regards the Government's argument concerning the applicant's alleged refusal to testify in the domestic proceedings, that conduct occurred within the framework of domestic proceedings and not in his dealings with the Court. It follows that the Government's submissions in this respect are of no relevance to the assessment of any alleged abuse of the right of individual application (see, *mutatis mutandis*, *Paun Jovanović v. Serbia*, no. 41394/15, § 50, 7 February 2023).

32. In view of the foregoing, the Court is of the opinion that the applicant's conduct did not constitute an abuse of the right of individual application within the meaning of Article 35 § 3 (a) of the Convention.

2. *Jurisdiction* ratione temporis

33. The Court observes that no plea of inadmissibility on account of lack of jurisdiction *ratione temporis* was made by the Government. However, as this matter goes to the Court's jurisdiction, it is not precluded from examining it of its own motion (see *Petrović v. Serbia*, no. 40485/08, § 66, 15 July 2014).

34. The relevant principles concerning the Court's competence *ratione temporis* to deal with the merits of an applicant's complaint under the procedural limb of Article 2 of the Convention are set out in *Janowiec and Others v. Russia* ([GC], nos. 55508/07 and 29520/09, §§ 140-51, ECHR 2013).

35. In particular, the Court's temporal jurisdiction regarding procedural obligations to investigate under Article 2 of the Convention is strictly limited to procedural acts that were or ought to have been implemented after the entry into force of the Convention in respect of a respondent State ("the critical date"), and it is subject to the existence of a genuine connection between the event giving rise to the above-mentioned procedural obligation under Article 2 and the critical date (ibid., §§ 142 and 145). Such a connection is primarily defined by the temporal proximity between the triggering event and the critical date, which must be separated only by a reasonably short lapse of time that should not normally exceed ten years (ibid., § 146), and it will only be established if much of the investigation took place or ought to have taken place in the period following the entry into force of the Convention (ibid., § 147).

36. The Court has accepted, however, that there may be extraordinary situations that do not satisfy the "genuine connection" standard, as outlined above, but where the need to ensure the real and effective protection of the guarantees and the underlying values of the Convention would constitute a sufficient basis for recognising the existence of a connection (ibid., § 149). The Court considers the reference to the underlying values of the Convention to mean that the required connection may be found to exist if the triggering event was of a larger dimension than an ordinary criminal offence and amounted to the negation of the very foundations of the Convention. This would be the case with serious crimes under international law, such as war crimes, genocide or crimes against humanity, in accordance with the definitions given to them in the relevant international instruments (ibid., § 150).

37. Turning to the present case, the Court notes that the complaint in respect of the procedural aspect of Article 2 of the Convention concerns the investigation into an event that took place in October 1991. It should be noted that more than 12 years and four months passed between the triggering event and the Convention's entry into force in respect of Serbia on 3 March 2004.

38. Prior to that date, no procedural steps appear to have been taken in the context of the investigation. It was only after the Convention had entered into force that investigative measures were undertaken, in particular from 2007 onwards, comprising two sets of criminal proceedings for war crimes against the civilian population, which included the killing of the applicant's father. In other words, the investigation in its entirety was conducted after the critical date, along with all relevant procedural acts. Moreover, although the period between the triggering event and the critical date exceeded ten years, the incident was investigated and prosecuted domestically as a war crime against civilians. That classification indicates that the event was treated as an offence of a gravity beyond that of an ordinary criminal offence. In view of the foregoing, the Court considers that the case satisfies the requirements of the "Convention values" test (see *Krdžalija and Others v. Montenegro* (dec.), no. 79065/13, §§ 123-128, 14 March 2023).

39. Consequently, the Court finds that it has jurisdiction *ratione temporis* to examine the application under Article 2 of the Convention, in its procedural aspect, regarding the investigation into the killing of P.Đ.

40. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

41. The applicant submitted that the investigation into his father's death had been ineffective. He argued that the War Crimes Prosecutor of Serbia had deliberately delayed progress in a case that was, in his opinion, neither factually nor legally complex. In his view, such conduct gave rise to serious doubts as to the independence of the investigation and indicated a deliberate attempt to avoid the prosecution of those responsible. He emphasised, in particular, the interval of nearly six years between the lodging of the criminal complaint on 2 November 2016 (see paragraph 12 above) and the issuance of the indictment on 12 September 2022 (see paragraph 22 above). He further noted that most of the relevant facts surrounding his father's death had already been established in the first set of criminal proceedings (see paragraphs 7-11 above), and that the currently ongoing second set of criminal proceedings concerned only one accused, which did not justify their protracted nature.

(b) The respondent Government

42. The Government argued that there had been no breach of the procedural aspect of Article 2 of the Convention. The investigation into the killing of the applicant's father had been conducted by an independent authority, namely the Office of the War Crimes Prosecutor of Serbia, and had been both adequate and effective. The investigation, initiated following the criminal complaint lodged by the HLC on 2 November 2016, had culminated in the indictment of D.L. for a war crime, with criminal proceedings currently ongoing. Although the Government acknowledged a gap of nearly six years between the applicant's criminal complaint and the indictment, they maintained that the investigation had been prompt, particularly when viewed in the context of the inherent complexity of war crimes cases. Such cases often involve numerous individuals across different countries, significant time lapses, and complex evidence. The proceedings, including those stemming from the applicant's complaint, typically lead to multiple related cases. Consequently, the standard of promptness applicable to ordinary criminal proceedings could not automatically be applied to such complex matters. The Government placed particular emphasis on the fact that broader criminal proceedings concerning the events in Lovas and involving a larger group of suspects had been initiated as early as 2007, well before the applicant's criminal complaint had been submitted. During those proceedings, it had already been established that D.L. had ordered an attack on the civilian population of Lovas, following which an order had been made to investigate him (see paragraphs 7-11 above). The Government emphasised that in circumstances such as those of the present case, where deaths occurred amid generalised violence, armed conflict or insurgency, investigators could encounter substantial obstacles and practical limitations, which might necessitate the adoption of less effective measures or result in delay. They submitted that all reasonable steps had been taken to conduct an effective and independent investigation, even in difficult security conditions. Lastly, the applicant's procedural rights had been respected, including his involvement as next of kin, by way of his summons to testify, which he had declined. Such an "attitude" on the part of the applicant had rendered it impossible to complete the criminal proceedings in question.

(c) The Government of Croatia

43. The Government of Croatia supported the applicant's position and submitted that there had been a violation of Article 2 of the Convention in its procedural limb. They further argued that the ineffective investigation in the present case reflected a broader situation in Serbia in which there was a concerning lack of investigation into war crimes.

2. The Court's assessment

44. The Court refers to the general principles regarding the procedural obligation to carry out an effective investigation under Article 2 as summarised in *Georgia v. Russia (II)* ([GC], no. 38263/08, § 326, 21 January 2021).

45. The Court reiterates at the outset that there is little ground to be overly prescriptive as regards the possibility of an obligation to investigate unlawful killings arising many years after the events since the public interest in obtaining the prosecution and conviction of perpetrators is firmly recognised, particularly in the context of war crimes and crimes against humanity (*Brecknell v. the United Kingdom*, no. 32457/04, § 69, 27 November 2007). The form an investigation must take in order to satisfy the requirements of Article 2 may vary according to the circumstances of the case. Nonetheless, regardless of the method employed, the authorities are required to act on their own initiative once the matter has come to their attention. They cannot leave it to the initiative of the next of kin either to lodge a formal complaint or to take responsibility for the conduct of any investigative procedures (see *Al-Skeini and Others v. the United Kingdom* [GC], no. 55721/07, § 165, ECHR 2011). Furthermore, if the investigation leads to the institution of proceedings before the national courts, then the entire proceedings, including the trial stage, must satisfy the Article 2 requirements (see *Öneryıldız v. Turkey* [GC], no. 48939/99, § 95, ECHR 2004-XII, and *Ali and Ayşe Duran v. Turkey*, no. 42942/02, § 61, 8 April 2008). The Court further emphasises the requirement of promptness and reasonable expedition which is implicit in the context of the effectiveness of the domestic proceedings set up to elucidate the circumstances of an individual's death (see *Jelić*, cited above, § 91).

46. As a preliminary observation, the Court notes that both in his constitutional appeal and in his application before the Court, the applicant complained of an ineffective investigation into his father's death, focusing primarily on the allegation that, upon submission of his criminal complaint to the War Crimes Prosecutor in 2016 (see paragraphs 12 to 19 above), the War Crimes Prosecutor did not react promptly or efficiently. While the applicant's complaint centred on the handling of his criminal complaint, he also relied on the fact that a first set of criminal proceedings had been initiated in 2007 (see paragraph 41 above), and he had referred to this in his criminal complaint (see paragraph 12 above) and his constitutional appeal (see paragraph 20 above). Moreover, the fact that the death of the applicant's father had already been the subject of criminal proceedings was explicitly invoked by the Constitutional Court when dismissing the applicant's constitutional complaint (see paragraph 21 above) and by the Government in their observations before the Court (see paragraph 42 above). Accordingly, when assessing the effectiveness of the investigation initiated by the applicant's criminal complaint, the Court, which is bound by the scope of the case "referred to" it in the exercise of the right of individual application as determined by the applicant's complaint (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 109, 20 March 2018), must also have regard to the fact that criminal proceedings had been ongoing since 2007, prior to the

lodging of the applicant's complaint. In addition, the investigation initiated upon the applicant's criminal complaint must be considered in its entirety, encompassing both the initial investigative measures undertaken by the War Crimes Prosecutor and the subsequent criminal proceedings.

47. Against that backdrop, the Court observes that the official investigation into the killing of the applicant's father was first initiated by the Office of the War Crimes Prosecutor of Serbia in 2007. The second set of criminal proceedings initiated in 2016 upon the applicant's criminal complaint remains ongoing. The excessive length of proceedings is a strong indication that the proceedings are defective to the point of constituting a violation of the respondent State's positive obligations under the Convention, unless the State has provided highly convincing and plausible reasons to justify the length of the proceedings (see *Mazepa and Others v. Russia*, no. 15086/07, § 80, 17 July 2018, and the authorities cited therein). No such reasons have been provided by the respondent Government in the present case.

48. In this regard, the Court notes the significant delay between the killing of P.Đ. and the commencement of any official investigation. No investigative measures appear to have been taken prior to 3 March 2004, when the Convention entered into force in respect of Serbia. The first set of criminal proceedings was initiated by the Office of the War Crimes Prosecutor of Serbia on 28 November 2007, that is, 16 years after the killing and three years and eight months after the Convention had entered into force in respect of Serbia. Those proceedings themselves lasted 13 years across two levels of jurisdiction. Moreover, none of the four individuals initially charged in connection with the killing was ultimately convicted (see paragraphs 7 and 11 above).

49. With regard to the second set of criminal proceedings, and without prejudging the outcome or taking a position on the culpability of D.L., the accused, the Court notes that more than nine years have passed since the HLC lodged a criminal complaint on behalf of the applicant on 2 November 2016. The proceedings remain pending at first instance (see paragraph 22 above). The Court also notes the delay of six years between the lodging of the complaint and the issuance of the indictment (see paragraphs 12 and 22 above). Moreover, according to the Government's own submissions, there were grounds to suspect that D.L. was criminally responsible for the killing in question independently of and prior to the complaint lodged by the applicant through the HLC (see paragraphs 8, 9 and 42 above). It follows that the delay in initiating the second set of criminal proceedings may have been even more substantial than indicated above and attributable to a prosecutorial strategy (see paragraph 9 above).

50. While the Court has taken note of the Government's argument concerning the complexity of the criminal proceedings in issue, it does not accept that, as the death had occurred in a situation of generalised violence, the delays in the investigation were justified on account of difficult security circumstances. It is undisputed that the killing occurred during an armed conflict. However, the investigation was initiated in 2007, over a decade after the conflict had ended, under circumstances that cannot reasonably be described as being affected by security issues (see paragraph 5 above). In any event, the Government have failed to substantiate their assertion by identifying any specific security-related obstacles that may have impeded the investigation, nor have they provided evidence in support of such a claim. Lastly, the Court notes the Government's argument that the applicant contributed to the delay by failing to attend two hearings in 2024. In this connection the Court observes that, even according to the Government themselves, the failure to attend the first

hearing cannot be attributed to the applicant but rather to the inability of the Croatian authorities to organise a video conference (see paragraph 23 above). Regarding the second hearing, even accepting the Government's argument that the applicant contributed to the delay by failing to attend it, that factor, when weighed against the fact that the proceedings are still pending at first instance more than nine years after the submission of the applicant's criminal complaint (see paragraph 12 above), does not mitigate the investigation's excessive overall length.

51. In those circumstances, the Court is not persuaded that the Government have provided convincing and plausible reasons to justify the overall length of the investigation, which encompasses both the proceedings conducted by the Office of the War Crimes Prosecutor of Serbia and the ensuing criminal trial. In particular, the reference to the complexity of the case appears unpersuasive in the absence of any tangible results in the investigation concerning those who committed or ordered the killing, which has been protracted for many years.

52. In the light of the foregoing and its findings regarding the lack of promptness and reasonable expedition in conducting the investigation, the Court concludes that the investigation into the killing of P.Đ. did not meet the effectiveness standards required under Article 2 of the Convention.

53. Accordingly, there has been a violation of Article 2 of the Convention in its procedural limb.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

54. Article 41 of the Convention provides:

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

55. The applicant claimed 20,000 euros (EUR) in respect of non-pecuniary damage.

56. The Government submitted that the claim was unfounded and excessive.

57. The Court awards the applicant EUR 12,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

58. The applicant also claimed approximately EUR 1,730, in Serbian dinars, for the costs and expenses incurred in the domestic proceedings and before the Court.

59. The Government did not comment.

60. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and were also reasonable as to their quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,730 covering costs and expenses under all heads, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 2 of the Convention under its procedural aspect;
3. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
(i) EUR 12,000 (twelve thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
(ii) EUR 1,730 (one thousand seven hundred and thirty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 17 February 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.
Milan Blaško Registrar
Ioannis Ktistakis President