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Contact: Ireneusz Kondak
Tel: 03.90.21.59.86

Date: 10/10/2024

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Meeting: 1514th meeting (December 2024) (DH)

Item reference: Action Report (10/10/2024)

Communication from Bosnia and Herzegovina concerning the case of Rebac v. Bosnia and Herzegovina (Application No. 31832/20) [Group Baotic, 49560/20]

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Réunion : 1514^e réunion (décembre 2024) (DH)

Référence du point : Bilan d'action (10/10/2024)

Communication de la Bosnie-Herzégovine concernant l'affaire Rebac c. Bosnie-Herzégovine (requête n° 31832/20) (**anglais uniquement**) [Groupe Baotic, 49560/20]

BOSNA I HERCEGOVINA

*Министарство за људска права и
избеглице Уред заступника/агента
Савета министара БиХ пред Европским
судом за људска права*

SARAJEVO



BOSNIA AND HERZEGOVINA

*Ministry for Human Rights and Refugees
Office of the Agent of the Council of Ministers
before the European Court of Human Rights*

SARAJEVO

Ref.: 11-Ai-2/24-408/24
Sarajevo October 9th, 2024

DGI

10 OCT. 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

**Ms Clare Brown
Head of the Division**

**Directorate General of Human Rights and Rule of Law
Department for the Execution of Judgments of the European
Court of Human Rights
Council of Europe
Strasbourg**

ACTION REPORT

**Case: *Rebac v. Bosnia and Herzegovina*, app.no. 31832/20, judgment of 26 March
2024, final on 26 March 2024**

I CASE DESCRIPTION

1. This case concerns the violation of Article 6 § 1 of the Convention due to the lack of the fairness of the proceedings before the Constitutional Court of Bosnia and Herzegovina, as it had not allowed the applicant an opportunity to comment on observations filed by other participants in the proceedings (*Rebac v. Bosnia and Herzegovina*, judgment § 1).
2. The impugned Constitutional Court proceedings concerned the right to liberty, the right to respect for the applicant's private life and correspondence and the right not to be ill-treated. In accordance with Rule 23 of the Rules of the Constitutional Court, the Cantonal Prosecutor's Office of the Posavina Canton and the Orašje Municipal Court submitted their observations. Since this was not envisaged by its Rules at the time, the Constitutional Court did not transmit them to the applicant. On 20 May 2020 it dismissed the case. With a view to harmonising its procedure with the case-law of this Court, in 2021 the Constitutional Court decided to start transmitting all observations to the appellants for comments (§ 2).
3. The European Court found that the procedure followed did not enable the applicant to participate properly in the proceedings before the Constitutional Court and thus deprived him of a fair hearing within the meaning of Article 6 § 1 of the Convention. There has therefore been a violation of that provision (§ 10).

II INDIVIDUAL MEASURES

4. Measures have been taken to bring the impugned violation to an end.
5. Acting in accordance with the judgment of the European Court of Human Rights, the Constitutional Court adopted a decision on 19 September 2024 to reopen the proceedings in the case Ap-1261/20 with the regard to the appeal which had previously been concluded by the decision on admissibility and merits of 20 May 2020.
6. On May 7, 2024, the Constitutional Court delivered to the appellant the responses of the Municipal Court and the Prosecutor's Office for comments.
7. Acting in the reopened proceedings, the Constitutional Court dismissed the appeal against the decision of the Municipal Court in Orašje as inadmissible for being premature.

III GENERAL MEASURES

8. General measures were already taken within the implementation of the Court's judgment in *Baotić v. Bosnia and Herzegovina*, app.no. 49560/20, judgment of 18 October 2022. Namely, the Constitutional Court adopted the conclusion No. SU-02-1056/21 of 16 December 2021 in order to secure the delivery of the observations to all the participants in the proceedings to the appellants for comments.
9. The authorities consider that the amended Rule 23 of the Constitutional Court is sufficient measure adopted with an aim to prevent future violations of human rights in all similar cases.

Publication and dissemination

10. The European Court's judgment in the present case has been translated and disseminated to the Constitutional Court of Bosnia and Herzegovina.
11. It is also published on the website of the Office of the Agent of the Bosnia and Herzegovina Council of Ministers before the European Court (see https://www.mhrr.gov.ba/ured_zastupnika/odluke/default.aspx?id=170) and in the Official Gazette of Bosnia and Herzegovina No. 39/24.

IV JUST SATISFACTION

12. The applicant did not submit a claim for just satisfaction. Accordingly, no call to award him any sum on that account was found (§ 11).

V CONCLUSION

13. In view of the above, the authorities consider that the individual measures have brought the violation to an end. The Government thus considers that no other individual measure is possible.
14. The authorities, therefore, consider that they have exercised their obligations under Article 46 § 2 of the Convention in this case as regards individual and general measures and propose to the Committee to close further examination of the case.

Acting Agent of the Council of Ministers of BiH
before the European Court of Human Rights

Bojan Bajić

