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Meeting: 1563rd meeting (June 2026) (DH)

Item reference: Action Report (16/03/2026)

Communication from Bosnia and Herzegovina concerning the case of Martinović v. Bosnia and Herzegovina (Application No. 41749/12)

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Communication de la Bosnie-Herzégovine concernant l'affaire Martinović c. Bosnie-Herzégovine (requête n° 41749/12) (**anglais uniquement**)

BOSNA I HERCEGOVINA

**Ministarstvo za ljudska prava i izbjeglice
Ured zastupnika/agenta Vijeća ministara BiH
pred Europskim sudom za ljudska prava**

SARAJEVO



BOSNIA AND HERZEGOVINA

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

SARAJEVO

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**Mr Frédéric Dolt
Head of the Department
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

Martinović group v. Bosnia and Herzegovina

Martinović app. no. 41749/12, judgment of 25 September 2018 [Committee]

I CASE DESCRIPTION

1. The *Martinović* group of cases concerns violations of the applicants' right to a fair trial and peaceful enjoyment of their property rights on account of the delayed enforcement of the final and enforceable domestic decisions rendered in their favour against private persons or companies (violations of Article 6 § 1 of the Convention and Article 1 of Protocol No 1 to the Convention)
2. In particular, in *Martinović*, the Mostar Municipal Court rendered two decisions in the applicant's favour in 2011 and 2012 thus granting her reimbursement of costs of two sets of domestic proceedings. In two decisions rendered in 2013, the Constitutional Court of Bosnia and Herzegovina found violations of the applicant's rights and ordered swift enforcement, , but did not award the applicant non-pecuniary damages for the established violations of her rights Relevant domestic decisions were enforced in 2014 and 2016, respectively. In view of its case-law on the subject, and the fact that the final decisions under consideration were not enforced for more than six years, the Court considered that there had been a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 (*Martinović* judgment, § 40).
3. The other relevant cases related to this group concerned the obligation to reinstate the applicant in his previous employment and to pay him certain amounts (*Josić*, app. no. 48616/14, judgment of 25 September 2018) or the payment of various sums in respect of unpaid work-related benefits (*Jakovljević and Others*, app. no. 51227/16, judgment of 23 July 2019 and *Bradarić*, app.no. 84721/17, judgment of 3 December 2019). The

Government reminds that upon the implementation of the individual measures, the Committee of Ministers closed further examination of those cases.

II INDIVIDUAL MEASURES

4. The authorities have taken steps to ensure that the violations found in respect of the applicant *Martinović* ceased to exist. Also, the applicant was redressed for the negative consequences of the violations sustained.
 - i. *Measures taken to ensure enforcement of domestic decisions*
5. It is recalled that relevant domestic decisions in *Martinović* were enforced in December 2014 and August 2016 (*Martinović* judgment, §§ 17 and 26). The violations in *Martinović* were thus brought to an end before the European Court rendered its judgment.
 - ii. *Redress for the applicant*
6. The Court awarded the applicant EUR 4,000 in respect of non-pecuniary damage (*Martinović*, §44). The applicant did not claim just satisfaction in respect of pecuniary damage. The authorities ensured that the amounts of just satisfaction awarded by the Court were disbursed to the applicant on 24 December 2018.

III GENERAL MEASURES

A. The Rule of Law Issues in Bosnia and Herzegovina

7. On the occasion of the 4th Stabilisation and Association Sub-committee on Justice Freedom and Security held in Brussels on 5 December 2019, Mr Reinhard Priebe presented to the European Commission, the EU Member States and the Bosnia and Herzegovina authorities the main findings of the independent senior experts' report on Rule of Law issues in Bosnia and Herzegovina¹. The expert report is the outcome of the "EU initiative to enhance the monitoring of the Rule of Law in BiH", which during 2019 has focused on the root causes of rule of law deficiencies in Bosnia and Herzegovina, within the framework of the Commission's Opinion on the EU membership application of Bosnia and Herzegovina².
8. The EU welcomed the expert report. The experts' findings pointed to a series of deeply concerning rule of law deficiencies in BiH. It also identified the main shortcomings in the functioning of the domestic judiciary and the capacity of the High Judicial and Prosecutorial Council (HJPC) as a central institution in the BiH rule of law area to adequately address it.

¹ *Expert Report on Rule of Law issues in Bosnia and Herzegovina*, Brussels, 5 December 2019 available on <http://europa.ba/wp-content/uploads/2019/12/ExpertReportonRuleofLawissuesinBosniaandHerzegovina.pdf>

² Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union {SWD(2019) 222 final}, available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-bosnia-and-herzegovina-opinion.pdf>

9. The Report recognised that the broad competences of the HJPC make it a powerful institution, for which reason it is essential that the institution embodies the values and principles that it is intended to guarantee and that it leads the process by example with efficiency, responsibility and integrity. However, the Report reveal that over the last years, the HJPC has itself become part of the problem. Serious miscarriages of justice have become apparent due to lack of leadership capacity, allegations of politicisation and conflicts of interest, inefficient organization, insufficient outreach and transparency, and, finally, its failure to implement reforms (*Expert Report*, §§ 64 and 65).
10. Functioning of the HJPC is indispensably related to the efficiency of the civil justice system and the citizens' right to effective judicial protection. In relation to that, the *Expert Report* found that the legislation and implementing measures need to be adopted urgently to address the excessive length of proceedings. A legal remedy against violations of the right to reasonable time of the domestic court proceedings should be considered³ which is exactly in line with the obligations stemming from the European Court's judgments under Article 46 § 1 of the Convention.
11. Within the framework of the European Union integration process of Bosnia and Herzegovina, the European Commission in its annual Progress Reports deals specifically with the issues of efficiency of domestic judiciary. It recommended that an effective remedy for excessive length of proceedings needed to set up with no delay at all levels of government. Though, it was noted that the individuals might file a case with the Constitutional Court of BiH, this measure could have not ensured acceleration of the pending proceedings and remained a continuous violation of the individuals' rights, under the ECHR⁴. In 2022 the Commission recommended that the Entity-level laws and regulations on enforcement had to be amended urgently in order to increase efficiency⁵. Nevertheless, in their Reports of 2023 and 2024 the Commission noted that even the Law to Protect the Right to Fair Trial Within the Reasonable Time had been adopted at the State level, the excessive length of proceedings still hampered the individuals' rights as the Law was still awaited for adoption in the Federation of BiH. The Commission also urged for the amendments of the Entity-level Laws and regulations on enforcement⁶.

B. Legislative measures

i. Legislation on Fair Trial Within the Reasonable Time

12. In response to the human rights violations found by the Court in *Martinović* group of cases, and consequently to the findings of the relevant reports on rule of law issues in Bosnia and Herzegovina, the national authorities have undertaken widespread legislative activities with an aim of adopting the relevant legislation that would enhance the efficiency of domestic judiciary and specifically regulate this matter in line with the Conventions standards.

³ *Expert Report on Rule of Law issues in Bosnia and Herzegovina*, § 35.

⁴ 2021 Communication on EU Enlargement Policy SWD(2021)291 of 19.10.2021.

⁵ 2022 Communication on EU Enlargement Policy SWD(2022)336 of 12.10.2022.

⁶ 2023 Communication on EU Enlargement Policy SWD(2023)691 of 08.11.2023. and 2024 Communication on EU Enlargement Policy SWD(2024)691 of 30.10.2024.

13. In order to define general measures needed to secure full implementation of their obligation under Article 46 § 1 of the Convention, the Council of Ministers of BiH, at its 143rd session of 23 May 2018, adopted an *Information on proceedings before the ECHR raising issues of violations of the right to a fair trial under Article 6 of the European Convention* with the conclusions to set up a working group with a task to propose the modalities of draft legislation for the protection of the right to a fair trial within a reasonable time. By the decision of the Minister of Justice of 19 October 2018 and 15 May 2019 a task force was established with the representatives of the Ministry of Justice of BiH, ministries of justice of the Entities and of the Judiciary Commission of the Brčko District of BIH, of the High Judicial and Prosecutorial Council of BiH, the Court of BiH and the Prosecutor's Office of BiH, Supreme courts of the Entities and the Brčko District Appellate Court, as well as of the prosecutor's offices of the Entities. Although the legislative process in the Entities has been slowed down due to the COVID-19 pandemics outbreak in March 2020, the legislative proceedings have up today been completed.
 14. The Law on Protection of the Right to a Trial within a Reasonable Time before the Court of BiH was adopted in June 2022 (published in the "Official Gazette of BiH" No. 40/22 of 21 June 2022). In 2020, the Republic of Srpska adopted the Law on Trial within a Reasonable Time (published in the "Official Gazette of the Republic of Srpska, No. 99/20 of 13 October 2020, but entered into force on 1 January 2023). In 2021, the Law on Trial within a Reasonable Time of Brčko District was also adopted (published in the "Official Gazette of Brčko District" No. 2/21 of 26 February 2021). Finally, on 30 October 2025 the Parliament of the Federation of BiH adopted the Law on the Protection of the Right to a Fair Trial within a Reasonable Time ("Official Gazette of the Federation of BiH", No. 92/25 of 3 December 2025). Accordingly, the latest adoption of the Law in the Federation of BiH in October 2025 completed the legislative framework relating to the reasonable time requirement at all levels of authorities in Bosnia and Herzegovina, , by introducing a combination of acceleratory and compensatory remedies. More details about the structure of these remedies are provided in the communications submitted in the context of the *Hadžajlić* group of cases, dealing specifically with the excessive length of all types of proceedings.
 15. The national authorities strongly believe that the legislative framework adopted at all levels of authority in Bosnia and Herzegovina is capable to redress human rights violations found by the Court in *Martinović* group of cases, but also to prevent potential human rights violations in similar cases, by providing the domestic legal remedy to secure fair trial within the reasonable time in accordance with Article 6 § 1 of the Convention.
- ii. *Legislative Amendments on Enforcement Proceedings*
16. Taking into account that *Martinović* group of cases concerns the delayed enforcement of domestic court decisions against private individuals or companies due to the lack of assets of the debtor, and recognizing this as a problem that generates delay and stay of the enforcement proceedings that further undermines the efficiency of the domestic judiciary, as noted by the European Commission in their Progress Reports (§ 11 above) the authorities of the Federation of BiH have undertaken legislative activities

with an aim of adopting legislative amendments to the Law on Enforcement Proceedings.

17. On 4 March 2025, the Parliament of the Federation of BiH adopted the Legislative Amendments to the Law on Enforcement Proceedings (published in the “Official Gazette of the Federation of BiH”, No. 19/25) prescribing new set of relevant provisions that would enable the enforcement proceedings on newly proposed methods and the subject of enforcement in cases where the previous enforcement was not possible due to the lack of assets of the enforcement debtor.
18. In order to prevent unjustified delay and stay of the enforcement proceedings, the legislative amendments added new paragraph (6) of Article 50 which stipulates that a proposal for the continuation of the proceedings shall be submitted within 30 days from the date when the civil court decision became enforceable [...] If the enforcement creditor does not submit a proposal for the continuation of the proceedings within that period, the court shall suspend the entire enforcement proceedings. Also, it is prescribed that the enforcement creditor may only propose a postponement of enforcement once during the proceedings, provided that the court shall postpone the enforcement proposed, but not for longer than six months, unless a written agreement on the method of settlement of the claim has been concluded between the parties (Article 61, paragraphs (1) and (2)).
19. Further, an Article 125 relating to the unsuccessful seizure attempt is amended. It prescribes that if, during the seizure, no movable property is found that can be subject to enforcement, the court will inform the person seeking enforcement who was not present at the seizure and invite him to provide the exact address where the property of the person executed is located within 30 days, or in otherwise, to edit his proposal for execution and propose new method and subject suitable for execution. If the enforcement creditor does not act within the time limit referred to in paragraph (1) of this article, the court will suspend the enforcement procedure (Article 125 (1) and (2)).
20. In particular, in relation to the claims against public authorities, the provision of Article 137a is amended and it now prescribes that the public institutions are obliged to provide funds in their budgets for the payment of an enforceable court decision at the expense of the budget in the amount of at least 0.5% of the total planned revenues in the budget (comparing to the previous threshold which was up to 0.3%).
21. The authorities note that the Court has not rendered new judgments against BiH in this context of non-enforcement of final decisions against private persons since the last repetitive case *Bradarić* (no. 84721/17, 3 December 2019). They conclude that the adoption of the legislative amendments to the Law on Enforcement Proceedings in the Federation of BiH, also in combination with the introduced remedies for the excessive length of proceedings, will ensure lawful and efficient conduct of the proceedings, without undue delay or stay, thus enabling satisfaction of the creditors and completion of the proceedings in reasonable time within the meaning of Article 6 § 1 of the Convention.

C. Publication and Dissemination

22. In response to the European Court's findings in the present cases, publication and dissemination measures have been taken with a view to raising awareness about the systemic shortcomings in the organization and functioning of the domestic judiciary in Bosnia and Herzegovina.
23. In particular, the European Court's judgments in the present cases were translated and posted on the website of the Government Agent Office. The judgment *Martinović* has also been published in the „Official Gazette of Bosnia and Herzegovina“ No. 92/18 in three official languages of Bosnia and Herzegovina.

V CONCLUSIONS

24. The authorities of Bosnia and Herzegovina consider that the individual measures taken in the case *Martinović* (§§ 4-6) ensured that the violation at hand ceased to exist and the applicant was provided with an adequate redress as ordered by the Court.
25. The authorities further consider that completion of the legislative activities and the adoption of the Laws on Trial Within the Reasonable Time and the amendments to the Law on the Enforcement Proceedings in Federation of Bosnia and Herzegovina are capable of preventing similar violations enabling the domestic judiciary to adequately meet the reasonable time requirements in accordance with Article 6 § 1 of the Convention.
26. The Government therefore concludes that all the measures have been taken in line with its obligations under Article 46 § 1 of the Convention. It therefore proposes to the Committee of Ministers to adopt a final resolution and close further examination of this group of cases under Article 46 § 2 of the Convention.

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