The Constitutional Court of Bosnia and Herzegovina, sitting, in accordance with Article VI(3)(c) of the Constitution of Bosnia and Herzegovina, Article 57(2)(b) and Article 59(1) and (3) of the Rules of the Constitutional Court of Bosnia and Herzegovina – Revised text (*the Official Gazette of Bosnia and Herzegovina,* 94/14), in Plenary and composed of the following judges:

Mr. Mirsad Ćeman, President

Mr. Mato Tadić, Vice-President

Mr. Zlatko M. Knežević, Vice-President

Ms. Margarita Tsatsa-Nikolovska, Vice-President

Mr. Tudor Pantiru,

Ms. Valerija Galić,

Mr. Miodrag Simović,

Ms. Seada Palavrić,

Mr. Giovanni Grasso

Having deliberated on the request filed by the **County Court in Banja Luka (Judge Blagoje Dragosavljević)**, in case no. **U 11/17**, at its session held on 15 February 2018, adopted the following

DECISION ON ADMISSIBILITY AND MERITS

A request lodged by **County Court in Banja Luka (Judge Blagoje Dragosavljević)** for review of the compatibility of Article 201(4) of the Labour Law of the Republika Srpska (*Official Gazette of the Republika Srpska*, 1/16), with Article II(3)(e) of the Constitution of Bosnia and Herzegovina and Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms is hereby dismissed.

It is hereby established that Article 201(4) of the Labour Law of the Republika Srpska (*Official Gazette of the Republika Srpska*, 1/16) is compatible with Article II(3)(e) of the Constitution of Bosnia and Herzegovina and Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

This Decision shall be published in the *Official Gazette of Bosnia and Herzegovina*, the *Official Gazette of the Federation of Bosnia and Herzegovina*, the *Official Gazette of the Republika Srpska* and the *Official Gazette of the Brčko District of Bosnia and Herzegovina.*

REASONING

I. Introduction

1. On 15 December 2017, the County Court in Banja Luka (Judge Blagoje Dragosavljević) ("the applicant") lodged the request with the Constitutional Court of Bosnia and Herzegovina ("the Constitutional Court") for review of the compatibility of Article 201(4) of the Labour Law of the Republika Srpska (*Official Gazette of the Republika Srpska*, 1/16) with Article II(3)(e) of the Constitution of Bosnia and Herzegovina and Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the

European Convention") and Article 1 of Protocol No. 1 to the European Convention and Article 6 of the International Covenant on Economic, Social and Cultural Rights ("the International Covenant").

II. Procedure before the Constitutional Court

2. Pursuant to Article 23 of the Rules of the Constitutional Court, on 19 December 2017 the National Assembly of the Republika Srpska ("the RS National Assembly") was requested to submit a reply to the request.

3. The RS National Assembly failed to submit the reply to the request.

III. Request

a) Facts of the case in respect of which the request is lodged

4. The applicant stated that the civil proceedings relating to case no. 71 0 Rs 237264 17 Rsž were pending before the County Court in Banja Luka and that an issue was raised about the timeliness of a lawsuit for collection of financial claims, meal allowances for March and April 2016, which had been raised for the first time at the hearing of 18 May 2017. It is also indicated that the defendant, in its appeal against the first instance judgment, stated that the claim should be rejected as untimely, given that the six-month time limit stipulated in Article 201(4) of the Labour Law had expired. In addition, it is pointed out that the issue of timeliness of a lawsuit is one of the fundamental issues that ought to be resolved and examined *ex officio* in each individual case related to a labour dispute.

b) Allegations stated in the request

5. The applicant holds that the provision of Article 201(4) of the Labour Law ("the impugned provision") is not compatible with the provision of Article II(3)(e) of the Constitution of Bosnia and Herzegovina and Article 6(1) of the European Convention, Article II(3)(k) of the Constitution of Bosnia and Herzegovina and Article 1 of Protocol No. 1 to the European Convention and Article 6 of the International Covenant.

6. In the applicant's view, in order for a certain regulation to be a law, apart from its form (legislator and legal procedure), it must also be the law in a substantive sense and that implies that the law contains clear and precise rules that are not mutually opposed.

7. In the applicant's opinion, that is not the case with the Labour Law of the Republika Srpska, which in Article 201 paragraph 4 prescribes that any lawsuit against the employer must be filed within the time limit of six months from the day when the employee becomes aware of a violation of his/her right or from the day when a violation occurred, while paragraph 6 of the same Article prescribes that statutes of limitations will be terminated by filing a lawsuit with the court for judicial protection of the rights arising out of employment or by filing a motion for settling the labour dispute in a friendly manner. In addition, the remainder of the Law does not regulate special statutes of limitations either in respect of the type of claim or the length of time limits, and the only time limit prescribed is the time limit for filing a lawsuit for judicial protection of the rights arising out of employment, which is not a statute of limitations but a statute of repose.

8. The applicant indicates that the judicial protection of financial claims is not clearly regulated in Chapter XV and, due to such unclear and incomplete rules, there is a risk that, in the case-law, the six-month time limit could be taken not only as the time limit for the judicial protection of the rights arising out of employment but also as the time limit for the compulsory enforcement of financial claims, as it used to be the prevailing case-law in the Republika Srpska when the former Labour Law was applicable, where the subjective time limit of 1 year and the objective time limit of 3 years were equally applied to financial claims although it was about a statute of repose that could not have been applied to financial claims but only to the judicial protection of the rights arising out of employment.

9. The applicant offered some examples of clear and complete legal norms and pointed to Article 114 of the Labour Law of the Federation of BiH (*Official Gazette of the Federation of BiH*, 26/16), Articles 195 and 196 of the Labour Law of the Republic of Serbia (*Official Gazette of the Republic of Serbia*, 24/2005, 61/2005, 54/2009, 32/2013, 75/2014 and 13/2017) and Articles 133 and 139 of the Labour Law of the Republic of Croatia (*Official Gazette*, 93/14). The applicant also indicates that each of the mentioned Laws clearly prescribes the time limit for filing a lawsuit for judicial protection of the rights arising out of employment, as a statute of repose, which entirely eliminates the right to file a lawsuit after the specified period of time has expired, and those Laws distinguish between that time limit and the time limits for filing a lawsuit for collection of financial claims that are based directly on the law, collective agreement or employment contract, which are expressly prescribed as statutes of limitations with time limits of 3 or 5 years compared to the 6-month time limit prescribed only in the Republika Srpska.

10. Accordingly, the applicant holds that Chapter XV of the Labour Law and, in particular, Article 201 thereof failed to clearly define and clarify the time limit for filing a lawsuit for judicial protection of the rights arising out of employment, as a preclusion period, and the time limit for filing a lawsuit for the compulsory enforcement of financial claims arising out of employment, as a statute of limitations and the length of time for the statute of limitations, which is actually a positive obligation of the Republika Srpska.

11. Thus, in the applicant's opinion, arbitrariness is made possible again in applying the present Law, as it was the case with the former Law, to the detriment of an economically weaker party and in contravention of the social justice principle, and a statute of repose for the judicial protection of rights is interpreted in the case-law as the time limit applicable to all lawsuits filed for the judicial protection of the rights arising out of employment, regardless of whether it relates to the protection of rights or financial claims, so that the lawsuits by employees seeking the payment of their outstanding salaries, if not filed within the 6-month time limit, would be rejected as untimely, while employees in the Federation of BiH and the Republic of Serbia have the 3-yaer time limit that is not observed *ex officio* by courts and, in the Republic of Croatia, the length of that time limit is 5 years.

12. It is pointed out that such a determination of the time limit for the compulsory enforcement of financial claims arising out of employment is contrary to the fundamental principle stipulating that the time limits for the compulsory enforcement of financial claims are statutes of limitations, while the time limits for exercising the rights are preclusion periods, meaning the Labour Law is not compatible with other fundamental laws in the legal system of the Republika Srpska and Bosnia and Herzegovina. It is underlined that the time limit determined, if applied to financial claims arising out of employment, would be in contravention of the right of access to a court, the right to property, the right to work and wage guarantee and the obligation of the State to take appropriate measures to preserve the right to work and wage. In addition, if the preclusion period were accepted and applied to financial claims, the expiration of the preclusion period would entirely eliminate the right of employees to disbursement, meaning that their employer, after 6 months and if no lawsuit existed, would no longer be obligated to pay unpaid financial claims.

13. Furthermore, the applicant alleges that the determination of the 6-month time limit so that it starts to run from the day when the employee becomes aware of a violation of his/her

right or, alternatively, from the day when a violation occurred contradicts each other, since these two alternatives are in conflict.

14. It is pointed out that the first relates to the subjective time limit, while the second one relates to the objective time limit, meaning that the Law prescribes only the 6-month objective time limit from the day when the violation occurred and the remainder of the provision causes unnecessary confusion.

15. The applicant also states that the same issue arises in a number of cases and that the timeliness of a lawsuit is one of the fundamental issues in each labour dispute, as the court is obligated to observe *ex officio* the timeliness of a lawsuit. In that context, the applicant requested that the Constitutional Court take this issue into consideration as a matter of urgency, taking into account that in the litigation on labour relations, particularly when setting the time limits and hearings, the court always gives expedited treatment to a labour dispute, as specified in Article 420 of the Civil Procedure Code of the Republika Srpska ("the RS Civil Procedure Code").

16. Besides, the applicant is of the opinion that it would be very useful for all ordinary courts in the Republika Srpska to become familiar with the legal position of the Constitutional Court as regards the interpretation and application of Article 201 of the Labour Law, *i.e.* whether the 6-month time limit, in the opinion of the Constitutional Court of BiH and taking into account Chapter XV and the Law as a whole, relates only to the lawsuits for the judicial protection of the rights arising out of employment, so that this preclusion period does not relate to the lawsuits for protection of financial claims, or it nevertheless relates to the time limit for judicial protection of all the rights arising out of employment, including the compulsory enforcement of financial claims based directly on the law, collective agreement or employment contract.

17. The applicant also indicates that it should be noted that the county courts, according to the RS Civil Procedure Code, do not have a legal possibility to initiate a procedure before the RS Supreme Court to resolve this controversial legal issue. Moreover, the Constitutional Court of the Republika Srpska, in its decision no. *U-32/16* of 22 February 2017, has already assessed that Article 201 of the Labour Law of the Republika Srpska is compatible with the Constitution of the Republika Srpska, but it has failed to provide a more detailed interpretation of the mentioned provision, in the context indicated above.

IV. Relevant Laws

18. The **Labour Law of the Republika Srpska** (*Official Gazette of the Republika Srpska*, 1/16), as relevant, reads:

Article 201

(1) An employee who considers that his employer has violated any of his rights arising out of employment may file a motion with the competent authority for settling the labour dispute in a friendly manner or may file a lawsuit seeking judicial protection before the court having jurisdiction in respect of the right that has been violated.

(2) The right to file the motion or lawsuit does not depend upon any previous employee's request for the protection of the right by the employer.

(3) The motion for settling the labour dispute in a friendly manner may be filed by the employee within 30 days from the day when the employee becomes aware of a violation of his/her right or not later than 3 months from the day when a violation occurred.

(4) The lawsuit seeking judicial protection may be filed by the employee within 6 months from the day when the employee becomes aware of a violation of his/her right or from the day when a violation occurred.

(5) Statutes of limitations shall be terminated by initiating the proceedings referred to in paragraphs 3 and 4 of this Article.

V. Admissibility

19. In examining the admissibility of the present request, the Constitutional Court invoked the provisions of Article VI(3)(c) of the Constitution of Bosnia and Herzegovina.

Article VI(3)(c) of the Constitution of Bosnia and Herzegovina reads:

c) The Constitutional Court shall have jurisdiction over issues referred by any court in Bosnia and Herzegovina concerning whether a law, on whose validity its decision depends, is compatible with this Constitution, with the European Convention for Human Rights and Fundamental Freedoms and its Protocols, or with the laws of Bosnia and Herzegovina; or concerning the existence of or the scope of a general rule of public international law pertinent to the court's decision.

20. The request for review of the constitutionality was submitted by the County Court in Banja Luka (Judge Blagoje Dragosavljević), meaning that the request was filed by an authorised person pursuant to Article VI(3)(c) of the Constitution of Bosnia and Herzegovina (see Constitutional Court, Decision on the Admissibility and Merits no. *U 5/10* of 26 November 2010, paragraphs 7 through 14, published in the *Official Gazette of Bosnia and Herzegovina,* 37/11). Bearing in mind the provisions of Article VI(3)(c) of the Constitution of Bosnia and Herzegovina and Article 19(1) of the Constitutional Court's Rules, the Constitutional Court establishes that the present request is admissible, as it was submitted by an authorised person and because there is no single reason under Article 19(1) of the Constitutional Court's Rules rendering this request inadmissible.

VI. Merits

21. The applicant requested that the Constitutional Court decide about the compatibility of the impugned provision of the RS Labour Law with the provision of Article II(3)(e) of the Constitution of Bosnia and Herzegovina and Article 6(1) of the European Convention, Article II(3)(k) of the Constitution of Bosnia and Herzegovina and Article 1 of Protocol No. 1 to the European Convention and Article 6 of the International Covenant.

22. The impugned provision of the RS Labour Law reads:

Article 201(4)

(…)

(4) The lawsuit seeking judicial protection may be filed by the employee within 6 months from the day when the employee becomes aware of a violation of his/her right or from the day when a violation occurred.

Right to a fair trial

23. Article II(3)(e) of the Constitution of Bosnia and Herzegovina reads:

All persons within the territory of Bosnia and Herzegovina shall enjoy the human rights and fundamental freedoms referred to in paragraph 2 above; these include:

[...]

e) The right to a fair hearing in civil and criminal matters, and other rights relating to criminal proceedings.

24. Article 6 of the European Convention, as relevant, reads:

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. […]

25. The Constitutional Court notes that the applicant holds that the impugned provision is in contravention of the right of access to a court, as it does not clearly prescribe whether it relates to all lawsuits arising out of employment, including the lawsuits for collection of financial claims arising out of employment, which, according to general principles of law, as indicated by the applicant, are to be filed within the time limits established by the statutes of limitations and not within the preclusion periods, such as, in the opinion of the applicant, the time limit for filing the lawsuit referred to in the impugned provision. In view of the above, the applicant makes reference to the legal arrangements prescribed by the Labour Laws of the Federation of BiH, the Republic of Croatia and the Republic of Serbia, where the right to financial claims is exercised based on special statutes of limitations with longer time limits than the time limit stipulated by the impugned provision.

26. In this connection, the Constitutional Court notes that the present case in which the request in question was submitted relates to the issue of timeliness of the lawsuit for collection of financial claims in which the defendant had filed an appeal against the first instance judgment and proposed that the court reject the plaintiff's claim as untimely, given that the six-month time limit stipulated by the impugned provision had expired.

27. In view of the above it follows that the present request raises the issue of violation of the constitutional right of access to a court, as an element of the right to a fair trial under Article II(3)(e) of the Constitution of Bosnia and Herzegovina and Article 6(1) of the European Convention and, from that aspect, the Constitutional Court will examine the relevant request.

28. In this connection, the Constitutional Court recalls that "the right to a court" is a constituent element of Article 6(1) of the European Convention and it also includes the right

of access, *i.e.* the right to file a lawsuit in court. However, according to the case-law of the European Court of Human Rights, that right is not absolute but may be subject to limitations. In that context, the European Court of Human Rights, in the case of *Lončar v. Bosnia and Herzegovina*, indicated that the right of access to a court secured by Article 6(1) is not absolute but may be subject to limitations; these are permitted by implication, since the right of access by its very nature calls for regulation by the State, which may vary in time and in place according to the needs and resources of the community and of individuals. Therefore, in the view of the European Court of Human Rights, in laying down such regulations, the Contracting States enjoy a certain margin of appreciation, but the final decision as to observance of the Convention's requirements rests with the Court. Limitations on the right to a court are compatible with Article 6 only if they do not restrict or reduce the access left to the litigant in such a way or to such an extent that the very essence of the right is impaired; lastly, such limitations will not be compatible with Article 6(1) if they do not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved. In addition, the European Court of Human Rights indicates in the cited Decision that it is not the Court's task to take the place of the domestic courts. It is primarily for the national authorities, notably the courts, to resolve problems of interpretation of domestic legislation. The Court's role is confined to ascertaining whether the effects of such an interpretation are compatible with the Convention. This applies in particular to the interpretation by courts of rules of a procedural nature, such as time limits governing the submission of documents or lodging of appeals (see, European Court of Human Rights, *Lončar v. Bosnia and Herzegovina*, Judgment of 25 February 2014, paragraphs 37 and 38).

29. Bringing the aforementioned into connection with the relevant request, the Constitutional Court notes that the impugned provision prescribes a six-month time limit for filing a lawsuit for judicial protection of the rights arising out of employment. In view of the aforementioned, the Constitutional Court holds that the impugned provision itself prescribes a limitation, *i.e.* it reduces the right of access to a court, as the impugned provision prescribes the time limit for filing a lawsuit by an employee for judicial protection of the rights arising out of employment and, after the expiration of that time limit, the lawsuit becomes untimely. In this connection, the Constitutional Court will examine whether the impugned provision restricts or reduces the access to a court in such a way or to such an extent that the very essence of the right is impaired. In that regard, the Constitutional Court makes reference to the European Court of Human Rights and the case of *Eşim v. Turkey*, wherein the European Court

of Human Rights states that the rules governing the time-limits are intended to ensure a proper administration of justice. That being so, the rules in question, or their application, should not prevent litigants from using an available remedy. Furthermore, the Court must make its assessment in each case in the light of the special features of the proceedings in question and by reference to the object and purpose of Article 6(1) of the European Convention. It is further stated that while the right to bring an action is of course subject to statutory requirements, the courts are bound to apply the rules of procedure avoiding both excessive formalism that would impair the fairness of the proceedings and excessive flexibility such as would render nugatory the procedural requirements laid down in statutes. In fact, the right of access to a court is impaired when the rules cease to serve the aims of legal certainty and the proper administration of justice and form a sort of barrier preventing the litigant from having his or her case determined on the merits by the competent court (see, European Court of Human Rights, *Eşim v. Turkey*, Judgment of 17 September 2013, paragraphs 20 and 21).

30. In view of the above, the Constitutional Court notes that the applicant raises the issue in respect of the type of time limit specified by the impugned provision (a statute of repose or a statute of limitations), and the type of rights arising out of employment to which the lawsuit referred to in the impugned provision relates. However, in this decision the Constitutional Court will not address the issue of legal nature of the time limit or the issue of type of claim arising out of employment, but it will solely examine the legal issue as to whether the impugned provision, *per se*, is in violation of the constitutional right of access to a court, as an element of the right to a fair trial. In this connection, the Constitutional Court notes that the Labour Law is *lex specialis* as regards the regulation of employment related issues and the protection of the rights arising out of employment, as a specific matter in a legal system of a State. In addition, the Constitutional Court notes that the legislator, by the impugned provision, prescribes the six-month time limit for filing a lawsuit for judicial protection of the rights arising out of employment. In so doing, the legislator, in the impugned provision, does not distinguish between the rights arising out of employment, nor does it specify the rights arising out of employment to which the relevant provision relates; in view of the aforementioned it follows that the impugned provision relates to all the rights arising out of employment, including the right to financial claims. All the aforementioned, in the opinion of the Constitutional Court, is in no way unreasonable or in contravention of the constitutional right of access to a court but it is actually at the discretion of each State to regulate this sphere

according to its own requirements and needs, and the State has to be watchful that such a legal arrangement does not impair the very essence of the right.

31. The Constitutional Court notes that the applicant makes reference to other legal systems which distinguish between the time limits for collecting financial claims and other rights arising out of employment and where special statutes of limitations with longer time limits are prescribed. However, in the opinion of the Constitutional Court, the aforementioned actually shows that the States enjoy a margin of appreciation to prescribe appropriate legal arrangements with regard to time limits, restricting or reducing the right of access to a court, which are the most acceptable for their legal systems and which take into account certain characteristics of their legal systems. The difference between the legal arrangements in certain legal systems that relate to the time limits prescribed for the exercise of certain rights arising out of employment does not imply a violation of the right of access to a court as long as such arrangements do not call into question the very essence of the right. Namely, it is decisive whether such legal restrictions impose a disproportionate burden, with regard to the filing of lawsuits for exercising the rights arising out of employment, in such a way that employees are prevented from using an available remedy and having their cases determined on the merits by the competent court.

32. Therefore, while time limits, *per se*, restrict or reduce the right of access to a court, any legal arrangement imposing time limits on the exercise of certain rights ought to be viewed from the aspect of reasonableness and proportionality, *i.e.* whether such arrangements impose an excessive burden on those who need to exercise certain rights, *i.e.*, in the present case, employees who exercise their rights arising out of employment. In this connection, in the opinion of the Constitutional Court, the impugned provision does not impose an excessive burden on employees as regards the exercise of their rights arising out of employment (neither by the type of the right nor by the length of time limits), and it does not set forth such conditions that prevent employees from using an available remedy (a lawsuit for judicial protection of the rights arising out of employment), which ought to be determined on the merits by the competent court. Therefore, the Constitutional Court is of the opinion that the impugned provision does not form a sort of barrier preventing the party from having his or her case determined on the merits by the competent court. In addition, in the view of the Constitutional Court, no regulation of special statutes of limitations for filing a lawsuit for collection of financial claims does either reduce the very essence of the employees' right in accordance with the impugned provision or affect the exercise of their right of access to a

court. In addition, in the opinion of the Constitutional Court, the impugned provision is in no way unclear or imprecise, given that employees can adjust their behaviour in accordance with the impugned provision and file lawsuits for judicial protection of their rights arising out of employment, within the time limit prescribed by the impugned provision, and which is not unreasonable.

33. In view of the above, the Constitutional Court holds that while the impugned provision prescribes a limitation, *i.e.* it reduces the right of access to a court, it in no way calls into question the very essence of the right of access to a court, as regards the type of the rights arising out of employment the protection of which is sought and the time limit prescribed for filing the lawsuit. The Constitutional Court is of the opinion that the impugned provision is clear and not aimed at preventing authorised persons from filing a lawsuit for judicial protection of their rights arising out of employment and having their case determined on the merits by the competent court, if their lawsuit is filed within the time limit prescribed by the impugned provision. Therefore, these legal arrangements that are regulated by the impugned provision are not in violation of the right of access to a court, as they are reasonable. However, a passive attitude on the part of employees, *i.e.* the filing of a lawsuit after the expiration of the prescribed time limit gives rise to an untimely lawsuit. The aforementioned, in the view of the Constitutional Court, is not unreasonable and it does not call into question the very essence of the right of access to a court, but serves the aims of legal certainty and the proper administration of justice, and does not form a sort of barrier preventing employees from having their case determined on the merits by the competent court. Consequently, the Constitutional Court holds that the limitations prescribed by the impugned provision are not unreasonable, *i.e.* they do not impose an excessive burden on employees as regards the exercise of any of the rights arising out of employment, meaning that the impugned provision is not in violation of the constitutional right of access to a court, as an element of the right to a fair trial safeguarded by Article II(3)(e) of the Constitution of Bosnia and Herzegovina and Article 6(1) of the European Convention.

34. The interpretation and application of the impugned provision in practice is not a task of the Constitutional Court but it is in the first place for the ordinary courts to do so. Namely, the Constitutional Court, within the meaning of Article VI(3)(c) of the Constitution of Bosnia and Herzegovina, has jurisdiction to assess whether the impugned provision is in violation of any constitutional right, *i.e.*, in the present case, the right of access to a court, as an element of the right to a fair trial, and it is not its task to interpret the impugned provision, as to the

manner in which it is to be applied in practice, or to resolve the issue pending before the ordinary court (see, *mutatis mutandis*, Constitutional Court, Decision on Admissibility and Merits no. *U 5/13* of 5 July 2013, available at: www.ccbh.ba, paragraph 30). The issue of arbitrariness of the interpretation or application of the impugned provision by the ordinary courts, deciding certain cases or legal issues raised in such cases, may possibly be the subject-matter of appellate jurisdiction of the Constitutional Court, within the meaning of Article VI(3)(b) of the Constitution of Bosnia and Herzegovina.

35. In view of the above, the Constitutional Court concludes that the impugned provision is compatible with Article II(3)(e) of the Constitution of Bosnia and Herzegovina and Article 6(1) of the European Convention.

Other allegations

36. In view of the conclusion of the Constitutional Court on the applicant's allegations about a violation of the right to a fair trial, *i.e.* the right of access to a court, the Constitutional Court considers that it is unnecessary to consider the applicant's allegations about a violation of the right to property under Article II(3)(k) of the Constitution of Bosnia and Herzegovina and Article 1 of Protocol No. 1 to the European Convention and Article 6 of the International Covenant, as the applicant's allegations are identical to those already examined by the Constitutional Court in respect of the right to a fair trial.

VII. Conclusion

37. The Constitutional Court of BiH concludes that Article 201(4) of the Labour Law of the Republika Srpska is compatible with Article II(3)(e) of the Constitution of Bosnia and Herzegovina and Article 6(1) of the European Convention, as the provision itself is not unclear and the limitations imposed by that provision are not unreasonable in the context of the exercise of the very essence of the right of access to a court and do not impose an excessive burden on employees but serve the aims of legal certainty and the proper administration of justice.

38. Having regard to Article 59(1) and (3) of the Rules of the Constitutional Court, the Constitutional Court decided as stated in the enacting clause of the present Decision.

39. Pursuant to Article VI(5) of the Constitution of Bosnia and Herzegovina, the decisions of the Constitutional Court shall be final and binding.

Mirsad Ćeman
President
Constitutional Court of Bosnia and Herzegovina