



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

FIRST SECTION

CASE OF ČAMOVSKI v. CROATIA

(Application no. 38280/10)

JUDGMENT

STRASBOURG

23 October 2012

FINAL

23/01/2013

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Čamovski v. Croatia,

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

Anatoly Kovler, *President*,
Nina Vajić,
Khanlar Hajiyeu,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Linos-Alexandre Sicilianos,
Erik Møse, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 2 October 2012,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 38280/10) against the Republic of Croatia 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, Mr Tomislav Čamovski (“the applicant”), on 15 March 2010.

2. The Croatian Government (“the Government”) were represented by their Agent, Ms Š. Stažnik.

3. On 26 June 2011 the complaints concerning the applicant’s right to access to a court and lack of an effective remedy in that respect were communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1936 and lives in Varaždin.

5. On 12 April 1999 R.M. and A.P. brought a civil action against the applicant in the Pula Municipal Court (*Općinski sud u Puli*), seeking a possession order in relation to a house and a plot of land in Pula. The claim was allowed on 17 October 2001 but the Pula County Court (*Županijski sud u Puli*), acting as the court of appeal, on 14 December 2004 quashed the first-instance judgment and ordered a retrial.

6. The Pula Municipal Court on 16 September 2005 again allowed R.M. and A.P.'s claim. This judgment was upheld by the second-instance judgment of the Pula County Court of 19 November 2007. On the same day, the Pula County Court issued a separate decision by which the applicant's appeal concerning the courts' fees was dismissed. The Pula County Court's judgment and the decision were forwarded to the Pula Municipal Court on 23 November 2007.

7. On 10 December 2007 the Pula Municipal Court served the above decision of the Pula County Court, by which the applicant's appeal concerning the courts' fees was dismissed, on the applicant's representative, B.Č. a lawyer from Varaždin. The applicant's representative was also served with a warning-letter concerning the payment of the courts' fees. The service note reads:

"Case file no.: X-P-214/05

Act to be served: II-instance decision of 23 November 2007

Number of attachments: warning-letter

On address: B.Č., ..., Varaždin

Served on: tenth-December 2007

Served to: [stamp of lawyer B.Č. and a handwritten signature]"

8. The Pula Municipal Court dismissed further the applicant's objection concerning an order for payment of the courts' fees on 19 February 2008. Against this decision the applicant lodged an appeal with the Pula County Court and on 7 April 2008 the Pula County Court issued a decision by which it dismissed the applicant's appeal.

9. On 12 September 2008 the Pula Municipal Court served the second-instance judgment of the Pula County Court of 19 November 2007 on the applicant's representative. It appears from the service note of 12 September 2008 that together with the second-instance judgment, the Pula Municipal Court served a second-instance decision of the Pula County Court.

"Case file no.: X-P-214/05

Act to be served: II-instance judgment

II-instance decision

On address: B.Č., ..., Varaždin

Served on: twelfth-September 2008

Served to: [stamp of lawyer B.Č. and a handwritten signature]"

10. Against the second-instance judgment of the Pula County Court, by which the judgment of the Pula Municipal Court of 16 September 2005 was upheld, the applicant lodged a constitutional complaint with the Constitutional Court (*Ustavni sud Republike Hrvatske*) on 11 October 2008.

11. In his constitutional complaint the applicant complained about the interpretation of the relevant domestic law by the lower courts which he considered arbitrary and which had therefore deprived him of the right to a fair trial. He argued in particular that the Pula Municipal Court had not had jurisdiction in the matter; that the operative part of the judgment of that court could not be enforced since it was vague; that the part of the plot of land at dispute had been used for public purposes and as such could not be an object of private ownership; and that he had used the plot of land as its owner for specific purposes which had excluded any possibility of his dispossession. The applicant asked the Constitutional Court to quash the judgments of the lower courts and to order a retrial.

12. On 18 December 2008 the Constitutional Court declared the applicant's complaint inadmissible as lodged out of time. It found that the appeal judgment of 19 November 2007 had been served on the applicant's counsel on 10 December 2007 and that the applicant's constitutional complaint had therefore been lodged after the thirty-day time-limit. The relevant part of this decision reads:

"The judgment of the Pula County Court of 19 November 2007 was served on the applicant, through his representative B.Č., lawyer from Varaždin, on 10 December 2007, as noted in the service note from the case file of the Pula Municipal Court.

The constitutional complaint was lodged on 11 October 2008, namely out of the thirty-day time-limit. The time-limit for lodging a constitutional complaint in the present case expired on Wednesday, 9 January 2008."

13. The Constitutional Court's decision was served on the applicant on 30 January 2009.

14. On the same date the applicant sent a letter to the Constitutional Court enclosing the acknowledgment of receipt of the judgment of 19 November 2007 by his counsel, showing that counsel had received that judgment on 12 September 2008. The applicant also asked the Constitutional Court to rectify its error by setting its decision aside and examining his complaints on the merits. The relevant part of his letter reads:

"I hereby return the decision of the Constitutional Court no. U-III-4389/2008 since it is obvious that the judgment of the Pula County Court of 19 November 2007 could not have been served on my counsel B.Č., lawyer from Varaždin, on 10 December 2007 ...

... I submit a copy of a post envelope which shows that the second-instance judgment was sent from the post office in Pula on 11 September 2008 ... and therefore it was served on 12 September 2008, and the time-limit for lodging a constitutional complaint was running until 12 October 2008 ... "

15. Since he received no reply, the applicant sent another letter on 2 February 2009, again pointing out that there had been an obvious error in calculation of the time-limit and asking that the error be rectified.

16. The applicant received a reply from the President of the Constitutional Court on 2 December 2009, stating that that court was not in a position to rectify its decision of 18 December 2008 and that it was open to the applicant to lodge an application with the European Court of Human Rights. The relevant part of this letter reads:

“As regards your constitutional complaint, we would like to point out that against the decision of this court there is no available remedy in the domestic legal system of the Republic of Croatia, under the provisions of [the Constitutional Court Act], but it is possible, under the conditions set out in the Convention for the Protection of Human Rights and Fundamental Freedoms, to complain before the European Court of Human Rights of the Council of Europe.

Therefore, and after having examined your submission, it was found that there are no procedural grounds, under the Constitution and the relevant law, for this court to decide as you requested.

The Constitutional Court of the Republic of Croatia considers that hereby it has fulfilled all its legal obligations in your case and it would like to point out that all your further submissions concerning this case will not be taken into account and accordingly they will not be replied.”

17. On 20 July 2010 the applicant requested the Pula Municipal Court to forward him a copy of the service note of 10 December 2007. His request reads:

“In the finally terminated case of your court no. P-214/05, concerning a civil action of the plaintiff R.M. against me, I need a copy of the service note of 10 December 2007, based on which the Constitutional Court, by its decision ..., declared my constitutional complaint inadmissible as being lodged out of time.

... “

18. On 28 September 2010 the applicant obtained a copy of the service note of 10 December 2007. In its letter forwarding him the service note, the Pula Municipal Court noted:

“As to your request of 20 July 2010 we hereby forward you the service note from the case file no. P-214/05, which concerns the service of the II [instance] decision of 23 November 2007 and the warning letter.”

19. On 9 October 2010 the applicant requested the Pula Municipal Court a copy of the service note by which the Pula County Court’s second-instance judgment of 19 November 2007 had been served on him. His letter reads:

“I have received your letter of 28 September 2010 and a copy of the service note of 10 December 2007.

The copy of the service note shows that it concerned service of the second-instance decision of 23 November 2007 on my representative B.Č. together with a warning letter. It follows that it did not concern service of the Pula County Court's judgment of 19 November 2007 ...

Therefore I ask for a copy of the service note which will show [the date] when my representative B.Č. received the judgment of the Pula County Court ... of 19 November 2007.

... ”

20. Concerning his above request, on 14 October 2010 the applicant received a letter from the Pula Municipal Court by which a copy of the service note of 12 September 2008 was forwarded to him. This letter reads:

“As to your request of 9 October 2010 we hereby forward you a certified copy of the service note from the case file no. P-214/05, concerning the service of the second-instance judgment to B.Č., lawyer from Varaždin.

This shows that the said [lawyer] was served with the second-instance ruling of the Pula County Court on 12 September 2008.”

II. RELEVANT DOMESTIC LAW

21. The relevant parts of the Constitutional Court Act (*Ustavni zakon o Ustavnom sudu Republike Hrvatske*, Official Gazette nos. 99/1999, 29/2002 and 49/2002) read as follows:

Section 34

“If this Act does not provide otherwise, in the proceedings before the Constitutional Court the relevant procedural laws are applicable.”

Section 62

“1. Anyone may lodge a constitutional complaint with the Constitutional Court if he or she deems that an individual act of a state body, a body of local and regional self-government, or a legal person with public authority, concerning his or her rights and obligations, or a suspicion or an accusation of a criminal act, has violated his or her human rights or fundamental freedoms or his or her right to local and regional self-government guaranteed by the Constitution (hereinafter: a constitutional right) ...

2. If another legal remedy exists in respect of the violation of the constitutional right [complained of], a constitutional complaint may be lodged only after that remedy has been exhausted.”

Section 64

“The constitutional complaint has to be lodged within the thirty-day time-limit from the service of the [final] decision”

Section 66

“(1) The Constitutional Court shall allow reinstatement of the proceedings to a person who for any justified reason has omitted to lodge a constitutional complaint within the prescribed time-limit, if during a term of fifteen days after the reason for the omission has ceased to exist, that person submits a proposal for reinstatement of the proceedings and at the same time submits a constitutional complaint.

(2) After the expiry of a three-month time-period from the day of omission, reinstatement of the proceedings may not be sought.”

22. The relevant part of the Civil Procedure Act (*Zakon o parničnom postupku*, Official Gazette of the Socialist Federal Republic of Yugoslavia nos. 4/1977, 36/1977 (corrigendum), 36/1980, 69/1982, 58/1984, 74/1987, 57/1989, 20/1990, 27/1990 and 35/1991, and the Official Gazette of the Republic of Croatia nos. 53/1991, 91/1992, 58/1993, 112/1999, 88/2001, 117/2003, 88/2005, 2/2007, 84/2008, 123/2008, 57/2011, and 148/2011) provides as follows:

**Reopening of proceedings following a final judgment of the European Court
of Human Rights in Strasbourg finding a violation of a fundamental
human right or freedom**

Section 428a

“(1) When the European Court of Human Rights has found a violation of a human right or fundamental freedom guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms or additional protocols thereto ratified by the Republic of Croatia, a party may, within thirty days of the judgment of the European Court of Human Rights becoming final, file a petition with the court in the Republic of Croatia which adjudicated in the first instance in the proceedings in which the decision violating the human right or fundamental freedom was rendered, to set aside the decision by which the human right or fundamental freedom was violated.

(2) The proceedings referred to in paragraph 1 of this section shall be conducted by applying, *mutatis mutandis*, the provisions on the reopening of proceedings.

(3) In the reopened proceedings the courts are required to respect the legal opinions expressed in the final judgment of the European Court of Human Rights finding a violation of a fundamental human right or freedom.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

23. The applicant complained that he had no access to the Constitutional Court as provided under Article 6 § 1 of the Convention, which, in so far as relevant, reads as follows:

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

A. Admissibility

1. *The parties' arguments*

24. The Government argued that the applicant had failed to comply with the six-month time-limit, since he had received the Constitutional Court's decision, by which his constitutional complaint had been declared inadmissible, on 30 January 2009, and that any further steps were not to be taken into account. In the alternative the Government argued that the applicant had failed to lodge his constitutional complaint with the Constitutional Court within the thirty-day time-limit, and that the State could not be held responsible for that. Had he, however, considered that there had been a justified reason for his omission, he could have asked for reinstatement of the proceedings.

25. The applicant contested that view. He argued that he had asked the Constitutional Court to rectify its decision but had received a reply stating that that court was not in a position to rectify its decision and that it was open to him to lodge an application with the Court.

2. *The Court's assessment*

26. The Court firstly reiterates that the requirements contained in Article 35 § 1 concerning exhaustion of domestic remedies and the six-month period are closely interrelated, since not only are they combined in the same Article, but they are also expressed in a single sentence whose grammatical construction implies such a correlation (see *Hatjianastasiou v. Greece*, no. 12945/87, Commission decision of 4 April 1990, and *Berdzenishvili v. Russia* (dec.), no. 31697/03, ECHR 2004-II (extracts)).

27. As a rule, the six-month period runs from the date of the final decision in the process of exhaustion of domestic remedies. Article 35 § 1 cannot be interpreted in a manner which would require an applicant to inform the Court of his complaint before final settlement of his position on the matter at the domestic level. In this respect the Court has already held

that before bringing complaints against Croatia to the Court, in order to comply with the principle of subsidiarity applicants are in principle required to afford the Croatian Constitutional Court the opportunity to remedy their situation (see *Orlić v. Croatia*, no. 48833/07, § 46, 21 June 2011).

28. This is because the Court may only deal with an application after all domestic remedies have been exhausted. The purpose of Article 35 is to afford the Contracting States the opportunity of preventing or putting right the violations alleged against them before those allegations are submitted to it (see, for example, *Mifsud v. France* (dec.) [GC], no. 57220/00, § 15, ECHR 2002-VIII). The obligation to exhaust domestic remedies, however, requires an applicant to make normal use of remedies which are effective, sufficient and accessible in respect of his Convention grievances. To be effective, a remedy must be capable of remedying directly the impugned state of affairs (see *Balogh v. Hungary*, no. 47940/99, § 30, 20 July 2004).

29. The Court notes that on the day the applicant received the Constitutional Court's decision of 18 December 2008, he informed the Constitutional Court that there had been an error in the calculation of the time-limit for lodging the constitutional complaint, and asked that the error be rectified. In addition, when he did not receive an answer from that court, he sent another letter on 2 February 2009, again asking that the error be rectified. Only later, on 2 December 2009, did the applicant receive a reply from the Constitutional Court stating that that court was not in a position to rectify its decision of 18 December 2008, and that it was open to the applicant to lodge an application with the Court. The applicant followed that instruction and lodged his application with the Court on 15 March 2010.

30. Having regard to Section 66 of the Constitutional Court Act, the Court considers that it cannot be held against the applicant that he asked the Constitutional Court to take appropriate steps to rectify possible errors in its procedure before lodging his complaint with the Court.

31. Against the above background, the Court considers that, in the circumstances of the present case, the applicant exhausted all available domestic remedies and that the running of the six-month time-limit should be calculated from 2 December 2009 on which date he was informed of the Constitutional Court's position. The present application was lodged on 15 March 2010. It follows that the Government's objections must be rejected.

32. The Court considers that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. *The parties' arguments*

33. The applicant submitted that he had lodged his constitutional complaint against the appeal judgment of the Pula County Court of 19 November 2007 within the thirty-day time-limit. He argued that he had received that judgment on 12 September 2008, as confirmed by the letter from the Pula Municipal Court, and that he had lodged his constitutional complaint on 11 October 2008. As to the date of 10 December 2007, which the Constitutional Court considered to be the date of service of the appeal judgment, the applicant pointed out that this was the date of service of another decision of the Pula County Court.

34. The Government argued that the applicant had received the appeal judgment of the Pula County Court on 10 December 2007, since the service note of 10 December 2007 stated that a “second-instance decision of 23 November 2007” had been served on the applicant. As to the date of 12 September 2008, they stressed that this was the date of service of a subsequent Pula County Court decision of 7 April 2008, concerning the applicant’s objection to the order to pay the courts’ fees. The service note of 12 September 2008 stated that a “second-instance judgment and second-instance decision” had been served on the applicant’s counsel, which meant that the appeal judgment had been served again on the applicant. However, when calculating the thirty-day time-limit for lodging the constitutional complaint against the appeal judgment, only the first service had to be taken into account.

2. *The Court's assessment*

(a) General principles

35. The Court has held on many occasions that Article 6 § 1 embodies the “right to court”, of which the right of access, that is the right to institute proceedings before a court, constitutes one aspect only; however, it is an aspect that makes it in fact possible to benefit from the further guarantees laid down in paragraph 1 of Article 6. The fair, public and expeditious characteristics of judicial proceedings are indeed of no value at all if such proceedings are not first initiated. And in civil matters one can scarcely conceive of the rule of law without access to the courts being possible (see, among many other authorities, *Golder v. the United Kingdom*, 21 January 1975, §§ 34 *in fine* and 35-36, Series A no. 18; *Z. and Others v. the United Kingdom* [GC], no. 29392/95, §§ 91-93, ECHR 2001-V; and *Kreuz*, cited above, § 52).

36. The right of access to court is not, however, absolute. It may be subject to legitimate restrictions such as statutory limitation periods, security for costs orders, and regulations concerning minors and persons of unsound mind (see *Stubbings and Others v. the United Kingdom*, 22 October 1996, §§ 51-52, *Reports of Judgments and Decisions* 1996-IV; *Tolstoy Miloslavsky v. the United Kingdom*, 13 July 1995, §§ 62-67, Series A no. 316-B; and *Golder*, cited above, § 39). Where the individual's access is limited, either by operation of law or in fact, the Court will examine whether the limitation imposed impaired the essence of the right and, in particular, whether it pursued a legitimate aim and whether there was a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (see *Ashingdane v. the United Kingdom*, 28 May 1985, § 57, Series A no. 93; *Związek Nauczycielstwa Polskiego v. Poland*, no. 42049/98, § 29, ECHR 2004-IX; and *Szwagrún-Baurycza v. Poland*, no. 41187/02, § 49, 24 October 2006). If the restriction is compatible with these principles, no violation of Article 6 will arise (see *Z and Others v. the United Kingdom*, cited above, §§ 92-93).

37. In this respect the Court reiterates that, in accordance with Article 19 of the Convention, its duty is to ensure the observance of the obligations undertaken by the Contracting Parties to the Convention. In particular, it is not its function to deal with errors of fact or law allegedly committed by a national court, unless and in so far as they may have infringed rights and freedoms protected by the Convention (see *Běleš and Others v. the Czech Republic*, no. 47273/99, § 48, ECHR 2002-IX).

(b) Application of these principles to the present case

38. The Court firstly observes that the present case concerns a civil dispute between private parties in relation to possession of a house and a plot of land. The applicant lodged his constitutional complaint with the Constitutional Court complaining about arbitrary application of the relevant domestic law by the lower courts, which had an adverse determinative effect on his property rights in the civil proceedings. He asked the Constitutional Court to quash the judgments of the lower courts and to order a retrial.

39. The Constitutional Court was therefore called upon to consider the applicant's civil rights and obligations and a constitutional complaint was an available and effective remedy against the appeal judgment of the Pula County Court, which could have been used in the ordinary course of exhaustion of the domestic remedies concerning the property disputes (see, for example, *Gottwald-Markušić v. Croatia* (dec.), no. 49049/06, 30 March 2010). Relatedly, although he did have access to the Pula Municipal Court and the Pula County Court, the right to access to the Constitutional Court formed an indispensable part of the applicant's right to obtain a "determination" of his property dispute by a court (see, *mutatis mutandis*,

Kutić v. Croatia, no. 48778/99, § 25, ECHR 2002-II, and *Menshakova v. Ukraine*, no. 377/02, § 52, 8 April 2010).

40. The Court observes that section 64 of the Constitutional Court Act provides for a thirty-day time-limit within which a constitutional complaint has to be lodged with the Constitutional Court, and that this time-limit runs from the service of the final court decision.

41. The Court notes that in the present case the final court decision in the civil proceedings was the appeal judgment of the Pula County Court of 19 November 2007. This appeal judgment, according to the written confirmation from the Pula Municipal Court, was served on the applicant's counsel on 12 September 2008. In addition to this, the Court also notes that the Pula Municipal Court service note of 12 September 2008 states that the title of the document to be served on the applicant is "second-instance judgment and second-instance decision".

42. In this respect, the Court cannot accept the Government's argument that the appeal judgment was served on the applicant's counsel on 10 December 2007. Namely, not only that it appears contrary to the Pula Municipal Court document, it also does not correspond to the service note of that date, which states that the title of the document to be served on the applicant is "second-instance decision of 23 November 2007" without any mention of the second-instance judgment.

43. Against the above background, the Court accepts that the appeal judgment of the Pula County Court, against which the applicant lodged his constitutional complaint, was served on the applicant on 12 September 2008. Since the applicant lodged his constitutional complaint with the Constitutional Court on 11 October 2008, namely within the thirty-day time-limit, the Court notes that there was an obvious error and miscalculation of the time-limits by the Constitutional Court when declaring the applicant's constitutional complaint inadmissible as lodged out of time.

44. In these circumstances, the Court considers that the Constitutional Court erroneously declared the applicant's constitutional complaint inadmissible, depriving him of his right of access to court (see *Demerdžieva and Others v. "the former Yugoslav Republic of Macedonia"*, no. 19315/06, § 26, 10 June 2010).

45. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

46. The applicant complained that he did not have an effective remedy in respect of his complaint concerning access to court. He relied on Article 13 of the Convention, which reads as follows:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

Admissibility

47. The Government reiterated their arguments concerning exhaustion of domestic remedies already raised in respect of the applicant’s complaint under Article 6 of the Convention.

48. The applicant contested that view, arguing that since he had proved that his constitutional complaint had been lodged within the thirty-day time-limit, all the Government’s arguments were irrelevant.

49. The Court notes that the decision of the Constitutional Court of 18 December 2008, by which the applicant’s constitutional complaint was declared inadmissible, was a final decision in the course of the exhaustion of domestic remedies in Croatia.

50. In this respect the Court reiterates that Article 13 of the Convention does not as such guarantee the applicant a right to challenge this decision in further domestic proceedings once his case has been decided at the final level of jurisdiction (see *Tregubenko v. Ukraine*, no. 61333/00, 21 October 2003; *Sitkov v. Russia* (dec.), no. 55531/00, 9 November 2004; and *Korolev v. Russia* (dec.), no. 25551/05, ECHR 2010).

51. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

52. 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

53. The applicant claimed 25,240 Croatian kunas (HRK) in respect of pecuniary damage, which corresponds to the amount he had paid after he had lost the case in the civil proceedings. He also invited the Court to award him a lump sum on account of non-pecuniary damage, according to its criteria.

54. The Government considered the applicant’s claim unfounded and unsubstantiated.

55. The Court does not see any causal link between the amount claimed for pecuniary damage and the finding of a violation, and therefore dismisses that claim.

56. As to the non-pecuniary damage, having regard to all the circumstances of the present case, the Court accepts that the applicant suffered non-pecuniary damage which cannot be compensated solely by the finding of a violation. Making its assessment on an equitable basis, the Court awards the applicant EUR 6,000 in respect of non-pecuniary damage, plus any tax that may be chargeable to him.

B. Costs and expenses

57. The applicant asked the Court to award him an unspecified lump sum for costs and expenses.

58. The Court notes that the applicant failed to submit a specified claim for cost and expenses as provided under Rule 60 of the Rules of Court and as requested by the Court. Accordingly, the Court considers that there is no call to award him any sum on that account.

C. Default interest

59. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning access to court admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention in that the applicant did not have access to the Constitutional Court;
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, EUR 6,000 (six thousand euros), to be converted into Croatian kunas at the rate applicable at the date of settlement, plus any tax that may be chargeable, in respect of non-pecuniary damage;

(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 and costs and expenses.

Done in English, and notified in writing on 23 October 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Anatoly Kovler
President