



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

FIRST SECTION

CASE OF GRUBIĆ v. CROATIA

(Application no. 5384/11)

JUDGMENT

STRASBOURG

30 October 2012

FINAL

18/03/2013

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

In the case of Grubić v. Croatia,

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

Anatoly Kovler, *President*,

Nina Vajić,

Peer Lorenzen,

Elisabeth Steiner,

Khanlar Hajiyev,

Linos-Alexandre Sicilianos,

Erik Møse, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 9 October 2012,

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

PROCEDURE

1. The case originated in an application (no. 5384/11) 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 Ognjen Grubić (“the applicant”), on 30 December 2010.

2. The applicant was represented by Ms V. Drenški Lasan, a lawyer practising in Zagreb. The Croatian Government (“the Government”) were represented by their Agent, Ms Š. Stažnik.

3. On 9 June 2011 the complaints concerning the lawfulness of the applicant’s detention between 16 March and 8 September 2010 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 1972 and lives in Zagreb.

5. On 8 May 2006 the applicant was arrested on suspicion of having committed armed robberies.

6. On 11 May 2006 an investigating judge of the Zagreb County Court (*Županijski sud u Zagreb*) opened an investigation in connection with a suspicion that the applicant and six other persons, acting as an organised

criminal group, had committed more armed robberies, aggravated murders and attempted aggravated murders.

7. During the investigation the applicant was detained under Article 102 § 1(3) and (4) of the Code of Criminal Procedure (risk of reoffending and gravity of charges).

8. On 7 May 2007 the State Attorney's Office for the Suppression of Corruption and Organised Crime (*Državno odvjetništvo, Ured za suzbijanje korupcije i organiziranog kriminaliteta*; hereinafter: the "State Attorney's Office") indicted the applicant and six other persons in the Zagreb County Court on charges of conspiracy to commit armed robbery and aggravated murder.

9. The applicant's pre-trial detention was extended and he remained in detention throughout the trial.

10. On 17 April 2009 a three-judge panel of the Zagreb County Court extended the maximum statutory limit of the applicant's detention under Article 109 § 1(5) of the Code of Criminal Procedure for a further six months. This decision was based on section 28(3) of the Office for the Suppression of Corruption and Organised Crime Act, which provides for a possibility to extend the maximum duration of pre-trial detention for a further six months in cases of corruption and organised crime.

11. On 21 April 2009 the Zagreb County Court found the applicant guilty of armed robbery and aggravated murder, and sentenced him to thirty years' imprisonment. On the same day the trial panel of the Zagreb County Court ordered that the applicant be committed to prison under Article 102 § 4 of the Code of Criminal Procedure. The relevant part of the decision reads:

"The detention of the accused, Ognjeg Grubić, has been extended by decision of this court ... on 17 April 2009.

The accused has been sentenced to long-term imprisonment of thirty years.

Under Article 102 paragraph 4 of the Code of Criminal Procedure, detention shall always be ordered when a sentence of five or more years' imprisonment is imposed.

... "

12. On 21 September 2009 the applicant lodged an appeal with the Supreme Court (*Vrhovni sud Republike Hrvatske*) against the first-instance judgment.

13. On 6 November 2009 a three-judge panel of the Zagreb County Court extended the applicant's detention for a further nine months, basing its decision on Article 109 § 2 of the Code of Criminal Procedure. The relevant part of the decision reads:

"By the first-instance judgment of this court of 21 April 2009 ... the accused, Ognjen Grubić, was found guilty of offences under Article 218 § 2 of the [Criminal Code] and was sentenced to long-term imprisonment of thirty years ...

By order of this court ... of 21 April 2009 under Article 102 § 4 of the Code of Criminal Procedure, the accused, Ognjen Grubić, has been detained since 8 May 2006.

...

Article 109 § 2 of the Code of Criminal Procedure provides that in cases where a non-final judgment has been adopted the maximum period of detention, until the judgment becomes final, may be extended by one quarter of the term when the maximum period of detention is three years, if [the offence at issue] carries a long-term prison sentence.

Since under the above-mentioned Article the maximum period of detention under Article 109 § 1(5) of the Code of Criminal Procedure against the accused, Ognjen Grubić, may be extended for a further nine months, it has been decided as noted in the operative part of this decision.”

14. On 18 November 2009 the applicant lodged an appeal against the above decision, arguing that he had not been given an opportunity to be heard when his detention had been extended and that the decision to extend his detention was not sufficiently reasoned.

15. The Supreme Court dismissed the applicant’s appeal on 25 November 2009. The relevant part of the decision reads:

“The accused has been detained since 8 May 2006. Under Article 109 § 1(5) of the Code of Criminal Procedure the maximum period of his detention expired on 8 May 2009. Thereafter the first-instance court extended his detention under section 28(3) of the Office for the Suppression of Corruption and Organised Crime Act ... for a further six months until 8 November 2009. By the impugned decision the detention was extended under Article 109 § 2 of the Code of Criminal Procedure for one quarter, namely nine months. Therefore under this provision he may be detained until 8 August [2010].”

16. On 16 December 2009 the Supreme Court dismissed the applicant’s appeal against the first-instance judgment as ill-founded.

17. On 24 June 2010 the applicant lodged a further appeal with the Supreme Court against its judgment of 16 December 2009.

18. On 6 August 2010 a three-judge panel of the Zagreb County Court extended the applicant’s detention under Article 109 § 4 of the Code of Criminal Procedure for a further three months. The relevant part of the decision reads:

“By the judgment of the Supreme Court ... of 16 December 2009 the first-instance judgment ... of this court of 21 April 2009 in which the accused, Ognjen Grubić, was found guilty was upheld in part ...

The accused Ognjen Grubić is detained by order ... of the panel of the Zagreb County Court of 6 November 2009 by which his detention under Article 109 § 1(5) of the Code of Criminal Procedure was extended for a further nine months. He can therefore be detained until 8 August 2010.

Given that the accused personally and through his defence lawyer ... lodged appeals against the judgment of the Supreme Court ... of 16 December 2009, and in view of the provision of Article 109 § 4 of the Code of Criminal Procedure and the fact that his detention expires on 8 August 2010, [this] panel has found that the conditions for extending his detention under Article 109 § 4 of the Code of Criminal Procedure have been met.”

19. The applicant lodged an appeal against the above decision on 17 August 2010. He argued that his detention after 16 March 2010 had been unlawful since under Article 109 § 4 of the Code of Criminal Procedure the detention should have lasted for a maximum of three months following the adoption of the judgment against which an appeal was allowed. He pointed out that the judgment of the Supreme Court, against which an appeal was allowed, was adopted on 16 December 2009 and that therefore his detention should have lasted only until 16 March 2010.

20. The Supreme Court dismissed his appeal on 25 August 2010. The relevant part of the decision reads:

“The case file reveals that the accused Ognjen Grubić has been detained since 8 May 2006. On 6 November 2009 the Zagreb County Court extended his detention for a further nine months and the detention under that decision lasted until 8 August 2010. The second-instance judgment in this case was adopted on 16 December 2009. Under Article 109 § 4 of the Code of Criminal Procedure, from the date of adoption of the second-instance judgment against which an appeal is allowed, as in the present case, the accused may be detained until the judgment becomes final but not for more than three months. However, the case file reveals that the first-instance judgment, and the second-instance judgment against which an appeal is allowed (and [the appeal] was lodged in this case) were adopted within the period of detention under Article 109 § 2 of the Code of Criminal Procedure. Under Article 109 § 4 of the Code of Criminal Procedure and according to the conclusions of the meeting of the Supreme Court Criminal Division on 23 March 2006, the maximum period of detention can be extended after the period under Article 109 § 2 of the Code of Criminal Procedure. In this case this means beyond 8 August 2010 and not, as suggested by the accused, after the date of the second-instance judgment. Thus all the accused, regardless of the date of the second-instance judgment, are in the same position.”

21. On 3 September 2010 the applicant lodged a constitutional complaint with the Constitutional Court (*Ustavni sud Republike Hrvatske*) against the Supreme Court’s decision, reiterating that his detention after 16 March 2010 had been unlawful.

22. On 8 September 2010 the Supreme Court, acting as the final court of appeal, dismissed the applicant’s appeal against the judgment of 16 December 2009 and his conviction thus became final.

23. On 23 September 2010 the Constitutional Court, endorsing the arguments of the Supreme Court, dismissed the constitutional complaint against the Supreme Court’s decision of 25 August 2010.

24. On 12 October 2010 the applicant lodged a constitutional complaint with the Constitutional Court against the Supreme Court’s judgment of 8 September 2010 by which his conviction became final.

25. The proceedings before the Constitutional Court are still pending.

II. RELEVANT DOMESTIC LAW AND PRACTICE

26. The relevant provisions of the Code of Criminal Procedure (*Zakon o kaznenom postupku*, Official Gazette nos. 110/1997, 27/1998, 58/1999, 112/1999, 58/2002 and 62/2003) provide as follows:

9. Grounds for Ordering Detention

Section 102

“...

(4) When judgment is pronounced, detention shall be ordered if the accused is sentenced to five or more years' imprisonment.”

Article 109

“(1) Until the adoption of a first-instance judgment, pre-trial detention may last for a maximum of:

1. six months for offences carrying a statutory maximum sentence of three years' imprisonment;
2. one year for offences carrying a statutory maximum sentence of five years' imprisonment;
3. eighteen months for offences carrying a statutory maximum sentence of eight years' imprisonment;
4. two years for offences carrying a sentence of more than eight years' imprisonment;
5. three years for offences carrying a sentence of long-term imprisonment.

(2) In cases where a judgment has been adopted but has not yet become enforceable, the maximum term of pre-trial detention may be extended for one sixth of the term referred to in subparagraphs 1 to 3 of paragraph 1 of this provision until the judgment becomes final, and for one quarter of the term referred to in subparagraphs 4 and 5 of paragraph 1 of this provision.

(3) Where a first-instance judgment has been quashed on appeal, following an application by the State Attorney and where important reasons exist, the Supreme Court may extend the term of detention referred to in subparagraphs 1 to 3 of paragraph 1 of this provision for another six months and the term referred to in subparagraphs 4 and 5 of paragraph 1 of this provision for another year.

(4) Following the adoption of an appellate judgment against which an appeal is allowed, detention may last until the judgment becomes final, for a maximum period of three months.

(5) A defendant placed in detention and sentenced to a prison term by a final judgment shall stay in detention until he is committed to prison, but for no longer than the duration of his prison term.”

27. The relevant provision of the Office for the Suppression of Corruption and Organised Crime Act (*Zakon o Uredu za suzbijanje korupcije i organiziranog kriminaliteta - USKOK*, Official Gazette nos. 88/2001, 12/2002, 33/2005, 48/2005, 76/2007) is worded as follows:

Section 28

“(1) Custody under Article 98 of the Code of Criminal Procedure shall be extended to 48 hours.

(2) The total duration of pre-trial detention in the above proceedings, in the case of extended investigation (Article 204, paragraph 1 of the Code of Criminal Procedure) may be twelve months.

(3) If the pre-trial detention during the investigation had been extended under paragraph 2 above, the total duration of the pre-trial detention under Article 109 of the Code of Criminal Procedure shall be extended for six months.”

28. The relevant part of the guidelines adopted at a meeting of the Criminal Division of the Supreme Court on 23 March 2006 (published on the Supreme Court’s website under no. Su IVk-155/2006-1) reads:

“...

I. Extending the duration of overall detention under Article 109 §§ 2 and 3 of the CCP.

Where a first-instance judgment and a second-instance decision quashing the first-instance judgment have been adopted within the time prescribed for detention under Article 109 § 1 of the CCP, the overall duration of detention may be extended under Article 109 § 2 of the CCP and after the expiry of that period also under Article 109 § 3 of the CCP.

The overall duration of detention under Article 109 § 3 of the CCP is to be extended only after the time-limit prescribed in Article 109 § 2 of the CCP has expired, irrespective of whether the first-instance court has adopted a fresh judgment in the retrial proceedings.

The maximum period of detention where a judgment has been adopted but has not yet become enforceable is to be fixed according to the criminal offence of which the accused was found guilty, even where the State Attorney has filed an appeal on any grounds.

II. Calculation of time-limits for the duration of detention

Where a first-instance judgment or a second-instance judgment against which an appeal is allowed have been adopted within the time-limits set by Article 109 § 1 of

the CCP, the overall duration of detention may be extended under Article 109 § 2 of the CCP. After the time-limit set by that Article expires, detention may be extended under Article 109 § 4 of the CCP.

Where a first-instance judgment or a second-instance judgment against which an appeal is allowed have been adopted within the time-limits set by Article 109 § 2 of the CCP, the overall duration of detention may be extended under Article 109 § 2 of the CCP. After the time-limit set by that Article expires, detention may be extended under Article 109 § 4 of the CCP, after the expiration of the time-limit under Article 109 § 2 of the CCP.

Where a second-instance decision against which an appeal is allowed has been adopted within the time-limit set by Article 109 § 3 of the CCP, the overall duration of detention may be extended under Article 109 § 4 of the CCP, after the expiration of the time-limit set by Article 109 § 3 of the CCP.

Where a second-instance decision against which an appeal is allowed has been quashed within the time-limit set by Article 109 § 1 of the CCP, the overall duration of detention may be extended under Article 109 § 2 of the CCP, after the expiration of the time-limit set by Article 109 § 3 of the CCP.

Where a second-instance decision against which an appeal is allowed has been quashed within the time-limit set by Article 109 § 2 of the CCP, the overall duration of detention may be extended under Article 109 § 3 of the CCP.

...”

29. The Supreme Court’s practice as regards interpretation of Article 109 of the Code of Criminal Procedure is reflected in decisions nos. II Kž-427/09-5 and II Kž-323/22-3.

The relevant part of decision no. II Kž-427/09-5 of 22 July 2009 reads as follows:

“The Supreme Court, as the court of second-instance, considers that the first-instance court correctly established that in the present case the conditions for the extension of the overall detention of the accused ... under Article 109 § 2 of the Code of Criminal Procedure had been satisfied, and thus extended his overall detention for a further nine months.

In a non-final judgment of the Sisak County Court of 7 May 2008 ... the accused ... was found guilty ... and sentenced to twenty years’ imprisonment. That judgment ... was upheld by a judgment of the Supreme Court on 3 December 2008 ... against which the accused lodged an appeal. In view of the sentence given, the detention of the accused is obligatory under Article 102 § 4 of the Code of Criminal Procedure.

The accused was detained between 6 January and 5 October 1992 (nine months) and also since 1 March 2007. The maximum period of detention [applicable to him], of three years under Article 109 § 1(5) of the Code of Criminal Procedure, was due to expire on 1 June 2009. Given that the accused was, *inter alia*, convicted of the criminal offence of aggravated murder ... [which is] punishable by twenty years’ imprisonment, a court may, under Article 109 § 2 of the Code of Criminal Procedure, extend his overall detention for one quarter [of the term referred to in subparagraphs 4

and 5 of paragraph 1 of Article 109 of the Code of Criminal Procedure], that is to say for a further nine months.

Therefore, the Supreme Court finds that the extension of the accused's detention for a further nine months by the first-instance court was well founded and lawful ...

...

The accused's submissions based on Article 109 § 4 of the Code of Criminal Procedure in which he argued that his detention should be lifted because more than three months had passed since the second-instance judgment was adopted are also unfounded. The Supreme Court considers that where, as in the present case, a first-instance judgment and a second-instance judgment against which an appeal is allowed have been adopted within the time-limit for detention under Article 109 § 1 of the Code of Criminal Procedure, the overall duration of detention may be extended under Article 109 § 2 of the Code of Criminal Procedure, and after that time-limit expires, it may be extended further under Article 109 § 4 of the Code of Criminal Procedure."

The relevant part of decision no. II Kž-323/22-3 of 27 June 2011 reads as follows:

"After the adoption of the first-instance judgment, the detention was extended under Article 109 § 2 of the Code of Criminal Procedure ... until 29 June 2011. The second-instance judgment against which an appeal is allowed was adopted on 25 May 2011.

Under Article 109 § 4 of the Code of Criminal Procedure, from the date when the second-instance judgment against which an appeal is allowed was adopted, as in the present case, detention may last until the judgment becomes final but not for more than three months. Since the first-instance judgment and the second-instance judgment against which an appeal is allowed were adopted within the time-limits for detention set out in Article 109 § 2 of the Code of Criminal Procedure, the detention can be extended under Article 109 § 4 of the Code of Criminal Procedure only after the period of detention under Article 109 § 2 of the Code of Criminal Procedure has expired, which in this case means after 29 June 2011.

Therefore since the detention of the accused ... under Article 109 § 2 of the Code of Criminal Procedure can last until 29 June 2011, detention under Article 109 § 4 of the Code of Criminal Procedure was extended from that date until the judgment becomes final but not for more than three months, namely until 29 September 2011."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

30. The applicant complained that the statutory maximum period for which he could be detained had expired on 16 March 2010 and that his subsequent detention had been unlawful. He relied on Article 5 § 1 of the Convention which, in so far as relevant, reads:

“1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

... “

A. Admissibility

31. The Court notes 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

32. The applicant submitted that, by virtue of Article 109 § 4 of the Code of Criminal Procedure, since 16 December 2009 - when the second-instance judgment against which an appeal was allowed had been adopted - the statutory maximum period for which he could have been detained had expired on 16 March 2010 and that after that period any further detention had been unlawful. He argued that the conclusions of the Criminal Division of the Supreme Court of 23 March 2006, to which the domestic courts had referred when extending his detention, had been neither legally binding nor sufficiently accessible to avoid any arbitrariness.

33. The Government argued that the Supreme Court's practice clearly showed that the provision of Article 109 § 4 of the Code of Criminal Procedure had to be interpreted so as to allow the detention to be extended for a further three months after the expiry of the maximum period of detention under Article 109 §§ 1 and 2 of the Code of Criminal Procedure. In the applicant's case this had meant that the maximum period of detention could be extended until 8 November 2010, given that the period of his detention under Article 109 §§ 1 and 2 of the Code of Criminal Procedure had expired on 8 August 2010. In the Government's view the conclusions of the Criminal Division of the Supreme Court of 23 March 2006 and the Supreme Court's practice had clarified any possible doubts as to the interpretation of Article 109 § 4 of the Code of Criminal Procedure.

2. *The Court's assessment*

(a) **Grounds for deprivation of liberty**

34. The Court observes that as from the day when the charge is determined, even if only by a court of first instance, the defendant is detained “after conviction by a competent court” within the meaning of Article 5 § 1 (a) (see *Solmaz v. Turkey*, no. 27561/02, §§ 24 to 26, 16 January 2007; *B. v. Austria*, 28 March 1990, §§ 36-39, Series A no. 175; and *Kudła v. Poland* [GC], no. 30210/96, § 104, 2009).

35. As to the present case the Court notes that on 21 April 2009 the Zagreb County Court adopted a judgment convicting the applicant of armed robbery and aggravated murder and sentenced him to thirty years’ imprisonment. Therefore, from that date on, the ground for the applicant’s detention was his conviction. It follows that the present case falls to be examined under sub-paragraph (a) of Article 5 § 1, as the period of detention about which the applicant is complaining is after his conviction on 21 April 2009.

(b) **“Lawful” detention “in accordance with a procedure prescribed by law”**

(i) *General principles*

36. It is well established in the Court’s case-law under the sub-paragraphs of Article 5 § 1 that any deprivation of liberty must, in addition to falling within one of the exceptions set out in sub-paragraphs (a)-(f), be “lawful” (see *Saadi v. the United Kingdom* [GC], no. 13229/03, § 67, ECHR 2008, and *M. v. Germany*, no. 19359/04, § 90, ECHR 2009). Where the “lawfulness” of detention is in issue, including the question whether “a procedure prescribed by law” has been followed, the Convention refers essentially to national law and lays down the obligation to conform to the substantive and procedural rules thereof (see, among many other authorities, *Erkalo v. the Netherlands*, 2 September 1998, § 52, *Reports of Judgments and Decisions* 1998-VI; *Saadi*, cited above, § 67, ECHR 2008; *Kafkaris v. Cyprus* [GC], no. 21906/04, § 116, ECHR 2008; and *Schönbrod v. Germany*, no. 48038/06, § 81, 24 November 2011).

37. This primarily requires any detention to have a legal basis in domestic law but also relates to the quality of the law, requiring it to be compatible with the rule of law, a concept inherent in all the Articles of the Convention (see *Stafford v. the United Kingdom* [GC], no. 46295/99, § 63, ECHR 2002-IV and *Kafkaris*, cited above, § 116). “Quality of the law” in this sense implies that where a national law authorises deprivation of liberty it must be sufficiently accessible, precise and foreseeable in its application, in order to avoid all risk of arbitrariness (see *Amuur v. France*, 25 June 1996, § 50, *Reports* 1996-III; *Nasrulloev v. Russia*, no. 656/06, § 71,

11 October 2007; and *Mooren v. Germany* [GC], no. 11364/03, § 76, 9 July 2009). The standard of “lawfulness” set by the Convention thus requires that all law be sufficiently precise to allow the person – if need be, with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail (see *Steel and Others v. the United Kingdom*, 23 September 1998, § 54, *Reports* 1998-VII, and *Baranowski v. Poland*, no. 28358/95, § 52, ECHR 2000-III).

38. Compliance with national law is not, however, sufficient: Article 5 § 1 requires in addition that any deprivation of liberty should be in keeping with the purpose of protecting the individual from arbitrariness (see, among many other authorities, *Winterwerp v. the Netherlands*, 24 October 1979, § 37, Series A no. 33, *Saadi*, § 67 and *Mooren*, § 72, cited above).

(ii) *Application of these principles to the present case*

39. The Court notes that Article 109 of the Code of Criminal Procedure prescribes the maximum permissible duration of detention before a conviction becomes final and enforceable. Thus, paragraphs 1 and 2 prescribe general rules on calculating the maximum duration of detention, while paragraph 4 addresses the issue of the maximum period of detention following the adoption of an appellate judgment against which a further appeal is allowed.

40. The Court accepts that the wording of Article 109 creates some doubt as to the manner of calculation of the maximum permissible period of detention where an appeal judgment has been adopted. Indeed, the wording of paragraph 4 might be understood to suggest, as the applicant argues, that the maximum duration of detention after an appeal judgment has been adopted cannot exceed three months.

41. However, any possible lack of clarity as regards the maximum period of detention was remedied by the detailed guidelines adopted at a meeting of the Criminal Division of the Supreme Court on 23 March 2006.

42. As to the accessibility of these guidelines, the Court notes that they were published by the Supreme Court. Furthermore, the same approach was confirmed in the practice of the Supreme Court (see paragraph 29 above). The applicant was legally represented throughout the criminal proceedings against him and it should be expected of a lawyer that he or she be aware of the relevant case-law of the Supreme Court. The Court therefore concludes that the practice of the Supreme Court which clarified the manner of application of Article 109 of the Code of Criminal Procedure was accessible to the applicant and that it made the application of that provision sufficiently foreseeable.

43. The decisions the applicant is contesting were all taken well after the guidelines in question were adopted, namely in 2010.

44. The decisions were in conformity with domestic law as clarified in the guidelines of the Supreme Court of 23 March 2006 and its subsequent

settled practice. The Court has found nothing to indicate that the Supreme Court's interpretation of domestic law was in any way arbitrary.

45. There has accordingly been no violation of Article 5 § 1 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

46. The applicant complained, under Article 5 of the Convention, about the length of his pre-trial detention and of the fact that neither he nor his defence counsel had been informed of a panel session of the Zagreb County Court on 6 November 2009 at which his detention had been extended. He also complained under Article 13 of the Convention that he had had no effective remedy for his complaints concerning his detention and that he had not been heard in person by the Supreme Court, acting as the final court of appeal, when it had dismissed his appeal against conviction.

47. In the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court considers that this part of the application does not disclose any appearance of a violation of the Convention. It follows that it is inadmissible under Article 35 § 3 as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning the lawfulness of the applicant's detention after 16 March 2010 admissible and the remainder of the application inadmissible;
2. *Holds* that there has been no violation of Article 5 § 1 of the Convention.

Done in English, and notified in writing on 30 October 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Anatoly Kovler
President