

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

FIRST SECTION

CASE OF JURIĆ v. CROATIA

(Application no. 51771/21)

JUDGMENT

Art 6 § 1 (civil) • Access to court • Dismissal as time-barred of the applicant's claim for compensation for the taking of her land, recorded as an unclassified road and public property, disproportionately restricted her right of access to court • No discernible circumstances indicating the transfer of the land to the State or the basis on which the applicant could have learned that she had been deprived of her land before the domestic court's decision to that effect • Manner in which the domestic courts calculated the statutory limitation period in the applicant's case not foreseeable • Applicant denied the possibility to obtain compensation • Very essence of the right of access to court impaired

Prepared by the Registry. Does not bind the Court.

STRASBOURG

7 May 2026

FINAL

07/08/2026

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



In the case of Jurić v. Croatia,

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

Ivana Jelić*, President*,
Erik Wennerström,
Raffaele Sabato,
Frédéric Krenc,
Davor Derenčinović,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,
and Ilse Freiwirth, *Section Registrar,*

Having regard to:

the application (no. 51771/21) 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, Ms Vanessa Jurić ("the applicant"), on 15 October 2021;

the decision to give notice to the Croatian Government ("the Government") of the complaints concerning the right of access to a court and the right to the peaceful enjoyment of possessions, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 31 March 2026,

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

INTRODUCTION

1. The application concerns the taking of the applicant's land, on which an unclassified access road was built in the 1970s and covered with asphalt in 2000, pursuant to the 2011 Roads Act which transferred such roads into the ownership of local authorities. The applicant complains under Article 6 § 1 of the Convention and under Article 1 of Protocol No. 1.

THE FACTS

2. The applicant was born in 1982 and lives in Rijeka. She was represented by Mr B. Čolić, a lawyer practising in Rijeka.

3. The Government were represented by their Agent, Ms S. Stažnik.

4. The facts of the case may be summarised as follows.

5. On 28 July 2011 the Roads Act entered into force. It provided that all unclassified roads (*nerazvrstane ceste*) – roads used for vehicular traffic for any reason, accessible to a large number of users, and not classified as public roads – were to become public property (*javno dobro*) owned by local government units. They were to be recorded as such in the land register regardless of existing entries (see paragraph 20 below).

6. In 2013, the applicant inherited several plots of land, located in Rijeka, from her late aunt, B.J., and recorded her ownership in the land register. On one of the plots B.J. had built a house, while another had had an access road built on it in the 1970s. The access road, a *cul-de-sac* connecting several houses in the neighbourhood with the main road, was also used by third parties, and was covered with asphalt in 2000.

7. In 2014 the relevant cadastral authority (*Državna geodetska uprava, Područni ured za Katastar Rijeka*) instituted land registry proceedings before the Rijeka Municipal Court, with a view to recording the access road built over the applicant's land as an unclassified road. By a decision of 4 July 2014, a land registry clerk of the Rijeka Municipal Court divided the applicant's plot of land through which the access road was passing into three separate cadastral plots, merged one of them with some other plots into a newly formed single plot and recorded that new plot as an unclassified road – public property owned by the Town of Rijeka.

8. On 1 October 2015 the applicant instituted civil proceedings against the Town of Rijeka seeking compensation for unjust enrichment, arguing that a part of her land had been appropriated without an expropriation decision and without compensation.

9. By a judgment of 24 May 2019, the Rijeka Municipal Court dismissed the applicant's claim as time-barred. In particular, the court found that a part of the land in question had indeed been appropriated, that an unclassified asphalt road had been built on it and that neither the applicant nor her predecessor, B.J., had ever received compensation. It examined the applicant's claim under section 33 of the Property Act (see paragraph 34 below) and found that she was entitled to compensation as if the relevant part of her land had been expropriated. However, it noted that the road had been built in 1978, that construction (maintenance) works concerning the stormwater drainage system, the sewerage system and public lighting had been carried out since then. It had also been covered with asphalt several times, the last time in 2000. Once covered with asphalt and thus put into use, the relevant part of the land could have no longer been returned to the applicant's predecessor, who had thereby lost her ownership. That was also when the five-year statutory limitation period for seeking compensation provided for in section 225 of the Obligations Act (see paragraph 35 below) had started to run. Accordingly, the limitation period had expired on 1 January 2006 at the latest. In its judgment, the Rijeka Municipal Court relied, *inter alia*, on the Constitutional Court's decision of 7 February 2017 (see paragraphs 21-25 below).

10. Her claim having been dismissed in full, the first-instance court also ordered the applicant to reimburse the Town of Rijeka for the costs of legal representation by a lawyer totalling 27,000 Croatian kunas (3,584 euros (EUR)).

11. By a judgment of 15 September 2020, the Šibenik County Court dismissed an appeal by the applicant. In particular, having established that the access road had been covered with asphalt many years ago and equipped with public lighting and a stormwater drainage system at the expense of the Town of Rijeka, it endorsed the first-instance court's conclusion that the ownership of that part of the land had already been appropriated from the applicant's predecessor, B.J. Since owners could claim compensation for their land which had become an unclassified road before the entry into force of the 2011 Roads Act from the moment when that land had been appropriated – regardless of when it had been recorded as an unclassified road in the land register – the applicant's claim had become time-barred.

12. By a decision of 10 March 2021, the Constitutional Court declared a constitutional complaint by the applicant inadmissible, holding that the case did not raise a constitutional issue. In particular, it noted that the first- and the second-instance courts gave sufficient reasons for dismissing her claim and had already addressed all the complaints that she had (again) raised in her constitutional complaint, concluding that their decisions had not been arbitrary. It then went on to examine her complaints concerning the litigation costs (see paragraph 10 above), in which context it stated that it had been foreseeable, considering the consistent practice on the matter, that her claim had been doomed to fail owing to the expiry of the statutory limitation period, also bearing in mind that nothing had prevented her from bringing her action earlier. The court notified the applicant's representative of its decision on 16 April 2021.

13. Meanwhile, on 7 October 2016, the applicant also requested compensation for the expropriation of a part of her land from the Office for Property Affairs of the Primorsko-Goranska County (*Ured državne uprave u Primorsko-goranskoj županiji, Služba za imovinsko-pravne poslove*). Her request was declared inadmissible by a first-instance decision on 3 January 2017, on the grounds that the formal requirements for instituting the proceedings had not been met since an expropriation order had never been adopted in her case. The applicant was instructed that she could, nevertheless, institute civil proceedings for compensation.

14. By a decision of 11 January 2021, the Ministry of Justice and Public Administration dismissed an appeal lodged by the applicant against the first-instance decision. The applicant did not institute judicial review (administrative dispute) proceedings against the former decision, which thus became final.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. THE CONSTITUTION

15. The relevant provisions of the Constitution of the Republic of Croatia (*Ustav Republike Hrvatske*, Official Gazette no. 56/1990, with subsequent amendments) read as follows:

Article 48 § 1

"The right of ownership shall be guaranteed."

Article 50 § 1

"Ownership may be restricted or taken in accordance with the law and in the interest of the Republic of Croatia subject to payment of compensation equal to the market value."

A. Legislation on roads

1. The 1984 Roads Act

16. The Roads Act (Official Gazette no. 29/1984 with subsequent amendments), in force between 1 August 1984 and 31 December 1990, contained provisions on both public and unclassified roads. The relevant provisions read as follows:

Section 2

"A road, within the meaning of this Act, shall be considered to be any public road and [any] unclassified road used for traffic."

Section 3

"No property rights shall be acquired over a public road."

Section 14(1)

"An unclassified road is a surface used for traffic on any basis and which is accessible to a large number of diverse users (village, field and forest paths, paths on embankments for flood protection and the like)."

2. The 1990 Roads Act

17. The Roads Act (Official Gazette no. 42/1990 with subsequent amendments; "the 1990 Roads Act"), in force between 18 October 1990 and 28 July 1999, regulated both public and unclassified roads. The relevant provisions read as follows:

Section 1

"(1) A road, within the meaning of this Act, is any public road and unclassified road used for traffic.

(2) A public road is any classified road which, pursuant to its social and economic significance, shall be classified as ..."

Section 3

"A public road is a property of interest to the Republic of Croatia."

Section 5

"(1) The classification of roads ... shall be carried out by the Government ... upon a proposal by the Ministry ...

(2) The classification of roads into regional and local roads shall be carried out by the Ministry..."

Section 6a

"(1) An unclassified road is a surface used for traffic on any basis and accessible to a large number of users.

(2) The use, maintenance, protection, reconstruction and construction of unclassified roads ... shall be governed by a decision of a municipality ..."

3. The 1996 Public Roads Act

18. The Public Roads Act (Official Gazette no. 100/1996 with subsequent amendments; "the 1996 Public Roads Act"), in force between 6 December 1996 and 27 December 2004, exclusively governed public roads and made no reference to unclassified roads. The relevant provisions read as follows:

Section 2

"(1) A public road is a property of interest to the Republic of Croatia, and shall be in general use.

(2) No ownership rights or any other rights *in rem* may be acquired over public roads on any basis."

Section 4

"Public roads within the meaning of this Act are roads which, depending on their social, traffic and economic significance, shall be classified into one of the following three groups:

1. ... (hereinafter 'State roads');

2. ... (hereinafter 'county roads');

3. ... (hereinafter 'local roads')."

Section 5

"(1) Public roads referred to in section 4 of this Act shall be classified based on criteria adopted by the Government of the Republic of Croatia.

(2) A decision on the classification of public roads defining the State, county and local roads shall be adopted by the minister ... and shall be published in the Official Gazette."

Section 79

"Public roads shall be recorded in the land register in accordance with the regulations governing the land register."

4. The 2004 Public Roads Act

19. The Public Roads Act (Official Gazette nos. 180/2004 with subsequent amendments; "the 2004 Public Roads Act"), in force between 28 December 2004 and 27 July 2011, only governed public roads. Initially, public roads were designated as a property common to all (*opće dobro*) on which no ownership rights or any other rights *in rem* could be acquired (thus their status remained the same as under the 1990 Roads Act and the 1996 Public Roads Act). They were to be recorded in the land register as property common to all, in accordance with the regulations governing the land register. However, amendments introduced on 29 December 2009 (Official Gazette no. 153/2009) changed the legal status of public roads. Notably, public roads were designated as public property in general use owned by the State, and they were to be recorded in the land register as such. The relevant provisions read as follows:

The legal status of public roads
Section 2(1)

"(1) Public roads are public property in general use owned by the Republic of Croatia."

Section 3(3)

"A public road shall be recorded in the land register ... as public property in general use and as [being under the] inalienable ownership of the Republic of Croatia ..."

The classification of public roads
Section 4(1)

"(1) Public roads within the meaning of this Act are roads which, depending on their social, traffic and economic significance, shall be classified into one of the following four categories:

(a) motorways;

(b) State roads;

(c) county roads;

(d) local roads."

The criteria for the classification of public roads
Section 5

"(1) Public roads referred to in section 4 of this Act shall be classified based on criteria adopted by the Government of the Republic of Croatia.

(2) A decision on the classification of the public roads defining motorways and State, county and local roads ... shall be adopted by the minister ... and published in the Official Gazette."

5. The 2011 Roads Act

20. The relevant provisions of the Roads Act (*Zakon o cestama*, Official Gazette no. 84/2011 with subsequent amendments; the "2011 Roads Act"), which has been in force since 28 July 2011, read as follows:

Meaning of terms
Section 2

"(1) For the purposes of this Act, certain terms shall mean the following:

(a) 'public roads' are roads classified as public roads in accordance with this Act, which anyone can use freely in the manner and under the conditions set forth in this Act and other regulations;

(b) 'motorways' are public roads ...;

(c) 'State roads' are public roads ...;

(d) 'county roads' are public roads ...;

(e) 'local roads' are public roads ...;

(f) 'unclassified roads' are roads used for vehicular traffic which everyone can use freely ... and which are not classified as public roads within the meaning of this Act ..."

II. Public roads

Legal status of public roads
Section 3(1)

"(1) Public roads are public property in general use owned by the Republic of Croatia."

VIII. Unclassified roads

Definition of unclassified roads
Section 98

"(1) Unclassified roads are roads used for vehicular traffic which everyone can use freely ... and which are not classified as public roads within the meaning of this Act, in particular:

– roads [located] in ... towns with more than 35,000 inhabitants, and towns which are the county seats, which were classified as public roads by the Decision on classification of public roads into State roads, county roads and local roads (Official Gazette nos. 54/08, 122/08, 13/09, 104/09 and 17/10),

...

– access roads to residential, commercial and other buildings;

...

(2) The roads referred to in the first indent of paragraph 1 of this section shall be designated by a decision of the minister...

(3) The decision referred to in paragraph 2 of this section shall be published in the Official Gazette."

Legal status of an unclassified road
Section 101(1)

"An unclassified road is public [property] in general use owned by the local government unit in whose territory the road is located."

Registration of unclassified roads in the land register
Section 131

"(1) Roads which, on the date of entry into force of this Act, are used for vehicular traffic for any reason, which are accessible to a large number of users and which are not classified as public roads within the meaning of this Act, shall become unclassified roads.

(2) The existing land-register entries concerning unclassified roads referred to in paragraph 1 of this section, owned by a local government unit, shall be replaced *ex proprio motu* by an entry of an unclassified road – public property in general use – as [being under the] inalienable ownership of the local government unit.

(3) Unclassified roads referred to in paragraph 1 of this section which have not been recorded in the land register, or whose actual state has not been recorded in that register shall be recorded in the land register *ex proprio motu* on the basis of a registration form submitted to the land registry court by the cadastral authorities of their own motion after the unclassified road or its actual state is recorded in the cadastre.

(4) Unclassified roads constructed before the date of the entry into force of [this Act] which have not been recorded in the cadastre, or whose actual state has not been recorded shall be recorded in the cadastre on the basis of a geodetic survey ... obtained and submitted to the relevant cadastral authority by a local government unit ...

...

(6) Unclassified roads as referred to in paragraph 1 of this section shall be recorded in the land register as public [property] in general use and as [being under the] inalienable ownership of a local government unit ... regardless of existing entries in the land register.

(7) Immovable property which is considered an unclassified road under this Act and which was in use as an unclassified or public road prior to 1 January 1997 shall be public [property] in general use under the inalienable ownership of the local government unit in whose territory the road is located."

Section 133(1)

"Unclassified roads as referred to in sections 131(1) and 132(1) of this Act shall be recorded in the cadastre and in the land register as unclassified roads – public [property] in general use – and as under the inalienable ownership of the local government unit in

whose territory they are located, regardless of the existing registration of ownership and/or other rights *in rem* of a third party."

6. Constitutional Court's practice

(a) Decision of 7 February 2017

21. In decision no. U-I-6326/2011 of 7 February 2017, the Constitutional Court refused eight petitions to institute proceedings for a review of the constitutionality of sections 131-133 of the 2011 Roads Act.

22. The court first explained that under the relevant domestic law in force before 2009, public roads could not be owned, even by the State. As a result of the legislative changes in 2009, the State had become the owner of all public roads in the territory of Croatia by operation of law (see paragraph 19 above).

23. The Constitutional Court further held that unclassified roads within the meaning of the 2011 Roads Act had been a part of a larger group of public roads which had existed in the territory of Croatia at the moment when that Act had come into force, and which at that time had been State-owned. The 2011 Roads Act had merely reclassified the existing public roads according to their technical characteristics into (a) public roads, which were to remain under State ownership, and (b) unclassified roads, which were to be transferred from State ownership to the ownership of local government units. Thus, all public and unclassified roads within the meaning of the 2011 Roads Act were those which had passed into State ownership before the entry into force of that Act and in respect of which "expropriation proceedings were (or should have been) carried out and compensation paid".

24. However, not all such roads had been recorded in the land register as being under State ownership. Sections 131 and 133 had thus merely governed the registration in the name of local government units of the unclassified roads previously owned by the State, regardless of whether the previous State ownership of such roads had been recorded in the land register.

25. In the Constitutional Court's view, former owners of land with unclassified roads were not prevented from protecting their rights, as they could institute civil proceedings under the general rules of civil law and seek compensation for the land taken from them, if such compensation had not already been paid. In that regard the Constitutional Court specifically referred to section 33 of the Property Act (see paragraph 34 below).

(b) Decision of 3 November 2020

26. In decision no. U-III/3062/2019 of 3 November 2020, the Constitutional Court examined a constitutional complaint lodged by complainants who had alleged that their right of access to a court had been breached in civil proceedings for unjust enrichment, in which they had maintained that a lawyer who had represented them in an earlier set of civil

proceedings for compensation had withheld from them the money that they had been awarded therein. Their claim had been dismissed as time-barred on the grounds that, in the absence of the lawyer's conviction in criminal proceedings, the statutory limitation period had expired after five years from the day when the damage had occurred, that is, from the day when the lawyer had received the payment of the compensation in question. The Constitutional Court noted that the complainants had found out about the lawyer's alleged malpractice only after the criminal prosecution had become time-barred, and held that, in view of the relationship of trust between a lawyer and a client, they could not have been blamed for not having doubted the lawyer's actions earlier. Therefore, it held that, in not considering the specific circumstances owing to which the complainants had not been able to institute relevant proceedings earlier, the domestic courts had unduly restricted their right of access to a court.

(c) Decision of 24 June 2025

27. In decision no. U-III-3726/2021 of 24 June 2025, the Constitutional Court allowed a constitutional complaint lodged by a company which complained that its right to fair proceedings and the right of ownership had been breached in civil proceedings for compensation. In particular, the complainant company sought compensation for its land on which a road had been built without any expropriation proceedings. Following the entry into force of the 2011 Roads Act, the road in question had become, by operation of law, an unclassified road, that is, public property owned by the local authority. The second-instance court had dismissed the company's compensation claim lodged in 2015 as time-barred, holding that the five-year limitation period had started to run in 2009 when the road had been built and the land could no longer be returned.

28. The Constitutional Court examined the company's constitutional complaint under Article 48 § 1 and Article 50 of the Croatian Constitution, which guarantee the right of ownership. It noted that, while the interference in question had had basis in law, namely in section 131(1) and (2) of the 2011 Roads Act (see paragraph 20 above), and had pursued a legitimate aim, the complainant company had never received compensation for what amounted to *de facto* expropriation. It stressed that the local authority, which had become the owner of the (unclassified) road in question by operation of law, could not have benefited from that situation without conducting expropriation proceedings, and that the second-instance court had failed to assess the impact of its interpretation on the complainant company's rights. The Constitutional Court thus quashed the second-instance court's judgment and remitted the case.

7. Supreme Court's practice

29. In case no. Rev 1823/1994 of 16 February 1999, the Supreme Court upheld the lower court's decision to dismiss as time-barred a plaintiff's claim, lodged in 1993, to be paid compensation for a plot of land on which a public road had been built by a public authority in 1972 and covered with asphalt in 1978, and in respect of which expropriation proceedings had never been conducted. In particular, the Supreme Court held that the plaintiff had been unlawfully *de facto* dispossessed of his plot of land in 1972 but that he could no longer seek its return since it had been repurposed as a public road. In view of that, it further held that the plaintiff's claim for payment, to be assessed as a claim for compensation, had become due in 1972. The relevant part of that judgment reads as follows:

> "In this court's view, the right of the (co)owner to be paid compensation for property which had been appropriated from him cannot be extinguished owing to the statute of limitations, as long as he is able to request its return. Given that, according to the lower courts' findings, the plaintiff as a former owner can no longer request ... [that] the possession of the plot of land in question be returned to him for the reasons set out above – which undoubtedly already arose at the moment when the public road had been built on his plot of land, that is, already in 1972 – the plaintiff's compensation claim in respect of the plot of land taken away from him unlawfully, as a claim for damages, became due in 1972 when the plaintiff learned of the damage and of the tortfeasor, so it was undoubtedly extinguished on account of having become time-barred before the action in this case was brought in 1989 ..."

30. In case no. Rev 1555/2011 of 9 November 2016, the Supreme Court upheld the lower courts' judgments dismissing as time-barred the plaintiff's action, brought in 2003, to be paid compensation for her plots of land on which an unclassified road (within the meaning of the 2011 Roads Act) had been built in the 1980s, and covered with asphalt in 2001 by a local authority. The relevant part of that judgment reads as follows:

> "In this court's opinion and in line with its long-standing practice (for example, since judgment no. Rev 1823/1994 of 16 February 1999), the statute of limitations for compensation claims concerning the unlawful taking of real estate, as well as concerning unlawful use thereof, begins to run from the date [when the injured party] learns of the damage and of the tortfeasor, which in the present case happened in the mid-1990s, and therefore the right to claim compensation on any basis ceased because it had become time-barred before the action was brought on 22 October 2003. This is because a claim for damages becomes time-barred three years after the injured party learns of the damage and of the tortfeasor, and in any case ... five years from the moment when the damage occurred. The plaintiff's predecessors could have already become aware in mid-1990s that a road had been built and that, given its legal status, they could not have sought its return, but only compensation."

31. In its Practice Direction no. Su-IV-123/2024 of 27 May 2024, the Civil Division of the Supreme Court expressed the following opinion:

> "A compensation claim in respect of a plot of land which has been appropriated without proceedings provided for by the law having been conducted (for the purpose of constructing a road), becomes time-bared within the general statutory limitation period

> provided by section 225 of the Obligations Act ... whereby it begins to run from the moment when the plaintiff, as the previous owner, objectively can no longer successfully claim the return and the handover of the immovable property in question into his or her possession, which in fact is the moment when a road is built and the works completed.
>
> Exceptionally, in the implementation of the Constitutional Court's decision no. U-III-3062/2019 of 3 November 2020, in the circumstances where the plaintiff, as the previous owner, owing to the specific circumstances of the case learns, for justified reasons, that his or her immovable property has been repurposed only later, after the objective statutory limitation period has expired, the statutory limitation period starts to run from the moment when he or she learns that his or her real estate has been repurposed, regardless of the moment when he or she could no longer successfully request its return and the handover into his or her possession, that is, irrespective of the moment when a road was built and the works completed."

32. By decision no. Revd-2148/2024 of 13 November 2024, the Supreme Court granted the plaintiff leave to lodge an appeal on points of law concerning the following question:

> "When does the statutory limitation period to claim compensation start to run with regard to an appropriated plot of land which, before the 2011 Roads Act entered into force, had not been classified as a public road, had not been registered in the cadastre as an unclassified road, nor had it been registered as such in the land register within the meaning of section 131(1-4) of the 2011 Roads Act, in the circumstances where: no final expropriation order had been adopted for the land in question; the contentious legal relationship between the parties had not been settled by way of a settlement; the former owner contests that the land in question had represented a road within the meaning of section 131(1) of the 2011 Roads Act before the latter was enacted; and the previous owner learned of that land's status of an unclassified road, that is, public property in general use under the inalienable ownership of the local government unit only in the proceedings in which its status was recorded in the cadastre, or at the moment when he was served with the decision of the competent land registry court concerning the registration of the land in question as an unclassified road, that is public property in general use under the inalienable ownership of the local government unit?"

The Supreme Court so decided because it held that, in view of the Constitutional Court's decision no. U-III/3062/2019 of 3 November 2020 (see paragraphs 26 and 31 above), as well as of the Court's judgment in the case of *Carbonara and Ventura v. Italy* (no. 24638/94, ECHR 2000-VI), it was necessary to revisit the case-law on a point on which that court had already ruled (*inter alia*, in the case no. Rev 1555/2011 of 9 November 2016, see paragraph 29 above).

8. The doctrine

33. Several Croatian legal scholars and practitioners have expressed the opinion that, before the 2011 Roads Act had entered into force, the legal status of unclassified roads had been unregulated and therefore unclear (see, for example, Kontrec, Damir [Judge of the Supreme Court of Croatia since February 2011]: "Pravni status prometnica i upis u zemljišne knjige" ("The legal status of roads and their registration in the land register"), *Zbornik*

Pravnog fakulteta Sveučilišta u Rijeci, vol. 32, no. 1, pp. 445-71 (2011), and Staničić, Frane [President of the Constitutional Court of Croatia since October 2025]: "Je li Zakonom o cestama 2011. godine (ipak) provedeno faktično izvlaštenje vlasnika nerazvrstanih cesta?" (Did the 2011 Roads Act (nevertheless) bring about a *de facto* expropriation of the owners of unclassified roads?), *Zbornik Pravnog fakulteta Sveučilišta u Rijeci*, vol. 41, no. 3, pp. 803-25 (2020)).

B. Legislation on property rights

34. The relevant provision of the Ownership and Other Rights *In Rem* Act (*Zakon o vlasništvu i drugim stvarnim pravima*, Official Gazette no. 91/1996 with subsequent amendments; "the Property Act"), which has been in force since 1 January 1997, provides as follows:

Compensation
Section 33

"(1) Ownership may, in the interest of the Republic of Croatia and in accordance with the law, be taken away (complete expropriation) or restricted by establishing a right over the owner's property in favour of another person (partial expropriation), in which case the owner shall be entitled to compensation in accordance with the expropriation legislation.

...

(3) If the owners are, in respect of an item of their property, subject to restrictions for the protection of the interests and security of the Republic of Croatia, nature, the environment or public health, which require from them, but not from all other owners of such property, a heavier sacrifice, or otherwise place them in a position similar to the one in which they would have been had the expropriation been carried out, they shall be entitled to compensation [in the same way] as for expropriation."

C. Obligations Act

35. The relevant provision of the Obligations Act (Official Gazette no. 35/2005, with subsequent amendments), reads as follows:

General statutory limitation period
Section 225

"Claims shall become time-barred after five years unless another statutory limitation period has been prescribed by law."

D. Other relevant legislation

36. The relevant provision of the Civil Procedure Act concerning the reopening of proceedings following a final judgment of the European Court of Human Rights, namely section 428a, is cited in *Lovrić v. Croatia* (no. 38458/15, § 24, 4 April 2017).

37. The Communal Services Act (Official Gazette no. 36/1995 with further amendments), in force between 9 June 1995 and 3 August 2018, regulated the maintenance of unclassified roads, which it defined as surfaces used for traffic for any reason, accessible to a large number of users, which had not been classified roads within the meaning of relevant legislation.

38. The Land Register Act (Official Gazette no. 91/1996 with further amendments), in force between 1 January 1997 and 5 July 2019, provided, for property common to all which had been recorded in the land register, that its legal status had to be indicated in the relevant part of the register. Public property in general use was to be recorded as owned by the State, unless owned by a local government unit. In the period until 20 December 2001, that Act also provided that, within five years from its entry into force, the State Attorney's Office had to initiate relevant proceedings with a view to recording property common to all in the land register.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

39. The applicant complained that the manner in which the domestic courts had calculated the statutory limitation period in her case had been unforeseeable and had resulted in a breach of her right of access to a court. She relied on Article 6 § 1 of the Convention, the relevant part of which reads as follows:

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

40. In addition, the applicant complained that the domestic courts' decisions dismissing her compensation claim as time-barred had also been in breach of her right to an effective remedy. She 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."

41. The Court reiterates that the safeguards of Article 6 § 1 are stricter than those of Article 13 (see *Kudła v. Poland* [GC], no. 30210/96, § 146, ECHR 2000-XI) and finds that the applicant's complaint under Article 13 should be considered to be absorbed into her complaint under Article 6 § 1.

A. Admissibility

42. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The arguments of the parties

(a) The applicant

43. The applicant argued that her property had been taken in 2014, when the Rijeka Municipal Court's decision of 4 July 2014 depriving her of her title had been adopted. Her civil action had therefore been brought in time. The domestic courts had wrongly established that it had been the local authority who had covered the road with asphalt in 2000 (see paragraph 9 and 11 above), when in fact that had been done by her predecessor, B.J. – the undisputed owner of the land at the material time – and her neighbours for the benefit of whom a servitude of passage over her land had existed. B.J. could not have therefore already claimed compensation in 2000, especially because she had had no one to claim it from, seeing as she had covered the road with asphalt at her own expense.

44. Furthermore, the applicant averred that the legal issue of unclassified roads was a complex one. Not only had the Roads Act been amended several times on that account, but the matter had also been examined by the Constitutional Court in its decision no. U-I-6326/11 of 7 February 2017 (see paragraphs 21-25 above). That decision had not been available when she had lodged her compensation claim on 1 October 2015; nevertheless, the first-instance court relied on it in its judgment in her case (see paragraphs 8-9 above). Therefore, she could not have been aware – on account of allegedly consistent domestic courts' practice, as the Constitutional Court had argued – that her claim would be dismissed as time-barred. To the contrary, she had lodged her claim within three years from having learned that her land had been expropriated.

(b) The Government

45. The Government argued that the applicant's predecessor, B.J., had been deprived of her title to the land in question in 2000, when the unclassified road in question had been covered with asphalt and hence "put into use" – that is, when it had become available to a large number of users (vehicles). It was also at that time that the road had fulfilled the requirements under the 2011 Roads Act to be considered an unclassified road. From that moment, the five-year limitation period had started to run.

46. Furthermore, the Government maintained that the manner in which the domestic courts had calculated the statutory limitation period in the applicant's case had been foreseeable and in line with the domestic courts' long-standing practice.

47. Namely, where an owner of an immovable property had been dispossessed thereof and could no longer recover its possession because, for example, it had become public property, he or she could claim compensation

within the five-year general statutory limitation period provided under section 225 of the Obligations Act (see paragraph 35 above). That limitation period was to be counted from the moment when the owner could no longer request that the immovable property be returned into his or her possession. Generally, in the case of unclassified roads that had been built before the 2011 Roads Act had entered into force, that moment was when the unclassified road had been built.

48. The Government also noted that the Town of Rijeka had regularly conducted maintenance works on the road in question, which neither B.J. nor the applicant had opposed.

49. Furthermore, the Government argued that, when the road had been built over the land in question, that part of land had become a part of public property, whereby the applicant's, that is, B.J.'s, ownership in that regard had ceased. The mere fact that the legal status of unclassified roads had been regulated in 2011 did not mean that the applicant's plot of land had only become an unclassified road at that moment, but that in that moment it had been transferred from the ownership of the State into the ownership of the local authority.

50. The Government averred that, in accordance with the Constitutional Court's decision of 7 February 2017 (see paragraphs 21-25 above), the proceedings in which the unclassified road had been recorded as such in the land register in 2014 (see paragraph 7 above) had no bearing on the applicant's ownership of the land in question. Hence, the domestic courts could not have calculated the limitation period only from that moment.

2. The Court's assessment

51. The Court reiterates that the right of access to a court 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 enjoys a certain margin of appreciation in this regard. Those limitations must not restrict or reduce a person's access in such a way or to such an extent that the very essence of the right is impaired. In addition, 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 (see *Zubac v. Croatia* [GC], no. 40160/12, § 78, 5 April 2018, with further references). That said, the Court would also stress that it is not its 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 is not a court of appeal from the national courts and 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 *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], nos. 55391/13 and 2 others, § 186, 6 November 2018, with further references therein).

52. Turning to the present case, the Court notes that the applicant's civil action, brought in 2015 with the aim of obtaining compensation for a part of her land – which had on 4 July 2014 been recorded in the land register as an unclassified road and public property owned by the Town of Rijeka (see paragraph 7 above) – was dismissed as time-barred. The civil courts considered that the five-year limitation period provided for in section 225 of the Obligations Act had started to run in 2000, when the road in question had been covered with asphalt and thereby had become accessible to a large number of users, meaning that from that moment its previous owner could no longer have recovered possession of that part of the land (see paragraphs 9 and 11 above).

53. The Court reiterates that the existence of statutory limitation periods is not *per se* incompatible with the Convention. They serve several important purposes, namely to ensure legal certainty and finality, protect potential respondents from stale claims which might be difficult to counter and prevent the injustice which might arise if courts were required to decide upon events which took place in the distant past on the basis of evidence which might have become unreliable and incomplete because of the passage of time (see *Vrbica v. Croatia*, no. 32540/05, § 66, 1 April 2010, and the cases cited therein; see also *Howald Moor and Others v. Switzerland*, nos. 52067/10 and 41072/11, §§ 71-72, 11 March 2014; and *Sanofi Pasteur v. France*, no. 25137/16, § 50, 13 February 2020).

54. Having established that the restriction of the applicant's right of access to a court pursued a legitimate aim, the Court must further examine whether the way the domestic courts applied the statutory limitation period in question was proportionate to that aim (*mutatis mutandis*, *Vrbica*, cited above, §§ 66 and 71).

55. One of the steps in assessing the proportionality of a restriction of access to a court is examining whether it was foreseeable (see, for example, *Zubac*, cited above, § 87; *Arrozpide Sarasola and Others v. Spain*, nos. 65101/16 and 2 others, § 106, 23 October 2018; and *Hanževački v. Croatia*, no. 49439/21, §§ 35-41, 5 September 2023). In particular, the Court must satisfy itself that the application of the statutory limitation period could be regarded as foreseeable for the applicant, having regard to the relevant legislation and case-law and the particular circumstances of the case (see *Osu v. Italy*, no. 36534/97, § 35, 11 July 2002; *Vrbica*, cited above, § 72; and *Majski v. Croatia (no. 2)*, no. 16924/08, § 69, 19 July 2011). The Court considers this to be the central issue in the present case.

56. One of the Government's principal arguments was that the applicant's land had already become public property before the 2011 Roads Act had entered into force (see paragraph 45 above). The decision of the Rijeka Municipal Court of 4 July 2014 had merely formalised the transfer of the land into the Town of Rijeka's ownership and had no bearing on the applicant's rights (see paragraphs 7 and 49-50 above). Thus, and in accordance with the

civil law rules on seeking compensation for immovable property – the possession of which could no longer be recovered – the application of the statutory limitation period in the applicant's case had been foreseeable (see paragraphs 45-47 above).

57. That argument rests on the Constitutional Court's interpretation, expressed in its decision of 7 February 2017 (see paragraphs 21-25 above), that all unclassified roads within the meaning of the 2011 Roads Act had before its entry into force been a part of a larger group of public roads, and that the Act had merely reclassified the existing public roads into (a) public roads, which were to remain under State ownership, and (b) unclassified roads, which were to be transferred from State ownership to the ownership of local government units. Before 2009 those roads could not have been owned by anyone (*res extra commercium*) and in 2009 they had become State-owned by operation of law. Thus, all (public and) unclassified roads had passed into State ownership before the entry into force of the Roads Act (see paragraphs 22-23 above).

58. In that regard, the Court observes that the legal status of public roads had already been defined before the entry into force of the 2011 Roads Act (see paragraphs 17-19 above).

59. However, while unclassified roads undoubtedly existed as a category of roads even before the 2011 Roads Act entered into force, their legal status was not regulated and was therefore unclear (see also paragraph 33 above, concerning the same observation reached by several Croatian legal scholars and practitioners). Namely, after the 1984 Roads Act had been repealed, the 1990 Roads Act contained several provisions referring to unclassified roads but did not regulate their legal status; the 1996 and 2004 Public Roads Acts concerned only public roads (see paragraphs 16-19 above). The Communal Services Act, which defined unclassified roads and regulated their maintenance, did not regulate their legal status either (see paragraph 37 above). Rather, their legal status was for the first time expressly regulated by the 2011 Roads Act in which they were designated as public property owned by local government units (see paragraph 20 above).

60. Clarification as to what was the legal status of unclassified roads in the period before the entry into force of the 2011 Roads Act was for the first time provided by the Constitutional Court in its decision of 7 February 2017, which held that in that period they had belonged to a larger group of public roads and that their legal status had thus been equal to that of public roads (see paragraph 57 above). The Court notes that this clarification came more than ten years after the applicant's predecessor, B.J., had, according to the domestic courts' decisions in the applicant's case, lost ownership of the relevant part of her land, and a year and a half after the applicant had brought her civil action for compensation (see paragraphs 8-9 above).

61. It therefore remains to be assessed whether, in view of the particular circumstances of the case, the applicant's predecessor, B.J., could have

already known in 2000 that, once covered with asphalt, the road built over her land had become a public road and, as such, an item of property common to all (*res communes omnium*), and that she had accordingly lost her ownership of the land in question. However, the Court is not convinced that the domestic courts' conclusion in that regard could have already been foreseeable to the applicant's predecessor, B.J., in 2000. That is so for the following reasons.

62. Firstly, according to the domestic courts, once the relevant part of the land in question had been covered with asphalt and thus put into use, it was irreversibly appropriated. Hence, it could no longer be returned to the applicant's predecessor, who thereby lost her ownership (see paragraph 9 above). However, no expropriation order had ever been made and no compensation had been paid in respect of it, thus enabling the authorities to benefit from an unlawful situation (compare *Belvedere Alberghiera S.r.l. v. Italy*, no. 31524/96, § 59, ECHR 2000-VI). The Court considers that in these circumstances the transfer of property following the completion of the public works, could not be regarded as "foreseeable".

63. Secondly, notwithstanding the duty of the domestic authorities to record public roads in the land register, firstly as property common to all and then as public property in general use owned by the State (see paragraphs 18, 19, 24 and 38 above), the land in question remained registered in B.J.'s name as privately owned (see paragraph 6 above).

64. Thirdly, public roads were to be classified as such into one of several categories, by a decision to be published in the Official Gazette (see paragraphs 17-19 above). The road in question, however, never was.

65. In view of the above, the Court cannot discern any circumstance which could have signalled to B.J. already in 2000 that there had been a change in the ownership status of the relevant part of her land.

66. The Government also argued that the manner in which the domestic courts had calculated the statutory limitation period in the applicant's case had been based on their long-standing practice on the matter, dating back to 1999. However, in support of their argument, the Government relied on a single decision by the Supreme Court preceding 2015, which was when the applicant lodged her claim (Supreme Court's decision no. Rev 1823/1994 of 16 February 1999, see paragraph 29 above). The Court observes that that judgment concerned a road which had unquestionably been public, and that the facts of that case thus significantly differed from those in the present case (see paragraph 58 above).

67. Rather, the Court considers that it was only through the Rijeka Municipal Court's decision of 4 July 2014 (see paragraph 7 above) that the applicant could have learned that the access road built over her land had satisfied the criteria under the 2011 Roads Act to be characterised as an unclassified road, and that it had thus become public property to be transferred into the Town of Rijeka's ownership (compare, *mutatis mutandis*,

Carbonara and Ventura, cited above, § 69, and *Guiso-Gallisay v. Italy*, no. 58858/00, § 93, 8 December 2005*)*. In particular, the Court cannot discern any circumstances of the basis of which the applicant could have learned, even following the adoption of the 2011 Roads Act, that the road built on her land would qualify as an unclassified road within the meaning thereof (see paragraphs 62-64 above). She therefore could not have known for certain that she had been deprived of her land before 4 July 2014, when the Rijeka Municipal Court's decision had been adopted (ibid.).

68. It follows from the above that the manner in which the domestic courts had calculated the statutory limitation period in the applicant's case was not foreseeable to her. In applying the five-year limitation period from the day when the road had been covered with asphalt, the domestic courts denied her the possibility, in principle available to her, of obtaining compensation (see *Carbonara and Ventura*, cited above, § 71), and thereby disproportionately restricted her right of access to court.

69. By way of observation, the Court notes that from recent decisions adopted by the Supreme Court (practice direction adopted on 27 May 2024, and decision no. Revd-2148/2024 of 13 November 2024, see paragraphs 31-32 above) and the Constitutional Court (decision no. U-III/3726/2021 of 24 June 2025, see paragraphs 26-28 above), it would appear that the domestic courts' practice is shifting in order to account for specific circumstances of particular cases in which owners have, for justified reasons, learned that their land had been repurposed only later, after the absolute statutory limitation period for lodging a compensation claim had expired.

70. In the present case, however, the Court concludes that the applicant had access to the domestic courts, but only to be told that her claim was statute-barred. The Court reiterates that the right of access to a court must be "practical and effective", not "theoretical or illusory" (see *Zubac*, cited above, § 77), and that the fact that the applicant was able to bring a civil action does not necessarily satisfy the requirements of Article 6 § 1: the degree of access afforded by the national legislation must also be sufficient to secure the individual's "right to a court", having regard to the principle of the rule of law in a democratic society (see *Yagtzilar and Others v. Greece*, no. 41727/98, § 26, ECHR 2001-XII).

71. The foregoing considerations are sufficient to enable the Court to conclude that the situation complained of impaired the very essence of the applicant's right of access to court.

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

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

73. The applicant also complained, relying on Article 1 of Protocol No. 1 to the Convention, that the way in which the domestic courts calculated the statutory limitation period in her case resulted in her being deprived of her property without compensation.

74. Lastly, relying on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 thereto, she complained that the domestic courts, when dismissing her compensation claim as time-barred, had ordered her to reimburse the Town of Rijeka for its litigation costs.

75. The Court reiterates that in the present case the applicant's compensation claim was dismissed as time-barred and that, owing to the unforeseeable manner in which the statutory limitation period had been calculated in her case, it found a violation of Article 6 § 1 of the Convention on account of the lack of access to court (see paragraphs 51-72 above). Accordingly, it cannot speculate as to what the eventual result might have been if the applicant had been able to effectively seek compensation in proceedings that had been in compliance with the requirements of Article 6 § 1 of the Convention.

76. Furthermore, the Court notes that under section 428a of the Civil Procedure Act (see paragraph 36 above), an applicant may seek the reopening of the civil proceedings in respect of which the Court has found a violation of the Convention.

77. In the light of its above findings under Article 6 § 1 of the Convention, and having regard to the possibility of reopening of the civil proceedings for compensation, the Court considers that, since it has examined the main legal questions raised in the present application, there is no need to give a separate ruling on the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014, with further references).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

78. 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

79. The applicant claimed 21,323.77 euros (EUR) in respect of pecuniary damage, increased by statutory default interest accrued thereon since 23 July 2015, which is an amount corresponding to her compensation claim for the appropriated land. She made no claim in respect of non-pecuniary damage.

80. The Government contested her claim.

81. The Court reiterates that it cannot speculate as to what the eventual outcome might have been if the applicant had been able to effectively seek compensation in proceedings that had been in compliance with the requirements of Article 6 § 1 of the Convention (see paragraph 75 above, and see, *mutatis mutandis*, *Project-Trade d.o.o. v. Croatia*, no. 1920/14, § 110, 19 November 2020).

82. In these circumstances, having regard to the possibility under the domestic law for the applicant to request the reopening of the proceedings at issue (see paragraph 76 above), the Court rejects this claim.

B. Costs and expenses

83. The applicant also claimed EUR 9,565.30 in total for the costs and expenses incurred before the domestic courts: EUR 3,583.51 corresponding to the costs paid to the law office which had represented the Town of Rijeka before the domestic courts; EUR 3,583.51 corresponding to the costs of her representation by a lawyer before the domestic courts; EUR 265.44 corresponding to the costs of her representation by a lawyer in the administrative proceedings; EUR 829.51 corresponding to the costs of her representation by a lawyer before the Constitutional Court; and EUR 1,303.33 corresponding to the fees paid to the domestic courts. She also claimed EUR 1,250 for the costs incurred before the Court.

84. The Government contested those claims.

85. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 2,079.51 for costs and expenses incurred in the proceedings before the Constitutional Court and the Court, plus any tax that may be chargeable to the applicant. On the other hand, as regards the remaining costs and expenses incurred in the domestic proceedings, the Court is of the opinion that they must be rejected given that the applicant will be able to have (the relevant part of) those costs reimbursed in the proceedings following her petition for reopening (see paragraph 75 above, and see *Baljak and Others v. Croatia*, no. 41295/19, § 54, 25 November 2021).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the dismissal of her civil action as time-barred admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that there is no need to examine the admissibility and merits of the remainder of the application;

4. *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 2,079.51 (two thousand and seventy-nine euros and fifty-one cents), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 7 May 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth Registrar	Ivana Jelić President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the joint separate opinion of Judges Krenc, Kučs and Adamska-Gallant, is annexed to this judgment.

JOINT CONCURRING OPINION OF JUDGES KRENC, KUČS AND ADAMSKA-GALLANT

1. We concur with the findings of the present judgment, except on one specific point which concerns the decision to limit the costs and expenses to those incurred before the Constitutional Court and before this Court.

2. According to its settled case-law, when the Court has found a violation of the Convention, the applicant is entitled to the reimbursement of costs and expenses in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum (see, among other authorities, *H.F. and Others v. France* [GC], nos. 24384/19 and 44234/20, § 291, 14 September 2022, and *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 283, ECHR 2006-V). This also includes domestic costs and expenses incurred to prevent or redress the breach of the Convention found by the Court (see *Nada v. Switzerland* [GC], no. 10593/08, § 243, ECHR 2012; see also *Vujović and Lipa D.O.O. v. Montenegro (no. 2)*, no. 43050/22, § 119, 27 November 2025, and *Legros and Others v. France*, nos. 72173/17 and 17 others, § 210, 9 November 2023).

3. In the present case, the Court has awarded the sum claimed by the applicant for costs and expenses incurred in the proceedings before the Constitutional Court and the Court, but it has rejected her claim for the other costs and expenses incurred in the domestic proceedings (see paragraph 85 of the judgment). The majority have justified their decision by the fact that "the applicant will be able to have (the relevant part of) those costs reimbursed in the proceedings following her petition for reopening" (ibid.).

4. While we see and understand the subsidiary logic behind this decision, which relies on cogent arguments, we would like to respectfully express our reservations about this approach in the present case.

5. First of all, we observe that the Court's practice is far from being uniform. The Court has in the past awarded reimbursement of costs and expenses incurred before the domestic courts, even when it has recognised the possibility of obtaining a reopening or a review of the case following its finding of a violation of the Convention (see, for example, *Beeler v. Switzerland* [GC], no. 78630/12, §§ 117-28, 11 October 2022). It may be argued that a greater degree of harmonisation in the Court's practice would serve the interests of foreseeability and, above all, would ensure more equal treatment among applicants.

6. In our opinion, a distinction must be made in the present case between the pecuniary damage claimed by the applicant for unlawful expropriation, on the one hand, and the applicant's claim for costs and expenses, on the other.

7. We fully agree that the pecuniary damage claimed by the applicant (see paragraph 79 of the judgment) should be assessed by the domestic courts

following a reopening of the domestic proceedings (see, *mutatis mutandis*, *Lelas v. Croatia*, no. 55555/08, § 86, 20 May 2010). The Court is not only ill-equipped to determine compensation in that respect, but also, more decisively, in the present case, it has found a violation only of Article 6 of the Convention. It has not held that the applicant was deprived of her property without compensation in breach of Article 1 of Protocol No. 1. As the present judgment states, the Court "cannot speculate as to what the eventual outcome might have been if the applicant had been able to effectively seek compensation in proceedings that had been in compliance with the requirements of Article 6 § 1 of the Convention" (see paragraph 81 of the judgment).

8. However, the costs and expenses incurred before the domestic courts and subsequently before the Court – which made it possible for the Court to find a violation of Article 6 of the Convention – constitute a distinct matter. They are a different, separate component of the just satisfaction under Article 41 of the Convention. Since the Court has found a violation of Article 6 on the grounds of a lack of access to a court, the applicant could claim and obtain reimbursement of the costs incurred before the domestic courts in so far as they are reasonable and necessarily linked to this violation.

9. We do not see any convincing reason to limit the reimbursement to the costs and expenses incurred before the Constitutional Court and before our Court. The Court has found that the manner in which the domestic courts had calculated the statutory limitation period in the applicant's case was not foreseeable to her and impaired the very essence of her right of access to court (see paragraph 71 of the judgment). This finding of a violation of Article 6 of the Convention is self-standing and autonomous from the possibility for the applicant to ask for the reopening of the civil proceedings in order to seek compensation.

10. Our fear is that the majority's position creates an excessive burden for the applicant. First, the reopening procedure is a possibility – not an obligation – for the applicant to engage in a fresh (and maybe long) set of proceedings at the national level. Secondly, the outcome of the applicant's initial claim remains uncertain if the case is reopened at the national level. Reimbursement of costs at the domestic level would depend on her success there. The Court cannot speculate as to the outcome of such proceedings and, if that outcome were unfavourable, the applicant would have to bear the costs and expenses for a second time and would not recover the costs incurred owing to the earlier denial of access to a court, despite the Court's finding of a violation of Article 6. In that situation, the applicant would suffer negative financial consequences twice in connection with the same claim.

11. We therefore consider in the present circumstances that the Court should have ruled directly on all the costs and expenses incurred before the domestic courts. We note that the Court already had all the necessary

elements to take a decision on this point, unlike in respect of pecuniary damage.

12. It follows from the above that as things currently stand, the only proper way to read the present judgment is, in our view, to consider that it implies an obligation for the national authorities to reimburse the costs and expenses incurred at the domestic level prior to the Court's finding of a violation of Article 6, provided that they are connected to that finding. The applicant is indeed entitled to the reimbursement of the relevant part of these costs and expenses, regardless of the future outcome of the request for the reopening of the proceedings – if such request is made.

13. We would like to conclude by indicating that the question of costs and expenses before the domestic courts might appear secondary or ancillary. We cannot share this view. It raises fundamental issues regarding the principle of subsidiarity since those items are intrinsically linked to effective access to domestic justice and, ultimately, to the Court. Leaving applicants to bear the financial consequences of domestic proceedings may have a chilling effect, discouraging individuals from seeking respect for their Convention rights before national courts. The right of access to a national court as an autonomous right must be practical and effective, and not merely theoretical or illusory.