



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

FIRST SECTION

CASE OF ŠTOKALO AND OTHERS v. CROATIA

(Application no. 15233/05)

JUDGMENT

STRASBOURG

16 October 2008

FINAL

16/01/2009

This judgment may be subject to editorial revision.

In the case of Štokalo and Others v. Croatia,

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

Christos Rozakis, *President*,

Nina Vajić,

Khanlar Hajiyeu,

Dean Spielmann,

Sverre Erik Jebens,

Giorgio Malinverni,

George Nicolaou, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having deliberated in private on 25 September 2008,

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

PROCEDURE

1. The case originated in an application (no. 15233/05) 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 five Croatian nationals, Mrs Lucija Štokalo, Mrs Vesna Balen, Mrs Snježana Grce, Mr Anton Štokalo and Mr Viktor Štokalo (“the applicants”), on 21 March 2005.

2. The applicants were represented by Mr I. Debelić, a lawyer practising in Rab. The Croatian Government (“the Government”) were represented by their Agent, Mrs Š. Stažnik.

3. On 13 September 2006 the President of the First Section decided to communicate the complaints concerning the length of the proceedings and the lack of remedies in that respect to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicants were born in 1931, 1961, 1964, 1928 and 1927 respectively and live in Banjol, Croatia.

5. In 1963 the Communist authorities nationalised a plot of land on the island of Rab, owned by the fourth and fifth applicants and a certain J.Š., who was the first applicant’s husband and the second and the third

applicants' father. In 1964, a restaurant was built on the site. It appears that the land, which had been transferred into social ownership, was subsequently given to the company I. for its use.

6. During the process of privatisation of the company I. the land was included as part of its share capital. However, a number of shares were reserved to serve as compensation for former owners of nationalised property which formed part of the company's share capital. On 20 June 1994 the Croatian Privatisation Fund (*Hrvatski fond za privatizaciju*) gave its consent to the privatisation of the company, which on the basis of that decision subsequently became the owner of the land in question.

7. On 11 October 1996 the Croatian Parliament passed the Act on Compensation for, and Restitution of, Property Taken under the Yugoslav Communist Regime (*Zakon o naknadi za imovinu oduzetu za vrijeme jugoslavenske komunističke vladavine*, Official Gazette nos. 92/96, 92/99 (corrigendum), 80/02 (amendments) and 81/02 (corrigendum) – “the Denationalisation Act”) which enabled former owners of nationalised or confiscated property, or their heirs in the first line of succession to seek either restitution of or compensation for the property taken. The Act entered into force on 1 January 1997.

A. The first set of proceedings

1. Administrative proceedings for restitution of or compensation for nationalised property

8. On 16 June 1997 the applicants, relying on the Denationalisation Act, instituted administrative proceedings before the regional office of the state administration in Rab, as the competent first-instance administrative authority. Initially they asked to be awarded shares in the company I. as compensation for the above plot of land. It would appear that they subsequently sought restitution in kind.

9. On 24 March 2003 the Rab regional office issued an interim decision granting the applicants state bonds in compensation for the property taken. The exact amount of compensation was to be determined after the enactment of the relevant subordinate legislation. On 22 December 2003 the Ministry of Finance adopted the Ordinance on the Criteria for the Determination of Compensation for Construction Land and Business Premises Taken under the Yugoslav Communist Regime (*Pravilnik o mjerilima za utvrđivanje naknade za oduzeto građevinsko zemljište i poslovni prostor*, Official Gazette no. 204/03, 03/04 – “the Ordinance”), which entered into force on 1 April 2004.

10. On 18 April 2003 the applicants appealed to the Ministry of Justice against the first-instance decision asserting in the main that they were

seeking the restitution of the plot of land in question rather than compensation for it.

11. As a result of the fact that the Ministry of Justice did not render a decision on their appeal within the statutory time-limit of sixty days, on 24 September 2003 the applicants brought an action for failure to respond (*tužba zbog šutnje administracije*, see paragraph 31 below) in the Administrative Court (*Upravni sud Republike Hrvatske*).

12. On 23 June 2004 the applicants lodged a constitutional complaint under section 63 of the Constitutional Court Act. They complained about the length of the above administrative proceedings and requested the Constitutional Court (*Ustavni sud Republike Hrvatske*) to order the Administrative Court to decide on their action within three months.

13. On 27 October 2004 the Administrative Court passed a judgment ordering the Ministry of Justice to decide on the applicants' appeal of 18 April 2003 within thirty days.

14. On 8 December 2004 the Constitutional Court dismissed the applicants' constitutional complaint of 23 June 2004 and served its decision on their representative on 17 December 2004. It examined only the length of the proceedings before the Administrative Court between 24 September 2003 and 23 June 2004, when the constitutional complaint was lodged. It held, consequently, that the length of proceedings, which had lasted for only nine months, could not be considered excessive.

15. The applicants, having taken the view that the Ministry had failed to comply with the Administrative Court's judgment of 27 October 2004 within the time-limit indicated, initially urged the Ministry to do so on 6 December 2004 (see paragraph 35 below) and on 17 December 2004 requested the Administrative Court to decide on their appeal, that is to say, act as a court of full jurisdiction and issue its own decision in substitution for that of the Ministry (see paragraph 36 below).

16. On 9 March 2005 the Administrative Court declared the applicants' request inadmissible as being premature. It found that its judgment of 27 October 2004 had only been served on the Ministry on 9 November 2004 and that therefore the applicant's request of 6 December 2004 urging the Ministry to decide on their appeal had been submitted too early.

17. On the 15 February 2006 the Ministry of Justice reversed the first-instance decision of 24 March 2003 and dismissed the applicants' request of 16 June 1997 in its entirety.

18. The applicants then brought an action before the Administrative Court challenging that decision. It appears that the proceedings are still pending before that court.

B. The second set of proceedings

19. On 29 February 2000 the applicants filed with the Croatian Privatisation Fund a petition to declare null and void (*prijedlog za proglašavanje rješenja ništavim*) its decision of 20 June 1994 (see paragraph 6 above) – an extraordinary remedy available under the Administrative Procedure Act (see paragraph 29 below). They argued that they had not been given the opportunity to participate in the proceedings leading to that decision.

20. As the Fund did not give a decision on the applicants' petition within the statutory time-limit of sixty days, on 27 June 2000 the applicants brought an action for failure to respond in the Administrative Court (see paragraph 32 below).

21. On 28 July 2000 the Fund dismissed the applicants' petition as it considered it to be a petition for the reopening of the proceedings.

22. Shortly afterwards, the applicants modified their action of 27 June 2000 and challenged the Fund's decision of 28 July 2000 maintaining that they had not requested the reopening of the case but had challenged the Fund's decision of 20 June 1994 on its merits.

23. On 12 September 2002 the Administrative Court found for the applicants and quashed the Fund's decision of 28 July 2000. The case was remitted to the Fund.

24. On 23 January 2003 the Fund dismissed the applicants' petition finding that the arguments adduced by the applicants did not constitute grounds to declare the decision of 20 June 1994 null and void. The applicants once again brought an action in the Administrative Court.

25. On 14 October 2004 the Administrative Court dismissed the applicants' action endorsing the reasons given by the Fund in its decision of 23 January 2003.

26. On 31 January 2005 the applicants lodged a constitutional complaint against the Administrative Court's decision.

27. On 18 October 2007 the Constitutional Court dismissed their complaint.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The relevant legislation

1. The Constitutional Court Act

28. The relevant part of the Constitutional Act on the Constitutional Court (*Ustavni zakon o Ustavnom sudu Republike Hrvatske*, Official

Gazette no. 49/2002 of 3 May 2002 – “the Constitutional Court Act”) reads as follows:

Section 63

“(1) The Constitutional Court shall examine a constitutional complaint whether or not all legal remedies have been exhausted if the competent court fails to decide a claim concerning the applicant’s rights and obligations or a criminal charge against him or her within a reasonable time ...

(2) If a constitutional complaint ... under paragraph 1 of this section is upheld, the Constitutional Court shall set a time-limit within which the competent court must decide the case on the merits...

(3) In a decision issued under paragraph 2 of this section, the Constitutional Court shall assess appropriate compensation for the applicant for the violation of his or her constitutional rights ... The compensation shall be paid out of the State budget within three months from the date a request for payment is lodged.”

2. *The Administrative Procedure Act*

29. The relevant provisions of the Administrative Procedure Act (*Zakon o općem upravnom postupku*, Official Gazette no. 53/1991 of 8 October 1991) provide as follows:

6. Declaring a decision null and void

Section 267

A decision shall be declared null and void if:

1) it is delivered in administrative proceedings in matters which fall within the jurisdiction of the courts or in matters not to be decided in administrative proceedings;

2) its enforcement might result in a criminal offence punishable by the criminal code;

3) its enforcement is not at all possible;

4) it is rendered without a prior request by a party (section 216), and the party did not subsequently expressly or tacitly consent to it;

5) it is affected by an error expressly provided for in a statutory provision as a ground of nullity;

6) its enforcement would be contrary to public policy (*ordre public*)

Section 268

(1) A decision may be declared null and void *ex officio* or following the petition of a party or the state attorney.

(2) A decision may be declared null and void in its entirety or in part.

(3) ...

(4) An appeal lies against the decision declaring certain decisions null and void or dismissing the party's or state attorney's petition to declare a decision null and void. If no appellate authority exists, one may bring an administrative action directly.

3. *The Administrative Disputes Act*

30. The relevant provisions of the Administrative Disputes Act (*Zakon o upravnim sporovima*, Official Gazette nos. 53/1991, 9/92 and 77/92) provide as follows:

31. Section 26 (1) provides that if the appellate administrative authority fails to give a decision on a party's appeal against a first-instance decision within sixty days, and fails to do so upon a repeated request within a further period of seven days, the party may bring an action in the Administrative Court (action for failure to respond, *tužba zbog šutnje administracije*), as if his or her appeal had been dismissed.

32. Section 26 (2) provides that when the first-instance administrative authority fails to give a decision against which no appeal lies, the party may directly bring an action in the Administrative Court.

33. Section 26 (3) provides that, in matters where the right of appeal exists, if a first-instance administrative authority fails to give a decision on a party's application within sixty days, the party may submit his or her application to the appellate administrative authority. Against the latter authority's decision the party may bring an action in the Administrative Court, and if the authority fails to give a decision, the party may bring an administrative action under the conditions set out in paragraph 1.

34. Section 42 (5) provides that when the Administrative Court, following the action for failure to respond, finds for the plaintiff, it shall either instruct the respondent administrative authority as to how to decide the case on points of law, or shall itself rule on the application (acting as a court of full jurisdiction under paragraph 2 of section 64).

35. Section 64 (1) provides that, in the execution of the judgment rendered under section 42 (5), the administrative authority shall issue its decision immediately but at the latest within 30 days. Otherwise, a party may by a special submission request it to do so. If the authority does not issue a decision within seven days following that request, a party may apply to the Administrative Court.

36. Section 64 (2) provides that if such an application is made, the Administrative Court shall first ask the administrative authority to give reasons for its omission. The authority shall reply immediately but at the latest within seven days. If the authority fails to do so, or if the reasons

given do not justify the failure to decide, the Administrative Court shall give a decision which will substitute the decision of the administrative authority.

B. The Constitutional Court's practice

37. In case no. U-III A/635/2004 of 25 November 2004, the Constitutional Court was seized under Section 63 of the Constitutional Court Act to examine the length of administrative proceedings instituted in July 1996 when the complainant had brought an action in the Administrative Court for the Ministry of Defence's failure to give a decision in his case. In October 1998 the Administrative Court ordered the Ministry to give a decision within 30 days. The Ministry gave a negative decision in July 1999. The complainant then brought a second administrative action, challenging that decision. In September 2000 the Administrative Court quashed the impugned decision and remitted the case. The Ministry again gave a negative decision and served it on the complainant in January 2004. On 18 February 2004 the complainant brought a third administrative action, which was dismissed by the Administrative Court in June 2004. At the same time on 25 February 2004 he lodged a constitutional complaint arguing that the Constitutional Court should, like the European Court of Human Rights, take into consideration the overall length of administrative proceedings when examining whether or not they exceeded a reasonable time.

38. Following its previous practice (decisions no. U-III-2467/2001 of 27 February 2002, and U-III A-3638/2003 of 18 February 2004), the Constitutional Court held that only the inactivity of the judicial authorities was relevant as constituting a breach of Article 29 § 1 of the Constitution. In its view it was not possible for proceedings before the administrative authorities to last an unreasonably long period of time because the statutes regulating those proceedings contained the presumption that if the administrative authorities failed to give a decision within the statutory time-limits the application was considered dismissed. The Constitutional Court therefore examined only the length of the proceedings between the introduction of the complainant's third action in the Administrative Court and the lodging of the constitutional complaint. It dismissed the constitutional complaint finding that the proceedings had lasted only seven days.

THE LAW

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

39. The applicants complained that the length of the first and the second set of proceedings had been incompatible with the “reasonable time” requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

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

40. The Government contested that argument.

A. Admissibility

1. *The parties’ arguments*

41. The Government invited the Court to reject the applicants’ complaint in respect of the second set of proceedings because they never complained about their length before the domestic authorities and thus failed to exhaust the available domestic remedies, as required under Article 35 § 1 of the Convention.

42. The applicants denied, without further substantiation, the Government’s argument.

2. *The Court’s assessment*

43. The Court does not find it necessary to examine the Government’s non-exhaustion objection, as the applicants’ complaint in respect of the second set of proceedings is in any event inadmissible for the following reasons.

44. The Court reiterates that it has to satisfy itself that it has jurisdiction in any case brought before it, and is therefore obliged to examine the question of its jurisdiction at every stage of the proceedings (see *Blečić v. Croatia* [GC], no. 59532/00, § 67, to be published in ECHR 2006). Thus, even though the Government in their observations raised no plea of inadmissibility concerning lack of jurisdiction *ratione materiae*, the Court nevertheless has to examine, of its own motion, whether Article 6 of the Convention is at all applicable to the proceedings complained of (see *Nylund v. Finland* (dec.), no. 27110/95, ECHR 1999-VI).

45. The Court points out that for Article 6 § 1 to be applicable under its “civil” head, there must be a “dispute” over a “right” which can be said, at least on arguable grounds, to be recognised under domestic law. In deciding whether a “right” could arguably be said to be recognised under the

domestic law, the Court must have regard to the wording of the relevant legal provisions and to the way in which these provisions are interpreted by the domestic courts (see *Nylund v. Finland*, cited above).

46. In this connection the Court observes that the applicants initiated the second set of proceedings by filing a petition to declare null and void the Fund's decision of 20 June 1994 on the grounds that they had not participated in the proceedings leading up to that decision. Such a petition represents an extraordinary remedy which may be used to challenge administrative decisions exclusively on one of the grounds listed in section 267 of the Administrative Procedure Act (see paragraph 29 above). That being so, the Court considers that the right claimed by the applicants, namely to have the Fund's decision declared null and void on the grounds of their non-participation in the proceedings, is not recognised, even on arguable grounds, under Croatian law (see *Gallo v. Slovakia*, no. 30900/96, Commission decision of 4 September 1996). Accordingly, Article 6 of the Convention is not applicable to the second set of proceedings. It follows that the applicants' complaint in respect of those proceedings is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4.

47. On the other hand, the Court notes that the applicants' complaint in respect of the first set of proceedings is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It also notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Period to be taken into consideration

48. The Court observes that the first administrative proceedings were instituted on 16 June 1997. However, the period to be taken into consideration began only on 18 April 2003 when the applicants appealed against the first-instance decision. It was then that a "dispute" within the meaning of Article 6 § 1 arose (see, for example, *Božić v. Croatia*, no. 22457/02, § 26, 29 June 2006, *Počuča v. Croatia*, no. 38550/02, § 30, 29 June 2006, and *Janssen v. Germany*, no. 23959/94, § 40, 20 December 2001).

49. Those proceedings are still pending. Thus, they have so far lasted five years and five months during which one decision on the merits has been adopted.

2. Reasonableness of the length of the proceedings

50. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case

and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Cocchiarella v. Italy* [GC], no. 64886/01, § 68, to be published in ECHR 2006, and *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

51. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see, for example, *G.S. v. Austria*, no. 26297/95, 21 December 1999).

52. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the first set of proceedings is excessive and fails to meet the “reasonable time” requirement.

There has accordingly been a breach of Article 6 § 1.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

53. The applicants further complained that they had not had an effective remedy in respect of the length of the above two sets of the administrative proceedings. They 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.”

54. The Government contested that argument.

A. Admissibility

55. In so far as the applicants’ complaint concerns the first set of proceedings, the Court notes that it is linked to the one examined above and must therefore likewise be declared admissible.

56. To the extent that the applicants’ complaint concerns the second set of proceedings, the Court reiterates that Article 13 does not contain a general guarantee of legal protection of all rights. It relates exclusively to those cases in which the applicant alleges, on arguable grounds, that one of his rights or freedoms set forth in the Convention has been violated. In this connection the Court refers to its above findings according to which the applicants’ complaint concerning the length of the second set of proceedings is outside its competence *ratione materiae*. It follows that this complaint is also incompatible *ratione materiae* with the provisions of the Convention

within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4.

B. Merits

1. The parties' arguments

57. The Government first submitted that, regardless of the fact that the Constitutional Court had dismissed the applicant's constitutional complaint, the applicants had successfully availed themselves of other remedies available to them for accelerating the part of the proceedings that was before the administrative authorities. In particular, on 27 October 2004 the Administrative Court granted their action for failure to respond and ordered the Ministry to decide on their appeal of 18 April 2003, and the Ministry had eventually done so.

58. Furthermore, given that the applicants' case is pending before the Administrative Court, the Government pointed out that if that court did not render a judgment within a reasonable time, the applicants had the possibility of addressing the Constitutional Court once again, which in accordance with its jurisprudence, sanctioned the excessive length of proceedings before the Administrative Court.

59. Relying on the Court's case-law (see *Božić v. Croatia*, cited above, § 35) – according to which even if a single remedy does not by itself entirely satisfy the requirement of effectiveness, the aggregate of remedies afforded by domestic law may do so – the Government deemed that the remedies to which they referred, taken in aggregate, met the requirement of effectiveness. Thus, the applicants had had an effective remedy for their complaint about the length of the first set of proceedings.

60. The applicants contested these arguments.

2. The Court's assessment

(a) As to the action for failure to respond

61. The Court notes that, following the applicants' action for failure to respond of 24 September 2003, the Administrative Court in its judgment of 27 October 2004 ordered the Ministry of Justice to decide on their appeal within thirty days (see paragraph 16 above). However, it was not until 15 February 2006 that the Ministry did so (see paragraph 17 above). That was more than one year and three months after 9 November 2004, the date on which the Administrative Court's judgment was served on the Ministry (see paragraph 16 above).

62. What is more, when the applicants, with a view to preventing the aforementioned delay, on 17 December 2004 addressed the Administrative

Court for the second time requesting it to decide on their appeal itself, that court declared their request inadmissible as being premature (see paragraphs 15-16 above). In doing so it held that its previous judgment of 27 October 2004 had only been served on the Ministry on 9 November 2004 and that therefore the applicant's request of 6 December 2004 urging the Ministry to decide on their appeal had been submitted too early. The Administrative Court held in this way despite the fact that the applicants could not possibly have known when the judgment of 27 October 2004 had been served on the Ministry, and despite the fact that on 9 March 2005, when it gave its decision declaring the applicants' request premature, it was clear that the Ministry had not complied with that court's order to decide the applicants' appeal within thirty days.

63. The Court therefore considers that in the instant case, where the Ministry failed to comply with the Administrative Court's judgment in a timely fashion and where that court, in a manner amounting to excessive formalism, declared inadmissible the applicants' subsequent request to sanction the behaviour of the Ministry, it cannot be argued, as the Government did, that "the applicants successfully availed themselves of other remedies available to them for accelerating the proceedings in their part before the administrative authorities."

(b) As to the constitutional complaint

64. The Court notes that the above-cited practice of the Constitutional Court (see paragraphs 37-38 above) indicates that the Constitutional Court, when deciding a constitutional complaint concerning the length of proceedings pending before the Administrative Court, does not take into consideration their overall duration as it excludes the period during which the case was pending before the administrative authorities. The Court reiterates in this connection that in its judgments in the *Božić* and *Počuča* cases it noted that that approach of the Constitutional Court differed from the one of the Court as it did not cover all stages of the proceedings. For that reason the Court held that a constitutional complaint alone could not be considered an "effective" remedy within the meaning of Articles 35 § 1 and 13 of the Convention in respect of the length of administrative proceedings (see *Božić v. Croatia*, cited above, §§ 34, 36 and 45, and *Počuča v. Croatia*, cited above, § 37). As the Government did not submit any evidence to the contrary, the Court sees no reasons to reach a different conclusion in the present case.

(c) As to the aggregate of remedies

65. Since, as already noted above (see paragraph 63 above) the applicants' action for failure to respond did not result in the acceleration of the part of the proceedings that was before the administrative authorities, the Court is unable to conclude, in the circumstances of the present case, that

this remedy could have increased the effectiveness of a constitutional complaint. As a constitutional complaint alone cannot be considered an effective remedy for the length of administrative proceedings (see paragraph 64 above), it follows that in the present case the applicants did not have an effective remedy for their complaint about the length of the first set of proceedings.

66. There has accordingly been a breach of Article 13.

III. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

67. Lastly, the applicants complained under Article 1 of Protocol No. 1 to the Convention that their right to respect for their property had been violated in that they had not been able to obtain the restitution of the plot of land which had been nationalised. Article 1 of Protocol No. 1 reads as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

68. The Court notes that the proceedings to determine the applicants’ claim for restitution of the land at issue (the first set of proceedings) are still pending. In these circumstances, the Court considers that it would be premature to take a position on the substance of this complaint (see, for example, *Kryszewicz v. Poland* (dec.), no. 77420/01, 29 November 2005, and *Wesołowska v. Poland* (dec.), no. 17949/03, 4 March 2008). It follows that this complaint is inadmissible as premature and must be rejected pursuant to Article 35 § 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

69. 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

70. The applicants claimed 328,500 euros (EUR) in respect of pecuniary damage and EUR 75,000 in respect of non-pecuniary damage.

71. The Government contested these claims.

72. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, it awards each applicant EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

73. The applicants also claimed 332,267 Croatian kunas (HRK) for the costs and expenses incurred before the domestic authorities.

74. The Government contested the claim.

75. 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 have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the applicants jointly the sum of EUR 660 for costs and expenses in the domestic proceedings, plus any tax that may be chargeable on that amount.

C. Default interest

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

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints concerning the excessive length of the first set of proceedings and the lack of an effective remedy in this respect admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that there has been a violation of Article 13 of the Convention;

4. *Holds*

(a) that the respondent State is to pay, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following amounts which are to be converted into Croatian kunas at a rate applicable at the date of settlement:

(i) to each applicant EUR 3,000 (three thousand euros) in respect of non-pecuniary damage;

(ii) to the applicants jointly EUR 660 (six hundred and sixty euros) in respect of costs and expenses;

(iii) any tax that may be chargeable to the applicants on the above amounts;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 16 October 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Christos Rozakis
President