



Fishermen's applications connected to Piran Bay dispute found inadmissible

In its decision in the case of [Chelleri and Others v. Croatia](#) (applications nos. 49358/22, 49562/22 and 54489/22) the European Court of Human Rights has unanimously declared the applications inadmissible. The decision is final.

The case concerned the applicants' (all fishermen) convictions for minor offences by the Croatian courts for activities in maritime waters claimed both by Croatia and Slovenia.

The Court held that it did not have jurisdiction to rule on the validity and legal effects of the 2017 arbitration award which set out the maritime boundary between the two countries.

As, among other indicators, under Croatian law the maritime boundary was set out clearly, the applicants could not have been unaware that their conduct in the disputed waters would constitute minor offences under the applicable Croatian legislation. The applications were therefore manifestly ill-founded and **inadmissible**.

A total of 451 applications have been lodged by Slovenian nationals (and one company) against Croatia in respect of minor-offence proceedings conducted against them in that country on account of their activities in the waters in question. Concurrently, there are also over 800 applications on the Court's docket lodged by Croatian nationals against Slovenia in respect of minor-offence proceedings conducted against them in Slovenia regarding their activities in the waters concerned.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicants, Rene Chelleri, Robert Radolovič and Jan Virant are Slovenian nationals who were born in 1993, 1965 and 1998, respectively. They live in Izola (Slovenia).

Background

Following Croatia's and Slovenia's independence from Yugoslavia in 1991, the two countries moved to establish their common boundary. They were unable to reach agreement over Piran Bay: Slovenia asserted that it had sovereignty over the entire bay, to ensure its access to the "high seas" in the Adriatic; Croatia claimed that the maritime boundary should be at the equidistance line between the two States' shores.

In 2009, the States signed an arbitration agreement, following which Slovenia lifted its reservations to Croatia's accession to the European Union. In 2014 the Croatian authorities began warning Slovene fishing vessels that they were in the territorial waters of Croatia and told them to leave. Owing to unofficial communications between the arbitrator appointed by Slovenia and that State's agent before the arbitral tribunal, in July 2015, Croatia withdrew from the arbitration agreement. In 2016 the arbitral tribunal ruled that Croatia was not entitled to terminate the arbitration agreement.

In 2017 the arbitral tribunal set the maritime boundary, awarding three quarters of Piran Bay to Slovenia, the remainder to Croatia, ruling that the line in between constituted the boundary between the internal waters of the two countries. It further established the course of the boundary between the territorial seas of the two countries and also established a corridor ("junction") between the territorial sea of Slovenia and an area beyond the territorial seas of Croatia and Italy. The Croatian authorities stated this award had no effect for Croatia.

In a case taken by Slovenia to the Court of Justice of the European Union against Croatia, the court stated in January 2020 that it did not have jurisdiction to rule on the action.

The applicants

The three applicants are fishermen who were found guilty of minor offences by the Croatian courts with respect to their activities in the disputed maritime area. The offences concerned, among other things, entering Croatian territorial sea without complying with border procedures, and commercial fishing without a valid fishing privilege issued by Croatia.

Complaints, procedure and composition of the Court

The applications were lodged with the European Court of Human Rights on 15 October and 16 November 2022.

Relying on Article 7 (no punishment without law), the applicants complained that the actions and omissions for which they had been convicted could not have constituted offences under Croatian law as they had not occurred within Croatian territory.

The Government of Slovenia exercised their right to intervene in the case.

The decision was given by a Chamber of seven judges, composed as follows:

Arnfinn **Bårdsen** (Norway), *President*,
Pauliine **Koskelo** (Finland),
Frédéric **Krenc** (Belgium),
Diana **Sârcu** (the Republic of Moldova),
Lorraine **Schembri Orland** (Malta),
Saadet **Yüksel** (Türkiye), *judges*
Elizabeta **Ivičević Karas** (Croatia), *ad hoc judge*,

and also Hasan **Bakırcı**, *Section Registrar*.

Decision of the Court

The Court began by noting that the minor offences of which the applicants had been convicted were of a criminal character and therefore came under the umbrella of Article 7.

It stated that the applicants' complaint was based on the assertion that the maritime boundary between Croatia and Slovenia had been set by the 2017 arbitration award. The applicants implicitly sought a finding that Croatia had breached international law and the Convention in failing to observe the border established in that award. In this connection, the Court reiterated that the Convention should be interpreted by taking account of international law where possible. However, the task of the Court was not to review compliance with international instruments, but with the Convention.

It noted that Croatia had withdrawn from the arbitration proceedings and had contested the validity of the arbitration award. It also noted that the arbitration award had not come into effect in Croatia. It was not for the Court to rule on the validity of Croatia's withdrawal or the validity and legal effects of the arbitration award, as those questions fell outside its competence.

The Court noted that the extent of Croatia's maritime waters is precisely defined in Croatian law, with the maritime border in Piran Bay being at the equidistance line. The Court therefore found no basis for the applicants' argument that they could not have foreseen the legal consequences of their conduct in the disputed waters as delimited by Croatia. This was further supported by the dispute between the two States being widely known, the fact that many such minor offences have been established, and warnings by Croatian authorities to Slovenian fishermen since 2014.

In the light of these findings, the Court declared the applications inadmissible as manifestly ill-founded.

The decision is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.