



Forthcoming Grand Chamber judgment on Croatian Supreme Court's refusal to consider an appeal in a property claim

The European Court of Human Rights will be delivering a **Grand Chamber** judgment¹ in the case of **Zubac v. Croatia** (application no. 40160/12) at a public hearing on 5 April 2018 at 4 p.m. in the Human Rights Building, Strasbourg.

The case concerns Ms Zubac's complaint that she was denied access to Croatia's Supreme Court in a property claim. The Supreme Court refused to hear her appeal, on the grounds that the value of her claim was below the statutory threshold.

Principal facts and complaints

The applicant, Vesna Zubac, is a Bosnia and Herzegovina national who was born in 1959 and lives in Bijela (the Republic of Montenegro).

In September 1992, Ms Zubac's father-in-law concluded a contract for the exchange of his house in Dubrovnik (the Republic of Croatia) for one in Trebinje (Bosnia and Herzegovina). After his death, his son and Ms Zubac's husband brought a civil action in the Dubrovnik Municipal Court in August 2002, seeking to declare the contract null and void on the basis that it was signed under duress, due to circumstances arising from the war in Croatia. During the proceedings, Ms Zubac's husband increased the value of the subject matter of the dispute from 10,000 Croatian kunas (HRK – approximately 1,300 euros (EUR) at the time) to HRK 105,000 (approximately EUR 14,160 at the time), which was opposed by the defendants.

The court dismissed the claim in September 2005, ordering the claimants to pay the litigation costs and the expenses of the defendants, according to the increased value of the subject matter of the dispute. Since an appeal to the Dubrovnik County Court was also dismissed, Ms Zubac's husband lodged an appeal on points of law with the Supreme Court of Croatia. Further proceedings were taken over by Ms Zubac, after her husband passed away.

In March 2011 the Supreme Court rejected the appeal, declaring that the value of the subject matter of the dispute was below the statutory threshold. Notably, the Supreme Court considered that the relevant value of the claim under consideration was the value stated on the claim documents (HRK 10,000), rather than the value that was upheld by the first and second instance courts (HRK 105,000). As the threshold value for making an appeal was HRK 100,000, the Supreme Court ruled the application inadmissible. A subsequent complaint made by Ms Zubac to the Constitutional Court was declared inadmissible in November 2011.

Relying on Article 6 § 1 (access to court) of the European Convention on Human Rights, Ms Zubac complains in particular that she was prevented from having access to the Supreme Court of Croatia.

Procedure

The application was lodged with the European Court of Human Rights on 30 May 2012.

1. Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

In its Chamber [judgment](#) of 11 October 2016, the European Court held, by four votes to three, that there had been a violation of Article 6 § 1 (access to court) of the Convention. The Chamber found that the Supreme Court had applied the rules concerning the statutory minimum for lodging an appeal in an excessively formalistic manner and that this had been contrary to the general principle of procedural fairness inherent in Article 6.

On 6 March 2017 the Grand Chamber Panel accepted the Croatian Government's request that the case be referred to the Grand Chamber. A Grand Chamber hearing was held in Strasbourg on 12 July 2017.

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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.