



Croatian Supreme Court change to way it applied law in property inheritance claim was in line with European Convention

In today's **Chamber** judgment¹ in the case of [Jureša v. Croatia](#) (application no. 24079/11) the European Court of Human Rights held, by a majority, that there had been:

no violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights.

The case concerned Ms Jureša's complaint that she had not been allowed to appeal to the Supreme Court in a property inheritance dispute.

The Court observed that the Supreme Court had declared Ms Jureša's appeal on points of law inadmissible because the value of the dispute had not reached the necessary legal threshold. That decision had been a reversal of previous Supreme Court case-law on such issues.

The Court found that such changes in case-law, involving the interpretation and application of legislation, were within the discretion of domestic courts, in the absence of arbitrariness and where not manifestly unreasonable. As that had been the case in this application, there had been no violation of Ms Jureša's rights.

Principal facts

The applicant, Ivana Jureša, is a Croatian national who was born in 1977 and lives in Osijek (Croatia).

A relative of Ms Jureša's went to court in October 2007 to have a share of a property they had both inherited registered in his name. He set the value of the dispute at 110,000 Croatian kunas. The first-instance court ruled in favour of the relative in April 2008, which was upheld on appeal.

Ms Jureša lodged an appeal on points of law in November 2009, but in May 2010 the Supreme Court declared it inadmissible as the value of the dispute was below the threshold of 100,001 kunas (about 13,300 euros) for such appeals. It found that the dispute involved two separate claims, one for recognition of ownership and the other for obtaining an order to register his ownership in the land register (issuance of a *clausula intabulandi*).

The Supreme Court therefore found that each claim was worth half of the initial total amount, and that therefore both were below the threshold. In February 2011 the Constitutional Court dismissed an appeal by Ms Jureša, who argued that her relative's claims had two aspects that could not be separated and that the Supreme Court's decision had been arbitrary.

Complaints, procedure and composition of the Court

Relying on Article 6 § 1 (right to a fair trial), the applicant complained that she had been deprived of access to the Supreme Court.

The application was lodged with the European Court of Human Rights on 23 March 2011.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

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

Işıl **Karakaş** (Turkey), *President*,
 Nebojša **Vučinić** (Montenegro),
 Paul **Lemmens** (Belgium),
 Valeriu **Griţco** (the Republic of Moldova),
 Ksenija **Turković** (Croatia),
 Jon Fridrik **Kjølbro** (Denmark),
 Georges **Ravarani** (Luxembourg),

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Article 6 § 1

The Court noted that the crux of the case was how Croatia's Supreme Court interpreted section 37(2) of the Civil Procedure Act, which stated in particular that claims resulting from a variety of grounds had to be valued in line with the value of each claim.

When Ms Jureša had lodged her appeal on points of law in February 2009, the Supreme Court had treated actions like her relative's, involving a request for recognition of title and registration, as one claim. However, from February 2010, the Supreme Court had begun to apply the law differently, considering that such actions consisted of two separate claims. That interpretation appeared to have remained the practice after May 2010.

The Supreme Court's decision in Ms Jureša's case had therefore been a reversal of its own case-law rather than an example of divergent approaches to the law, which could create legal uncertainty.

The Court reiterated that such changes in approach, when not arbitrary or manifestly unreasonable, were within the discretion of domestic courts, all the more so in countries like Croatia, where there was a system of written law and where courts were in theory not bound by precedent. In the circumstances of the case, there had been no violation of Ms Jureša's rights.

Separate opinions

Judges Karakas, Turković and Vučinić expressed a joint dissenting opinion. Judge Lemmens expressed a concurring opinion. These opinions are annexed to the judgment.

The judgment 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.