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

FIRST SECTION

DECISION

Application no. 16440/21
Anđa ARULA and Jadranka BJEDOV
against Croatia

The European Court of Human Rights (First Section), sitting on 18 September 2025 as a Committee composed of:

Erik Wennerström, *President*
Davor Derenčinović,
Alain Chablais*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 16440/21) 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") on 17 March 2021 by two Croatian nationals, Ms Anđa Arula and Ms Jadranka Bjedov ("the applicants"), who were born in 1970 and 1964 respectively, live in Belgrade and were represented by Ms S. Čanković, a lawyer practising in Zagreb;

the decision to give notice of the complaints under Articles 2, 13 and 14 of the Convention, concerning the investigation into the applicants' father's killing, to the Croatian Government ("the Government"), represented by their Agent, Ms Š. Stažnik, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the alleged lack of an effective investigation into the applicants' father's killing which occurred in August 1995.

A. Background to the case

2. During 1991 and 1992 Serbian paramilitary forces gained control of about a third of the territory of Croatia and proclaimed the "Serbian Autonomous Region of Krajina". At the beginning of August 1995, the Croatian authorities announced their intention to take military action with the aim of regaining control over Krajina. The operation was codenamed "Storm" and took place from 4 to 7 August 1995.

3. The Croatian authorities regained control over the city of Knin and the nearby village of Golubić on 5 August 1995.

4. On 5 November 1997 Croatia ratified the Convention.

B. Investigation

5. The applicants' father (a person of Serbian ethnicity) was killed on 6 August 1995 near his house in Golubić. On 8 August 1995 the Zadar-Knin Police Department drew up a list of bodies found the previous day, among which that of the applicants' father. He was buried in Knin cemetery.

6. In 2005 an autopsy was performed, and it was established that the applicants' father had died from a gunshot wound to his head.

7. In 2016 the Šibenik County State Attorney's Office started investigating the applicants' father's killing, together with a number of other killings of persons of Serbian ethnicity in August 1995 in the Knin area.

8. In 2020 the investigation was transferred to the Split County State Attorney's Office.

9. The investigation is ongoing, the authorities most notably questioning the commanders and members of the 4th and 7th Croatian army brigades, which were deployed in Golubić and Knin during the operation "Storm".

C. Civil proceedings against the State

10. In 2007 the applicants lodged a civil action for damages against the State, submitting that their father had been killed by members of the Croatian armed forces, for which the State was liable under the Act on the liability of the Republic of Croatia for damage caused by members of the Croatian army and police in the performance of their duties during the Homeland War (the relevant provisions are outlined in *Bursać and Others v. Croatia*, no. 78836/16, § 32, 28 April 2022).

11. The domestic courts, including the Supreme Court, dismissed the claim, finding that it had been lodged outside the statutory time-limit.

12. In their constitutional complaint lodged by their lawyer in May 2019 against the Supreme Court's judgment, the applicants complained under Article 6 of the Convention about the application of the statutory limitation period to their civil claim. They also referred to the procedural obligation of

the State under Article 2 of the Convention to effectively investigate killings and stated that the killing of their father had triggered that procedural obligation. However, they did not allege that there had been a violation of that procedural obligation but complained that the killing of their father had breached Article 2 of the Convention.

13. On 30 September 2020 the Constitutional Court dismissed the applicants' constitutional complaint as unfounded, holding that the civil courts' decisions were not arbitrary. It did not pronounce itself on a possible breach of Article 2 of the Convention. The decision was served on the applicants' representative on 15 October 2020.

D. Complaints before the Court

14. The applicants complained that the domestic authorities had failed to effectively investigate the killing of their father, in breach of Articles 2, 13 and 14 of the Convention.

15. In their further submission to the Court dated 24 August 2023, they also alleged violations of Article 6 of the Convention and Article 1 of Protocol No. 1, without specifying on which grounds.

THE COURT'S ASSESSMENT

A. Alleged violation of Articles 2, 13 and 14 of the Convention

16. The Court, being master of the characterisation to be given in law to the facts of the case, will examine the complaint concerning the domestic authorities' failure to effectively investigate the killing of the applicants' father under the procedural aspect of Article 2 of the Convention alone (compare *M. and Others v. Croatia*, no. 50175/12, § 52, 2 May 2017, and *Zdjelar and Others v. Croatia*, no. 80960/12, § 51, 6 July 2017).

17. The Government objected, *inter alia*, that the applicants had failed to exhaust domestic remedies in that they had brought the complaint for the first time before the Court. Relying on *Marić v. Croatia* ((dec.), no. 37333/17, 10 November 2020) and *Pjevač and Others v. Croatia* ((dec.) [Committee], nos. 31646/17 and 3207/19, 22 February 2022), they argued that, since the investigation into their father's killing was still ongoing, the applicants should have lodged another constitutional complaint and complained about the ineffectiveness of the investigation.

18. The applicants made no comment in reply to this objection.

19. The Court observes that in 2019 the applicants lodged a constitutional complaint against the domestic courts' decisions rendered in the civil proceedings for damages they had instituted against the State in connection with their father's killing (see paragraph 12 above). At that time a constitutional complaint had already become an effective domestic remedy

for complaints concerning ineffective investigations under Articles 2 and 3 of the Convention (see *Kušić and Others v. Croatia* (dec.), no. 71667/17, §§ 93 and 99, 10 December 2019).

20. However, although in their constitutional complaint the applicants referred to the procedural obligation of the State under Article 2 of the Convention to effectively investigate killings and stated that the killing of their father had triggered that procedural obligation, they did not allege that there had been a violation of that procedural obligation but instead only complained that the killing itself had breached Article 2 of the Convention. In other words, they only alleged a violation of the substantive aspect of Article 2, a complaint which they have not maintained before the Court, and which would in any event fall outside of the Court's temporal jurisdiction, as the killing occurred in 1995, and Croatia ratified the Convention in 1997 (compare, for factual circumstances, *J. and Others v. Croatia* (dec.) [Committee], nos. 32343/16 and 750/17, § 28, 26 May 2020).

21. In that connection, the Court reiterates that the mere fact that an applicant has submitted his or her case to the relevant court does not of itself constitute compliance with the requirements of Article 35 § 1 of the Convention, as even in those jurisdictions where the domestic courts are able, or even obliged, to examine a case of their own motion, applicants are not dispensed from the obligation to raise before them a complaint subsequently made to the Court. Thus, in order to properly exhaust domestic remedies, it is not sufficient for a violation of the Convention to be "evident" from the facts of the case or from the applicant's submissions. Rather, the applicant must actually have complained (expressly or in substance) about it in a manner that leaves no doubt that the same complaint that is subsequently submitted to the Court was indeed raised at the domestic level (see *Peacock v. the United Kingdom* (dec.), no. 52335/12, § 38, 5 January 2016, and *Hernadi v. Croatia* (dec.), no. 29998/15, § 92, 3 September 2019).

22. Accordingly, the Court upholds the Government's objection and rejects the applicants' ineffective investigation complaint under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

23. By way of observation, the Court notes that it is open to the applicants to lodge a new constitutional complaint and make a proper complaint under the procedural aspect of Article 2 of the Convention on the ground that the investigation into their father's killing is ongoing since 2016 (see paragraph 9 above). It would then be for the Constitutional Court – in line with the High Contracting Parties' primary responsibility to secure the rights and freedoms defined in the Convention and its Protocols (see the preamble of the Convention) – to examine such a complaint in accordance with the relevant criteria established by the Court (summarised in, for instance, *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, §§ 172-81, 14 April 2015; notably, to verify whether the domestic authorities made a genuine attempt to

thoroughly examine the matter, establish the facts and, if necessary, bring those responsible to account).

24. The Court also notes that under national law close relatives of a victim may seek information about the progress of an investigation and to ask for leave to consult the case file (see *Ćosić v. Croatia* (dec.) [Committee], no. 68879/14, § 22, 14 March 2017).

B. Alleged violations of Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention

25. The Court reiterates that, while nothing prevents an applicant from raising a new complaint in the course of the proceedings before the Court, such a complaint must, like any other, comply with the admissibility requirements (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 135, 20 March 2018).

26. The Court notes in that regard that the applicants alleged violations of Article 6 of the Convention and Article 1 of Protocol No. 1 for the first time in their submission of 24 August 2023 (see paragraph 15 above), that is, more than six months[1] after the domestic proceedings in their case had ended (see paragraph 13 above).

27. It follows that these complaints have been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 9 October 2025.

Liv Tigerstedt Deputy Registrar	Erik Wennerström President

[1] Protocol No. 15 to the Convention has shortened to four months from the final domestic decision the time-limit provided for by Article 35 § 1 of the Convention. However, in the present case the six-month period still applies, noting that the final domestic decision was taken prior to 1 February 2022, date of entry into force of the new rule (pursuant to Article 8 § 3 of Protocol No. 15 to the Convention).