

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

SECOND SECTION

CASE OF ANIĆ v. CROATIA

(Application no. 59732/18)

JUDGMENT

STRASBOURG

11 July 2023

This judgment is final but it may be subject to editorial revision.



In the case of Anić v. Croatia,

The European Court of Human Rights (Second Section), sitting as a Committee composed of:

Pauliine Koskelo*, President*,
Lorraine Schembri Orland,
Davor Derenčinović*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 59732/18) 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 14 December 2018 by a Croatian national, Mr Vladimir Anić ("the applicant"), who was born in 1958 and lives in Rijeka and who was represented by Mr G. Marjanović, a lawyer practising in Rijeka;

the decision to give notice of the complaint concerning the applicant's absence from the session of the appeal panel in the criminal proceedings against him to the Croatian Government ("the Government"), represented by their Agent, Ms Š. Stažnik, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 20 June 2023,

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

SUBJECT MATTER OF THE CASE

1. The case concerns criminal proceedings against the applicant on charges of lewd acts.

2. On 17 March 2017 the first-instance court found the applicant guilty as charged and sentenced him to six months' imprisonment, suspended for one year. In his appeal, the applicant challenged the factual and legal grounds for his conviction and sentence and requested that he and his lawyer be present at the session of the appeal panel.

3. The appellate court held a session without informing the applicant or his lawyer of it and on 4 July 2017 upheld the first-instance court's judgment.

4. On 17 October 2018 the Constitutional Court declared the applicant's subsequent constitutional complaint inadmissible for being manifestly ill-founded.

5. Before the Court, the applicant complained that he had not been given an opportunity to be present at the session of the appeal panel in the criminal proceedings against him, in breach of Article 6 §§ 1 and 3 (c) of the Convention.

THE COURT'S ASSESSMENT

6. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

7. The Court has repeatedly found violations of Article 6 §§ 1 and 3 (c) of the Convention on account of applicants not being allowed to be present at the session of the appeal panel in the criminal proceedings against them (see, for instance, *Zahirović v. Croatia,* no. 58590/11, §§ 58-64, 25 April 2013; *Lonić v. Croatia*, no. 8067/12, §§ 94-102, 4 December 2014; *Arps v. Croatia*, no. 23444/12, §§ 24-29, 25 October 2016; *Bosak and Others v. Croatia*, nos. 40429/14 and 3 others, §§ 105-109, 6 June 2019, and *Kobaš v. Croatia* [Committee], no. 27228/14, §§ 17-19, 4 October 2018).

8. In the cases cited the Court has already addressed all the particular arguments put forward by the Government in the present case. Having examined all the material submitted to it, the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case.

9. The Court notes that, meanwhile, the amendments made to the relevant domestic law in the wake of the *Arps* judgment removed the source of the issue arising in the present case (see *Romić and Others v. Croatia*, nos. 22238/13 and 6 others, § 68, 14 May 2020).

10. There has accordingly been a violation of Article 6 §§ 1 and 3 (c) of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

11. The applicant claimed 5,000 euros (EUR) in respect of non-pecuniary damage and EUR 1,500 in respect of costs and expenses incurred before the Court.

12. The Government contested these claims.

13. The Court awards the applicant EUR 1,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

14. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 1,500 in respect of costs and expenses of the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 6 §§ 1 and 3 (c) of the Convention;

3. *Holds,*

(a) that the respondent State is to pay the applicant, within three months, the following amounts:

(i) EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(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;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 11 July 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim Deputy Registrar	Pauliine Koskelo President