

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

SECOND SECTION

CASE OF BALICKI v. CROATIA

(Application no. 71300/16)

JUDGMENT

STRASBOURG

9 February 2023

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



In the case of Balicki v. Croatia,

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

Frédéric Krenc*, President*,
Diana Sârcu,
Davor Derenčinović*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 19 January 2023,

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

PROCEDURE

1. The case originated in an application against Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 25 November 2016.

2. The applicant was represented by Ms L. Horvat, a lawyer practising in Zagreb.

3. The Croatian Government ("the Government") were given notice of the application.

THE FACTS

4. The applicant's details and information relevant to the application are set out in the appended table.

5. The applicant complained of the excessive length of civil proceedings. He also raised other complaints under the provisions of the Convention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

6. The applicant complained that the length of the civil proceedings he instituted against the State with a view to obtaining compensation for inadequate conditions of his detention had been incompatible with the "reasonable time" requirement. He relied on Article 6 § 1 of the Convention, which, insofar as relevant, reads as follows:

> "In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

7. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for

the applicant in the dispute (see *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

8. In the leading cases of *Kirinčić and Others v. Croatia,* no. 31386/17, 30 July 2020, and *Mirjana Marić v. Croatia,* no. 9849/15, 30 July 2020, the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the proceedings at the national level. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

10. This complaint is therefore admissible and discloses a breach of Article 6 § 1 of the Convention.

II. REMAINING COMPLAINTS

11. The applicant also complained under Article 3 of the Convention of the inadequate conditions of his detention, and under Article 13 that the domestic remedies available to him in that regard had been ineffective in his case.

12. The Court finds that the applicant has availed himself of the available compensatory remedy, obtained an acknowledgment of the violation of his right under Article 3 of the Convention and appropriate redress at domestic level. He therefore can no longer claim to be a victim of the violation complained of under Article 3 of the Convention, as required by Article 34 of the Convention.

13. Accordingly, his related complaint under Article 13 is manifestly ill-founded within the meaning of Article 35 § 3 (a).

14. It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

16. Regard being had to the documents in its possession and to its case-law (see, in particular, *Kirinčić and Others v. Croatia,* no. 31386/17, §§ 20-28, 30 July 2020, and *Mirjana Marić v. Croatia,* no. 9849/15, §§ 98-104, 30 July 2020), the Court considers it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the excessive length of civil proceedings admissible and the remainder of the application inadmissible;

2. *Holds* that this complaint discloses a breach of Article 6 § 1 of the Convention concerning the excessive length of civil proceedings;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amounts indicated in the appended table, at the rate applicable at the date of settlement;
   (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.

Done in English, and notified in writing on 9 February 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Frédéric Krenc
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention (excessive length of civil proceedings)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Relevant starting date	End of proceedings	Total length Levels of jurisdiction	Amount awarded for non-pecuniary damage[1]	Amount awarded for costs and expenses[2]
71300/16 25/11/2016	**Nenad BALICKI** 1977	Horvat Lidija Zagreb	05/06/2013	08/06/2022	9 years 4 levels of jurisdiction	900	250

[1] Plus any tax that may be chargeable to the applicant.
[2] Plus any tax that may be chargeable to the applicant.