

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

FIRST SECTION

CASE OF BRLETIĆ v. CROATIA

(Application no. 42009/10)

JUDGMENT

STRASBOURG

16 January 2014

FINAL

16/04/2014

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Brletić v. Croatia,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Isabelle Berro-Lefèvre, *President,*
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Linos-Alexandre Sicilianos,
Erik Møse,
Ksenija Turković,
Dmitry Dedov, *judges,*

and Søren Nielsen, *Section Registrar,*

Having deliberated in private on 17 December 2013,

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

PROCEDURE

1. The case originated in an application (no. 42009/10) 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") by a Croatian national, Ms Ana Brletić ("the applicant"), on 23 June 2010.

2. The applicant was represented by Mr J. Doneski, a lawyer practising in Garešnica. The Croatian Government ("the Government") were represented by their Agent, Ms Š. Stažnik.

3. The applicant alleged that the domestic courts had failed to observe the *res judicata* principle and had thus violated her right to a fair trial under Article 6 § 1 of the Convention.

4. On 5 September 2011 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1954 and lives in Veliki Grđevac.

6. Between 1979 and 15 January 1999 the applicant's husband, E.B., worked for company V.S., also in Veliki Grđevac.

7. On 15 March 1999 he lodged a civil action against company V.S. in the Daruvar Municipal Court (*Općinski sud u Daruvaru*), seeking payment

of salary arrears and other benefits allegedly owed to him for the period May 1998 to January 1999.

8. He died on 14 June 2000. The applicant and their two children were declared his successors.

9. On 21 May 2002 the Daruvar Municipal Court, on the basis of an accounting expert report commissioned during the proceedings, found that the applicant's husband had not received his full salary for the period May 1998 to January 1999. It therefore ordered company V.S. to pay the applicant's husband's family the sum of 24,540.81 Croatian kunas (HRK) on account of his salary arrears, together with any statutory default interest accruing from that date.

10. On 12 September 2002 the Bjelovar County Court (*Županijski sud u Bjelovaru*), acting in its appellate capacity, dismissed an appeal by company V.S. and upheld the Daruvar Municipal Court's judgment which thereby became final. As regards company V.S.'s arguments that the first-instance court erred in its findings as to the amount of salary arrears and other benefits owned to the applicant's husband and that it had failed to take into account the fact that certain amount had been paid to the applicant's husband's creditors directly from his salary, the Bjelovar County Court noted:

> "In the impugned judgment ... the first-instance court found that the defendant had had no relevant criteria for the reduction of salaries and that such reduction had been arbitrary and unlawful, and therefore it correctly found that the salary should be granted in the amount before the unlawful reduction.
>
> ...
>
> In its appeal the defendant also submits unfounded arguments that the first-instance court made it to pay 50,00 Kunas of monthly fees which had been paid to the Croatian Veterinary Chamber. [However] this portion of the salary was taken into account by the accounting expert and the defendant was not obliged to pay that amount."

11. On 4 and 15 October 2002 the company paid the judgment debt.

12. Approximately three years later, on 8 September 2005 the company brought a civil action for unjust enrichment against the applicant as her late husband's successor in the Grubišno Polje Municipal Court (*Općinski sud u Grubišnom Polju*), seeking payment of HRK 23,093.17.

13. The company argued that the sum claimed represented a portion of the applicant's husband's salary for the period May 1998 to January 1999, together with statutory default interest, that had been paid twice. It explained that it had been paying him a reduced salary in that period because before paying him his net salary it had deducted certain amounts and paid them directly to his creditors with a view to satisfying claims they had against him. However, this fact had not been taken into account in the previous civil proceedings instituted by the applicant's husband even though it had been specified in the accounting expert report commissioned during the proceedings. Given that the Daruvar Municipal Court's judgment of

21 May 2002 had required the company to pay a portion of the applicant's husband's salary it had already paid to his creditors, it had actually paid the same amount twice.

14. During the proceedings the applicant argued that the sum claimed by company V.S. had been paid in accordance with the Daruvar Municipal Court's final judgment of 21 May 2002, which had never been set aside. She also pointed out that the company had already raised the same arguments in its appeal against the judgment but they had been dismissed by the appellate court and had thus represented a *res judicata*.

15. On 22 December 2005 the Grubišno Polje Municipal Court dismissed company V.S.'s action. It found that the amount claimed had formed part of the amount the company had paid in accordance with the Daruvar Municipal Court's final and enforceable judgment of 21 May 2002, which had never been set aside. There were therefore two different legal bases for payment of the amount claimed, namely the debt claims of the applicant's husband's creditors during his employment and the Daruvar Municipal Court's final and enforceable judgment of 21 May 2002.

16. On 20 June 2006, upon an appeal by company V.S., the Bjelovar County Court quashed the first-instance judgment and ordered that the case be reheard on the grounds that the Grubišno Polje Municipal Court had misinterpreted the relevant domestic law concerning unjust enrichment.

17. The proceedings resumed and on 15 February 2008 the Grubišno Polje Municipal Court found for company V.S., ordering the applicant to pay it HRK 22,143.17 together with any statutory default interest accruing from that date and the costs and expenses of the proceedings in the amount of HRK 19,301.86. The court held that an accounting expert report commissioned during the proceedings showed that the Daruvar Municipal Court had erroneously calculated the portion of the applicant's husband's salary company V.S. had been obliged to pay. It resulted in company V.S. paying the same debt twice; firstly to the applicant's husband's creditors during his employment and secondly in accordance with the Daruvar Municipal Court's final judgment.

18. On 27 March 2008 the applicant lodged an appeal with the Bjelovar County Court, reiterating that payment of the amount in question had been made in accordance with the Daruvar Municipal Court's judgment of 21 May 2002 which had never been set aside, and that there had been no legal basis for ordering her to repay that amount.

19. On 11 September 2008 the Bjelovar County Court dismissed the applicant's appeal and upheld the first-instance judgment. The court endorsed the findings of the Grubišno Polje Municipal Court that the courts in the civil proceedings instituted by the applicant's husband had failed to take into account the fact that he had not been paid his full salary for the period May 1998 to January 1999 because a portion of it had been paid

directly to his creditors to satisfy their claims against him. The relevant part of the second-instance judgment reads as follows:

> " ... On account of this error, which the claimant unsuccessfully referred to in those proceedings, the claimant was ordered ... to pay E.B. a portion of [his] salary [that had] already been paid.
>
> ... the first-instance court therefore correctly found that the present case did indeed concern the double payment of the same debt, [the] double payment of a portion of E.B.'s salary ..., the first time voluntarily, and the second time on the basis of a final judgment. The first-instance court therefore correctly applied section 212 of the Obligations Act to the present case.
>
> The arguments raised in the appeal that the present case concerns an already adjudicated [*res judicata*] issue ... and that the claimant's claim is time-barred, are unfounded.
>
> In order for an already adjudicated [*res judicata*] issue to be considered there has to be a subjective and objective identity between the disputes. [However] ... between the present case and the one examined before the Daruvar Municipal Court ... there is no objective similarity. This is because they neither concern the same claims nor are those claims based on the same facts; [the first case] concerned a claim for payment of a difference in salary and was based on allegations of unlawful reduction of salary by an employer, whereas in the present case the claim is based on factual allegations of double payment of the same debt."

20. On 30 October 2008 the applicant lodged a constitutional complaint with the Constitutional Court (*Ustavni sud Republike Hrvatske*) alleging violations of her constitutional rights to equality before the law, equality before the courts and fair hearing, and reiterating her previous arguments.

21. On 1 April 2010 the Constitutional Court declared the applicant's constitutional complaint inadmissible as manifestly ill-founded. The Constitutional Court noted:

> "In the civil proceedings at issue the appellant (defendant in those proceedings) was ordered to pay the plaintiff, company V.S., the amount of 22,143.17 Kunas together with the statutory default interest. The remainder of the claim was dismissed.
>
> The [lower] courts found that the plaintiff had paid the same debt twice (portion of the salary in the period May 1998 to January 1999) to the appellant's predecessor (E.B., who had been employed with the plaintiff) and that therefore, under section 212 of the Obligations Act, it was entitled to request the repayment of that amount under the rules on enrichment without cause.
>
> In her constitutional complaint the appellant challenges the application of the relevant law by the [lower] courts, reiterating the arguments which she raised during the civil proceedings and which were duly addressed by the competent courts.
>
> In her constitutional complaint, the appellant was unable to show that the competent courts had acted contrary to the constitutional provisions concerning human rights and fundamental freedoms or had arbitrarily interpreted the relevant statutory provisions. The Constitutional Court therefore finds that the present case does not raise an issue of the complainant's constitutional rights. Thus, there is no constitutional law issue in the case for the Constitutional Court to decide on. ... "

22. The decision of the Constitutional Court was served on the applicant's representative on 11 May 2010.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Relevant domestic law

1. Constitution of the Republic of Croatia

23. The relevant provision of the Constitution of the Republic of Croatia (*Ustav Republike Hrvatske*, Official Gazette nos. 56/1990, 135/1997, 8/1998, 113/2000, 124/2000, 28/2001, 41/2001, 55/2001, 76/2010, 85/2010) reads as follows:

Article 29

"In the determination of his rights and obligations or of any criminal charge against him, everyone is entitled to a fair hearing within a reasonable time by an independent and impartial court established by law."

2. Civil Procedure Act

24. The relevant provision of the Civil Procedure Act (*Zakon o parničnom postupku*, Official Gazette nos. 53/1991, 91/1992, 58/1993, 112/1999, 88/2001, 117/2003, 88/2005, 2/2007, 84/2008, 123/2008) provides as follows:

Section 333

"A judgment which is no longer amenable to appeal shall be final if it has decided about a claim or counterclaim.

The first-instance court shall of its own motion monitor during the proceedings whether the matter has been adjudicated with final effect, and if it finds that the proceedings were instituted between the same parties in connection with a claim that has already been decided with final effect, it shall declare such a claim inadmissible."

3. Obligations Act

25. The relevant provisions of the Obligations Act (*Zakon obveznim odnosima*, Official Gazette nos. 53/1991, 73/1991, 111/1993, 3/1994, 7/1996, 91/1996, 112/1999 and 88/2001), read as follows:

ENRICHMENT WITHOUT CAUSE

General rule

Section 210

"(1) When a part of the property of one person passes, by any means, into the property of another person, and that transfer has no basis in a legal transaction or a

statute [it is without cause], the beneficiary shall be bound to return that property. If restitution is not possible, he or she shall be bound to provide compensation for the value of the benefit received. The obligation to return the property or provide compensation for its value shall arise even when something is received on account of a cause which did not come into existence or which subsequently ceased to exist."

Double payment of a debt

Section 212

"A person, who has paid the same debt twice, even if once on the basis of an enforcement instrument, shall be entitled to restitution under the rules on enrichment without cause."

4. Courts Act

26. The relevant provision of the Courts Act (*Zakon o sudovima*, Official Gazette nos. 150/2005, 16/2007, 113/2008, 153/2009) reads as follows:

Section 106

"(1) The Republic of Croatia shall redress damage caused to a party by unlawful or irregular work on the part of a judge."

B. Relevant practice

27. In judgment no. Rev-220/1992 of 22 April 1992, the Supreme Court (*Vrhovni sud Republike Hrvatske*) established the practice by which the successor and heir of a deceased party to proceedings is bound by a final judgment in those proceedings. The relevant part of the judgment reads:

"Finality of the judgment by which the [the claimant's] mother's civil claim against the first defendant [for eviction from a flat] was dismissed is also binding on the claimant as her sole successor since the inheritance (a gift in 1982) occurred after the judgment, and therefore in this case the claimant cannot have more rights against the first defendant than her mother had at the moment she transferred her ownership to the claimant."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

28. The applicant complained that the domestic courts had failed to observe the *res judicata* principle and had thus violated her right to a fair trial, as provided in Article 6 § 1 of the Convention, of which the relevant part reads as follows:

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

A. Admissibility

1. The parties' arguments

29. The Government submitted that the applicant had failed to exhaust all available and effective domestic remedies because she had failed to institute civil proceedings for damages against the State under the Courts Act.

30. The applicant contended that she had duly exhausted domestic remedies.

2. The Court's assessment

31. The Court reiterates that under Article 35 § 1 of the Convention it may only deal with an application after all domestic remedies have been exhausted. The purpose of Article 35 is to afford the Contracting States the opportunity of preventing or putting right the violations alleged against them before those allegations are submitted to the Court (see, for example, *Mifsud v. France* (dec.) [GC], no. 57220/00, § 15, ECHR 2002-VIII). The obligation to exhaust domestic remedies requires an applicant to make normal use of remedies which are effective, sufficient and accessible in respect of his Convention grievances. To be effective, a remedy must be capable of remedying directly the impugned state of affairs (see *Balogh v. Hungary*, no. 47940/99, § 30, 20 July 2004).

32. The Court notes that the present case concerns the applicant's complaints that the domestic courts had failed to observe the principle of legal certainty (*res judicata*) by ignoring a final court judgment allegedly concerning the same matter already adjudicated between company V.S. and her late husband. During the domestic proceedings the applicant unsuccessfully raised this objection challenging the decisions of the domestic authorities by using all available domestic remedies, including a constitutional complaint before the Constitutional Court.

33. The Court therefore considers, noting that the rule on exhaustion of domestic remedies concerns only remedies that relate to the breaches alleged (see *De Jong, Baljet and Van den Brink v. the Netherlands*, 22 May 1984, § 39, Series A no. 77), that by using all available domestic remedies concerning her complaints in the course of the relevant domestic proceedings, the applicant exhausted domestic remedies as required by Article 35 § 1 of the Convention (see *Golubović v. Croatia*, no. 43947/10, § 41, 27 November 2012).

34. Against the above background, the Court considers that the Government's objection must be rejected. It further notes that the

applicant's complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' arguments

35. The applicant contended that the domestic courts had failed to observe the principle of legal certainty (*res judicata*) by ordering her to repay her late husband's employer, company V.S., the same amount of money her husband had previously been awarded under the Daruvar Municipal Court's final judgment. She pointed out that the Grubišno Polje Municipal Court's judgment, ordering her to repay the sum of money to company V.S., had been based on the same facts which had been examined by the Daruvar Municipal Court and the Bjelovar County Court in the first set of proceedings, and which company V.S. had unsuccessfully raised when disputing her husband's claim in those proceedings. This had created a situation in which the domestic courts had passed two judgments, both of which had been final and enforceable and never set aside, by which they had reached different conclusions based on the same facts.

36. The Government submitted that the domestic courts had found that as a result of the Daruvar Municipal Court's judgment the company had paid the same portion of the applicant's husband's salary twice, which had meant that the payment based on that judgment had had no valid legal basis. In terms of the relevant domestic law on unjust enrichment and the well-established case-law of the domestic courts, this had meant that the applicant should have paid back the company the amount in question. As to the applicant's argument that this had violated the *res judicata* principle, the Government pointed out that during the domestic proceedings the Bjelovar County Court had found that there had been no objective similarity between the two sets of proceedings because the parties' claims had had different legal bases. In this connection the Government pointed out that the Daruvar Municipal Court's judgment had not been set aside or quashed by the Grubišno Polje Municipal Court's judgment. It showed that there had been no breach of the principle of legal certainty and *res judicata* since the latter court's judgment had had different factual and legal bases. Lastly, the Government pointed out that all the applicant's complaints had been duly examined by the domestic courts including the Constitutional Court, and that they had found no violation of any of the applicant's rights.

2. The Court's assessment

(a) General principles

37. The Court reiterates that the right to a fair hearing under Article 6 § 1 of the Convention, interpreted in the light of the principles of rule of law and legal certainty, encompasses the requirement that where the courts have determined an issue with final effect, their ruling should not be called into question (see *Brumărescu v. Romania* [GC], no. 28342/95, § 61, ECHR 1999-VII, and *Kehaya and Others v. Bulgaria*, nos. 47797/99 and 68698/01, § 61, 12 January 2006).

38. The principle of *res judicata* requires that no party is entitled to seek a review of a final and binding judgment merely for the purposes of obtaining a rehearing and a fresh determination of the case. Any review should not be treated as an appeal in disguise, and the mere possibility of there being two views on the subject is not a ground for re-examination (see *Esertas v. Lithuania*, no. 50208/06, § 21, 31 May 2012).

39. This is because the principle according to which a final judgment is a *res judicata* and resolves the dispute between the parties with final effect is a fundamental element of the right to a fair trial guaranteed by Article 6 of the Convention in civil matters (see *Kehaya and Others*, cited above, § 63).

(b) Application of these principles to the present case

40. The Court notes that by the Daruvar Municipal Court's final judgment of 21 May 2002, company V.S. was ordered to pay a sum of money on account of the applicant's husband's salary arrears for the period May 1998 to January 1999. This judgment became final on 12 September 2002 when the Bjelovar County Court dismissed company V.S.'s appeal. It was enforced on 4 and 15 October 2002 when the company paid the judgment debt (see paragraphs 9-11 above). In the meantime the applicant's husband died and she was declared his successor.

41. However, on 15 February 2008 the Grubišno Polje Municipal Court, in the proceedings brought by company V.S. against the applicant concerning the payment of portions of her late husband's salary for the same period, found that the accounting expert report commissioned during the previous proceedings showed that the Daruvar Municipal Court had erroneously calculated the portions of salary company V.S. had been obliged to pay, since it had in fact already paid certain portions of the salary directly to his creditors. Thus, according to the Grubišno Polje Municipal Court, by being obliged to pay the same portions of salary on the basis of the Daruvar Municipal Court's judgment, company V.S. had made the same payment twice.

42. The Grubišno Polje Municipal Court, applying the relevant domestic law on unjust enrichment, therefore ordered the applicant to repay company V.S. a sum of money representing the portions of salary already paid to her

late husband's creditors (see paragraph 17 above). This was upheld by the Bjelovar County Court, which dismissed the applicant's *res judicata* objection on the grounds that there was no objective identity between the cases examined before the Grubišno Polje and Daruvar Municipal Courts (see paragraph 19 above).

43. The Court has already noted that in all legal systems the *res judicata* effects of judgments have limitations *ad personam* and as to material scope (see *Kehaya and Others*, § 66, and *Esertas*, cited above, § 22).

44. According to the case-law of the domestic courts, the *res judicata* principle in Croatia extends not only to the parties to the proceedings but also to their successors (see paragraph 27 above). It has therefore not been in dispute at the domestic level, nor has the Government disputed it before the Court (see paragraphs 19 and 36 above), that the *res judicata* principle with regard to the Daruvar Municipal Court's judgment also extended to the applicant as the successor of her late husband.

45. Instead the Government argued, endorsing the findings of the Bjelovar County Court, that the case before the Daruvar and Grubišno Polje Municipal Courts objectively differed since the proceedings before the former concerned the claim for payment of a difference in salary and was based on the allegations of unlawful reduction of a salary by an employer, whereas in the proceedings before the latter the claim was based on allegations of double payment of the same debt (see paragraph 19 above).

46. In this connection the Court would reiterate at the outset that in accordance with Article 19 of the Convention, its duty is to ensure the observance of the obligations undertaken by the Contracting Parties to the Convention (see, among many other authorities, *Čamovski v. Croatia*, no. 38280/10, § 37, 23 October 2012), and it is not the duty of the Court to examine whether company V.S. actually paid the same debt twice or the scope of application and interpretation of the relevant domestic law on unjust enrichment.

47. The Court therefore confines itself to noting that, even if it were to accept that the two sets of proceedings were not identical, they nevertheless, pursuant to the relevant domestic law concerned the same parties, and also the same legal relations and the same circumstances, namely the payment of portions of the applicant's husband's salary for the period May 1998 to January 1999, which were crucial for deciding the dispute and thus these two sets of proceedings had the same material scope (see *Kehaya and Others*, cited above, § 67; *Esertas*, cited above, § 23; and compare *Siegle v. Romania*, no. 23456/04, § 36 *in fine*, 16 April 2013).

48. Although not quashed, the Daruvar Municipal Court's final judgment was, however, devoid of any legal effect by the Grubišno Polje Municipal Court's judgment, which determined the issue of payment of the salaries to the applicant's late husband differently from the manner in which it had been determined by the Daruvar Municipal Court. This resulted in the

applicant being obliged to repay company V.S. a sum of money based on the reassessment of facts which were notably raised and dismissed in the first set of proceedings (see paragraphs 10 and 19 above).

49. Thus the Court finds that the second set of proceedings before the Grubišno Polje Municipal Court provided a "second chance" for the company V.S. to obtain an examination of the dispute already determined by way of a final judgment (compare *Kehaya and Others*, cited above, § 69).

50. This, in the Court's view, jeopardised the applicant's rights under Article 6 § 1 of the Convention since the Grubišno Polje Municipal Court's judgment set at naught a judicial process which had ended in a final judgment of the Daruvar Municipal Court of 21 May 2002 (compare *Esertas*, cited above, § 31) and which had, moreover, been executed (compare *Kehaya and Others*, cited above, § 70).

51. Thereby the national courts acted in breach of the principle of legal certainty inherent in Article 6 § 1 of the Convention. The Court accordingly finds that there has been a violation of that provision.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

52. 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."

A. Damage

53. The applicant claimed 72,802.96 Croatian kunas (HRK) in respect of pecuniary damage on account of the sum of money and court expenses she had to pay under the Grubišno Polje Municipal Court's judgment of 15 February 2008 and the related interest in this respect. She also claimed HRK 100,000 in respect of non-pecuniary damage.

54. The Government considered the applicant's claims excessive, unfounded and unsubstantiated, arguing that there had been no causal link between the violations complained of and the applicant's financial expenses.

55. As regards pecuniary damage, the Court notes that the applicant claims damages in relation to the amounts based on the Grubišno Polje Municipal Court's judgment of 15 February 2008, which the Court found to be in violation of Article 6 § 1 of the Convention (see paragraph 51 above). The Court therefore, having found causal link between the amount of the main debt and costs and expenses based on the Grubišno Polje Municipal Court's judgment of 15 February 2008 and the finding of a violation (compare *Esertas*, cited above, § 36), awards the applicant 9,669.46 euros

(EUR) in respect of pecuniary damage, plus any tax that may be chargeable to her.

56. In respect of the non-pecuniary damage, having regard to all the circumstances of the present case, the Court accepts that the applicant has suffered non-pecuniary damage which cannot be compensated for solely by the finding of a violation. Making its assessment on an equitable basis, the Court awards the applicant EUR 4,000 in respect of non-pecuniary damage, plus any tax that may be chargeable to her.

B. Costs and expenses

57. The applicant also claimed HRK 20,694.30 for the costs and expenses incurred before the domestic courts and HRK 17,741.40 for those incurred before the Court.

58. The Government considered the applicant's claim excessive and unsubstantiated.

59. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 3,900 covering costs under all heads.

C. Default interest

60. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Croatian kunas at the rate applicable at the date of settlement:

(i) EUR 9,669.46 (nine thousand six hundred sixty-nine euros and forty-six cents), plus any tax that may be chargeable, in respect of pecuniary damage;
(ii) EUR 4,000 (four thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
(iii) EUR 3,900 (three thousand nine 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 16 January 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Isabelle Berro-Lefèvre
President