

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

FIRST SECTION

CASE OF EGIĆ v. CROATIA

(Application no. 32806/09)

JUDGMENT

STRASBOURG

5 June 2014

FINAL

05/09/2014

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



In the case of Egić v. Croatia,

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

Isabelle Berro-Lefèvre, President,
Khanlar Hajiyev,
Julia Laffranque,
Paulo Pinto de Albuquerque,
Erik Møse,
Ksenija Turković,
Dmitry Dedov, judges,
and Søren Nielsen, *Section Registrar,*

Having deliberated in private on 13 May 2014,

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

PROCEDURE

1. The case originated in an application (no. 32806/09) 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 Serbian national, Ms Aylan Egić ("the applicant"), on 29 May 2009.

2. The applicant was first represented by Mr Đ. Radović, and later by Ms L. Radović, a lawyer practising in Biograd na Moru. The Croatian Government ("the Government") were represented by their Agent, Ms Š. Stažnik.

3. The applicant alleged, in particular, that she had been deprived of access to the Supreme Court.

4. On 4 February 2011 the application was communicated to the Government.

5. The Government of Serbia, having been informed of their right to intervene (Article 36 § 1 of the Convention and Rule 44 § 1 (a) of the Rules of Court), did not avail themselves of this right.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1962 and lives in Novi Sad, Serbia.

7. On 8 March 1998 D.P.V. brought a civil action against M.V. (the applicant's legal predecessor) in the Biograd na Moru Municipal Court

(*Općinski sud u Biogradu na moru*) seeking (a) to be declared joint owner of a house and surrounding land on Pašman, an island off the coast of Croatia, and (b) payment of 30,000 German marks (DEM).

8. On 18 December 1998 the Biograd na Moru Municipal Court ordered an onsite inspection of the property, including an expert valuation. It took place on 29 December 1998.

9. The expert submitted his opinion to the Biograd na Moru Municipal Court on 19 January 1999, assessing the value of the property at 208,575.66 Croatian kunas (HRK).

10. On 16 September 1999 the Biograd na Moru Municipal Court ruled in favour of the plaintiff D.P.V., who was declared owner of a one half share of the property. M.V. was ordered to pay her DEM 30,000.

11. M.V. lodged an appeal but it was dismissed by the Zadar County Court (*Županijski sud u Zadru*) on 18 July 2001.

12. On 20 December 2001 M.V. simultaneously lodged an appeal on points of law (*revizija*) with the Supreme Court (*Vrhovni sud Republike Hrvatske*) and a constitutional complaint with the Constitutional Court (*Ustavni sud Republike Hrvatske*) against the appeal judgment. In using both of these remedies she challenged the judgments of the lower courts, arguing that they had failed to address all of her allegations.

13. On 22 March 2002 the Constitutional Court sent a letter to M.V., informing her that, while her appeal on points of law was pending, it would be unable to deal with her constitutional complaint, and that the proceedings in that regard would have to be terminated unless otherwise requested after the decision of the Supreme Court.

14. In examining the admissibility *ratione valoris* of the appeal, the Supreme Court noted that the value of the half share of the property had not been assessed. On 16 November 2004 the Supreme Court therefore requested the Biograd na Moru Municipal Court to determine the value of the subject matter of the dispute (*vrijednost predmeta spora*), in accordance with section 40(4) and (5) of the Civil Procedure Act.

15. On 15 February 2005 M.V. died and bequeathed all her property to the applicant, who took over the proceedings thereafter.

16. On 27 July 2005 the Biograd na Moru Municipal Court held a hearing and heard representatives of both parties. The plaintiff's representative relied on his alleged statutory prerogative to set the value of the dispute at HRK 10,000, while the applicant's representative relied on the expert valuation (see paragraph 9 above) and requested that the value of the dispute be set at at least HRK 101,000. The relevant part of the transcript of that hearing reads as follows:

> "The plaintiff's representative maintains that the value of the dispute in this case is HRK 10,000 in accordance with section 26 of the Court Fees Act ... and that this is the value the plaintiff has set.

> The defendant's representative objects to such an interpretation of the value of the dispute, arguing that [it] could only have been established after the expert valuation had been obtained from the court expert, who assessed the value of the property at HRK 200,000, which the Municipal Court is bound to accept, and that in any event the value of the dispute exceeds HRK 101,000."

17. On the same day the Biograd na Moru Municipal Court issued a decision whereby it set the value of the ownership claim to HRK 10,000. The relevant part of the decision reads as follows:

> "The value of the dispute in the civil action... between the plaintiff D.P.V... and the defendant M.V... for determination (*radi utvrđenja*) ... is set at HRK 10,000.
>
> **Reasoning**
>
> Pursuant to the order of the Supreme Court and in accordance with section 40(4) and (5) of the Civil Procedure Act, after a hearing held on 27 July 2005, in which the parties argued over the value of the dispute in the civil action between the plaintiff D.P.V. and the defendant M.V., for determination of ownership of the property, the value of the dispute has been set as stated in the operative part of this decision, relying on section 26 of the Court Fees Act."

18. On 28 February 2006 the Supreme Court reversed the judgments of the first-instance and appellate courts by dismissing the plaintiff's claim for DEM 30,000. It however declared the appeal on points of law concerning D.P.V.'s ownership claim inadmissible *ratione valoris*, finding that the value of the dispute was below the statutory threshold of HRK 100,000. The relevant part of the decision reads as follows:

> "The plaintiff failed to specify the value of the dispute in her claim...The first-instance court set the value of the dispute... at HRK 10,000, in accordance with section 40(4) and (5) of the Civil Procedure Act.
>
> ... [The] appeal on points of law is inadmissible...as the value of the dispute... does not exceed the statutory threshold of HRK 100,000..."

19. The applicant lodged a constitutional complaint against the Supreme Court's decision, arguing, *inter alia*, that the value of the dispute had been set disproportionately low when compared with the market valuation of the property as established by an independent expert. She relied on the provisions of the Constitution guaranteeing equality before the law and equality before the courts.

20. On 26 November 2008 the Constitutional Court (*Ustavni sud Republike Hrvatske*) dismissed the applicant's constitutional complaint, endorsing the view of the Supreme Court. This decision was served on the applicant's representative on 16 December 2008.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The Constitution

21. The relevant provisions of the Constitution of the Republic of Croatia (*Ustav Republike Hrvatske*, Official Gazette nos. 56/1990, 135/1997, 8/1998 (consolidated text), 113/2000, 124/2000 (consolidated text), 28/2001, 41/2001 (consolidated text), 55/2001 (corrigendum), 76/2010 and 85/2010) read as follows:

Article 14 § 2

"All shall be equal before the law."

Article 26

"All nationals of the Republic of Croatia and foreigners shall be equal before the courts and other State or public authorities."

Article 29 § 1

"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."

B. Constitutional Court Act

1. Relevant provisions

22. The relevant provisions of the Constitutional Court Act (*Ustavni zakon o Ustavnom sudu Republike Hrvatske*, Official Gazette nos. 99/1999, 29/2002 and 49/2002), which have been in force since 15 March 2002, read as follows:

Section 62

"1. Anyone may lodge a constitutional complaint with the Constitutional Court if he or she deems that the decision of a State authority, local or regional government or a legal entity invested with public authority, concerning his or her rights or obligations or the suspicion or accusation of a criminal offence, has violated his or her human rights or fundamental freedoms or the right to local or regional self-government, guaranteed by the Constitution (hereinafter: 'constitutional right') ...

2. If another legal remedy is available in respect of the violation of the constitutional rights [complained of], a constitutional complaint may be lodged only after this remedy has been exhausted.

3. In matters in which an administrative action or, in civil and non-contentious proceedings, an appeal on points of law [*revizija*] are available, remedies shall be considered exhausted only after the decision on these legal remedies has been given."

Section 65(1)

"A constitutional complaint shall contain ... an indication of the constitutional right alleged to have been violated [together] with an indication of the relevant provision of the Constitution guaranteeing that right ..."

Section 71(1)

"... [t]he Constitutional Court shall examine only those violations of constitutional rights alleged in the constitutional complaint."

2. The Constitutional Court's case-law

23. On 9 July 2001 the Constitutional Court delivered decision no. U-III-368/1999 (Official Gazette no. 65/2001) in a case where the complainant relied in her constitutional complaint on Articles 3 and 19 § 1 of the Constitution, neither of which, under that court's case-law, concerned a constitutional right. The Constitutional Court nevertheless allowed the constitutional complaint, finding violations of Article 14, Article 19 § 2 and Article 26 of the Constitution, on which the complainant had not relied, and quashed the contested decisions. In so deciding it held as follows:

"... a constitutional complaint cannot be based on either of the constitutional provisions relied on [by the complainant in her constitutional complaint].

However, the present case, as will be explained further, concerns a specific legal situation, as a result of which this court, despite [its] finding that there have not been, and cannot be, any violations of the constitutional rights explicitly relied on by the complainant, considers that there are circumstances which warrant the quashing of [the contested] decisions.

...

Specifically, it is evident from the constitutional complaint and the case file that there have been violations of [constitutional] rights, in particular those guaranteed by Article 14 (equality, equality before the law), Article 19 § 2 (guarantee of judicial review of decisions of State and other public authorities) and Article 26 (equality before the courts and other State or public authorities) of the Constitution ..."

C. Civil Procedure Act

24. The relevant part of the Civil Procedure Act (*Zakon o parničnom postupku*, the Official Gazette of the Socialist Federal Republic of Yugoslavia nos. 4/1977, 36/1977 (corrigendum), 36/1980, 69/1982, 58/1984, 74/1987, 57/1989, 20/1990, 27/1990 and 35/1991, and the Official Gazette of the Republic of Croatia nos. 53/1991, 91/1992, 58/1993, 112/1999, 88/2001, 117/2003, 88/2005, 2/2007, 84/2008, 123/2008, 57/2011, 148/2011 and 25/2013), as in force at the material time, provide as follows:

Section 40

"...

(2) ... when an action does not concern a sum of money, the relevant value shall be the value of the subject matter of the dispute indicated by the plaintiff in the statement of claim (*u tužbi*).

(3) If, in the case referred to in subsection 2, it is obvious that the value of the subject matter of the dispute indicated by the plaintiff is too high or too low, so that an issue arises over ... the right to lodge an appeal on points of law, the court shall, by the latest at the preparatory hearing or, if no preparatory hearing has been held, at the main hearing before the examination of the merits, quickly and in an appropriate manner verify the accuracy of the value specified.

(4) If, after the defendant has begun litigation on the merits of the case, it is established that the plaintiff has failed to indicate the value of the subject of the dispute, the first-instance court shall quickly and in an appropriate manner, after giving the parties the opportunity to express their opinion, set the value of the subject of the dispute by a decision against which no separate appeal is permitted.

(5) The court shall also proceed in a manner prescribed in subsection 4 after an appeal or an appeal on points of law has been lodged, before sending the case to a higher court for a decision on those remedies."

Section 186

"...

(2) When the jurisdiction of the court or its composition, or the right to lodge an appeal on points of law, depends on the value of the subject matter of the dispute, and the subject of an action is not a sum of money, the plaintiff shall indicate the value of the subject matter of the dispute in the statement of claim (*u tužbi*).

..."

25. Section 382(1) provides that in civil (non-commercial) cases, the parties may lodge an appeal on points of law (*revizija protiv presude*) against an appeal judgment if the value of the subject matter of the dispute of the contested part of the judgment exceeds HRK 100,000.

D. Court Fees Act

26. Part 3 of the Court Fees Act (*Zakon o sudskim pristojbama*, Official Gazette nos. 26/2003 (consolidated version), 125/2011 and 112/2012), as in force at the material time, lays down rules for determining the value of a dispute for the purposes of charging court fees. Sections 20 to 30 deal with the value of disputes in civil proceedings.

27. Section 25 provides that the value of a claim in real property disputes should be set in accordance with the market value of the property at issue. It also specifies the minimum amounts for plots of land (five times the cadastral income), business premises and residential buildings (a year's rent) and flats (a year's rent).

28. Section 26 provides that in actions for the determination of a right, legal relationship or the validity of certain documents, as well as in actions for specific performance, it is assumed that the value of the dispute equals the amount stated in the statement of claim, but in any case should be no less than HRK 10,000.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION IN RESPECT OF ACCESS TO THE SUPREME COURT

29. The applicant complained that she had not had access to the Supreme Court in the determination of the property dispute between her legal predecessor and D.P.V. She relied on Article 6 § 1 of the Convention, the relevant part of which reads as follows:

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

A. Admissibility

30. The Government disputed the admissibility of this complaint on two grounds. They argued that the applicant had failed to exhaust domestic remedies and had abused her right of application.

1. The parties' arguments

31. The Government argued that the applicant had not complained of a violation of her right of access to court in the proceedings before the domestic courts. In particular, in her constitutional complaint the applicant had neither relied on Article 29 of the Constitution, which was the provision enshrining the constitutional right to a fair hearing, nor on Article 6 § 1 of the Convention directly. Rather, she had complained only of a violation of her right to equality before the law, guaranteed by Article 14 § 2 of the Constitution, and of a violation of the right to equality of Croatian and foreign citizens before the courts, guaranteed by Article 26 of the Constitution.

32. The Government also argued that the applicant had failed to use the constitutional remedy available to her against the judgment of the Zadar County Court (see paragraph 11 above), since she had not pursued the constitutional complaint lodged by M.V. in 2001 (see paragraph 12 above) after the inadmissibility decision of the Supreme Court.

33. Lastly, the Government argued that the applicant had submitted false information to the Court and had therefore abused her right of application.

Specifically, her application form suggested that the decision of the Constitutional Court (see paragraph 20 above) had been rendered in respect of M.V.'s constitutional complaint (see paragraph 12 above). In fact, the Constitutional Court's decision was rendered in respect of her own constitutional complaint lodged in 2006 (see paragraph 19 above).

34. The applicant made no comment in this regard.

2. The Court's assessment

(a) Non-exhaustion of domestic remedies

35. The Court first notes that in her constitutional complaint the applicant did not rely on Article 29 § 1 of the Constitution, which is the provision that arguably corresponds to Article 6 § 1 of the Convention, nor did she rely on Article 6 § 1 directly. Instead, she referred principally to Article 14 § 2 and Article 26 of the Constitution (see paragraph 21 above). The applicant did however complain that the value of the dispute had been set disproportionately low when compared with the market valuation of the property as established by an independent expert. She also requested that the Constitutional Court quash the inadmissibility decision of the Supreme Court and remit the case for fresh consideration.

36. It is clear from the Constitutional Court's decision no. U-III-368/1999 of 9 July 2001 (see paragraph 23 above) that in certain cases it is unnecessary for those lodging a constitutional complaint to plead the relevant Articles of the Constitution, as sections 65(1) and 71(1) of the Constitutional Court Act may imply. Sometimes it may be sufficient for a violation of a constitutional right to be apparent from the complainant's submissions and the case file.

37. In these circumstances, the Court considers that the applicant raised the issue in substance in her constitutional complaint (compare and contrast *Merot d.o.o. and Storitve Tir d.o.o. v. Croatia* (dec.), nos. 29526/08 and 29737/08, § 36, 10 December 2013 and *Vučković and Others v. Serbia* [GC], no. 17153/11, § 82, 25 March 2014). She thereby gave the national authorities the opportunity – which is in principle intended to be afforded to Contracting States by Article 35 § 1 of the Convention – to put right the violations alleged against them (see *Lelas v. Croatia*, no. 55555/08, §§ 45 and 47-52, 20 May 2010). Furthermore, the Court notes that the Constitutional Court, in its decision of 26 November 2008, endorsed the findings of the Supreme Court, thereby examining the issue on the merits (see paragraph 20 above).

38. As regards the Government's objection that the applicant had failed to pursue M.V.'s constitutional complaint, the Court notes that the present case concerns the applicant's access to the Supreme Court, not the outcome of the property dispute, which is a different issue.

39. It follows that the Government's objection as to the exhaustion of domestic remedies must be rejected.

(b) Abuse of the right to application

40. The Court reiterates that an application may only be rejected as abusive in extraordinary circumstances (see *Felbab v. Serbia*, no. 14011/07, § 56). Having regard to its case-law (ibid., with further references), the Court considers that the factual errors presented by the applicant do not appear to be deliberately misleading and are not of such a nature that would justify a decision to declare the application inadmissible as an abuse of the right of petition.

41. It follows that the Government's objection as to the alleged abuse of the right of application must also be rejected.

(c) Conclusion

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

B. Merits

1. The parties' arguments

43. The applicant argued that the Biograd na Moru Municipal Court should not have set the value of the dispute at HRK 10,000, nor should the Supreme Court have accepted it, given that during the first-instance proceedings an expert had assessed the value of the property at HRK 208,575.66.

44. The Government argued that the lack of access to the Supreme Court in the present case was attributable to the applicant and her legal predecessor M.V., who could have asked the Biograd na Moru Municipal Court to determine the value of the dispute as early as at the preliminary hearing in 1998. She had further failed to request this in her reply to the claim or at the final hearing, and had thus lost the ability to complain about the value of the dispute in her appeal.

45. The Government also argued that the expert valuation had not been conducted in order to determine the value of the dispute. In their view, the market value of a property does not have to correspond to the value of a dispute, since the determination of the latter remains in the control of the parties.

2. The Court's assessment

(a) General principles

46. The Convention does not compel the Contracting States to set up courts of appeal in civil cases. However, where such courts do exist, the guarantees of Article 6 must be complied with, for instance in that it guarantees to litigants an effective right of access to the courts for the determination of their "civil rights and obligations" (see, among many other authorities, *Levages Prestations Services v. France*, 23 October 1996, § 44, *Reports of Judgments and Decisions* 1996-V, and *Poitrimol v. France*, 23 November 1993, §§ 13-15, Series A no. 277-A).

47. Given the special nature of the role of cassation courts, which is limited to reviewing whether the law has been correctly applied, the Court is able to accept that the procedure followed in such courts may be more formal (see *Meftah and Others v. France* [GC], nos. 32911/96, 35237/97 and 34595/97, § 41, ECHR 2002-VII).

48. The "right to a court", of which the right of access is one aspect, is not absolute; it is subject to limitations permitted by implication, in particular where the conditions of admissibility of an appeal are concerned, since by its very nature it calls for regulation by the State, which enjoys a certain margin of appreciation in this regard (see, for example, *García Manibardo v. Spain*, no. 38695/97, § 36, ECHR 2000-II, and *Mortier v. France*, no. 42195/98, § 33, 31 July 2001). However, these limitations must not restrict or reduce a person's access in such a way or to such an extent that the very essence of the right is impaired; specifically, such limitations will only be compatible with Article 6 § 1 if they pursue a legitimate aim and there is proportionality between the means employed and the aim pursued (see *Guérin v. France*, 29 July 1998, § 37, *Reports* 1998-V).

49. Lastly, while it is in the first place for the national authorities, and notably the courts, to interpret domestic law, the Court has to verify compatibility with the Convention of the effects of such an interpretation. The authorities should respect and apply domestic legislation in a foreseeable and consistent manner and the prescribed elements should be sufficiently developed and transparent in practice in order to provide legal and procedural certainty (see *Jovanović v. Serbia*, no. 32299/08, § 50, 2 October 2012).

(b) Application of these principles to the present case

50. In the present case, the Supreme Court declared the appeal on points of law lodged by the applicant's legal predecessor inadmissible *ratione valoris*, as regards the claim lodged against her concerning the co-ownership of the real property. As a result, the judgments of the Biograd na

Moru Municipal Court and the Zadar County Court establishing the plaintiff's ownership of a one half share, became final.

51. In assessing the admissibility *ratione valoris*, the Supreme Court relied on the Biograd na Moru Municipal Court's decision (see paragraph 17 above) to set the value of the dispute at HRK 10,000, below the statutory threshold of HRK 100,000 applicable for admissibility of an appeal on points of law. Declaring the appeal on points of law inadmissible amounted to an interference with the applicant's right of access to a court.

52. As regards the legitimate aim thereof, the statutory threshold for an appeal to the Supreme Court is a legitimate and reasonable procedural requirement, having regard to the very essence of the Supreme Court's role to deal only with matters of the requisite significance (see *Jovanović*, cited above, § 48). It therefore remains to be established whether or not the interference with the applicant's access to the Supreme Court was disproportionate (see, for example, *Garzičić v. Montenegro*, no. 17931/07, § 33, 21 September 2010).

53. In this connection, the Court observes that the value of the property claim was not specified by the plaintiff as required under section 186 of the Civil Procedure Act (see paragraph 24 above) during the proceedings before the first-instance and appellate courts. However, an expert valuation submitted to the Biograd na Moru Municipal Court established that the market value of the property was HRK 208,575.66 (see paragraph 9 above), well above the statutory threshold for an appeal on points of law. The amount to be taken into assessing the admissibility *ratione valoris* of an appeal on points of law was the value of the subject matter, in the present case half of the property's value, or HRK 104,287.83. The applicant's legal predecessor therefore acted reasonably when she lodged her appeal on points of law and expected the Supreme Court's decision on the merits.

54. As regards the Government's objection that the value of the dispute was not determined before the first-instance court owing to inactivity on the part of the applicant's legal predecessor, the Court notes that the issue concerning the value of the dispute was left in limbo owing to the omission of the Biograd na Moru Municipal Court to ask the plaintiff, and not the applicant's legal predecessor M.V. (the defendant in the proceedings), to specify the value of her claim. In particular, the Biograd na Moru Municipal Court failed to note that the plaintiff had omitted to specify the value of the dispute in respect of her first claim and subsequently failed to determine it of its own accord, "quickly and in an appropriate manner", as prescribed by section 40(4) of the Civil Procedure Act, before reaching its judgment (see paragraph 24 above).

55. After the Supreme Court received the appeal on points of law lodged by the applicant's legal predecessor, it noted that the value of the property claim had not been set. It therefore requested the Biograd na Moru Municipal Court to hold an additional hearing and set that value. The

admissibility of that part of the applicant's appeal on points of law was therefore made dependent on the Biograd na Moru Municipal Court's decision.

56. The Biograd na Moru Municipal Court heard representatives of both parties (see paragraph 16 above) and accepted the plaintiff's representative's request to set the value of the dispute at HRK 10,000, relying on section 26 of the Court Fees Act (see paragraph 28 above). However, under section 25 of that Act the value of a claim concerning real property should be equal to its market value (see paragraph 27 above). In the present case, an expert appointed by the Biograd na Moru Municipal Court established that the market value of the property at issue in its entirety was HRK 208,575.66 (see paragraph 9 above). It thus appears that the claim, which concerned a half share of that property, would amount to HRK 104,287.83. Yet the Biograd na Moru Municipal Court decided that the value of dispute was only HRK 10,000, without providing any reasons as to why the value set was more than ten times lower than the market value of the half share of the property established by the expert appointed by that court.

57. The requirements of the Convention call for a certain level of transparency (see *Jovanović*, cited above, § 50). The value of the property claim remained undetermined during the entire proceedings before the first-instance and appellate courts, which was an omission on the part of the lower courts. Owing to that omission, the applicant's legal predecessor was left in the dark as to whether she had the right to lodge an appeal on points of law in respect of that claim. Her reliance on the market value, established by a court-appointed expert, appears reasonable in view of section 25 of the Court Fees Act.

58. Furthermore, the Biograd na Moru Municipal Court did not justify its decision to set the value of the property claim at HRK 10,000 instead of the market value. Such an assessment was endorsed by the Supreme Court. Up to the moment of the hearing to determine the value of the dispute, the applicant reasonably believed that she could avail herself of the appeal on points of law. The inability to use that remedy therefore amounted to a disproportionate hindrance as regards her right of access to a court.

59. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

60. The applicant also complained, under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention, about the length and outcome of the above proceedings.

61. In the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court considers that

this part of the application does not disclose any appearance of a violation of the Convention. It follows that it is inadmissible under Article 35 § 3 (a) as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

62. 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

63. In her initial application the applicant claimed 20,000 euros (EUR) in respect of pecuniary damage and EUR 25,000 in respect of non-pecuniary damage.

64. The Government contested that claim.

65. The Court reiterates that a judgment in which it finds a breach imposes on the respondent State a legal obligation to put an end to the breach and to make reparation for its consequences. If the national law does not allow – or allows only partial – reparation to be made, Article 41 empowers the Court to afford the injured party such satisfaction as appears to it to be appropriate (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, §§ 32-33, ECHR 2000-XI).

66. As regards the applicant's claim for just satisfaction mentioned in the application form, the Court notes that under Rule 60 of the Rules of Court an applicant has to submit a just satisfaction claim within the time-limit fixed for the submission of his or her observations on the merits. The applicant did not claim any damages when invited to do so by the Court (see *Trifković v. Croatia*, no. 36653/09, § 146, 6 November 2012). Thus, the Court is not in a position to award her any amount in that respect.

B. Costs and expenses

67. The applicant did not claim any costs and expenses incurred. Accordingly, the Court considers that there is no call to award her any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the lack of access to a court admissible and the remainder of the application inadmissible;

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

3. *Holds* that there is no call to award the applicant just satisfaction.

Done in English, and notified in writing on 5 June 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Isabelle Berro-Lefèvre
President