

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

SECOND SECTION

CASE OF LADAN v. CROATIA

(Application no. 56787/16)

JUDGMENT

STRASBOURG

11 May 2023

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



In the case of Ladan 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 6 April 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 22 September 2016.

2. The applicant was represented by Ms L. Horvat, lawyers 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 complained of the inadequate conditions of his detention and the ineffectiveness of domestic remedies available in that regard.

THE LAW

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

6. The applicant complained that the length of the ongoing civil proceedings he had instituted against the State with a view of obtaining compensation for inadequate conditions of his detention was incompatible with the "reasonable time" requirement. He relied on Article 6 § 1 of the Convention.

7. The period to be taken into consideration began on 28 September 2012 and has not yet ended. It has thus lasted for more than ten and a half years before two levels of jurisdiction.

8. 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).

9. 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.

10. 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. In particular, even though a delay of one year and some nine months is attributable to the applicant, the Court, having regard to its case-law on the subject, considers that in the instant case the length of the proceedings was nevertheless excessive and failed to meet the "reasonable time" requirement.

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

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

12. The applicant also complained of the inadequate conditions of his detention. He relied on Article 3 of the Convention.

13. The Court notes that the applicant was kept in detention in poor conditions. That was also the finding of the first-instance court which on 5 January 2022 awarded him compensation on that account in the above civil proceedings (see paragraph 6 above) which are currently pending before appellate court.

14. The details of the applicant's detention are indicated in the appended table. The Court refers to the principles established in its case-law regarding inadequate conditions of detention (see, for instance, *Muršić v. Croatia* [GC], no. 7334/13, §§ 96-101, ECHR 2016). It reiterates in particular that a serious lack of space in a prison cell weighs heavily as a factor to be taken into account for the purpose of establishing whether the detention conditions described are "degrading" from the point of view of Article 3 and may disclose a violation, both alone or taken together with other shortcomings (see *Muršić*, cited above, §§ 122-41, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 149-59, 10 January 2012).

15. In the leading cases of *Muršić,* cited above, §§ 69-73 and 91-173, and *Ulemek v. Croatia,* no. 21613/16, §§ 71-120 and 126-46, 31 October 2019, the Court already found a violation in respect of issues similar to those in the present case.

16. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints.

17. In particular, the Government's objection that this complaint is premature because the above-mentioned civil proceedings for compensation

(see paragraphs 6 and 13 above) are still pending must be dismissed. To be considered effective such compensatory remedies for inadequate conditions of detention must conform to the reasonable-time requirement (see *Neshkov and Others v. Bulgaria*, nos. 36925/10 and 5 others, § 184, 27 January 2015). Moreover, the speed of remedial action may be relevant in assessing whether a remedy, that is effective in principle, was also practically effective in the particular case for the purposes of Article 35 § 1 (see, *mutatis mutandis*, *Story and Others v. Malta*, nos. 56854/13 and 2 others, § 82, 29 October 2015) as excessive length of domestic proceedings may constitute a special circumstance absolving the applicants from exhausting domestic remedies (see, for example, *Šorgić v. Serbia*, no. 34973/06, § 55, 3 November 2011). Having regard to its finding above that the civil proceedings in question failed to meet the "reasonable time" requirement (see paragraphs 9-11), the Court considers that the applicant therefore cannot be required to wait any longer for the final outcome of those civil proceedings.

18. Having regard to its case-law on the subject, the Court considers that in the instant case the applicant's conditions of detention were inadequate.

19. This complaint is therefore admissible and discloses a breach of Article 3 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

20. Lastly, the applicant complained that the domestic remedies for inadequate conditions of detention had been ineffective in his case. He relied on Article 13 of the Convention.

21. The Court notes that on 16 August 2011 the applicant availed himself of the available preventive remedy and complained to the sentences-execution judge about inadequate conditions of his detention in the Zagreb Prison (see the appended table). However, the sentences execution judge never decided on his complaint, which rendered that remedy ineffective (see *Longin v. Croatia*, no. 49268/10, §§ 37-41, 6 November 2012).

22. Likewise, the excessive length of the civil proceedings in the present case rendered the civil action for compensation, an otherwise effective remedy, ineffective (see paragraphs 9-11 above).

23. This complaint is therefore admissible and discloses a breach of Article 13 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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."

25. Regard being had to the documents in its possession and to its case-law (see, in particular, *Muršić,* cited above, § 181; *Ulemek,* cited above, § 162; *Kirinčić and Others,* cited above, §§ 20-28; and *Mirjana Marić,* cited above, §§ 98-104), the Court considers it reasonable to award the sums indicated in the appended table.

26. The sum awarded for costs and expenses includes the costs and expenses incurred before the Court. As regards the costs incurred before the domestic courts, the Court notes that the applicant will have a possibility to recover the costs of the ongoing civil proceedings for compensation (see paragraphs 6 and 13 above) on the basis of section 158 of the Civil Procedure Act after the State pays him the sums awarded by the present judgment. That provision stipulates, *inter alia*, that plaintiffs have the right to have their costs reimbursed if they withdraw their civil action immediately after the defendant satisfied their claim, it being understood that a partial withdrawal is also possible.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

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

3. *Holds* that this application discloses a breach of Article 3 of the Convention concerning the inadequate conditions of detention;

4. *Holds* that this application discloses a breach of Article 13 of the Convention taken in conjunction with Article 3 thereof;

5. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amounts indicated in the appended table;
   (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 11 May 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina Acting Deputy Registrar	Frédéric Krenc President

APPENDIX

Application raising complaints under Article 3 of the Convention (inadequate conditions of detention)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration	Sq. m per inmate	Specific grievances	Other complaints under the well-established case-law of the Court	Amount awarded for non-pecuniary damage (in euros)[1]	Amount awarded for costs and expenses (in euros)[2]
56787/16 22/09/2016	**Boro LADAN** 1973	Horvat Lidija Zagreb	Zagreb Prison 24/09/2007 to 24/05/2013 5 years, 8 months and 1 day	between 2.79 and 3.25 m²	lack of fresh air, lack of or insufficient natural light, lack of or insufficient physical exercise in fresh air, lack of privacy for toilet, overcrowding, lack of or restricted access to leisure or educational activities	Art. 6 (1) - excessive length of civil proceedings - pending since 28/09/2012 at two levels of jurisdiction, Art. 13 - lack of any effective remedy in domestic law in respect of inadequate conditions of detention	16,300	250

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