

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

SECOND SECTION

CASE OF PAVLOVIĆ v. CROATIA

(Application no. 1528/21)

JUDGMENT

STRASBOURG

2 March 2023

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



In the case of Pavlović 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 2 February 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 24 December 2020.

2. The applicant was represented by Mr M. Pavlović, a lawyer practising in Belgrade.

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 enforcement proceedings against her in which the domestic courts had ordered her eviction from the flat in which she had been living.

THE LAW

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

6. The applicant complained that the length of the proceedings in question had been incompatible with the "reasonable time" requirement. She 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 Government argued that the applicant had not suffered a significant disadvantage because, instead of being evicted from the flat shortly after the institution of the enforcement proceedings on 1 December 2010, she had remained living in it until her eviction on 17 September 2015, thus having benefited from the length of the enforcement proceedings.

8. The Court, having regard to its case-law (see *Galović v. Croatia*, no. 54388/09, §§ 67-78, 5 March 2013), considers that, in so far as the applicant's complaint concerns the period before her eviction on 17 September 2015, it is inadmissible under Article 35 § 3 (b) of the Convention for lack of a significant disadvantage, and thus must be rejected pursuant to Article 35 § 4 thereof.

9. To the extent that the applicant's complaint concerns the subsequent period, the Court notes that the proceedings in question lasted five years and two months after the applicant had been evicted. In that period the case was pending before the Supreme Court and the Constitutional Court.

10. 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).

11. 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.

12. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the length of the proceedings at the national level in the period after the applicant's eviction.

13. In particular, the Government argued that the applicant had not exhausted domestic remedies in compliance with the formal requirements of domestic law because, before lodging her constitutional complaint on 10 February 2020, she had not used the length-of-proceedings remedies under the 2013 Courts Act, which was a procedural requirement for admissibility of constitutional complaints about the excessive length of proceedings. The Constitutional Court had therefore declared her constitutional complaint inadmissible.

14. The Court notes that in the present case the applicant could have used the length-of-proceedings remedies provided in the 2013 Courts Act until 15 October 2019, when the proceedings before the Supreme Court ended. However, a constitutional complaint became an effective remedy for excessive length of proceedings from November 2019 (see *Kirinčić and Others*, cited above, § 116). The Government objection thus implies that the applicant should have complied with the procedural requirement for lodging a constitutional complaint before that remedy became effective. Their objection must therefore be rejected.

15. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings in the period after 17 September 2015 was excessive and failed to meet the "reasonable time" requirement.

16. This complaint, in so far as it concerns that period, is therefore admissible and discloses a breach of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

17. 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."

18. Regard being had to the documents in its possession and to its case-law (see, in particular, *Kirinčić and Others,* cited above, §§ 120-28, and *Mirjana Marić,* cited above, §§ 98-104), 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 the proceedings in the period after 17 September 2015 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;
   (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 2 March 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	Domestic court / file number	Amount awarded for non-pecuniary damage (in euros)[1]	Amount awarded for costs and expenses (in euros)[2]
1528/21 24/12/2020	**Nada PAVLOVIĆ** 1960	Pavlović Mihailo Belgrade	18/09/2015	25/11/2020	5 years and 2 months 2 levels of jurisdiction	Osijek Municipal Court, no. Ovr-2742/08	2,000	250

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