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

FIRST SECTION

DECISION

Applications nos. 10647/17 and 39650/17
Ivica DOLIĆ against Croatia and
Afrim HASANI against Croatia

The European Court of Human Rights (First Section), sitting on 14 June 2022 as a Committee composed of:

Péter Paczolay, *President,*
Raffaele Sabato,
Davor Derenčinović, *judges,*
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the applications (nos. 10647/17 and 39650/17) 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 the applicants listed in the appended table ("the applicants"), on the various dates indicated therein;

the decision to give notice of the applications to the Croatian Government ("the Government") represented by their Agent, Ms Š. Stažnik;

the parties' observations;

the decision of the Government of Bosnia and Herzegovina not to make use of their right to intervene in the proceedings (Article 36 § 1 of the Convention);

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns confiscation of cash in euros (EUR) which the applicants failed to declare when entering Croatia.

2. On 7 December 2010 and 17 February 2012, respectively, the applicants attempted to cross the Croatian border carrying EUR 17,000 (the first applicant) and EUR 20,000 (the second applicant), which they failed to declare to the customs authorities. The entire amount carried by the first

applicant was temporarily seized, whereas from the second applicant the authorities temporarily seized EUR 19,700.

3. Minor-offence proceedings (*prekršajni postupak*) ensued against the applicants as the failure to declare cash exceeding EUR 10,000 was a minor offence under the domestic legislation regulating foreign currency operations and prevention of money laundering.

4. In his defence, the first applicant stated that the money he had been carrying was his sister's and was to be used for the renovation of her family house in Bosnia and Herzegovina. The second applicant stated that the money he had been carrying belonged to a transport company owned by his brother who had given him the cash to purchase a truck in Croatia.

5. By decisions of 15 November 2011 and 27 February 2013 the Ministry of Finance found the applicants guilty as charged. They were each fined 5,000 Croatian kunas. At the same time, the Ministry imposed a protective measure (*zaštitna mjera*), confiscating, in full, the amounts that had been temporarily seized from the applicants (see paragraph 2 above).

6. The applicants appealed challenging the confiscation measure but on 6 March and 9 October 2013 the High Court for Minor Offences (*Visoki prekršajni sud Republike Hrvatske*) dismissed their appeals and upheld the Ministry's decisions.

7. The applicants then lodged constitutional complaints alleging violations of their constitutionally protected right of ownership. They referred to the Court's case-law, in particular to the case of *Gabrić v. Croatia*, no. 9702/04, 5 February 2009.

8. By decisions of 25 October and 18 November 2016 the Constitutional Court (*Ustavni sud Republike Hrvatske*) dismissed the applicants' constitutional complaints, finding that, unlike in the *Gabrić* case, the applicants had not proved the lawful origin of the money.

9. Before the Court the applicants complained, relying on Article 1 of Protocol No. 1 to the Convention, that the confiscation measures had been excessive and thus in violation of their property rights. In his observations of 10 October 2018, the second applicant for the first time also complained, under Article 6 § 1 of the Convention, that the minor-offence proceedings against him had been unfair.

THE COURT'S ASSESSMENT

10. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

11. The Government, referring to *Dagostin v. Croatia* [Committee], no. 67644/12, 23 May 2017, submitted that the applicants could not claim to be victims of a violation of Article 1 of Protocol No. 1 because in the domestic proceedings they had both argued that the confiscated money had not belonged to them (see paragraph 4 above).

12. The Court notes that in a number of cases it had already declared inadmissible for lack of victim status property complaints raised by the applicants in similar circumstances (see *Telbis and Viziteu v. Romania*, no. 47911/15, §§ 62-64, 26 June 2018; *Eliseev and Ruski Elitni Klub v. Serbia* (dec.), no. 8144/07, §§ 32-36, 10 July 2018; *Dagostin*, cited above, §§ 23-26; *Neziri v. North Macedonia* (dec.) [Committee], no. 55347/17, §§ 13-16, 8 July 2021; *Erjuz v. North Macedonia* (dec.) [Committee], no. 41790/16, §§ 18-22, 14 October 2021; and *Gerguri v. North Macedonia* (dec.) [Committee], no. 54953/16, §§ 17-21, 18 November 2021). It sees no reason to hold otherwise in the present case.

13. The first applicant's argument that the money in question had in fact belonged to him as his sister had gifted it to him, cannot be accepted. That argument was advanced for the first time in his observations in response to those of the Government and is in contradiction with his previous express statements given both in the proceedings before the domestic authorities (see paragraph 4 above) and before the Court that the confiscated cash belonged to his sister.

14. Accordingly, the applicants' complaints under Article 1 of Protocol No. 1 to the Convention are inadmissible for lack of victim status and must be rejected pursuant to Article 34 and Article 35 §§ 3 (a) and 4 of the Convention.

15. As regards the second applicant's complaint under Article 6 § 1 of the Convention (see paragraph 9 above), the Court notes that it was raised for the first time on 10 October 2018 in his observations in response to those of the Government, whereas the proceedings complained of ended on 30 November 2016 when the Constitutional Court's decision of 18 November 2016 was served on him (see paragraph 8 above). This complaint is thus inadmissible under Article 35 § 1 of the Convention for non-compliance with the six-month time-limit and must therefore be rejected pursuant to Article 35 § 4 thereof.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 7 July 2022.

Liv Tigerstedt Deputy Registrar	Péter Paczolay President

APPENDIX

No.	Application no. Date of introduction	Applicant's Name Year of birth	Nationality	Place of residence	Representative
1.	10647/17 02/02/2017	Ivica DOLIĆ 1967	Croatian and Bosnian and Herzegovinian	Brčko	Višnja DRENŠKI LASAN
2.	39650/17 29/05/2017	Afrim HASANI 1973	Kosovar[1]	Bochum	Ivan ADŽIĆ

[1] All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with the United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.