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

FIRST SECTION

DECISION

Application no. 31619/16
Marijana KRASIĆ
against Croatia

The European Court of Human Rights (First Section), sitting on 3 May 2022 as a Committee composed of:

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

Having regard to:

the application (no. 31619/16) against Croatia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 30 May 2016 by a Croatian national, Ms Marijana Krasić, who was born in 1963 and lives in Šibenik ("the applicant") who was represented by Ms N. Erstić, a lawyer practising in Zadar;

the decision to give notice of the complaint concerning the lack of access to court to the Croatian Government ("the Government"), represented by their Agent, Ms Š. Stažnik, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns enforcement proceedings against the applicant in which her appeal was declared inadmissible as being lodged out of time.

2. On 26 May 2014 the Šibenik Municipal Court issued a writ of execution (*rješenje o ovrsi*) by garnishment of the applicant's earnings.

3. On 8 September 2014 the same court declared the applicant's appeal against the writ inadmissible as being lodged out of time. It found that the

writ had been served on her on 4 June 2014, that the last day for lodging an appeal was 12 June 2014, but that the appeal had been lodged a day later.

4. On 25 September 2014 the applicant lodged a request for restoring the proceedings to the *status quo ante* (*restitutio in integrum ob terminem elapsum*) and, alternatively, an appeal. She argued that the writ of execution had wrongfully been served on her mother instead of on her and that her mother had handed it over to her only on 10 June 2014. She further proposed that they both give oral evidence before the court and that a report from an expert in graphology be obtained.

5. On 8 June 2015 the Šibenik Municipal Court dismissed the applicant's request for restoring the proceedings to the *status quo ante* and refused to take any evidence proposed. That decision was upheld by the Šibenik County Court on 17 August 2015.

6. On 8 December 2015 the Constitutional Court declared inadmissible a subsequent constitutional complaint by the applicant on the grounds that the contested decision was not open to constitutional review.

7. Before the Court the applicant complained, relying on Article 6 § 1 of the Convention, that her appeal against the writ of execution had not been examined on the merits because of the domestic courts' refusal to take any evidence proposed by her.

THE COURT'S ASSESSMENT

8. In their submissions of 12 July 2019 containing a factual update, the Government informed the Court that on 20 May 2019 the Šibenik County Court adopted a decision whereby it dismissed the applicant's appeal lodged in alternative to her request for restoring the proceedings to the *status quo ante* (see paragraphs 3 and 4 above). That court established that the applicant had, even within the extended time-limit granted to her, failed to advance the costs of a report from an expert in graphology, the preparation of which had eventually been agreed by the court. It thus concluded that the applicant's argument that the writ of execution had been served on her mother instead of on her could not be accepted.

9. The applicant did not make any comments with regard to the factual update.

10. The Court notes that the domestic courts had declared inadmissible the applicant's appeal against the writ of execution because she had failed to prove that lodging her appeal out of time had been a result of an unlawful service of the writ. Such service could have been proved by obtaining a report from an expert in graphology. However, even though the domestic courts had eventually accepted the applicant's proposal to obtain such a report, they had never obtained it because she had not advanced the costs of its preparation (see paragraph 8 above). By failing to advance these costs the applicant voluntarily renounced her proposal to obtain such report and essentially

brough about a situation in which she prevented the domestic courts from examining the merits of her case (compare with *Kovačević v. Croatia*, no. 58411/12, § 28, 28 March 2017, and *Momčilović v. Croatia*, no. 11239/11, § 55, 26 March 2015).

11. It follows that the present application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 2 June 2022.

Liv Tigerstedt Deputy Registrar	Péter Paczolay President