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

FIRST SECTION

DECISION

Applications nos. 59359/15 and 16039/16
Petra MARIĆ against Croatia
and Verica MRĐANOV against Croatia

The European Court of Human Rights (First Section), sitting on 17 May 2022 as a Committee composed of:

Alena Poláčková, *President,*
Raffaele Sabato,
Davor Derenčinović, *judges,*
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the applications (nos. 59359/15 and 16039/16) against 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 complaints concerning the right to a reasoned decision and the right to the peaceful enjoyment of possessions to the Croatian Government ("the Government") represented by their Agent, Mrs Š. Stažnik, and to declare inadmissible the remainder of application no. 59359/15;

the parties' observations;

the decision of the Government of Bosnia and Herzegovina and of the Government of Serbia 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 consecutive administrative and judicial proceedings in which the domestic authorities dismissed the applicants' requests for payment of pension arrears.

2. By a decision of 29 June 1998, the Croatian Pension Fund recognised the first applicant's entitlement to a survivor's (family) pension from 26 June 1994 (the date of her husband's death).

3. Until 30 April 2000 she received pension from the authorities in Bosnia and Herzegovina.

4. Following her request of 17 May 2001, the Croatian Pension Fund started paying her survivor's (family) pension on 1 June 2001.

5. On 16 January 2009 the first applicant lodged a request for payment of the pension arrears accrued in the period between 26 June 1994 and 24 September 2001. The Croatian Pension Fund dismissed her request, which decision was subsequently upheld by the High Administrative Court and by the Constitutional Court.

6. By a decision of 2 December 1997, the Croatian Pension Fund recognised the second applicant's mother's entitlement to a survivor's (family) pension from 18 November 1991 (the date of her husband's death) with the right to payment from 11 January 1997.

7. On 22 November 2002 the second applicant's mother lodged a request for payment of the pension arrears accrued in the period between 18 November 1991 and 10 January 1997. After her mother's death in 2004, the second applicant, in her capacity as heir, took over those administrative proceedings. The Croatian Pension Fund eventually dismissed the request for payment of pension arrears, which decision was subsequently upheld by the High Administrative Court and by the Constitutional Court.

8. In both cases the administrative and judicial authorities in dismissing the applicants' requests relied on section 87(2) of the 1998 Pension Insurance Act which provided that pension arrears could only be recovered for the past twelve months if they had not been paid owing to circumstances caused by the beneficiaries themselves (such as a failure to notify the authorities of the change of address, to submit life certificate, to renew the power of attorney, etc.). However, in their decisions the domestic authorities did not specify which circumstances rendered that provision applicable in the applicants' cases.

9. Before the Court the applicants complained, under Article 6 § 1 of the Convention, that there had been a violation of their right to a reasoned decision in that the domestic authorities had not specified which circumstances had justified the application of the above provision in their cases, and because the High Administrative Court and the Constitutional Court had failed to address their argument that the conditions for the application of that provision had not been met. They also complained, under Article 1 of Protocol No. 1 to the Convention, that the domestic authorities' decisions had been in violation of their right to the peaceful enjoyment of their possessions.

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 Court notes that under section 5(2) of the 1998 Pension Insurance Act, read in conjunction with the relevant provisions of the Obligations Act setting out a prescription period (*zastara*) for periodic claims, payment of monthly pension instalments, as a general rule, became time-barred after three years. That is confirmed by the case-law of the Croatian Supreme Court (see, for example, decisions no. Rev 869/00-2 of 10 March 2004, Rev 49/07-2 of 15 February 2007, Rev 27/06-2 of 3 April 2007, Rev 976/03-2 of 10 May 2007, Rev 568/06-2 of 18 July 2007, Rev 110/07-2 of 12 March 2008, Rev 939/08-2 of 24 June 2010 and Rev 364/09-2 of 28 April 2011).

12. The first applicant lodged her request for payment of pension arrears accrued in the period between 26 June 1994 and 24 September 2001 on 16 January 2009 (see paragraph 5 above). In the second applicant's case such request was lodged on 22 November 2002 in respect of pension arrears accrued in the period between 18 November 1991 and 10 January 1997 (see paragraph 7 above). This means that both requests were lodged outside of the general statutory three-year prescription period and, therefore, would have been dismissed even if section 87(2) of the 1998 Pension Insurance Act had not been applied in the applicants' cases.

13. In those circumstances the Court finds that the applicants did not suffer a significant disadvantage on account of the alleged violations complained of (see, *mutatis mutandis*, *Grozdanić and Gršković-Grozdanić v. Croatia*, no. 43326/13, § 128, 28 January 2021).

14. The Court further notes that it has established clear and extensive case-law concerning complaints relating to a reasoned decision and payment of pension arrears, which also includes cases brought against Croatia (see, for example, *Jaćimović v. Croatia*, no. 22688/09, §§ 46-53, 31 October 2013, and *Čekić and Others v. Croatia* (dec.), no. 15085/02, 9 October 2003). Thus, an examination on the merits of the applicants' complaints would not add anything in this regard. The Court therefore concludes that respect for human rights, as defined in the Convention and the Protocols thereto, does not require an examination of these complaints on the merits.

15. In view of the above findings, the Court finds that the present applications are inadmissible under Article 35 § 3 (b) of the Convention because the applicants have not suffered a significant disadvantage, and that they must therefore be rejected pursuant to Article 35 § 4.

16. In view of this conclusion, the Court does not find it necessary to examine the Government's preliminary objections relating to the six-month time-limit and the non-exhaustion of domestic remedies.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 9 June 2022.

Liv Tigerstedt
Deputy Registrar

Alena Poláčková
President

APPENDIX

No.	Application no.	Case name	Lodged on	Applicant Year of Birth Place of Residence Nationality	Represented by
1.	59359/15	Marić v. Croatia	23/11/2015	**Petra MARIĆ** **1936** **Stanari** **national of Bosnia and Herzegovina**	Stanimir RAUKOVIĆ
2.	16039/16	Mrđanov v. Croatia	16/03/2016	**Verica MRĐANOV** **1953** **Stapar** **Serbian**	Sonja SAVIN