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

FIRST SECTION

DECISION

Application no. 26869/21
Viktor PUNČEC and Sylvia NELSON
against Croatia

The European Court of Human Rights (First Section), sitting on 25 June 2026 as a Committee composed of:

Frédéric Krenc*, President*,
Davor Derenčinović,
Alain Chablais*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 26869/21) 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") on 20 May 2021 by Mr Viktor Punčec, a Croatian national who was born in 1952 and lives in Umhlanga, the Republic of South Africa, and Ms Sylvia Nelson, a national of the United States of America who was born in 1954 and lives in Oklahoma, the United States of America ("the applicants"), both of whom were represented by Ms I. Sedlar, a lawyer practising in Zagreb;

the decision to give notice of the complaints under Article 6 § 1 of the Convention concerning the reasoning of a decision and the excessive length of proceedings to the Croatian Government ("the Government"), represented by their Agent, Ms Š. Stažnik, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicants' complaints under Article 6 § 1 of the Convention about the reasons given by the High Administrative Court for dismissing their request to have a final decision quashed and reversed, as well as the length of the relevant proceedings.

2. On 22 July 2005 the Office for Property and Legal Affairs of the City of Zagreb ("the Zagreb Office") dismissed a claim lodged by the applicants for the restitution of property that had been appropriated from their father during the communist regime.

3. By a decision of 20 November 2007, the Ministry of Justice dismissed an appeal lodged by the applicants. Since the applicants did not initiate judicial review (administrative dispute) proceedings in the administrative courts, the decisions of 22 July 2005 and 20 November 2007 became final on 7 March 2008.

4. On 13 May 2009 the applicants lodged a request to have the final decision quashed and reversed (*zahtjev za ukidanje i mijenjanje pravomoćnog rješenja*) with the Zagreb Office. They argued, in particular, that the impugned decisions of 22 July 2005 and 20 November 2007 had been contrary to the relevant provisions of the Restitution Act, as amended after the Constitutional Court had declared several sections of it unconstitutional in 1999. The applicants therefore requested that the final decision of 22 July 2005 be quashed and reversed in accordance with section 265 of the General Administrative Procedure Act, so that their claim for restitution be granted.

5. By a decision of 29 November 2010, the Zagreb Office granted the applicants' request and quashed its decision of 22 July 2005, on the grounds that the Restitution Act had been misapplied in their case.

6. The State Attorney's Office appealed, arguing that the State had benefited from the decision of 22 July 2005 and had not agreed to it being quashed, which was one of the statutory conditions for granting the request in question. By a decision of 17 December 2013, the Ministry of Justice granted the appeal and quashed the decision of 29 November 2010.

7. On 8 June 2016 the Zagreb Administrative Court dismissed an administrative action lodged by the applicants against the decision of the Ministry of Justice. It held that, before deciding the applicants' request, the Zagreb Office should have, as a preliminary issue, established whether the State had acquired any rights by the decision of 22 July 2005 and whether quashing or reversing the decision would have had adverse consequences for the rights of any third party.

8. By a judgment of 4 May 2017, the High Administrative Court allowed an appeal by the applicants and annulled the Zagreb Administrative Court's judgment of 8 June 2016, the Ministry of Justice's decision of 17 December 2013 and the Zagreb Office's decision of 29 November 2010. Furthermore, it also dismissed the applicants' request to have the decision of 22 July 2005 quashed and reversed. In particular, unlike the Ministry of Justice, the High Administrative Court held that the State could not have, in any event, acquired any rights by the decision of 22 July 2005. Nevertheless, the court found that the applicants' request to have that decision quashed and reversed could not have been granted since they had equally acquired no rights by the decision denying their restitution claim.

9. By a decision of 11 November 2020, which was served on the applicants' representative on 19 November 2020, the Constitutional Court declared a constitutional complaint lodged by the applicants inadmissible.

10. Before the Court, the applicants complained that their request to have the decision of 22 July 2005 quashed and reversed had eventually been dismissed by the judgment of the High Administrative Court even though the reasons given in that judgment suggested that the request had been well-founded. Furthermore, they complained of the excessive length of the proceedings before the judicial authorities. They relied on Article 6 § 1 of the Convention.

THE COURT'S ASSESSMENT

11. The Government argued that the proceedings complained of had been instituted following an extraordinary remedy whereby the applicants had sought to obtain the quashing of a final decision. Article 6 § 1 of the Convention was therefore not applicable, even on an exceptional basis, because national law had not granted them the right to institute the proceedings in question and the domestic courts had not been engaged in a review of the final decision concerning their restitution request. The applicants disagreed.

12. The Court observes that by lodging their request to have the final decision quashed and reversed, the applicants sought to set aside the decision of the Ministry of Justice of 20 November 2007 and the decision of the Zagreb Office of 22 July 2005, whereby their restitution claim had been dismissed (see paragraph 4 above). Since the applicants failed to institute judicial review (administrative dispute) proceedings, the decisions of 20 November 2007 and 22 July 2005 became final on 7 March 2008 (see paragraph 3 above).

13. According to the Court's long-standing and established case-law, the Convention does not guarantee a right to have a terminated case reopened (see *Bochan v. Ukraine (no. 2)* [GC], no. 22251/08, § 44, ECHR 2015), save for instances where an extraordinary appeal entails or actually results in reconsidering the case afresh, or where the proceedings, although characterised as "extraordinary" or "exceptional" in domestic law, are deemed to be similar in nature and scope to ordinary appeal proceedings (ibid., §§ 46-47).

14. In that regard, the Court firstly notes that the applicants' request to have the final decision quashed and reversed was dismissed with final effect by the High Administrative Court on the grounds that it could not have been granted in respect of the impugned decision, which had not conferred upon them any rights (see paragraph 8 above and compare, *mutatis mutandis*, *Štokalo and Others v. Croatia*, no. 15233/05, § 46, 16 October 2008). Therefore, the domestic courts did not touch upon the merits of their initial

restitution claim (compare, for instance, *Zasurtsev v. Russia*, no. 67051/01, §§ 61-63, 27 April 2006; and contrast *Trivkanović v. Croatia (no. 2)*, no. 54916/16, § 58, 21 January 2021).

15. Secondly, and equally importantly, it is clear from the domestic courts' practice (see, in particular, the Constitutional Court's decision no. U-III-931/1996 of 11 March 1998, which was submitted by the applicants) that in deciding whether to grant a request to have a final decision quashed or reversed, the domestic authorities exercised discretionary power and were not required to deliver a formal decision on the issue if they found that such a request was to be dismissed. In that case, they were simply to notify the petitioner, such a notification not being considered an administrative act and no remedy being available against it. This interpretation is further supported by the commentary on the General Administrative Procedure Act submitted by the applicants.

16. The Court also observes that, pursuant to section 265 of the General Administrative Procedure Act, the remedy used by the applicants could have been pursued at any time after the adoption of the final decision.

17. The present case is thus to be distinguished from *San Leonard Band Club v. Malta* (no. 77562/01, § 44, ECHR 2004-IX), as well as, for instance, *Maresti v. Croatia* (no. 55759/07, §§ 25 and 50, 25 June 2009) and *Trapeznikov and Others v. Russia* (nos. 5623/09 and 3 others, § 37, 5 April 2016), where the Court held that the remedies that had been used by the applicants against final decisions – in respect of which strict time-limits had been prescribed, and which had not been subject to any discretionary decision of the courts – constituted the next logical step in the chain of domestic remedies at their disposal, rather than an extraordinary means of reopening proceedings.

18. Having regard to the above, the Court concludes that the proceedings following the applicants' request to have the final decision quashed and reversed were not decisive for the determination of their civil rights and obligations and that Article 6 § 1 is therefore inapplicable.

19. It follows that the application is inadmissible as being incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected pursuant to Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 16 July 2026.

Liv Tigerstedt Deputy Registrar	Frédéric Krenc President