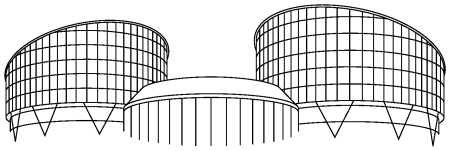

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF MATELJAN v. CROATIA

(Application no. 64855/11)

JUDGMENT

STRASBOURG

12 July 2018

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Mateljan v. Croatia,

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

Kristina Pardalos, *President,*
Ksenija Turković,
Pauliine Koskelo, *judges,*

and Abel Campos, *Section Registrar,*

Having deliberated in private on 19 June 2018,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 64855/11) 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 a Croatian national, Ms Grozdana Mateljan ("the applicant"), on 30 September 2011.

2. The applicant was represented by Mr T. Vukičević, a lawyer practising in Split. The Croatian Government ("the Government") were represented by their Agent, Ms Š. Stažnik.

3. On 4 March 2013 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. Background to the case

4. The applicant was born in 1935 and lives in Split.

5. On 16 January 1961 the Municipal Institute for Social Insurance in Split (which later became the Croatian Pension Fund and is therefore hereinafter referred as such) awarded the applicant, as its employee, the specially protected tenancy (*stanarsko pravo*) of a socially-owned flat in Gajeva Street in Split, with a surface area of 37 square metres.

6. On 19 April 1969 the applicant married a certain M.M. and went to live in the flat in respect of which he held a specially protected tenancy.

7. On 2 October 1972 the Yugoslav People's Army awarded the applicant's husband, as a serviceman, a socially-owned flat in Šimićeva Street in Split, with a surface area of 62 square metres, with a view to

satisfying the housing needs of him and his family (the applicant and their two sons, who were both less than two years old at the time).

8. The applicant, her husband and their two sons moved into that flat some time in 1973. Pursuant to the relevant legislation (see paragraph 45 below), the applicant thereby, as her husband's wife, automatically became a co-holder of the specially protected tenancy of the flat in question.

9. Once the applicant moved out from the flat in Gajeva Street her brother moved in. He remained living there with his family until 1982, when he moved out.

10. The applicant stated that in May 1982 she had moved out of the flat in Šimićeva Street and returned to the flat in Gajeva Street to live there with her elderly mother and to take care of her. She stated that she had lived there until her eviction on 16 May 2012 (see paragraph 38 below).

11. On 22 June 1982 the applicant applied to the Croatian Pension Fund, as the provider of the flat in Gajeva Street, for permission to exchange the flats in Gajeva and Šimićeva Streets for a single, larger flat, a possibility provided for under section 49(3) of the 1974 Housing Act (see paragraph 48 below).

B. Administrative proceedings for the applicant's eviction

1. Principal proceedings

12. On 30 June 1982 the Croatian Pension Fund refused its consent for the exchange of flats and ordered her to vacate the flat in Gajeva Street. It held that the applicant had been for many years using two socially-owned flats, which was contrary to the law (see paragraph 45 below).

13. The applicant then instituted administrative proceedings before the relevant first-instance administrative authority charged with housing affairs (hereinafter "the first-instance housing authority"), applying for permission to exchange the two flats for a single, larger one (see paragraph 48 below). The Croatian Pension Fund, for its part, on 13 July 1982 instituted administrative proceedings before the same authority, seeking her eviction from the flat in Gajeva Street. The two administrative proceedings were subsequently joined.

14. At the hearing held on 16 September 1982, the applicant stated that after her brother had moved out of the flat in Gajeva Street she had moved in with her mother who was, owing to her age, in need of care and no longer able to live alone (see paragraphs 9-10 above).

15. By a decision of 17 December 1982, the first-instance housing authority dismissed the applicant's application for an exchange of flats, and ordered her to vacate the flat in Gajeva Street. That authority held:

- that she had permanently left the flat in in Gajeva Street in 1969, thereby losing her specially protected tenancy of that flat,

- that once her brother had moved out the applicant had indeed moved back into the flat in May 1982 (see paragraphs 9-10 and 14 above) but had not thereby re-acquired the specially protected tenancy of the flat.

- that it was therefore not possible to grant her permission for an exchange of flats because she no longer held a specially protected tenancy in respect of one of the two flats involved in the desired exchange.

16. Following an appeal by the applicant, by a decision of 20 May 1983 the relevant second-instance administrative authority quashed the first-instance decision and remitted the case. It held that the applicant retained the status of a holder of the specially protected tenancy of the flat in question. Instead of seeking her eviction, the first-instance housing authority should have followed the procedure stipulated for situations where a tenant held a specially protected tenancy in respect of two flats (see paragraph 48 below). That procedure provided for the possibility of exchanging the two flats for a single one if neither flat satisfied the housing needs of the tenant's household (but would if taken together). It instructed the first-instance housing authority to examine whether the flats in Gajeva and/or Šimićeva Streets satisfied the housing needs of the applicant and her family.

17. In the resumed proceedings, the first-instance housing authority established that the flat in Šimićeva Street had fully satisfied the applicant's and her family's housing needs. It therefore, by a decision of 10 October 1984, again dismissed the applicant's application for an exchange of flats and ordered her to vacate the flat in Gajeva Street.

18. By a decision of 1 February 1985 the second-instance administrative authority dismissed an appeal by the applicant and upheld the first-instance decision of 10 October 1984.

19. The applicant then brought an action for judicial review in the Administrative Court which, by a judgment of 6 June 1985, quashed the second-instance decision of 1 February 1985 for incomplete facts and remitted the case for fresh examination.

20. In the resumed proceedings, the first-instance housing authority, after collecting relevant evidence and thereby completing its earlier factual findings, again held that the flat in Šimićeva Street had fully satisfied the applicant's and her family's housing needs. It therefore, by a decision of 6 November 1987, again dismissed the applicant's application for an exchange of flats and ordered her to vacate the flat in Gajeva Street.

21. By a decision of 31 May 1988 the second-instance administrative authority dismissed an appeal by the applicant and upheld the first-instance decision of 6 November 1987.

22. The applicant then again brought an action for judicial review in the Administrative Court which, by a judgment of 22 December 1988, quashed the second-instance decision of 31 May 1988. The court held that the issue of whether the flat in Šimićeva Street had fully satisfied the applicant's and her family's housing needs had to be determined by applying relevant

military housing standards and not general housing standards, given that the flat in question had been awarded to her husband as a serviceman (see paragraph 7 above).

23. In the resumed administrative proceedings, on 25 May 1992 the applicant withdrew her application for an exchange of flats, stating the passage of time and changed family circumstances as the reasons for her withdrawal. In particular, she stated that she had in the meantime divorced (see paragraph 39 below).

24. By a decision of 1 June 1992 the first-instance housing authority discontinued the proceedings in so far as they concerned the applicant's application for an exchange of flats. It also ordered the applicant to vacate the flat in Gajeva Street, finding that the flat in Šimićeva Street had satisfied the applicant's and her family's housing needs even according to the relevant military housing standards. The applicant appealed, arguing, *inter alia*, that her specially protected tenancy of the flat in Gajeva Street had never been terminated and that the first-instance housing authority had not taken into account her changed circumstances – that is to say her divorce and the fact that she had not been using two flats.

25. By a decision of 14 January 1993 the relevant ministry, as the second-instance administrative authority, dismissed an appeal by the applicant against the first-instance decision of 1 June 1992.

26. The applicant then, for the third time, brought an action for judicial review in the Administrative Court, which dismissed it by a judgment of 26 May 1993.

27. Following a request for the protection of legality (*zahtjev za zaštitu zakonitosti*) by the Principal State Attorney, on 12 July 1996 the Supreme Court quashed the Administrative Court's judgment and remitted the case. The Supreme Court held that the Administrative Court and the administrative authorities had wrongly applied the relevant military housing standards to the facts of the case. The Supreme Court also held that the issue of whether the flat in Šimićeva Street had satisfied the applicant's and her family's housing needs had to be determined having regard to the circumstances existing at the time she had moved into that flat in in 1973 and that the subsequent change in circumstances was of no relevance.

28. In the resumed proceedings, by a decision of 6 December 1999 the first-instance housing authority again ordered the applicant to vacate the flat in Gajeva Street, finding that at the time that she had moved into the flat in Šimićeva Street the latter flat had satisfied her and her family's housing needs, having regard to the relevant military housing standards. That authority also reiterated that the subsequent changes in her family situation were irrelevant.

29. On 29 March 2000 the second-instance administrative authority dismissed an appeal by the applicant against the first-instance decision, which thereby became definitive and enforceable.

30. The applicant then, for the fourth time, brought an action for judicial review in the Administrative Court, which dismissed it by a judgment of 12 June 2003.

31. The Principal State Attorney then again lodged a request for the protection of legality.

32. By a judgment of 16 September 2004 the Supreme Court allowed that request, quashed the Administrative Court's judgment and remitted the case. The Supreme Court held that, because the proceedings concerned the applicant's eviction from the flat in Gajeva Street, the issue of whether the flat in Šimićeva Street had satisfied her and her family's housing needs had to be determined in accordance with general and not military housing standards.

33. In the resumed proceedings, by a judgment of 12 May 2005 the Administrative Court again dismissed the applicant's action.

34. The applicant then, on 3 April 2006, lodged a constitutional complaint alleging a violation of her constitutional right to fair procedure. She argued, *inter alia*, that the administrative and judicial authorities had not taken into account the fact that she had divorced her husband and thus had no longer needed to exchange the flats nor the fact that she had not been using two flats. She also mentioned that she had been living in the flat in Gajeva Street together with her son, D.M., and his family (his wife and daughter), as members of her household.

35. On 13 December 2006 the Constitutional Court issued an interim measure whereby it temporarily postponed the enforcement of the first-instance decision of 6 December 1999 (see paragraph 28 above) pending the adoption of its decision on the applicant's constitutional complaint.

36. By a decision of 13 July 2011 the Constitutional Court dismissed the applicant's constitutional complaint.

2. Enforcement proceedings

37. Meanwhile, on 14 March 2003 the first-instance housing authority issued an enforcement order with a view to executing its decision of 6 December 1999 and evicting the applicant by force (see paragraph 28 above).

38. The enforcement was postponed following several judicial decisions. A first attempted eviction took place on 28 November 2006 but it was agreed to postpone it, the applicant being in poor medical condition. On 16 May 2012 the applicant was evicted. The records drawn up by the enforcement officer show that the applicant was present during both the attempted eviction and the actual eviction.

3. Other relevant facts

39. By a judgment of 30 March 1992 the Split Municipal Court dissolved the marriage between the applicant and her husband.

40. On 8 May 1992 the applicant obtained a declaratory judgment by the same court whereby she was declared the sole holder of the specially protected tenancy of the flat in Gajeva Street. The judgment was rendered in the context of civil proceedings she had instituted against her husband and was based exclusively on her husband's admission of her claim, that is, without taking any evidence.

41. On 9 January 1996 the applicant's former husband M.M. purchased the flat in Šimićeva Street from the State and thereby became its sole owner – a possibility open to all holders of specially protected tenancies of socially-owned flats under the Specially Protected Tenancies (Sale to Occupier) Act of 1991. Beforehand, on 27 November 1995 the applicant and her husband concluded an agreement whereby they both agreed that he was the sole holder of the specially protected tenancy of that flat.

42. It would appear that before selling the flat in Šimićeva Street to the applicant's husband, on 13 November 1995 the Ministry of Defence, as the State authority responsible for management of the flat at the time, conducted an on-spot inspection of the flat. Enclosed with the minutes of the inspection was a statement by the tenants' board that, along with M.M. and his two sons, a wife (that is to say the applicant) was also living in the flat as an unregistered member of the household.

43. The Government submitted that the applicant was currently living in the flat in Šimićeva Street owned by her former husband M.M. In support of their contention they furnished a certificate of domicile which indicates that since 19 September 2012 the applicant has had her domicile registered at the address of the flat in Šimićeva Street. The certificate also indicates that before that date she had had her registered domicile at the address of the flat in Gajeva Street since 9 August 1962.

44. The Government furnished evidence that the applicant was the co-owner of a number of properties in the Split area, including two houses.

II. RELEVANT DOMESTIC LAW

A. Housing legislation

45. Successive Housing Acts of 1962, 1974 and 1985 each provided that:

- a tenant could not use two or more flats,
- by moving into a flat in respect of which one spouse held a specially protected tenancy the other spouse *ex lege* became a co-holder of that tenancy.

46. Under the 1962 Housing Act tenants had to inform without delay the relevant housing authority that they had acquired the specially protected tenancy of another habitable flat and, then, within the time-limit set forth by that authority, choose the flat in respect of which they wished to retain the specially protected tenancy and vacate the remaining flat(s) (section 15 of the 1962 Housing Act).

47. Under the 1974 and 1985 Housing Act tenants had to inform the housing authority of such situations within thirty days and within the same time-limit choose the flat in respect of which they wished to retain the specially protected tenancy and vacate the remaining flat(s) (section 49(2) of the 1974 Housing Act and section 60(2) of the 1985 Housing Act). The thirty-day time-limit started to run from the moment tenants acquired the right and possibility to use another flat. In addition, since the 1962 Housing Act did not specify the duration of such a time-limit, the 1974 Housing Act provided that a thirty-day time-limit would apply from the Act's entry into force – that is to say from 26 December 1974.

48. The 1974 and 1985 Housing Acts entitled tenants in situations described in paragraph 46 above to apply for permission from the housing authority to exchange their flats for a single, larger flat, but only if both flats taken together satisfied the housing needs of such tenants and the members of their household (section 49(3) of the 1974 Housing Act and section 60(3) of the 1985 Housing Act). This possibility was thus not open where just one of the flats satisfied those needs.

B. Administrative Disputes Act

49. Section 76 of the Administrative Disputes Act (*Zakon o upravnim sporovima*, Official Gazette nos. 20/10 with subsequent amendments) allows for the possibility of reopening proceedings on the basis of a judgment of the European Court of Human Rights. The text of that provision is reproduced in the case of *Guberina v. Croatia* (no. 23682/13, § 28, ECHR 2016).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

50. The applicant complained under Article 8 of the Convention that by ordering her to vacate the flat in Gajeva Street the domestic authorities had violated her right to respect for her home, as provided in Article 8 of the Convention, which reads as follows:

> "1. Everyone has the right to respect for ... his home ...

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. Admissibility

1. Submissions by the parties

(a) The Government

51. The Government firstly submitted that the facts of the case suggested that the flat in Gajeva Street had not been the applicant's home since 1969, when she had got married and moved into the flat occupied by her husband (see paragraph 6 above). Once her husband had been awarded the flat in Šimićeva Street and they in 1973 had moved into it (see paragraph 8 above), that flat had become her home within the meaning of the Court's case-law – that is to say the place where private and family life develops (the Government cited *Giacomelli v. Italy*, no. 59909/00, § 76, ECHR 2006-XII).

52. The Government contended that the applicant's allegation that she had moved back into the flat in Gajeva Street in 1982 was untrue and made only with a view to retaining the right to occupy that flat. In particular, the applicant had herself stated she had not needed that flat for herself but as accommodation for her mother (see paragraph 14 above). Furthermore, by means of an on-site inspection the police had established that the applicant's son, together with his wife and two children, had been living in the flat until their eviction in 2012.

53. By means of another on-site inspection the police had also established that the applicant had been living permanently with her husband and younger son in the flat in Šimićeva Street. She had also formally registered her domicile at that address, albeit only after the eviction of 16 May 2012 (see paragraphs 38 and 43 above).

54. For the Government, all of the above (see paragraphs 51-53) suggested that the applicant had not had a sufficient and uninterrupted connection with the flat in Gajeva Street for it to constitute her home. Thus, she could not claim to be the victim of a violation of Article 8 of the Convention on account of her eviction from that flat.

(b) The applicant

55. The applicant pointed out that there was official evidence that after 1969 she had continued to use the flat in Gajeva Street – namely, the certificate of domicile according to which she had had her registered domicile at the address of that flat until her eviction of 16 May 2012 (see

paragraph 43 above). She thus urged the Court to recognise her victim status.

2. The Court's assessment

56. The Court considers that there is little evidence to suggest that, especially in the period after the applicant divorced, she did not live in the flat in Gajeva Street. In particular, she was present during both the attempted eviction and the actual eviction (see paragraph 38 above). Moreover, there is nothing in the domestic authorities' decisions adopted in the proceedings complained of to suggest that the applicant was not living in that flat.

57. The Government stated that two on-site inspections by the police had revealed that the applicant had been living in the flat in Šimićeva Street and not the one in Gajeva Street (see paragraphs 52-53 above). However, they did not submit any evidence that these inspections ever took place. More importantly, that evidence, as well as that stemming from the inspection by the Ministry of Defence (see paragraph 42 above), had not been subject to adversarial examination in the proceedings complained of.

58. The Court therefore notes that at the time of the alleged interference – that is to say on 29 March 2000, when the decision of the first-instance housing authority of 6 December 1999 was upheld by the relevant second-instance administrative authority and thus became definitive and enforceable (see paragraphs 28-29 above) – the flat in Gajeva Street was the applicant's home for the purposes of Article 8 of the Convention. Consequently, she can claim to be a victim of a breach of her right to respect for her home.

59. The Court furthermore notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It also notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

(a) The applicant

60. The applicant admitted that the interference with her right to respect for her home had been based on the relevant provisions of the housing legislation and that it had pursued the legitimate aim of providing socially-owned flats to those in need. However, that interference had not been necessary in a democratic society because it had not been proportional.

61. In this connection the applicant stressed that it had never been her intention to keep both flats. The flat in Šimićeva Street had not been large

enough to meet her and her family's accommodation needs and that had been the reason why she had applied for permission to exchange that and the flat in Gajeva Street for a single, larger one – a right provided by the relevant housing legislation at the time (see paragraph 48 above). Since it had taken a long time for the domestic authorities to adopt a final decision on her application for an exchange of flats her family had been forced to seek another solution. In particular, some family members had remained living in the flat in Šimićeva Street while the others moved into the flat in Gajeva Street (see paragraph 10 above).

62. The applicant also submitted that, while it was true that she was formally a co-owner of two houses in the Split area (see paragraph 44 above and paragraph 66 below), which she had inherited, they were both unsuitable for living in and she only had a 1/8 ownership share in them.

(b) The Government

63. The Government submitted that, if the Court were to consider that the flat at issue had been the applicant's home, her eviction had constituted an interference with her right to respect for her home. However, the Government argued that the interference had been in accordance with the law, that it had pursued a legitimate aim, and that it had been necessary in a democratic society.

64. As regards in particular the proportionality, the Government firstly submitted that in the proceedings complained of the decisive issue the domestic authorities had had to examine had been whether the flat in Šimićeva Street, allocated to her husband with a view to satisfying his and his family's housing needs, had been, according to the relevant housing standards, suitable for them and their two children at the time they had moved into it in 1973. After a thorough examination the domestic authorities had established that it had, and consequently had ordered her to vacate the flat in Gajeva Street so that it could be allocated to someone in need of housing. Had it been established that the flat in Šimićeva Street had not met her housing needs, she would have had the right to retain the flat in Gajeva Street and to arrange for an exchange of the two flats for a single, larger one.

65. The domestic authorities had thus not limited themselves to the conclusion that the applicant had not had the right to occupy the flat in Gajeva Street, but had also undertaken a test of proportionality whereby the housing needs of the applicant and her family had been the decisive factor and had guided those authorities in their decision-making.

66. Secondly, the Government submitted that the applicant was also a co-owner of two houses in the Split area (see paragraph 44 above) and that her eviction from the flat in Gajeva Street had therefore not made her homeless.

67. The Government therefore concluded that the alleged interference with the applicant's right to a home had been proportional to the legitimate aim and as such, necessary in a democratic society. They thus urged the Court to find no violation of Article 8 of the Convention.

2. The Court's assessment

68. In the light of its finding above (see paragraphs 56-58) that the flat in Gajeva Street was the applicant's home for the purposes of Article 8 of the Convention, and having regard to its case-law on the matter (see, for example, *Orlić v. Croatia*, no. 48833/07, § 56, 21 June 2011), the Court considers that the decision of the first-instance housing authority of 6 December 1999, which was upheld by the relevant second-instance administrative authority on 29 March 2000 (see paragraphs 28-29 above), constituted an interference with her right to respect for her home.

69. The parties agreed (see paragraphs 60 and 63 above) that the interference had been provided for by law as it had been based on the relevant housing legislation (see paragraphs 45-48, above) and that it had pursued a legitimate aim. The Court sees no reason to hold otherwise, as it has itself found in similar cases that an interference based on the same legislation had pursued the legitimate aims of promoting the economic well-being of the country and protecting the rights of others (see, for example, *Petolas v. Croatia* (dec.), no. 74936/12, 22 March 2016).

70. As regards proportionality, the Court reiterates that it has adopted several judgments against Croatia finding a violation of the right to respect for home on the grounds that the national courts had ordered evictions solely because the applicants in those cases had had no right to occupy the flats at issue, without having carried out a proportionality test as to the measures taken against the applicants (see, for example, *Ćosić v. Croatia*, no. 28261/06, 15 January 2009; *Paulić v. Croatia*, no. 3572/06, 22 October 2009; *Bjedov v. Croatia*, no. 42150/09, § 29 May 2012; and *Brežec v. Croatia*, no. 7177/10, 18 July 2013).

71. The Government argued (see paragraphs 64-65 above) that the present case differed from the above-cited cases in that the domestic authorities had not limited themselves to the conclusion that the applicant had not had the right to occupy the flat in question. Rather, before reaching their decisions the domestic authorities had thoroughly examined the housing needs of the applicant and her family, which they had considered decisive in the proceedings.

72. However, the Court reiterates that under its constant case-law the issue of whether an interference with an individual's right to home is justified, and in particular, whether it is proportionate, is to be determined having regard to all relevant circumstances, including those existing at the time the interference occurred (see, for example, *Petolas*, cited above, § 61). In this connection it cannot but be noted that, despite the applicant's

arguments to the contrary, the domestic authorities deliberately kept ignoring the fact that she had divorced in the course of the proceedings and that her housing needs had therefore changed (see paragraphs 23-36 above).

73. Having therefore failed to take into account the changed circumstances, it cannot be said that the domestic authorities carried out a proportionality test, as required by the Court's case-law.

74. The foregoing is sufficient for the Court to find that there has been a violation of Article 8 of the Convention in the present case.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

75. The applicant also complained under Articles 6 § 1, 13 and 14 of the Convention that in the above-mentioned administrative proceedings concerning her eviction (see paragraphs 12-38) the domestic authorities had wrongly assessed the evidence and wrongly applied the domestic law, that she had been discriminated against and that she had not had an effective remedy because her constitutional complaint had been dismissed without sufficient reasons.

76. In the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court considers that the present case does not disclose any appearance of a violation of any of the above-mentioned Articles of the Convention.

77. It follows that these complaints are also inadmissible under Article 35 § 3 (a) of the Convention as manifestly ill-founded and that they must be rejected, in accordance with Article 35 § 4 thereof.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

78. 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."

79. In the application form the applicant stated that the goal of her application was to obtain a judgment finding a violation of the Convention, which would enable her to seek the reopening of the administrative proceedings complained of.

A. Damage

80. The applicant claimed 4,000 euros (EUR) in respect of non-pecuniary damage.

81. The Government contested that claim.

82. The Court notes that under the domestic law the applicant has a possibility to seek reopening of the proceedings complained of (see paragraph 49 above).

83. It also considers that the applicant must have sustained non-pecuniary damage, which cannot be sufficiently compensated by reopening of the proceedings. In these circumstances, ruling on an equitable basis, the Court awards the applicant EUR 1,500 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

84. In the application form the applicant's representative claimed 17,000 Croatian kunas (HRK) for the costs and expenses incurred before the domestic authorities. As regards the costs (to be) incurred before the Court he stated that these would have to be specified according to the number of submissions he would have to make. However, he never specified the amount of those costs.

85. The Government contested these claims.

86. As regards the claim for costs and expenses incurred in the domestic proceedings, the Court is of the opinion that it must be rejected, given that the applicant's representative did not submit itemised particulars of this claim or any relevant supporting documents. He thus failed to comply with the requirements set out in Rule 60 § 2 of the Rules of Court. In any event, the applicant will be able to have those costs reimbursed should the proceedings complained of be reopened (see *Lemo and Others v. Croatia* [Committee], no. 3925/10 and 7 other applications, § 66, 10 July 2014).

87. As regards the claim for costs and expenses before it, the Court reiterates that pursuant to Rule 60 § 1 of the Rules of Court an applicant who wishes to obtain an award of just satisfaction under Article 41 of the Convention must make a specific claim to that effect. Since in the present case the applicant's representative failed to specify the amount of this part of the claim for costs and expenses, the Court makes no award under this head (Rule 60 § 3).

C. Default interest

88. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the right to respect for home admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into Croatian kunas at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 12 July 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Abel Campos Registrar	Kristina Pardalos President