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

FIRST SECTION

CASE OF ORDULJ v. CROATIA

(Application no. 5899/23)

JUDGMENT

STRASBOURG

16 July 2026

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Ordulj v. Croatia,

The European Court of Human Rights (First Section), sitting 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. 5899/23) 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 25 January 2023 by a Croatian national, Mr Duje Ordulj ("the applicant"), who was born in 1988 and lives in Srinjine, and was represented by Mr T. Vukičević, a lawyer practising in Split;

the decision to give notice of the complaints concerning the lawfulness and the lack of a speedy judicial review of detention under Article 5 §§ 1 and 4 of the Convention to the Croatian Government ("the Government"), represented by their Agent, Mrs Š. Stažnik, and to declare the remainder of the application inadmissible;

the parties' observations;

the decision to reject the Government's objection to examination of the application by a Committee;

Having deliberated in private on 25 June 2026,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the domestic courts' examination of the possibility of the applicant's conditional release from juvenile detention.

I. APPLICANT'S REQUEST FOR CONDITIONAL RELEASE

2. By a judgment of the Split Municipal Court adopted in 2010 and upheld by the Split County Court in 2011, the applicant was convicted of a number of criminal offences which he had committed when he was 19 years old. He was sentenced to two years' juvenile detention. The sentence, which he had started serving on 27 September 2011, was set to expire on 18 August 2013.

3. Under section 103 of the Juvenile Courts Act, the competent court was to examine of its own motion, two months before the applicant would have served two thirds of his sentence, the question whether he could be granted conditional release. To that end, the applicant, who could also request to be considered for conditional release, submitted such request with the Split Municipal Court at that very time, on 23 October 2012.

4. Since the applicant was 23 years old at the time, the Split Municipal Court forwarded his request to the Sisak County Court, deeming it competent in accordance with the rules governing conditional release of adult prisoners. The latter forwarded the case file to the Split County Court, explaining that, notwithstanding the applicant's age, the rules governing conditional release from juvenile detention applied. The Split Country Court then forwarded the case file to, *inter alia*, the Split Municipal State Attorney's Office, requesting its opinion. The latter held that the case file should be forwarded to the Ministry of Justice's Commission for Conditional Release, in accordance with the rules governing adult detainees. The Split County Court did so, but the Ministry declined to act, stating that it lacked competence in matters concerning juvenile detention. It also warned the Split County Court that it had to decide urgently on the applicant's request, drawing attention to its duty under section 103 of the Juvenile Courts Act.

5. By a decision of 17 April 2013, rectified on 22 April 2013, the Split County Court granted the applicant's request, finding that his behaviour in detention indicated that he had reached a sufficient level of "stability and responsibility". Thus, the applicant was immediately released, some four months before the completion of the serving of his sentence.

II. CIVIL PROCEEDINGS FOR COMPENSATION

6. The applicant subsequently instituted civil proceedings against the State, seeking compensation for damage sustained on account of judicial malpractice. He argued that owing to several procedural errors, the Split County Court had not only failed to decide in a timely manner on his request for conditional release, but had also failed to comply with its obligation to examine the possibility of conditional release of its own motion, all of which had resulted in his being detained for an excessively long period.

7. By a judgment of the Split Municipal Court of 24 March 2017, upheld on 24 March 2022 by the Šibenik County Court, the applicant's claim was dismissed. While it was not disputed that the possibility of the applicant's conditional release had not been examined within the time-limit provided for by section 103 of the Juvenile Courts Act, the appellate court considered that that provision was not entirely clear and that the Split County Court could not be held accountable for misinterpreting it. In any event, there was no guarantee that the applicant would have been granted conditional release had the matter been examined sooner.

8. By a decision of 16 November 2022, served on the applicant's representative on 24 November 2022, the Constitutional Court dismissed the applicant's constitutional complaint.

III. COMPLAINT

9. The applicant complained, relying on Article 5 of the Convention, of a lack of a speedy judicial review of his request for conditional release. He also argued that, as a result of the failure of the domestic courts to respect the relevant statutory time-limit, he had been kept in juvenile detention six months longer than necessary.

THE COURT'S ASSESSMENT

10. As to the Government's objection that the applicant did not raise an Article 5 § 1 complaint, the Court observes that the applicant explicitly complained that, owing to the domestic courts' failure to decide in a timely manner on his conditional release, he had been detained longer than necessary, in breach of Article 5 of the Convention (see paragraph 9 above).

11. Being master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), and having regard to its case-law (see, for example, *H.W. v. Germany*, no. 17167/11, §§ 50-51, 19 September 2013, and *Kafkaris v. Cyprus* (dec.), no. 9644/09, §§ 49-50, 21 June 2011), the Court considers that the applicant's complaints fall to be examined under Article 5 §§ 1 and 4 of the Convention.

I. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

12. The Court considers that it is not necessary to decide on the Government's objection in respect of non-exhaustion of domestic remedies because the complaint is in any event inadmissible for the following reasons.

13. Since the applicant was serving his sentence on the basis of a final conviction (see paragraph 2 above), his detention fell within the ambit of Article 5 § 1 (a). The applicant did not challenge the lawfulness thereof under domestic law, but rather complained that it had become arbitrary on account of the domestic courts' failure to decide in a timely manner on his conditional release – that is, on the necessity of his continued detention (see paragraph 9 above and 19 below).

14. The Court observes that the applicant was sentenced to juvenile detention of fixed duration, the appropriateness of which it cannot review (see *Weeks v. the United Kingdom*, 2 March 1987, § 50, Series A no. 114), and was released some four months before his sentence was set to expire (see paragraph 5 above). There is nothing to indicate that the causal link between his conviction and his detention had at any point been broken (compare *Del Río Prada v. Spain* [GC], no. 42750/09, § 129, ECHR 2013).

15. Moreover, while domestic law required that the possibility of early release be considered by the domestic courts of their own motion, it did not

guarantee the right to early release as such (contrast *Del Río Prada*, cited above, § 126), nor can it be said that the applicant would have been released even sooner had the matter been examined on an earlier date (see paragraph 7 above, and contrast *Del Río Prada*, cited above, §§ 130-31).

16. The present case should also be distinguished from those cases where the duration of the applicants' detention was not fixed (compare, for factual circumstances, *Miklić v. Croatia* [Committee], no. 42613/19, §§ 4 and 26, 18 March 2025), and/or where they continued to be detained on the basis of detention orders which had either expired or had been found to be defective (see *H.W. v. Germany*, cited above, §§ 68-70 and 83, and the case-law cited therein). Whereas in those cases the Court set out relatively strict criteria concerning foreseeability and lack of arbitrariness of the law regarding failure to observe statutory time-limits for reviewing the necessity of detention, no comparable circumstances pertain to the present case.

17. It follows that this complaint is inadmissible under Article 35 § 3 (a) of the Convention as manifestly ill-founded and must be rejected pursuant to Article 35 § 4 thereof.

II. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

A. Admissibility

18. The Government argued that Article 5 § 4 was not applicable to the present case since the legal basis for the applicant's detention had not been subject to change and there had been no obligation to regularly review the lawfulness of the continued serving of his sentence.

19. The Court observes that the applicant's conviction incorporated the supervision required by Article 5 § 4 (see *De Wilde, Ooms and Versyp v. Belgium*, 18 June 1971, § 76, Series A no. 12). Whereas no further review would normally be required (see *Kafkaris*, cited above, § 58), domestic law nevertheless provided for an examination, of the courts' own motion, of the possibility of conditional release from juvenile detention. The procedure in question entailed, in essence, a mandatory review of the need for the continued detention (see the Supreme Court's decision, no. Kžm 22/2013 of 3 October 2013, referred to by the Government, and compare, *mutatis mutandis*, *Kafkaris*, cited above, § 62).

20. The Government further submitted that the granting of conditional release depended on elements concerning changes in the convicted person's behaviour – in particular, his or her (successful) rehabilitation and socialisation. The Court observes that the applicant's conditional release was indeed granted because his behaviour had sufficiently changed (see paragraph 5 above). Since such circumstances are undoubtedly "susceptible to change with the passage of time", the Court reiterates that they call for the

possibility of recourse to a body satisfying the requirements of Article 5 § 4 of the Convention (see *Kafkaris*, cited above, § 58).

21. In view of the circumstances above, and having regard to its case-law on the matter (see *Kafkaris*, cited above, §§ 58-62, and *Stollenwerk v. Germany*, no. 8844/12, § 36, 7 September 2017), the Court considers that the procedure for the examination of the possibility of conditional release from juvenile detention in the present case, even if it went beyond the requirements of Article 5 § 4 of the Convention, was nevertheless of such nature to attract the applicability thereof. The Government's objection must therefore be rejected.

22. The Government also argued that the applicant had not exhausted domestic remedies because in his civil action for compensation against the State, he had not complained of deficiencies in the actions taken by the State Attorney's Office, even though the latter had contributed to the failure to decide in a timely manner on his conditional release.

23. The Court notes that the duty to decide on the possibility of the applicant's conditional release lay solely with the competent court (see paragraphs 3-4 above) and agrees with the applicant that it had been up to the latter to ensure the timely processing of his request. This objection must therefore also be rejected.

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

B. Merits

25. The general principles concerning the right to a speedy judicial review of detention have been summarised in *Mooren v. Germany* ([GC], no. 11364/03, §§ 106-07, 9 July 2009).

26. In the present case, it is not disputed that the Split County Court examined the applicant's conditional release some six months later than prescribed by section 103 of the Juvenile Courts Act (see paragraphs 2-5 and 7 above). Indeed, the Ministry warned the court of the need to decide urgently on his request (see paragraph 4 above).

27. The Government argued that the delay had been caused by some legal uncertainties as to the applicable law which had arisen in respect of the applicant's age. However, even assuming that there existed such lack of clarity and foreseeability in domestic law which could have rendered the examination of the applicant's request difficult, those shortcomings would have been entirely imputable to the domestic authorities (see, *mutatis mutandis*, *Lupeni Greek Catholic Parish and Others v. Romania* [GC], no. 76943/11, § 150, 29 November 2016). What is more, the relevant time-limit within which the courts had to examine, of their own motion, the possibility of the applicant's conditional release – that is, even in the absence

of a request from him to that effect – had been known to them since the applicant had started serving his sentence on 27 September 2011, and thus well in advance (see *H.W. v. Germany*, cited above, § 88).

28. Having regard to the strict standards laid down in its case-law on the question of State compliance with the speed requirement (see *Mooren*, cited above), the Court considers that the Split County Court failed to decide "speedily" on the applicant's request for conditional release.

29. There has accordingly been a violation of Article 5 § 4 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

30. The applicant claimed 3,000 euros (EUR) in respect of non-pecuniary damage, EUR 2,000 for the costs incurred before the Constitutional Court, and an unspecified amount in respect of costs and expenses incurred before the Court.

31. The Government contested the claim regarding costs and expenses.

32. The Court awards the applicant EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable to the applicant.

33. Having regard to the documents in its possession, the Court considers it reasonable to award the applicant EUR 830 for the costs incurred before the Constitutional Court, plus any tax that may be chargeable to him. The remainder of his claim must be rejected for failure to comply with the requirements set out in Rule 60 § 1 of the Rules of Court (Rule 60 § 3).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 5 § 4 of the Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 5 § 4 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts:
      (i) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 830 (eight hundred and thirty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts 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 16 July 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt Deputy Registrar	Frédéric Krenc President