



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

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FIRST SECTION

Application no. 21630/24
Slavica MENDELSKI and Darko MENDELSKI
against Croatia
lodged on 19 July 2024
communicated on 13 July 2026

SUBJECT MATTER OF THE CASE

In April 1996, an oil pipeline situated beneath the applicants' land ruptured, resulting in a spill that contaminated their agricultural plots. Croatia ratified the Convention on 5 November 1997.

The application concerns the subsequent civil proceedings for damages which the applicants instituted against JANAF, a public company with majority state ownership engaged in the operation of oil pipelines in Croatia.

After 24 years of proceedings, by a judgment which became final on 6 February 2020, the first- and the second-instance courts granted the applicants' compensation claim in part. They also ordered JANAF to remediate the contaminated soil on one part of the applicants' land by using specified technical methods, within three months.

The applicants then simultaneously lodged a petition to appeal on points of law and a constitutional complaint against the second-instance judgment. On 23 June 2020 the Supreme Court declared the applicant's petition inadmissible. On 27 March 2024 the Constitutional Court found a violation of the applicants' right to a hearing within a reasonable time and awarded them each EUR 6,120 in compensation. However, it did not decide on the remaining part of their constitutional complaint against the second-instance judgment.

Before the Court the applicants complain, under Article 6 § 1 of the Convention, that:

(i) the Constitutional Court did not decide on the remaining part of their constitutional complaint lodged against the second-instance judgment in May 2020;

(ii) the expert who provided his opinion in the case lacked impartiality as he himself had initially refused to submit an expert report on the ground that he was not an authorised expert and that he had worked for the defendant and affiliated companies;

(iii) the first-instance court dismissed the applicants' proposal to obtain an expert report on the level of contamination of underground water feeding the applicants' well, even though that report could have proven that the contaminated area was much larger than established in the proceedings; and

(iv) JANAF did not comply with the civil courts' order to remediate the contaminated soil by using specified technical methods.

The applicants further allege violations of Article 8 of the Convention (right to respect for their private and family life) and Article 1 of Protocol No. 1 thereto in that the oil spill resulted in the total economic devaluation of their property and their inability to grow food on their land or use well water, that the burning of oil immediately after the spill seriously endangered their health in the long term, and that no State authority has to date analysed the soil or underground water or informed them of the level of environmental contamination in which they live.

QUESTIONS TO THE PARTIES

1. Has the Constitutional Court decided on the entirety of the applicants' constitutional complaint lodged on 6 May 2020 against the second-instance judgment?

Depending on the answer to the previous question, has there been a breach of the applicants' right of access to the Constitutional Court (see, *mutatis mutandis*, *Leuska and Others v. Estonia*, no. 64734/11, § 67 and 71, 7 November 2017), or of their right to a hearing within a reasonable time before that court, guaranteed by Article 6 § 1 of the Convention (see *Pitra v. Croatia*, no. 41075/02, §§ 18-25, 16 June 2005; and *Šikić v. Croatia*, no. 9143/08, §§ 37-38, 15 July 2010)?

2. Were the proceedings before the first- and the second-instance courts fair as required by Article 6 § 1 of the Convention?

In particular, was the principle of equality of arms breached when the first-instance court appointed an expert who allegedly worked for the defendant and affiliated companies (see *Tabak v. Croatia*, no. 24315/13, § 60,

13 January 2022) and/or when it dismissed the applicants' proposal to obtain an expert report on the level of contamination of underground water feeding the applicants' well?

3. Has there been a separate breach of Article 6 § 1 of the Convention on account of the fact that JANA F has allegedly not complied with the civil courts' order to remediate the contaminated soil on by using specified technical methods?

4. Has there been a breach of Article 8 of the Convention and/or Article 1 of Protocol No. 1? Reference is made to the applicants' complaints that the oil spill resulted in the total economic devaluation of their property and their inability to grow food on their land or use well water, that the burning of oil immediately after the spill seriously endangered their health in the long term, and that no State authority has to date analysed the soil or underground water or informed them of the level of environmental contamination in which they live.