



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

FIRST SECTION

DECISION

Application no. 3249/22
Duje JELAVIĆ
against Croatia

The European Court of Human Rights (First Section), sitting on 17 September 2026 as a Committee composed of:

Raffaele Sabato, *President*,

Frédéric Krenc,

Davor Derenčinović, *judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to:

the application (no. 3249/22) 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 5 January 2022 by a Croatian national, Mr Duje Jelavić (“the applicant”), who was born in 1995, lives in Split and was represented by Mr A. Kukoč, a lawyer practising in Split;

the decision to give notice of the application to the Croatian Government (“the Government”), represented by their Agent, Ms Š. Stažnik;

the parties’ observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the applicant’s eviction from a flat in which he had been living since birth, and the adequacy of the reasons given by the Constitutional Court when dismissing his constitutional complaint in that regard.

2. The applicant lived in a flat in Split, in respect of which his grandmother, N.J., had had specially protected tenancy rights (*stanarsko pravo*) until her death in 2004.

3. Throughout the relevant period, the land register indicated that the owner of the flat was a certain V.T.; following her death, O.A. inherited the flat in 2007.

A. Civil proceedings concerning the applicant's father

4. In 2008 O.A. brought civil proceedings in the Split Municipal Court against the applicant's father claiming that he occupied the flat without a legal basis. She asserted that she had inherited ownership of the flat (see paragraph 3 above).

5. On 15 June 2009 the Municipal Court ordered the applicant's father to vacate the flat as he was occupying it without a legal basis. It found that N.J. had never been the owner of the flat and thus could never have transferred ownership of it to the applicant's father. The judgment was upheld on appeal.

6. On the basis of that judgment, O.A. initiated enforcement proceedings, seeking the eviction of the applicant's father and all other persons living in the flat (including the applicant), together with the removal of their belongings. The writ of execution was issued on 7 September 2010.

7. In parallel, the applicant's father, brought a civil action, seeking recognition of his status as a protected lessee in respect of the flat. The domestic courts ruled against him finding that he had not continuously resided in the flat in question and had not formed part of N.J.'s household. It was also established that neither he nor N.J. had ever paid protected rent to the owner.

B. The applicant's action to have the enforcement of the eviction order declared inadmissible

8. On 9 March 2015 the applicant brought a civil action seeking to have the enforcement of the writ of execution issued on 7 September 2010 declared inadmissible (see paragraph 6 above). He argued that he had acquired the status of a protected lessee by operation of the law and that the eviction order should not extend to him.

9. On 25 April 2016 the Municipal Court dismissed the applicant's claim, finding that on 14 July 2015 O.A. had served him with a written notice terminating the tenancy on grounds of non-payment of protected rent. The applicant did not dispute that he had received that notice but argued that his family had paid building maintenance contributions on behalf of the owner, and that those payments should be offset against any alleged rent arrears. The court rejected that argument, finding that no valid set-off had been proved, and that the applicant and his family had paid the contributions on their own behalf, as if they had owned the flat, and had never opened a court deposit account for the payment of protected rent.

10. The court thus concluded that, even assuming that a protected lease contract had been concluded, it had been lawfully terminated under section 19 of the Lease of Flats Act no later than February 2016. This judgment was upheld on appeal.

11. The applicant then lodged a constitutional complaint, which was dismissed on 14 June 2017. The Constitutional Court accepted that there had been an interference with the applicant's right to respect for his home as he had been ordered to vacate the flat regardless of the fact that he had acquired the status of a protected lessee. However, it found that the domestic courts had thoroughly examined the proportionality of the interference complained of and that the lease agreement had to be deemed void owing to the failure of the applicant and his family to pay the protected rent.

12. The writ of execution, issued on 7 September 2010 was fully enforced on 4 December 2017, resulting in the physical removal of the family from the flat. The applicant moved to his mother's apartment in Split.

C. Proceedings to obtain the status of a protected lessee

13. Meanwhile, on 26 August 2013 the applicant initiated separate civil proceedings with a view to obtaining the status of a protected lessee. He argued that he had lived continuously in the flat since birth and had formed part of N.J.'s household at the time of the entry into force of the Lease of Flats Act in 1996.

14. O.A. contested the claim, arguing that the statutory conditions had not been met and that neither the applicant nor his family had ever paid protected rent. She also filed a counterclaim for the applicant's eviction, citing her own need to occupy the flat, as she was retired and owned no other property.

15. On 22 January 2015 the Municipal Court upheld the applicant's claim and rejected O.A.'s counterclaim for eviction.

16. On appeal, on 10 November 2016 the Split County Court reversed the first-instance judgment. It held that while protected lease rights had arisen *ex lege*, the applicant could not have derived rights from his grandmother unless he had been formally included in the lease agreement or equivalent judicial decision. Since no such legal act existed, the applicant had no lawful basis for occupying the flat. It therefore dismissed his civil action and upheld O.A.'s counterclaim for eviction.

17. On 2 June 2021 the Constitutional Court dismissed a constitutional complaint lodged by the applicant. It held that the order requiring the applicant to vacate the flat had been aimed at protecting the rights of the owner of the flat, who had the right to the exclusive possession and use thereof.

D. Complaints

18. Before the Court, the applicant complained under Article 6 § 1 of the Convention that the Constitutional Court in the proceedings to obtain the status of a protected lessee had not addressed his key arguments (see paragraph 17 above), in particular that his grandmother could not have sought to convert her specially protected tenancy into a protected lease. Moreover, he maintained that the Constitutional Court had not explained why its decision in his case was different from its decision in a previous case in which it upheld the position of the domestic courts that the status of a protected lessee was conferred by operation of law.

19. The applicant further complained, under Article 8 of the Convention, that the domestic court's judgment ordering his eviction issued in the proceedings to obtain the status of a protected lessee (see paragraph 16 above) had violated his right to respect for his home.

THE COURT'S ASSESSMENT

20. Turning at the outset to the applicant's complaint about the lack of reasoning by the Constitutional Court, the Court notes that in his application form the applicant solely described the proceedings to obtain the status of a protected lessee (see paragraphs 13-17 above). On that basis, the case was communicated to the respondent Government.

21. It was only from the Government's observations that the Court learned about the other related proceedings, in particular the civil proceedings instituted by the applicant to have the enforcement of the writ of execution issued on 7 September 2010 declared inadmissible (see paragraph 8 above). In those proceedings, the domestic courts found that, even assuming that a lease agreement had been concluded, it had in any event been lawfully terminated because the applicant had failed to pay protected rent (see paragraph 10 above). The last domestic decision in those proceedings was the Constitutional Court's decision of 14 June 2017, in which that court examined the applicant's Article 8 complaint and concluded that the non-payment of the protected rent had been decisive in the proportionality assessment (see paragraph 11 above).

22. Moreover, in his application to the Court, the applicant failed to mention that he had already been ordered to vacate the flat by the writ of execution issued on 7 September 2010 (see paragraph 7 above) and that the said writ had been enforced on 4 December 2017, some four years before he had lodged the present application with the Court. The last domestic decision in that regard was the Constitutional Court's decision of 14 June 2017, which dismissed his complaints under Article 8 of the Convention.

23. Accordingly, the subsequent eviction order issued in the proceedings complained of in the present application could not have interfered with the

applicant's right to respect for home, since he had been evicted on the basis of a previous final and enforceable eviction order issued in another set of proceedings. He had also meanwhile moved to his mother's flat which appears to have become his new home (see paragraph 12 above, and compare *Zahi v. Croatia* (dec.), no. 24546/09, §§ 55-56, 18 March 2014).

24. In view of the above, and noting that the question of possible abuse can be raised by the Court *proprio motu* (see *Shalyavski and Others v. Bulgaria*, no. 67608/11, § 43, 15 June 2017), it underlines that an application may be rejected as an abuse of the right of individual petition if it has been established that it was knowingly based on untrue facts or if the applicant submitted incomplete or misleading information (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, with further references). The submission of incomplete and thus misleading information may also amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation has been provided for the failure to disclose that information (see *Gevorgyan and Others v. Armenia* (dec.), no. 66535/10, §§ 33, 14 January 2020).

25. In the present case, the Court finds sufficient elements to establish that the applicant, by his failure to submit to the Court complete information relevant to his case (see paragraphs 21 and 22 above), intentionally prevented the Court from having full knowledge of the facts of the case which were the very core of the subject matter of the present application (see *Gevorgyan and Others*, cited above, §§ 36 and 37). The Court considers that any failure to inform the Court of the full facts that are relevant and decisive for the outcome of an application impedes its proper functioning (compare, *mutatis mutandis*, *Mkrtchyan v. Armenia* (dec.) [Committee], no. 38374/20, § 20, 6 September 2022). Moreover, the applicant failed to give any valid reason for not having provided the Court with all essential facts concerning the case, instead claiming that the other proceedings were not relevant.

26. Regard being had to the above, the Court considers that the applicant's conduct in the present case was contrary to the purpose of the right of individual petition as provided for in Article 34 of the Convention and that the application must therefore be rejected as an abuse thereof, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 8 October 2026.

JELAVIĆ v. CROATIA DECISION

Liv Tigerstedt
Deputy Registrar

Raffaele Sabato
President