SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES

COMMITTEE OF MINISTERS
COMITÉ DES MINISTRES

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Contact: John Darcy
Tel: 03 88 41 31 56

Date: 04/05/2018

DH-DD(2018)457

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1318th meeting (June 2018) (DH)

Communication from the applicant (23/04/2018) in the case of Tilocca v. Croatia (Application No. 40559/12).

Information made available under Rule 9.1 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

and reply from the authorities (03/05/2018)

Information made available under Rule 9.5 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1318e réunion (juin 2018) (DH)

Communication du requérant (23/04/2018) dans l'affaire Tilocca c. Croatie (Requête n° 40559/12) ***[anglais uniquement]***

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

et réponse des autorités (03/05/2018) ***[anglais uniquement]***

Informations mises à disposition en vertu de la Règle 9.5 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

DH-DD(2018)457 : Rule 9.1 Communication from the applicant in Tilocca v. Croatia.
Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

40559/12

ABEL & GRENAC & LEŽAIĆ
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DGI
23 AVR. 2018
SERVICE DE L'EXECUTION DES ARRETS DE LA CEDH

Council of Europe
Department for the Execution of ECHR judgments
Directorate General of Human Rights and Rule of Law
F-67075 Strasbourg Cedex
France
Fax 0033 3 88412793

Zagreb, April 23nd, 2018
Application no. 40559/12
Tilocca v. Croatia
Your ref: ECHR-LE20.2bR
ZM/ibe
Subject: Questions regarding payment of simple and default interest and currency to be paid by respondent State

Dear Madam/Sir,

we received the final judgment in case Tilocca v. Croatia, Application no. 40559/12, dated April 5 2018.
The Court holds that the respondent Republic of Croatia has to pay to the applicant Giuseppe Tilocca EUR 318.500,00 in respect of pecuniary damage, and that very amount EUR 318.500,00 was seized and confiscated by the respondent Republic of Croatia already on 15 February 2010.

A/ The Court considers at point 45. of the Judgment, page 8, paragraph Default interest (*Italian - Interessi moratori, Croatian – Zatezna kamata*) 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.
The applicant had claimed interest rate on the confiscated amount EUR 318.500,00 starting from 16 February 2010.
Both Croatian and Italian national jurisprudence acknowledges default interest also as a mechanism of, *inter alia*, the protection of the value of money, so the applicant considers that to the amount EUR 318.500,00 is to be added interest as in judgment at point 45. of the Judgment, page 8, paragraph Default interest, starting from 16 February 2010.

DH-DD(2018)457 : Rule 9.1 Communication from the applicant in Tilocca v. Croatia.
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B/ The paragraph 4 of the Judgment, last page, indicates that the Court unanimously holds:

- that the respondent Republic of Croatia is to pay the applicant, within three months, EUR 318.500,00 plus any tax, in respect of pecuniary damage and EUR 3.550,00 plus any tax in respect of costs and expenses,
- 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;

Such explanation as at A/ and B/ of this letter, referring to the judgment, is unclear and causes confusion between findings of the Court regarding interest and the very day **from when** the sentenced interest are to be calculated and paid by the respondent Republic of Croatia to the applicant. Remains unclear whether respondent Republic of Croatia is to pay to the applicant within three months interest to the sentenced amounts starting from the very next day of the confiscation, precisely 16 February 2010 or, in case of lack of payment until 4 July 2018, starting from 5 July 2018 and how much.

According to the applicant, the simple interest based on the marginal lending rate of the European Central Bank is to be paid to the applicant starting form 16 February 2010, immediately after the confiscation till settlement and, in case of lack of settlement till 4 July 2018, additional three percent are to be added to the simple interest based on the marginal lending rate of the European Central Bank starting from 5 July 2018 till settlement.

Therefore, your explicit written clarification regarding to the period when from the interest and default interest are to be effected (*Italian – da quando decorrono gli interessi ed interessi moratori, Croatian – od kada teku kamate i zatezne kamate*) is necessary, distinguishing simple interest from default interest as well as period of application of the interest.

Second question derives from the letter of the Government of the Republic of Croatia, office of the Representative before ECHR, dated 12 April 2018. Namely, the Government, although had confiscated EUR 318.500,00 on the 15 April 2010, EURO banknotes and although the Judgment indicates that are sentenced very EUR 318.500,00, states that the payment, according to the practice, is to be effected in the sentenced currency (Croatian kuna – HRK), what is not correct, because the Judgment specifies all the amounts in EURO.
The Government indicates, also incorrect, that the expenses of the exchange from Croatian kuna into EURO, if claimed payment in EURO, are to be burden of the applicant, Italian citizen, to whom EURO was seized, than confiscated all the amount in EURO banknotes.
That way, the costs of exchange, that could be roughly up to EUR 3.000,00 EUR, are to be additional expense and damage caused to the applicant.

Therefore, your necessary explicit written instruction to the Government of the Republic of Croatia is to be that has to pay to the applicant the amounts required in EURO, exonerating the applicant from any further expense or damage.

Yours sincerely,
Hrvoje Grenac, odvjetnik *attorney at law*

ODVJETNIK
HRVOJE GRENAC
sudski tumač talijanskog jezika
Zagreb, Kralja Držislava 4/II
tel 4551523

ABEL & GRENAC & LEŽAIĆ
odvjetničko društvo d.o.o.
Zagreb

Enc: Letter of the Government of the Republic of Croatia dated 12 april 2018

DH-DD(2018)457 : Rule 9.1 Communication from the applicant in Tilocca v. Croatia.
Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

VLADA REPUBLIKE HRVATSKE
URED ZASTUPNIKA REPUBLIKE HRVATSKE
PRED EUROPSKIM SUDOM ZA LJUDSKA PRAVA

KLASA: 004-02/18-02/06
URBROJ: 50447-03/1-18-03
Zagreb, 12. travnja 2018.

ABEL & GRENAC
DRUŠTVO
16 -04- 2018
PRIMLJENO
DGI
23 AVR. 2018
SERVICE DE L'EXECUTION DES ARRETS DE LA CEDH

Odvjetnici
Hrvoje Grenac i
Dominik-Stjepan Janković
Ulica kralja Držislava 4
10 000 Zagreb

Predmet: ***Tilocca protiv Hrvatske*****, izvršenje presude Europskog suda za ljudska prava**
- podaci za isplatu, traže se

Poštovani,

Presuda Europskog suda za ljudska prava u predmetu *Tilocca protiv Hrvatske* (zahtjev br.40559/12) postala je konačna danom donošenja, 05. travnja 2018.g., čime su stečeni uvjeti za isplatu iznosa dosuđenog presudom. Iznos će biti isplaćen u kunama po srednjem tečaju HNB na dan isplate.

Stoga Vas molimo da **najkasnije do 11. svibnja 2018. godine** dostavite:

1. osobne podatke podnositelja zahtjeva (ime, prezime, adresu), **IBAN i naziv banke** u kojoj ima otvoren račun, a ukoliko će uplata biti izvršena na račun u stranoj banci tada i podatak o tome na koje valute račun glasi

ili

2. valjanu **specijalnu punomoć kojom Vas podnositelj izričito ovlašćuje da u njegovo ime i za njegov račun primite isplatu** dosuđenog iznosa te Vaše osobne podatke, **OIB, JMBG, IBAN i naziv banke.**

Obrazac punomoći možete pronaći na web stranicama Ureda zastupnika, u rubrici Izvršenje presuda Europskog suda za ljudska prava, u izborniku Dokumenti sa desne strane: https://uredzastupnika.gov.hr/UserDocsImages/arhiva/OBRAZAC%20PUNOMO%C4%86%20ZA%20ISPLATU.pdf

Adresa: Dalmatinska 1, 10000 ZAGREB, Tel.: 01/4878 100, Fax: 01/4878 111,
E-mail: ured@zastupnik-esljp.hr • pisarnica@zastupnik-esljp.hr • Web: https://uredzastupnika.gov.hr

DH-DD(2018)457 : Rule 9.1 Communication from the applicant in Tilocca v. Croatia.
Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Traženo možete dostaviti poštom na adresu Dalmatinska 1, 10000 Zagreb ili elektroničkom poštom na adresu: pisarnica@zastupnik-esljp.hr, telefaksom na broj 01/4878-111 ili, uz obveznu dostavu izvornika punomoći poštom u roku od osam dana od dana dostave elektroničkom poštom ili telefaksom.

Napominjemo da se sukladno praksi Odbora ministara isplata ima izvršiti u valuti navedenoj u izreci presude (hrvatske kune), a u slučaju da podnositelj zahtjeva isplatu u nekoj drugoj valuti tada sam snosi trošak konverzije.

S poštovanjem,

POMOĆNICA ZASTUPNICE:

Matea Bašić

O tome obavijest: Giuseppe Tilocca, Via Marrocco, Palazzia C. Interne 2. 92027 Licata AG, Italia i Via Zakubai No. 2, Allesandria, Egypt

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DH-DD(2018)457 : Rule 9.1 Communication from the applicant in Tilocca v. Croatia.
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DGI
03 MAI 2018
SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

GOVERNMENT OF THE REPUBLIC OF CROATIA
OFFICE OF THE REPRESENTATIVE OF
THE REPUBLIC OF CROATIA BEFORE
THE EUROPEAN COURT OF HUMAN RIGHTS

Class: 004-02/18-02/06
Reg.No.: 50447-03/1-18-08
Zagreb, 30 April 2018

COUNCIL OF EUROPE
DIRECTORATE GENERAL
HUMAN RIGHTS AND RULE OF LAW
DIRECTORATE OF HUMAN RIGHTS
DEPARTMENT FOR THE EXECUTION
OF JUDGMENTS OF THE EUROPEAN
COURT OF HUMAN RIGHTS

Subject: Tilocca v. Croatia (Application no. 40559/12), judgment of 5 April 2018, final on 5 April 2018

Ref: DGI/GM/NS/KN/ICC

Dear Mrs Mayer,

With reference to the letter received by the Government of the Republic of Croatia on 27 April 2018 under Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, the Government submit herewith their response.

Primarily, we note that the applicant's submission in essence questions the very content of the Court's judgment concerning just satisfaction awarded with respect of pecuniary damage sustained due to the violation of the applicant's right to peaceful enjoyment of his possessions. In particular, the applicant finds it unclear whether the Court awarded him pecuniary damage together with default (or any other) interest and if so, what is the exact date from which the interest is to be calculated.

The Government notes that the Court's judgment is clear and precise with regard to the amounts awarded, including the interest which was in fact sought by the applicant in his just satisfaction claim. In particular, the Court awarded the applicant pecuniary damage in the amount of EUR 318,500 whilst it dismissed the reminder of his claim, including default interest.

Address: Dalmatinska 1, 10000 ZAGREB, CROATIA, Tel.: +385 1 4878 100, Fax: +385 1 4878 111,
E-mail: ured@zastupnik-esljp.hr • Web: https://uredzastupnika.gov.hr

DH-DD(2018)457 : Rule 9.1 Communication from the applicant in Tilocca v. Croatia.
Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

The only interest and interest rate referred to by the Court in the *Tilocca* judgment (both in § 45 of the judgment and point 4(b) of the operative part) concerns the interest to be paid in the event that the amount awarded is not paid to the applicant within three months from the finality of the judgment (point 4(a) of the operative part of the judgment). The said time limit expires on 5 July 2018.

Accordingly, the Government deem that the applicant's allegations concerning payment of default (or any other interest) are without merit.

We also recall that financial obligations arising from the Court's judgments are to be executed precisely as stated in the judgment. This refers to the amount of compensation, the currency, the beneficiary, the time limit for and place of payment, and the rate of default interest (see: point 5 in CM/Inf/DH(2008)7final, Monitoring if the payment of sums awarded by way of just satisfaction: an overview of the Committee of Ministers' present practice).

In that regard, we further acknowledge that the letter of national authorities by which the applicant's representative was requested to submit the information necessary for the payment of compensation awarded by the Court did in fact contain an error with regard to the information on the currency in which the payment is to be made. In fact, the said error was corrected by a new letter sent to the applicant's representative on 26 April 2017 (see enclosure). By the latter letter the applicant's representative was informed that the payment of the amounts awarded shall be made in EUR, as the currency defined in the Court's judgment.

In view of the above, the Government of the Republic of Croatia provides herewith assurances that the just satisfaction awarded to the applicant shall be paid in full accordance with the Court's judgment and within the timeframe imparted by the Court.

The Government of the Republic of Croatia kindly requests that this response to the applicant's letter be published in accordance with Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

Sincerely yours,

Štefica Stažnik

Representative

Encl: letter to the applicant's representative of 26 April 2018

DH-DD(2018)457 : Rule 9.1 Communication from the applicant in Tilocca v. Croatia.
Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

DGI
03 MAI 2018
SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

KLASA: 004-02/18-02/06
URBROJ: 50447-03/1-18-06
Zagreb, 26. travnja 2018.

Odvjetnici
Hrvoje Grenac i
Dominik-Stjepan Janković
Ulica kralja Držislava 4
10 000 Zagreb

Predmet: *Tilocca protiv Hrvatske*, izvršenje presude Europskog suda za ljudska prava
- obavijest o ispravku, dostavlja se

Poštovani,

Nastavno na dopis gornje oznake Klase od 12. travnja 2018.g., kojim je zatražena dostava podataka potrebnih za isplatu dosuđenih iznosa temeljem presude Europskog suda za ljudska prava u predmetu *Tilocca protiv Hrvatske* (zahtjev br.40559/12) obavješćujemo Vas da je u navedenom dopisu uslijed omaške navedeno da će dosuđeni iznos će biti isplaćen u kunama po srednjem tečaju HNB na dan isplate.

Naime, Europski sud za ljudska prava dosudio je podnositelju iznose pravične naknade (materijalne štete) i troškova postupka u valuti EUR, te je tužena država u istoj valuti obvezna i izvršiti isplatu navedenih iznosa (v. Nadzor nad isplatama iznosa dosuđenih na ime pravične naknade: pregled sadašnje prakse Odbora ministara, CM/Inf/DH(2008)7, prijevod objavljen na web stranici Ureda zastupnika u rubrici Izvršenje presuda Europskog suda za ljudska prava: https://uredzastupnika.gov.hr/UserDocsImages//dokumenti/IZVR%C5%A0ENJA//Nadzor%20nad%20isplatama%20iznosa%20dosu%C4%91enih%20na%20ime%20pravi%C4%8Dne%20naknade%20-%20pregled%20sada%C5%A1nje%20prakse%20Odbora%20ministara.pdf).

S poštovanjem,

27 -04- 2018

POMOĆNICA ZASTUPNICE:

Matea Bašić