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Meeting:	1577th meeting (December 2026) (DH)
Item reference:	Action Report (21/10/2026)

Communication from Croatia concerning the case of Pozder v. Croatia (Application No. 56510/15) (Sanader group)

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Réunion :	1577e réunion (décembre 2026) (DH)
Référence du point :	Bilan d'action (21/10/2026)

Communication de la Croatie concernant l'affaire Pozder c. Croatie (Requête n° 56510/15) (Groupe Sanader) ***[anglais uniquement]***

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

Class: 004-02/22-01/01
Reg. No.: 50447-03/01-26-45
Zagreb, 21 October 2026

ACTION REPORT

Pozder v. Croatia
(56510/15), judgment of 13 January 2022, final on 13 January 2022

I. CASE DESCRIPTION

1. This case concerns a violation of the applicant's right to a fair trial on account of the fact that between 2013 - 2015 the domestic courts failed to grant the applicant the reopening of criminal proceedings in which he was sentenced *in absentia* to a prison term for war crimes (violation of Article 6 §§ 1 and 3 (c)).

2. In November 1995, the Zadar County Court ordered that the applicant be tried for war crimes *in absentia* as he was not available to the Croatian authorities. In December 1995, the Zadar County Court convicted him as charged and sentenced to twenty years' imprisonment. In June 1998 the Supreme Court upheld this judgment. In 2001, the Supreme Court further upheld that judgment, acting as a third-level appeal court this time. In July 2012, the applicant requested the reopening of the proceedings on the grounds that he had never been served with the indictment and that new facts had been established which suggested his innocence. In June 2013, the Zadar County Court dismissed the applicant's request, finding that there were no grounds for allowing a retrial. It held, *inter alia,* that since the applicant was not present in Croatia, the proceedings could not be reopened as there was no possibility of holding a trial in his presence. In 2015, the Supreme Court dismissed the applicant's appeal and the Constitutional Court declared his subsequent constitutional complaint inadmissible.

3. The Court found that the applicant was not afforded with sufficient certainty the opportunity of obtaining a fresh determination of the merits of the charges against him by a court in full accordance with his defence rights (*Pozder*, § 45).

II. INDIVIDUAL MEASURES

4. In response to the Court's judgment, the authorities have taken measures aimed at bringing the violation to an end and providing redress to the applicant.

A. Bringing the violations to an end

5. Following the Court's judgment, on 11 February 2022, the applicant, through his lawyer, requested reopening of the impugned criminal proceedings before the Zadar County Court. On 24 April 2023, he further amended his request, grounding the request in, *inter alia,* Article 502 of the Criminal Procedure Code and not in [amended] Article 497. On 22 December 2023, the Zadar County Court dismissed the applicant's request, finding no legal grounds for reopening.

6. In particular, Article 502 stipulates that criminal proceedings shall be reopened in cases where a request is filed on the basis of the Court's final judgment finding a violation of the Convention, provided, however, that the violation of the Convention affected the outcome of the proceedings and that the violation or its consequence can be remedied in the reopened proceedings.

7. In his request, the applicant failed to present any grounds regarding the existence of the conditions prescribed by Article 502, nor did he submit any facts or evidence in this regard, other than referring to the Court's judgment in the present case. Furthermore, he neither provided reasoning nor demonstrated a likelihood that the violation found by the Court had had an impact on the outcome of the criminal proceedings in question, nor did the Zagreb County Court, upon reviewing his request for reopening and the impugned case file, reach such a conclusion.

8. In his request, the applicant also relied on Article 501 of the Criminal Procedure Code, which stipulates that criminal proceedings may be reopened in favour of the convicted person if new facts and/or evidence are submitted and are capable of leading to the acquittal or more lenient punishment. It is to be noted that it is not required for the convicted person to present new facts or evidence of such weight or significance that they would convince the court that an acquittal is warranted. Rather, it is sufficient for the convicted person to present any new fact or evidence and to demonstrate only a probability that such evidence could lead to the acquittal or more lenient punishment. In finding that the applicant failed to demonstrate the above, the Zagreb County Court determined that there are no grounds for the reopening on that basis either.

9. Furthermore, although the applicant's request was not lodged under amended Article 497 of the Criminal Procedure Code, the Zagreb County Court nevertheless examined whether the conditions for reopening under that article existed. Notably, Article 497 stipulates that a request for a retrial may be granted provided that the convicted person indicates an address, even if abroad, where the court summons could be served, and gives assurances that his or her case will be pleaded (see below under the general measures). The Zagreb County Court found that neither the request for reopening of 11 February 2022, nor the subsequently amended request contained an address to which documents may be served, nor did it include an undertaking by the applicant to respond to a court summons. The request for reopening contained only the applicant's full name, without providing any other details required under the applicable legal provision. Consequently, the Zagreb County Court found that there were no grounds for reopening the proceedings under Article 497.

10. The above decision of the Zagreb County Court was upheld by the decision of the High Criminal Court by its decision of 25 September 2024, which thereby became final. No extraordinary legal remedy was filed.

11. In view of the above, the Government deems that the applicant had at his disposal an effective avenue aimed at bringing the violation to an end. Considering that the applicant was redressed for the violation found by the Court (see below), the Government deems that no other measures seem possible or needed in this respect.

B. The applicant's redress

12. The Government notes that the applicant claimed non-pecuniary damage, as well as costs and expenses incurred before the domestic courts and the Court. The Court awarded the applicant EUR 4,000 in respect of non-pecuniary damage (*Pozder,* § 50) and EUR 2,000 in respect of costs and expenses incurred before the domestic courts and the Court (*Pozder,* §§ 51, 53).

III. GENERAL MEASURES

13. It is recalled that from 2013 to 2015, the domestic courts created a disproportionate obstacle to the use of the request for reopening the proceedings in which the applicant was tried *in absentia*. In particular, the applicant was not afforded with sufficient certainty the opportunity of obtaining a fresh determination of the merits of the charges against him by a court in full accordance with his defence rights (*Pozder*, § 45).

14. At the outset, the Government notes that the measures taken to address the shortcomings identified by the Court in *Pozder* have been taken within the context of the similar precedent case of *Sanader v. Croatia* (app. no. 66408/12), relied on by the Court in *Pozder* (see §§21,22). In particular, in July 2017 the Criminal Procedure Code was amended and the requirements for reopening criminal proceedings conducted *in absentia* were clarified. Notably, pursuant to Article 497 § 2 of the Criminal Procedure Code, a request for a retrial can be lodged by a person convicted *in absentia* within one year from the moment the person became aware of the conviction. Such a request must be granted

provided that the convicted person indicates an address, even if abroad, where the court summons could be served, and gives assurances that his or her case will be pleaded. Once such assurances have been provided, enforcement of the sentence is postponed and the arrest warrant withdrawn. Accordingly, a person convicted *in absentia* is no longer required to provide an address in Croatia or to put his or her liberty at risk in order to be able to request a retrial.

15. The Government notes that the Committee of Ministers has positively assessed the measures taken and thus decided to close its examination in *Sanader* in 2020 (see FinRes CM/ResDH(2020)250). The Government further notes that the facts of the present case predate the measures taken in *Sanader* and, thus do not bring into question their effectiveness. Nonetheless, the authorities took further measures with a view to ensuring effective implementation of the Court's findings and the above legislative amendments.

16. In particular, the domestic courts continued aligning their practice with the aforementioned amendments to the Criminal Procedure Code and the principles emphasized by the Court in both *Sanader* and *Pozder*. In its decisions of 4 March 2020 (1. Kv-70/20-4), 10 July 2020 (1. Kv-534/20-5) and 27 May 2021 (1. Kv-553/21-59), the Municipal Criminal Court in Zagreb allowed the reopening of the criminal proceedings conducted *in absentia*. Notably, the domestic court stated that the defendants provided their addresses and promised to appear before the court when summoned. Therefore, pursuant to the amended Article 497 of the Criminal Procedure Code, the domestic court allowed the reopening of the impugned criminal proceedings.

17. Furthermore, the authorities took the following awareness-raising measures. The Judicial Academy carried out workshops for judges and prosecutors on the criminal aspect of Article 6 of the Convention. In 2019, 2020 and 2021 the Judicial Academy carried out three, four and three workshops, respectively, for a total of 160 attendees.

18. In addition, the Office of the Representative of Croatia before the European Court of Human Rights has ensured a translation of the present judgment into Croatian and its publication on its webpage. The translation of the judgment has also been published on the Constitutional Court's webpage. The judgment has thus been made available to the public.

19. The Office of the Representative has prepared a short overview of the Court's main findings in *Pozder* and has circulated this overview, along with the translation of the judgment, to all members of the Council of Experts for the Execution of Judgments and Decisions of the European Court of Human Rights, including the domestic courts. The relevant national authorities have therefore been informed of the judgment.

IV. JUST SATISFACTION

20. The Government ensured that the just satisfaction awarded to the applicant was paid on 4 March 2022, within the deadline imparted by the Court.

V. CONCLUSION

21. As regards the individual measures, the Government deems that the applicant had at his disposal an effective avenue aimed at bringing the violation to an end and was redressed for the violation sustained.

22. As regards the general measures, the Government considers that the general measures taken are capable of preventing similar violations.

23. The Government therefore considers that it has fulfilled its obligation under Article 46 § 1 of the Convention and proposes to the Committee to close its supervision in the present case.

Representative
Štefica Stažnik

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