

SECRETARIAT GENERAL
SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES



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Item reference: Action plan / Action report

Please find enclosed a communication from Croatia concerning the case of Krušković against Croatia (Application No. 46185/08).

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Référence du point : Plan d'action / Bilan d'action

Veillez trouver, ci-joint, une communication de la Croatie relative à l'affaire Krušković contre Croatie (requête n° 46185/08) (**Anglais uniquement**).

* In the application of Article 21.b of the rules of procedure of the Committee of Ministers, it is understood that distribution of documents 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 (CM/Del/Dec(2001)772/1.4). / Dans le cadre de l'application de l'article 21.b du Règlement intérieur du Comité des Ministres, il est entendu que la distribution de documents à la demande d'un représentant se fait sous la seule responsabilité dudit représentant, sans préjuger de la position juridique ou politique du Comité des Ministres CM/Del/Dec(2001)772/1.4).

ACTION PLAN

KRUŠKOVIĆ V. CROATIA
APPLICATION NO. 46185/08
JUDGMENT OF: 21/06/2011
FINAL ON : 21/09/2011



The ECtHR found a violation of Article 8 of the Convention in that the applicant, as a person divested of his legal capacity, was not able to recognize the paternity of his biological child before the national authorities, or to institute proceedings in order to prove his paternity.

INDIVIDUAL MEASURES

On 11/11/2011 the applicant requested reopening of administrative proceedings for recognizing his paternity before the Registrar's Office on the basis of the ECtHR judgment. Pending the resolution of this request, civil proceedings for establishing the paternity were stayed.

Even though the first instance authority (State Administration Office of Primorsko-Goranska County) refused to grant reopening of administrative proceedings, on 23/02/2012 the Ministry of Public Administration quashed the first instance decision, and referred the case back to the State Administration Office. On the basis of the ECtHR judgment, the Ministry of Public Administration instructed the first instance authority to enable the applicant's participation in reopened administrative proceedings, and allow him to regulate his parental status, as provided for in The Family Act.

Proceedings before the State Administration Office are still pending. It is expected that the applicant's guardian shall give consent to the recognition of paternity given by the applicant personally.

The Government will keep the Committee of Ministers informed on further developments.

GENERAL MEASURES

The judgment has been translated into Croatian language disseminated to all relevant domestic authorities (the Constitutional Court, the Supreme Court, the Ministry of Justice, Ministry in charge of social services, and Social Welfare Center in Rijeka and the Municipal Court in Rijeka.

Translation of the judgment is available on the web page of the Ministry of Justice (www.mprh.hr).

The Family Act (OG 116/03, 17/04, 136/04, 107/07, 67/11, 61/11) contains material provisions relating to divestment of legal capacity and rights of individuals which were divested of legal capacity, as well as material provisions relating to establishing/recognizing maternity and paternity.

According to Article 162 of the Family Act, a guardian is appointed to a person divested of legal capacity. A guardian is obliged to care for the protégé's person, his/her rights

and obligations, his/her well-being, as well as take actions aimed at enabling protégé's independent life and work. The guardian represents the protégé.

A person divested of legal capacity cannot independently make statements that affect his/her personal life (including statements recognizing paternity or maternity). However, if a guardian approves of such a statement made by the protégé, the statement will gain legal effect.

The problem in the applicant's case arose from the fact that administrative authority failed to properly apply provisions of domestic law by way of failing to allow the applicant's guardian to take part in proceedings instituted by the applicant for the recognition of his paternity.

Therefore, it is obvious that the violation found in this case is of individual nature, and no general measures (other than the publication and dissemination of the judgment) are necessary to ensure full compliance with Conventional standards set forth in the judgment.

JUST SATISFACTION

The amount awarded to the applicant has been paid in full on 25/10/2011, and payment information was delivered to the Execution Department on 31/10/2011.

CONCLUSION

The respondent state shall inform the Committee of Ministers on further developments regarding the execution of individual measures in this case.

As for the general measures, the respondent state deems that, due to the nature of the violation, no additional general measures are necessary to execute the ECtHR judgment in this case.