

THE ECHR AND

CROATIA

facts & figures



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Council of Europe

Accession: 6 November 1996

European Convention on Human Rights

Signed: 6 November 1996

Ratified: 5 November 1997

ECHR judges

Ksenija Turković (since 2013)

Nina Vajić (1998-2012)

ECHR and Croatia at 1 January 2021

1st judgment: Rajak v. Croatia (28 June 2001)

Total number of judgments: 437

Judgments finding a violation: 346

Judgments finding no violation: 58

Friendly settlements/strikeout: 26

Other judgments: 7

Applications pending: 425

Applications finished: 16,388

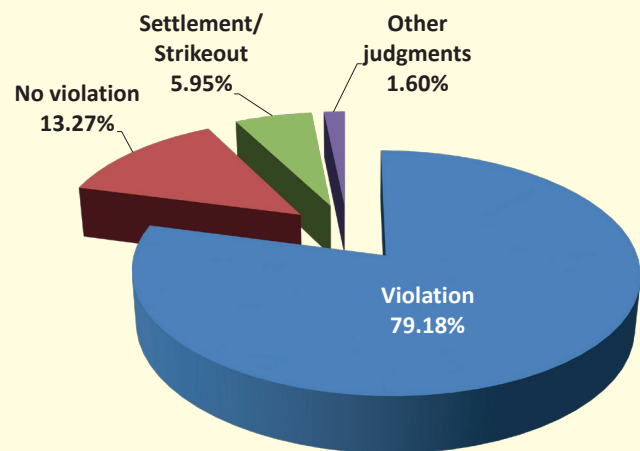
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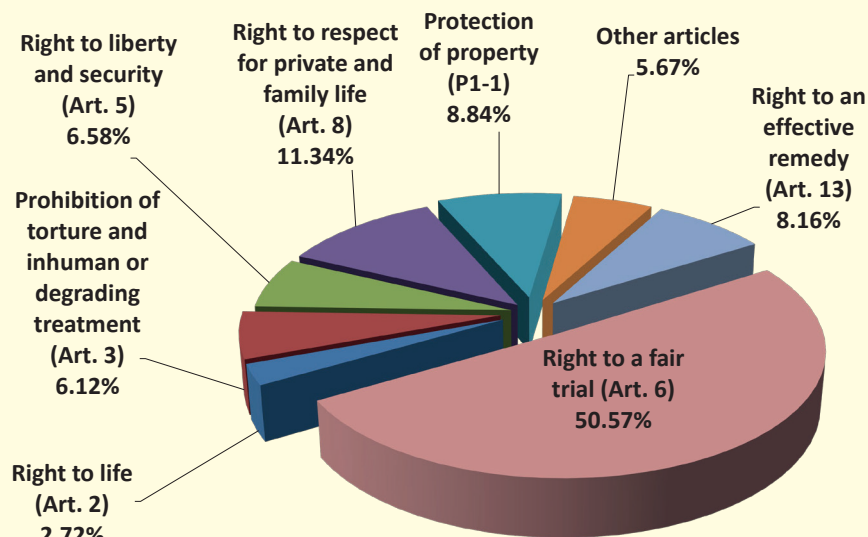
Types of judgments

In about 80% of the judgments delivered concerning Croatia, the Court has given a judgment against the State, finding at least one violation of the Convention.



Subject-matter of judgments finding a violation

Half of the findings of violations concerned Article 6 of the Convention (right to a fair trial), whether the length or fairness of the proceedings.



Impact of the Court's judgments

The Committee of Ministers, the Council of Europe's executive organ, supervises compliance with the Court's judgments and adoption of the remedial measures required in order to prevent similar violations of the Convention in the future.

The Court's judgments have led to various reforms and improvements in Croatia, relating in particular to:

Reorganisation of the justice system

The justice system has been reorganised with a view to improving the efficiency of the courts. There are two levels of jurisdiction and a new High Court to examine administrative disputes.

Schooling of Roma children

A national strategy has been implemented to improve the quality and efficiency of the schooling of Roma children.

Equal treatment between parents

Enactment of a law on parental and maternity benefits recognising equal treatment between biological and adoptive parents as regards maternity leave and the related allowances.

Safeguards in eviction and expropriation cases

Strengthening of procedural safeguards in expropriation and eviction cases.

War crime investigations

Rules have been adopted to ensure that the investigations into war crimes are carried out by independent police units. Access by families to the investigation process is ensured, as is public scrutiny.

Judicial independence

Measures have been taken to ensure the impartiality of persons conducting disciplinary proceedings against judges.

Case of Mikulić (7 February 2002)

Montana Mikulić complained that the Croatian courts had not taken any decision on her paternity suit. The Court found that the courts' inefficiency had left the applicant in a state of prolonged uncertainty about her identity.

Violation of Article 8 (right to respect for private and family life)

Case of Mežnarić (15 July 2005)

Ivan Mežnarić complained that he had not been given a fair hearing by an impartial tribunal because his complaint concerning a breach of contract had been decided by a panel of judges which included a judge who had represented his opponents at an earlier stage in the proceedings.

Violation of Article 6 (right to a fair hearing)

Case of Karadžić (no. 1) (15 December 2005)

Edina Karadžić was living in Germany with her son. In 2001 the child's father abducted him and took him to Croatia. The applicant complained that the Croatian authorities had been inactive and in particular that the court decision ordering the return of her son had remained for a long time without being executed.

Violation of Article 8 (right to respect for private and family life)

Case of Šečić (31 May 2007)

Šemso Šečić alleged that the authorities had not conducted a serious and in-depth investigation into a racist attack on him and complained of discrimination based on his Roma origin. The Court found it unacceptable that the police, who knew that the incident in question had probably been induced by ethnic hatred, had allowed the investigation to last for over 7 years without taking any serious action to identify or prosecute the assailants.

Violation of Article 3 (prohibition of inhuman or degrading treatment)

Violation of Article 14 (prohibition of discrimination) in conjunction with Article 3

Case of X (17 July 2008)

The applicant, a paranoid schizophrenic divested of her capacity to act, complained about her daughter being given up for adoption without her knowledge or consent.

Violation of Article 8 (right to respect for private and family life)

Case of Branko Tomašić and Others (15 January 2009)

M.M. was sentenced to 5 months' imprisonment and mandatory psychiatric treatment for death threats against his former girlfriend and their daughter. On leaving prison he killed them both before committing suicide. The applicants, relatives of the deceased woman and child, argued that the authorities had not taken the necessary steps to protect the victims. The Court found that the Croatian authorities had not taken appropriate protection measures even though they had been aware of serious death threats.

Violation of Article 2 (right to life)

Case of Oršuš and Others (16 March 2010)

The applicants, 15 Croatian nationals of Roma origin, complained of segregation on account of being placed in primary schools where teaching content was reduced by 30% in relation to the official national curriculum. The Court found the placement of Roma children in separate classes to be discriminatory.

Violation of Article 6 § 1 (right to a fair hearing within a reasonable time)

Violation of Article 14 (prohibition of discrimination) in conjunction with Article 2 of Protocol No. 1 (right to education)

Case of Đorđević (24 July 2012)

Radmila Đorđević and her mentally and physically disabled son Dalibor, complained that they had been harassed, both physically and verbally, for over four years by children living in their neighbourhood, and that the authorities had failed to protect them despite being informed of the repeated and systematic attacks. The Court was struck that the social services had shown no real interest and had not provided support to Dalibor, concluding that the authorities had failed to protect them.

Violation of Article 3 (prohibition of torture and inhuman or degrading treatment)

Violation of Article 8 (right to respect for private and family life)

Violation of Article 13 (right to an effective remedy)

Case of V.K.
(27 November 2012)

The applicant complained about the excessive length of the divorce proceedings that he had brought, thus preventing him from remarriage. For the Court, a failure by the authorities to conduct divorce proceedings expeditiously could breach the right of a person to marry, obliging that person to wait unduly for the previous marriage to be dissolved.

Violation of Article 6 § 1 (right to a fair hearing within a reasonable time)

Violation of Article 12 (right to marry)

Case of Stojanović
(19 September 2013)

Josip Stojanović complained of being convicted for defamation following the publication of articles containing criticisms of the Health Minister – comments that he denied making. The Court emphasised that liability in matters of defamation should be limited to remarks made directly by the person expressing them and that no liability could be engaged for the remarks or allegations of others.

Violation of Article 10 (freedom of expression)

Case of Marguš
(27 May 2014)

The case concerned the conviction, in 2007, of a former commander of the Croatian army, for war crimes committed against the civilian population in 1991. The Court found, in particular, that international law increasingly tended to consider it unacceptable to grant amnesties for serious violations of human rights.

No violation of Article 4 of Protocol No. 7 (right not to be punished or tried twice).

Case of Škorjanec
(28 March 2017)

Maja Škorjanec, who had been assaulted in 2013 with her boyfriend, on account of the latter's Roma origins, complained about the rejection of her complaint reporting a hate offence, on account of the fact that she was not herself of Roma origin. In the Court's view, a person could be the victim of a hate offence committed with violence not only when that person was attacked on account of a personal characteristic, but also when such an attack stemmed from the person's real or presumed links with another person who did have (or was perceived as having) the given characteristic.

Violation of Article 14 (prohibition of discrimination) taken together with Article 3 (prohibition of torture and inhuman or degrading treatment)

Case of Hoti
(26 April 2018)

The case concerned the inability for Bedri Hoti, a stateless person who had moved from Kosovo at the time of the Socialist Federal Republic of Yugoslavia, to obtain residence status in Croatia, where he had been living for almost 40 years.

Violation of Article 8 (right to respect for private and family life)

Case of Slovenia v. Croatia
(16 December 2020)

This inter-State case concerned unpaid and overdue debts owed to Ljubljana Bank by various Croatian companies on the basis of loans granted at the time of the former Yugoslavia.

The Court observed that under Article 34 (individual applications) a legal entity could bring a case before it provided that it was a "non-governmental organisation" within the meaning of that Article. The idea behind this principle was to ensure that a State Party could not act as both an applicant and a respondent before the Court in the same matter. The Court held that Article 33 of the Convention (inter-State applications) did not

allow an applicant Government to defend the rights of a legal entity which did not qualify as a "non-governmental organisation" and which therefore would not be entitled to lodge an individual application under Article 34.

Lack of jurisdiction to hear the case

Case of Sabalić
(14 January 2021)

In 2010 Pavla Sabalić was attacked in a nightclub by a man after refusing his advances and disclosing to him that she was a lesbian. Her attacker was convicted in minor-offence proceedings of breach of public peace and order and given a fine of approximately 40 euros. A criminal complaint by the applicant was rejected on grounds of double jeopardy.

The Court held that the fact of instituting minor-offence proceedings had not been capable of demonstrating the State's commitment to ensuring that homophobic ill-treatment would in no way be tolerated; this had fostered a sense of impunity for the acts of violent hate crime.

Violation of Article 3 (prohibition of inhuman or degrading treatment) taken together with

Article 14 (prohibition of discrimination)

Selected measures to execute judgments_____

General measures

Case of Horvat

(26 July 2001)

Excessive length of civil proceedings.

Legislative reform introducing an effective remedy for an excessive length of proceedings and adoption of measures seeking to guarantee a reasonable duration of court proceedings.

Case of Mikulić

(7 February 2002)

Inability for the applicant to pursue her paternity suit.

Adoption of new family legislation providing specifically for measures to establish paternity rapidly when the putative father refuses to cooperate.

Case of Šečić

(31 May 2007)

Absence of effective investigation into a racist attack on a Roma person.

Introduction into the Criminal Code of "hate crime", with the creation of a special police division to investigate such offences and implementation of an awareness programme to encourage police officers to prevent hate crimes.

Case of Oršuš and Others

(16 March 2010)

Discrimination against and right to education of Roma children.

A national strategy for the inclusion of Roma children was set up, in particular to improve the quality of their education and to abolish Roma-only classes.

Case of Mikulić

(7 February 2002)

The domestic proceedings, whose excessive length had been the subject of the ECHR's judgment, were completed. The defendant's paternity was established and maintenance was awarded to the applicant.

Case of Oršuš and Others

(16 March 2010)

Evening classes were provided to applicants who wished to complete their primary-school studies following their placement in separate classes because of their Roma origin.

Individual measures

Case of Kutić

(1 March 2002)

Lack of access to a court on account of the existence of legislation suspending all civil proceedings concerning compensation claims following terrorist attacks.

The suspended civil proceedings were resumed in a series of cases concerning the excessive length of those proceedings. Moreover, the Justice Minister asked that these cases be dealt with expeditiously.

Case of Napijalo

(13 November 2003)

The applicant obtained the restitution of his passport, which had been seized for 2 years by the authorities for failure to pay a fine.

Case of Krušković

(21 June 2011)

Even though he had lost his legal capacity, the applicant obtained acknowledgment of his paternity and was registered as the child's biological father.



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

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