



Breach of father's rights in case concerning adoption of his son in Estonia, pending paternity proceedings in Latvia

In today's **Chamber** judgment¹ in the case of [I.V. v. Estonia](#) (application no. 37031/21) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

The case concerned a father's attempt to contest the adoption of his biological son by another man in Estonia, against the background of paternity proceedings in Latvia.

The Court stressed that although this was a cross-border case, the Court was examining only Estonia's responsibility.

The Court found that the Estonian authorities had overall failed to strike a fair balance between the interests of the applicant and those of his son in either the proceedings allowing the adoption or the subsequent proceedings brought by the father requesting to annul the adoption.

In particular, in the proceedings allowing the adoption the Estonian courts had paid no attention to the fact that there were, in parallel, ongoing paternity proceedings in Latvia, and they subsequently simply rejected the father's request to annul the adoption solely on formal grounds, because he did not have standing as the legal father.

Principal facts

The applicant, Mr I.V., is a Latvian national who was born in 1965 and lives in Riga (Latvia).

In spring 2006 Mr I.V. had a son, born in Latvia, from a relationship. The mother no longer permitted contact between Mr I.V. and his son from January 2007 onwards. Shortly afterwards Mr I.V. found out that another man had acknowledged paternity and been registered as the boy's father. Mr I.V. challenged paternity in the Latvian courts.

While those proceedings in the Latvian courts were ongoing, the mother and child moved to Estonia and the child was adopted in April 2018 by the mother's new husband. Mr I.V. only learnt of the adoption afterwards and lodged an application in the Estonian courts to have the decision annulled.

The Estonian Supreme Court concluded in 2021 that Mr I.V. did not have standing as the (legally recognised) "father" under Estonian law since his paternity had not yet been confirmed in Latvia. It also explained that, even if Mr I.V.'s paternity were later recognised, that would not retroactively invalidate the consent to adoption of the legal father – that is to say the person registered as the child's father at the time of the adoption.

Ultimately the Latvian courts recognised Mr I.V.'s paternity and registered him as the father, from the boy's date of birth to the date of his adoption.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Complaints, procedure and composition of the Court

Relying in particular on Article 8 (right to respect for private and family life), the applicant complained that his rights had been ignored in the proceedings allowing his son's adoption and concerning the request to annul the adoption. He argued in particular that his son's adoption should never have proceeded without his consent as the biological father.

The application was lodged with the European Court of Human Rights on 19 July 2021.

Judgment was given by a Chamber of seven judges, composed as follows:

Pere **Pastor Vilanova** (Andorra), *President*,
Yonko **Grozev** (Bulgaria),
Georgios A. **Serghides** (Cyprus),
Darian **Pavli** (Albania),
Peeter **Roosma** (Estonia),
Ioannis **Ktistakis** (Greece),
Oddný Mjöll **Arnardóttir** (Iceland),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

The Court stressed that what was at stake in the present case was not the responsibility of the Latvian authorities, even though the paternity proceedings had lasted for an exceptionally long time in that country, but that of the Estonian State.

It pointed out that the case at hand had to be assessed as a whole, and that its task was to assess whether the Estonian authorities had struck a fair balance between the competing interests at stake, including both the interests of the applicant as well as those of his son.

However, the Court found that the Estonian authorities had shown a significant lack of diligence in relation to the proceedings concerning the adoption, even though they had to or ought to have been aware of the ongoing paternity proceedings in Latvia, given the Latvian authorities' request, in January 2018, for judicial cooperation.

Subsequently, the Estonian Supreme Court had rejected the application to annul the adoption solely on formal grounds, without taking into account the particular circumstances of the case. The Supreme Court had found that the applicant did not have standing since his legal paternity had not yet been recognised by a final court judgment in Latvia.

The outcome of the proceedings in Estonia had actually led to the applicant's legal paternity being recognised by the Latvian courts for a limited period only, that is to say until the date that the child had been adopted in Estonia.

The Court concluded overall that the Estonian authorities had failed to identify and examine the particular circumstances of the case and to assess the various rights and interests of the individuals involved, including those of the applicant, in either set of proceedings (allowing the adoption or concerning the request to annul the adoption). There had therefore been a violation of Article 8.

[Article 41 \(just satisfaction\)](#)

The Court held that Estonia was to pay the applicant 12,000 euros (EUR) in respect of non-pecuniary damage and EUR 6,844 in respect of costs and expenses.

The judgment is available only in English.

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Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.