



Croatia must establish a mechanism to ascertain the fate of babies allegedly abducted in State-run hospitals in the 1980s and early 1990s

In today's **Chamber judgment**¹ in the case of [Petrović and Others v. Croatia](#) (applications nos. 32514/22, 33284/22 and 15910/23) 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 three mothers' suspicions that their new-born children, born between 1986 and 1994, had not become ill and died, as the State-run hospitals alleged, but had been abducted and unlawfully given up for adoption. The Court noted similarities between this case and the case of [Zorica Jovanović v. Serbia](#).

The Court found, in particular, that Croatia had failed to fulfil its duty ("continuing positive obligation") under Article 8 of the Convention with regard to the applicants' allegations that their babies had been abducted from maternity hospitals and had been given up for unlawful adoption.

Under Article 46 (binding force and enforcement of judgments) the Court found that general measures at national level were required. It called upon Croatia to establish a mechanism aimed at providing individual redress to all parents in a similar situation. This mechanism should be supervised by an independent body with adequate powers, capable of providing credible answers regarding the fate of each child and awarding adequate compensation as appropriate.

Principal facts

The applicants, Slađana Petrović, Janja Šarčević and Marica Šesto, are Croatian nationals who were born between 1962 and 1973. Ms Petrović lives in St. Goarshausen (Germany) and Ms Šarčević and Ms Šesto live in Tovarnik and Slavonski Brod (Croatia) respectively. The three women suspect that their new-born children, born between 1986 and 1994, did not die as the maternity wards alleged, but had been abducted and unlawfully given up for adoption.

Ms Šesto gave birth in 1986 in a State-run hospital in Slavonski Brod in Croatia. Her baby seemed perfectly healthy. The day after the birth, she was informed by the hospital doctor that her baby had a heart defect and had died. She was never shown the baby's body. Her husband buried the body he was given, which did not seem to resemble their child but, being in shock, he did not question it at the time.

Ms Šarčević and Ms Petrović gave birth in a hospital in Vukovar, a Croatian town near the Serbian border, which in 1990, when Ms Šarčević gave birth, was under the control of the Croatian authorities, but was no longer under their control in 1993 and 1994 when Ms Petrović gave birth to her two children. After the births, Ms Šarčević and Ms Petrović spent time with their babies at regular intervals, until they were informed by the hospital personnel that the babies had fallen ill. The two born in 1990 and 1993 were transferred to a hospital in Novi Sad in Serbia allegedly for

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.

specific treatment. The parents were then informed that the babies had died. However, they were not given the bodies. The baby born in 1994 was about to be transferred to the Novi Sad hospital for jaundice treatment, when she allegedly fell ill and died. When the father insisted on being given the body for burial, the baby's grandmother thought it looked like an older baby. Ms Petrović did not see the body herself.

In late 2018 and in 2019 the three mothers saw news reports about women in Serbia searching for their "missing babies", who had been born in the early 1990s in good health and who, according to the doctors, had suddenly fallen ill and died shortly after birth or had urgently been transferred to another hospital where they had died, without the body being given to the family. Recognising a resemblance with their own experiences, they contacted a non-governmental organisation, "Parents of Missing Babies of Vojvodina", and started making enquiries with the hospitals and the local authorities, asking for medical and other documentation. Establishing a number of irregularities and inconsistencies in the documentation gathered, they began to suspect that their babies had not died but had been given up for unlawful adoption. They lodged criminal complaints with the State Attorney's offices in Croatia, arguing that their babies had been abducted by the hospital personnel. In 2022 and 2023 their complaints were rejected on the grounds that prosecution for the alleged offence had become time-barred.

Ms Šarčević and Ms Šesto recounted their stories in a news report published on 28 February 2022. According to that report, there are other women who suspect that their babies were abducted in the 1980s and early 1990s from State-run hospitals in Croatia. Some of those babies were taken from a hospital in Croatia to a hospital in Novi Sad in Serbia and allegedly died there.

Complaints, procedure and composition of the Court

Relying on Articles 8 (right to respect for private and family life) and 13 (right to an effective remedy) of the European Convention on Human Rights, the applicants complained about the State's continuing failure to provide them with information about what had really happened to their children.

The applications were lodged with the European Court of Human Rights on 27 June 2022, 30 June 2022 and 13 April 2023 respectively.

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

Arnfinn **Bårdsen** (Norway), *President*,
Saadet **Yüksel** (Türkiye),
Pauliine **Koskelo** (Finland),
Jovan **Ilievski** (North Macedonia),
Davor **Derenčinović** (Croatia),
Gediminas **Sagatys** (Lithuania),
Stéphane **Pisani** (Luxembourg),

and also Hasan **Bakırcı**, *Section Registrar*.

Decision of the Court

Article 8

As to the admissibility of the complaint, the Court held, in particular, that it was competent to examine whether Croatia had complied with its duty ("positive obligation") to provide the applicants with definitive and/or credible information on the fate of their children, including the fate of the children born in 1993 and 1994 in Vukovar, when that town had not been under the control of the

Croatian authorities. It further held that it was competent to examine the extent to which Croatia could have taken steps within the limits of its own territorial sovereignty to provide information as to the fate of the babies born in 1990 and 1993 who were transferred to Serbia. It also held that, although the applicants' children had allegedly died or gone missing between 1986 and 1994, whereas the Convention had only come into force in respect of Croatia on 5 November 1997, Croatia's alleged failure to provide the applicants with any definitive and/or credible information as to the fate of their children continued to the present day.

As to the merits of the complaint, and specifically as regards the scope of Croatia's obligation to provide information on the fate of the babies who had been taken to Serbia and had allegedly died there, the Court considered that the Croatian authorities could have checked what had happened to the babies while they were in Croatia, whether they had been taken to Serbia for purposes other than medical treatment, and whether any individuals or networks operating in Croatia had been involved in such transfers. In so doing, they could also have requested assistance from the Serbian authorities if need be.

The Court did not find it necessary to examine whether Croatia should have required more from the Serbian authorities since, as of 2020, there has been a legal framework in Serbia, put in place as a result of the [Zorica Jovanović](#) judgment, that provides a mechanism to establish what had happened to "missing babies". Ms Petrović and Ms Šarčević also have the possibility to report the alleged abductions of their babies to the Serbian authorities, who are now obliged to investigate all such crimes, the statute of limitations no longer being an issue in their jurisdiction.

The Court noted that the Croatian authorities' response to the three mothers' quest for information had mainly consisted in providing them with medical and registry documentation when available. When the applicants had pointed out the deficiencies and inconsistencies in those documents and requested exhumations, DNA tests and questioning of medical staff and registry officials, the authorities had taken no action, with the exception of the Vukovar police, who had at least enquired whether the exhumation of Ms Petrović's baby girl was possible, whether the local cemetery knew where she was buried and whether the Vukovar hospital kept a database of tissues taken for autopsy purposes, even though none were met with an affirmative answer. The general lack of action had been essentially due to the authorities considering that the limitation period for any criminal offence committed in the applicants' cases had started to run on the day of their babies' alleged death or disappearance and had long since expired.

The Court noted that the mothers had had no other means of ascertaining the fate of their babies, despite there also being other women who suspected that their babies had been abducted in State-run hospitals in Croatia in the 1980s and early 1990s, and despite the authorities being aware of the "missing babies" phenomenon. Therefore, the Court concluded that Croatia had failed to fulfil its duty ("continuing positive obligation") under Article 8 of the Convention with regard to the applicants' allegations that their babies had been abducted from maternity hospitals and had been given up for unlawful adoption.

Article 13

The Court did not find it necessary to examine the complaint separately under this Article.

Article 46 (binding force and enforcement of judgments)

In view of the number of potential further applications and the fact that there is no mechanism in Croatia which would enable the applicants to ascertain the fate of their children, the Court considered that general measures at national level were required. It called on the State to establish a mechanism aimed at providing individual redress to all parents in a similar situation to the applicants. This mechanism should be supervised by an independent body with adequate powers,

capable of providing credible answers as to what had happened to each child and awarding adequate compensation as appropriate.

Just satisfaction (Article 41)

Having called upon the State to implement general measures, in line with the applicants' wishes, the Court did not award financial compensation for damages. It held that Croatia was to pay each applicant 2,000 euros (EUR) 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 are happy to receive journalists' enquiries via either email or telephone.

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

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)

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.