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Meeting: 1521st meeting (March 2025) (DH)

Item reference: Action Report (25/02/2025)

Communication from Serbia concerning the case of Kostic v. Serbia (Application No. 31530/20)

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Réunion : 1521^e réunion (mars 2025) (DH)

Référence du point : Bilan d'action (25/02/2025)

Communication de la Serbie concernant l'affaire Kostic c. Serbie (requête n° 31530/20) (**anglais uniquement**)

DGI

25 FEV. 2025

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Belgrade, 25 February 2025

ACTION REPORT

KOSTIĆ v. Serbia

Application no. 31530/20, Judgment of 2 July 2024, final on 2 July 2024

I CASE DESCRIPTION

1. The case concerns the non-enforcement of the applicant's contact rights with his son, as granted by a final judgment from 2009 (violation of Article 8).

2. The Court endorsed the findings of the Constitutional Court that the relevant domestic authorities had failed to act promptly and appropriately in the applicant's case, but also held that the level of compensation awarded by the latter for the non-pecuniary damage suffered by the applicant (EUR 1,200) cannot be considered as appropriate and sufficient (§ 17).

II INDIVIDUAL MEASURES

3. The authorities note that on 19 April 2016 the enforcement judge held a hearing at which the then 13-year-old boy stated that he had no intention of maintaining contact with his father, and that consequently on 6 April 2017 the enforcement judge discontinued the enforcement proceedings regarding the order of 15 June 2009 (§§ 9-10). In the meantime, and before the judgment was rendered in this case, the boy at issue reached majority. The authorities consider that no further individual measures are necessary.

4. The European Court awarded the applicant just satisfaction in respect of non-pecuniary damage in the amount of EUR 3,300. The payment has been made on 3 September 2024, within the deadline set out by the European Court.

5. In view of the above, the authorities consider that the applicant has been fully redressed for the damage sustained.

III GENERAL MEASURES

6. In response to the European Court's findings, the authorities have taken measures aimed at preventing similar violations as set out below.

A. Convention-compliant case law of the Constitutional Court

7. The authorities would like to note that the Constitutional Court paid heed to the findings of the Court, taking them into account and making changes to way it approached cases of the same or significantly similar nature. Namely, on 17 October 2024, the Constitutional Court delivered a decision concerning a violation of parental rights, no. [Už. 16492/2021](#), in which it awarded to the applicant an amount of EUR 3,000 for the non-pecuniary damage suffered. In this way, the Constitutional Court showed its readiness to increase the level of compensation usually awarded in cases of such nature.

8. The Constitutional Court also analogously applied the principles for the improvement of case law in the field of parental rights cases, such as the one in the present judgment, to the broader scope of cases concerning children and family rights. Thus, on 17 October 2024, it delivered another decision, no. [Už. 14009/2019](#), recognizing the violation of the right to a fair trial in a procedure concerning the returning of a child to the custody of S.Đ and awarding him the amount of EUR 3,000 for the non-pecuniary damage suffered.

9. It follows from the above that the Constitutional Court reconsidered its previous practice, which was not in accordance with the Convention, and implemented suitable changes to it, as a quick response to the present judgment of the Court.

B. Publication and dissemination measures

10. In 2024, the authorities ensured that publication and dissemination of the present judgment were taken to draw the attention of the relevant domestic authorities on the European Court's findings in this case. To this end, the European Court's judgment was translated into

Serbian and published in the Official Gazette and on the Government Agent's official web page. The European Court's findings have therefore been made easily accessible to judges and the legal community nationwide.

11. The Government Agent furthermore prepared an analysis of the European Court's findings in this judgment and ensured its dissemination together with the translated judgment to all relevant domestic authorities, including the Constitutional Court.

12. The above-mentioned measures ensured that all domestic courts and relevant bodies are now aware of the Court's findings and the need to comply with the Convention requirements in similar cases.

IV JUST SATISFACTION

13. The authorities ensured that just satisfaction awarded by the European Court has been disbursed to the applicant on 3 September 2023. The payment has thus been made within the deadline set out by the European Court.

V CONCLUSIONS

14. The authorities consider the individual measures taken ensured that the applicant was redressed for the damage sustained.

15. The authorities furthermore consider the general measures taken are capable of preventing similar violations.

16. The authorities therefore consider that the Republic of Serbia has complied with its obligations under Article 46 § 1 of the Convention and respectfully propose to the Committee of Ministers to close its examination of the case *Kostić*.