



Father was discriminated against by imposition of paternity judgment limiting his parental responsibility

The case of [Paparrigopoulos v. Greece](#) (application no. 61657/16) concerned proceedings for the judicial determination of paternity of the applicant's daughter. The applicant complained in particular that domestic law had not afforded him the opportunity to acknowledge paternity voluntarily and that this had had the consequence of limiting his parental responsibility in respect of his daughter.

In today's **Chamber** judgment¹ in the case, the European Court of Human Rights unanimously found the following violations:

Violation of Article 14 (prohibition of discrimination) read in conjunction with Article 8 (right to respect for private and family life)

The Court observed that domestic law would not at the material time have allowed the applicant to exercise parental responsibility even where doing so would have been in the child's best interests. Nor had it been possible for him to obtain a court order to overcome the mother's withholding of consent to shared parental responsibility, even though she had not denied his parentage of the child. In the Court's view, the Government had not adequately explained why it had been necessary, at the material time, for domestic law to prescribe such a difference in treatment between the fathers and mothers of children born out of wedlock and of children born in wedlock. The Court held that there was no reasonable relationship of proportionality between the preclusion of the applicant's exercise of parental responsibility and the aim pursued, which had been to protect the best interests of children born out of wedlock.

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

The Court noted that the proceedings had spanned nine years and four months and that the arguments put forward by the Government could not account for such a delay. Having regard to the positive obligation to exercise exceptional diligence in such cases, the Court held that the lapse of time could not be regarded as reasonable.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Ioannis Dorotheos Paparrigopoulos, is a Greek national who was born in 1959 and lives in Greece.

In January 2007 E.K., a woman with whom the applicant had previously had a relationship, brought a paternity claim alleging that he was the father of her daughter who had been born in 2002. The applicant told E.K. that he wanted to acknowledge his paternity of the child before a notary – that is to say without resort to the courts – if a DNA test showed that he was the father.

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.

In January 2008 the Athens Court of First Instance ordered a DNA test, which established the applicant's parentage of the child. The applicant then invited E.K. in May 2008 to go before a notary to execute the acknowledgment of paternity. It appears from the case file that E.K. did not attend.

In January 2010 the Athens Court of First Instance determined that the applicant was the child's father. The applicant appealed, stating that he had made known to the mother his intention to acknowledge his paternity of the child voluntarily without resort to the courts. His appeal was dismissed.

In April 2016 an appeal on points of law by the applicant to the Court of Cassation was dismissed on the ground that his interests were not adversely affected.

In the European Court the applicant alleged that he had not been afforded the opportunity to make a voluntary acknowledgment of paternity of his daughter and that this had had the consequence of limiting his parental responsibility. He submitted that parental responsibility was "full" only where paternity was voluntarily acknowledged and that a judicial determination, to which he had objected, would not enable him to exercise any parental responsibility unless both parents so agreed.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life) read alone and in conjunction with Article 14 (prohibition of discrimination), the applicant complained that he had not been afforded the opportunity to acknowledge paternity of his daughter voluntarily, and that he had been discriminated against *vis-à-vis* the child's mother.

Relying on Articles 6 (right to a fair hearing), 8 (right to respect for private and family life) and 13 (right to an effective remedy), the applicant also complained of the duration of the proceedings, which had begun in 2007 and ended in 2016. The Court decided to examine this complaint under Article 8 of the Convention.

The application was lodged with the European Court of Human Rights on 20 October 2016.

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

Marko **Bošnjak** (Slovenia), *President*,
Péter **Paczolay** (Hungary),
Krzysztof **Wojtyczek** (Poland),
Alena **Poláčková** (Slovakia),
Raffaele **Sabato** (Italy),
Ioannis **Ktistakis** (Greece),
Davor **Derenčinović** (Croatia),

and also Renata **Degener**, *Section Registrar*.

Decision of the Court

[Article 14 \(prohibition of discrimination\) read in conjunction with Article 8](#)

The Court observed that, once a DNA test had established his parentage of the child, the applicant in this case had sought to have his paternity acknowledged. Domestic law, however, would not have allowed him to exercise parental responsibility even where doing so would have been in the child's best interests. Nor had it been possible for him to obtain a court order to overcome the mother's withholding of consent to shared parental responsibility, even though she had not denied his parentage of the child.

The Court was not persuaded by the Government's submission that the mother-child relationship was different to the father-child relationship. Although obviously that might be true in certain

specific instances, the argument could not be used in this case to deprive the applicant automatically of the exercise of parental responsibility. The Court noted in that connection that Article 1515 of the Civil Code had been amended in 2021 and now provided that the courts could also allow the exercise of parental responsibility by the father of a child born out of wedlock, upon an application by him, where the child's interests so required. Thus, parental responsibility was no longer conferred automatically on the mother alone.

While having regard to the authorities' wide margin of appreciation in matters of parental responsibility, the Court reiterated its previous finding that the point of departure in the majority of member States seemed to be that decisions as to parental responsibility were to be based on the child's best interests and had to be subject to scrutiny by the national courts in the event of a conflict between the parents.

The Court held that the Government had not adequately explained why it had been necessary, at the material time, for domestic law to prescribe such a difference in treatment between the fathers and mothers of children born out of wedlock and of children born in wedlock.

As to the discrimination alleged, the Court concluded from the foregoing that there was no reasonable relationship of proportionality between the preclusion of the applicant's exercise of parental responsibility and the aim pursued, which had been to protect the best interests of children born out of wedlock.

There had therefore been a violation of Article 14 of the Convention read in conjunction with Article 8.

[Article 8 \(right to respect for private and family life\)](#)

The Court specified that, in cases concerning a person's relationship with his or her child, there was a duty to exercise exceptional diligence in view of the risk that the passage of time might result in a *de facto* determination of the matter. That duty took on greater force in cases which, like this one, concerned an acknowledgment of paternity. The Court noted that the proceedings in this case had begun on 18 January 2007 and ended on 25 April 2016, thus spanning nine years and four months at three levels of jurisdiction. In its view, the arguments put forward by the Government could not account for such a delay. The Court reiterated that in cases of this kind there was always the danger that any procedural delay would result in the *de facto* determination of the issue at stake. Accordingly, having regard to the positive obligation to exercise exceptional diligence in such cases, the Court held that the lapse of time could not be regarded as reasonable.

There had therefore been a violation of Article 8 of the Convention.

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

The Court held that Greece was to pay the applicant 9,800 euros (EUR) in respect of non-pecuniary damage and EUR 1,000 in respect of costs and expenses.

The judgment is available only in French.

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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.