

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
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Meeting: 1318th meeting (June 2018) (DH)

Item reference: Action report (16/03/2018)

Communication from Austria concerning the case of Fuchshuber v. Austria (Application No. 15813/13)

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Réunion : 1318^e réunion (juin 2018) (DH)

Référence du point : Bilan d'action

Communication de l'Autriche concernant l'affaire Fuchshuber c. Autriche (requête n° 15813/13)
(anglais uniquement)

Execution of Judgments of the European Court of Human Rights

ACTION REPORT

Fuchshuber v. Austria

Application number 15813/13

Judgment final on 09/11/2017

Updated information submitted by Austria on 06/03/2018

CASE SUMMARY

The applicant complained that the length of the criminal administrative proceedings had been incompatible with the “reasonable time” requirement of Article 6 § 1 of the Convention. The Court considered that the length of the proceedings of six years and 28 days (from July 2006 to August 2012) on three levels of jurisdiction was excessive and constituted a breach of Article 6 § 1 of the Convention.

INDIVIDUAL MEASURES

Just satisfaction:

The amount of EUR 1,500 for just satisfaction (non-pecuniary damage) and of EUR 2,000 for costs and expenses (plus tax) was paid to the applicant as follows:

- One third of the sum (EUR 1,166.67) was paid on 08/02/2018. The 20% tax (EUR 233.33) was transferred on 16/02/2018.
- Two thirds of the sum (EUR 2,333.33) plus 20% tax (EUR 466.66) was transferred on 02/02/2018.

Other measures:

As the domestic proceedings had already been finished when the Court rendered its judgment no further individual measures seem necessary.

GENERAL MEASURES

Measures taken

Reference is made to the measures already taken in response to the violations found in the *Rambauske* group of cases v. Austria (No. 45369/07) and to the final resolution adopted on 09/12/2015 (Resolution CM/ResDH(2015)222).

Publication and dissemination

- a) On 13/11/2017 the judgment was disseminated to the Federal Chancellery's Constitutional Service (now the Federal Ministry for Constitution, Reform, Deregulation and Justice), the Constitutional Court, the Supreme Administrative Court, the Federal Ministry for Agriculture, Forestry, Environment and Water (now Federal Ministry of Sustainability and Tourism), the Offices of the Upper and Lower Austrian Provincial Governments and the Regional Administrative Courts of Upper and Lower Austria.
- b) A Circular Note of the Federal Chancellery's Constitutional Service (now at the Federal Ministry for Constitution, Reform, Deregulation and Justice) informing on this case was disseminated to all relevant domestic bodies on 04/01/2018.
- c) Judgments of the ECtHR are also discussed on a regular basis in the advanced training courses for judges on fundamental rights and in seminars for candidate judges and legal trainees.
- d) In this respect it is also pointed out that, under Austrian law, the European Convention and the ECtHR's judgments in cases to which Austria was a party have direct effect.

CONCLUSION

Austria considers that with these legislative and practical measures, the main causes for the violation of Article 6 § 1 of the Convention (as previously found by the ECtHR in the *Rambauske* group of cases) have been eliminated and that similar violations in the future will be prevented.

Austria also takes the view that the measures adopted have fully remedied the consequences for the applicants of the violations found by the ECtHR in this case and that Austria has thus complied with its obligations under Article 46 ECHR.

On the basis of the information above Austria considers that all necessary measures have been taken and the case should be closed.