



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF TRDAN AND Č. v. SLOVENIA

(Application no. 28708/06)

JUDGMENT

STRASBOURG

7 December 2010

FINAL

20/06/2011

*This judgment has become final under Article 44 § 2 (c) of the Convention.
It may be subject to editorial revision.*

In the case of Trdan and Č. v. Slovenia,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Josep Casadevall, *President*,

Elisabet Fura,

Boštjan M. Zupančič,

Alvina Gyulumyan,

Ineta Ziemeles,

Luis López Guerra,

Ann Power, *judges*,

and Santiago Quesada, *Section Registrar*,

Having deliberated in private on 16 November 2010,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 28708/06) against the Republic of Slovenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Slovenian nationals, Mr Andrej Trdan and Č. (“the applicants”), on 15 June 2006. The President of the Chamber decided of his own motion to grant the second applicant anonymity pursuant to Rule 47 § 3 of the Rules of Court.

2. The applicants were represented by Mr B. Verstovšek, a lawyer practising in Celje. The Slovenian Government (“the Government”) were represented by their Agent, Mr L. Bembič, State Attorney-General.

3. On 24 June 2009 the Court decided to communicate the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS**I. THE CIRCUMSTANCES OF THE CASE**

4. The applicants are father and son. The first applicant was born in 1969 and lives in Ribnica. The second applicant was born in 2005 and lives in Ljubljana.

5. The first applicant was in a relationship with S.Č. The relationship ended four months before the second applicant was born. The first applicant acknowledged the child by signing a statement on paternity with the Ljubljana Administrative Unit (*Upravna enota Ljubljana*). The second applicant's mother S.Č. never gave her consent to the above-mentioned statement.

6. On 10 February 2006 the first applicant brought an action with the Ljubljana District Court (*Okrožno sodišče v Ljubljani*) for custody and determination of paternity. He also lodged a request for an interim measure ensuring him contact with his son pending the outcome of the main proceedings. Moreover, he requested the appointment of a special representative to represent the second applicant and to be exempted from paying court fees.

7. On 17 February 2006 the Ljubljana District Court issued a decision rejecting the request for an interim measure. The court stated that the question of paternity should be resolved before such measure could be applied. The first applicant appealed.

8. On 5 March 2006 and 5 April 2006 the first applicant lodged two requests for a hearing to be set and for the matter to be resolved promptly.

9. On 12 April 2006 the Ljubljana Higher Court (*Višje sodišče v Ljubljani*) issued a decision upholding the appeal and remitting the question of provisional contact arrangements for re-examination.

10. On 9 May 2006 the first applicant lodged a supervisory appeal (*nadzorstvena pritožba*) with the Ministry of Justice (*Ministrstvo za pravosodje*), complaining that the judge's work in the case was slow and ineffective.

11. On 10 May 2006 the first applicant lodged preliminary submissions and a reply to the counterclaim lodged by S.Č. on 21 March 2006.

12. On 17 May 2006 Ljubljana District Court issued the first interim contact order allowing the first applicant to have contact with the second applicant once a week for two hours. The order was immediately enforceable, as appeals do not stay the enforcement of such orders.

S.Č. lodged an objection.

13. On 24 May 2006 the Ljubljana Moste Polje Welfare Authority (*Center za socialno delo Ljubljana Moste Polje*) issued a decision appointing a *curator ad litem* to represent the second applicant.

14. On 25 May 2006 the Ljubljana District Court sent a report to the Ministry regarding the progress in the case following the first applicant's supervisory appeal.

15. On 2 June 2006 the first applicant lodged an appeal against the order on provisional contact arrangements issued on 17 May 2006. He claimed that S.Č. and her father had prevented him from visiting the second applicant and had threatened him with physical violence. He requested the first-instance court to modify the interim contact order concerning the

enforcement by setting a fine in the event of non-compliance to ensure contact with the second applicant.

16. On 8 June 2006 the first applicant lodged a request for priority treatment, claiming that he had again been prevented from seeing the second applicant. He also lodged a complaint (*ustna ovadba*) with the police.

17. On 14 June 2006 Ljubljana District Court set a hearing for 5 July 2006. The first applicant requested that the hearing be set earlier.

18. On 15 June 2006 Ljubljana District Court issued a decision exempting the first applicant from paying court fees.

19. On 16 June 2006 the first applicant requested the hearing to be rescheduled, which was refused.

20. On 5 July 2006 the Ljubljana District Court held a hearing regarding provisional contact arrangements and the objection of S.Č. to the order of 17 May 2006. The court issued a new contact order of its own motion pending the resolution of the case. The court allowed contact between father and son twice a week under the supervision of a social worker. It also set out a fine of 50,000 Slovenian tolar (SIT) (approx. 200 euros (EUR)) to be imposed in the event of non-compliance. On the same day a partial judgment was issued establishing that the first applicant was indeed the biological father of the second applicant. The parents also resolved the issue of alimony by signing a court settlement.

21. On 13 July 2006 the first applicant lodged an appeal challenging both interim contact orders (see paragraphs 12 and 20 above) by requesting more frequent contact.

22. On 6 September 2006 Ljubljana Higher Court quashed both appeals.

23. On 27 November 2006 the first applicant lodged a request for a new interim contact order, requesting more frequent contact.

24. On 6 December 2006 Ljubljana District Court rejected the first applicant's request and issued an order of its own motion, allowing contact under new terms. The court allowed contact twice a week without supervision and every other Saturday and fixed an arrangement for Christmas holidays. The court set a fine of SIT 50,000 (approx. EUR 200) in the event of non-compliance. S.Č. lodged an objection.

25. On 4 and 5 January 2007 the first applicant lodged two requests with Ljubljana District Court for imposition of a penalty or use of physical force to enforce the order, since S.Č. was not respecting the interim contact order and was obstructing the applicant's visiting rights. The first applicant stated that the visits had been obstructed on nine occasions between 16 December 2006 and 2 January 2007. It transpires from the case-file that the second applicant was frequently ill between December 2006 and February 2007 and was hospitalized on 26 February 2007.

26. On 7 February 2007 the first applicant lodged a supervisory appeal in accordance with the provisions of the Act on the Protection of the Right to a Trial without Undue Delay ("the 2006 Act").

27. On 14 February 2007 Ljubljana District Court held a hearing regarding contact arrangements and rendered a decision, rejecting S.Č.'s objection to the decision issued on 6 December 2006; the decision therefore remained in force (see paragraph 24 above). Both parties appealed.

28. On 27 February 2007 Ljubljana District Court issued a decision appointing an expert in psychology in order to determine which party to the proceedings should be granted custody. On the same day, following an unsuccessful contact, the first applicant lodged a complaint with the police against S.Č. accusing her of abduction of a minor. It transpires from the case-file that the first applicant lodged at least ten such complaints during the proceedings.

29. On 2 March 2007 Ljubljana District Court issued a decision, rejecting the first applicant's requests from 4 and 5 January 2007 as unsubstantiated. The court found that the contact visits had been obstructed or prevented mainly because of the child's illness, and that the first applicant had not made an attempt to reschedule as set out in the interim order. The first applicant appealed.

30. On 7 March 2007 the supervisory appeal was rejected as unfounded (see paragraph 26).

31. The second applicant was again hospitalized between 7 May 2007 and 10 May 2007.

32. On 9 May 2007 Ljubljana Higher Court issued a decision quashing the decision of 6 December 2006 (see paragraphs 24 and 27 above) and rejected the first applicant's request for a new interim contact order. The court found that despite the progressing relationship between father and son allowing contacts without supervision was premature and such changes should be done more gradually. The order of 5 July 2006 was now again in force.

33. On 25 May 2007 Ljubljana District Court received the expert's opinion.

34. On 31 May 2007 the first applicant lodged a new request for an interim contact order.

35. On 4 June 2007 Ljubljana District Court issued an interim contact order of its own motion allowing more frequent contact visits following the favourable expert opinion. A fine for non-compliance was set. S.Č. lodged an objection.

36. On 21 June 2007 Ljubljana District Court issued a decision rejecting the objection lodged by S.Č. to the interim contact order.

37. On 16 July 2007 S.Č. lodged an appeal against the decision of 4 June 2007, claiming that the order was based on an expert opinion on which she had not been given the opportunity to comment.

38. On 16 July 2007 the court received a report by the Moste-Polje Medical Centre, from which it was evident that both parents had been

offered assistance by the department of psychology. S.Č. had attended two meetings, the first applicant none.

39. It transpires from the case-file that the second applicant was frequently ill between June 2007 and August 2007 and again hospitalized on 24 July 2007.

40. On 17 October 2007 Ljubljana Higher Court upheld the appeal and remitted the case for re-examination (see paragraph 37 above).

41. On 28 November 2007 Ljubljana District Court issued a decision requesting the appointed expert to modify the report.

42. On 30 November 2007 the first applicant lodged a request for a hearing to be set and a new request for an interim contact order.

43. On 15 February 2008 Ljubljana District Court received the modified expert opinion.

44. On 17 March 2008 the first applicant lodged a supervisory appeal under the 2006 Act.

45. On 2 April 2008 the supervisory appeal was rejected as unsubstantiated.

46. On 4 April 2008 the first applicant lodged a new request for an interim contact order and a request for a hearing to be set.

47. On 10 April 2008 the first applicant's representative lodged a motion for a deadline under the 2006 Act.

48. On 17 April 2008 the motion for a deadline was rejected.

49. On 21 April 2008 the first applicant personally lodged a motion for a deadline.

50. On 13 May 2008 the motion for a deadline was upheld and the case was given priority treatment.

51. On 18 May 2008 the first applicant lodged an urgent request for the issuing of a new interim contact order.

52. On 22 May 2008 the court issued a new interim contact order of its own motion, allowing more frequent contact visits without supervision and imposing a fine of EUR 300 for non-compliance. S.Č. lodged an objection.

53. On 11 June 2008 the case was reassigned to a new judge due to the previous judge's extended sick leave.

54. On 3 July 2008 a hearing was held and a new interim contact order was issued, setting a fine for non-compliance and further modifying contact arrangements. Both parties waived the right to appeal.

55. On 21 October 2008 S.Č. lodged a preliminary submission requesting an additional expert opinion, whereby it could be established whether there had been physical violence against the second applicant by the first applicant. She had also informed the Welfare Authority about her concerns.

56. On 23 October 2008 the first applicant requested amendments to the new interim contact order.

57. On 4 November 2008 the first-instance court rejected both requests and found it unnecessary to change the contact arrangements. The court acknowledged that the relations between the parties presented a problem, since there had been frequent accusations of a criminal nature on both sides. Following the report by the Welfare Centre, the court assessed that the circumstances are not of such nature that the contact arrangements should be altered.

58. On 12 November 2008 a main hearing was held regarding custody. The first-instance court tried unsuccessfully to reach a settlement between the parties. The court also ordered the expert to supplement the opinion and establish whether there is any reason the contacts between father and son should not take place. A new interim contact order was issued setting new contact arrangements and a fine for non-compliance. S.Č. appealed.

59. On 4 March 2009 a hearing was held at which the first applicant submitted a request for a new interim contact order. The court issued a new order slightly modifying the provisional contact arrangements until the next main hearing, fixed for 1 July 2009. Based on the supplemented expert opinion the court slightly extended the contacts. A fine in the event of non-compliance was set again.

60. On 1 July 2009 a hearing was held. Ljubljana District Court issued a judgment whereby the child was placed in the care of S.Č. and contact arrangements were set. The first applicant stated that the contact visits had been carried out in line with the last interim decision. Both parents stated that the contact visits had gone ahead satisfactorily in the preceding months. Pending final resolution of the case the court issued a new interim order establishing in detail the contact arrangements for the summer and public holidays.

61. On 14 August 2009 the first applicant lodged an appeal against the first-instance judgment.

62. On 14 December 2009 Ljubljana Higher Court rejected the appeal and upheld the first-instance judgment.

II. RELEVANT DOMESTIC LAW

63. For the description of the relevant domestic law see *Eberhard and M. v. Slovenia* (nos. 8673/05 and 9733/05, 24 June 2008, §§ 57-66).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

64. The applicants complained that their right to respect for their family life had been breached because of the State's failure to enforce contact arrangements and because of delays in the court proceedings concerning child custody and provisional contact arrangements.

The relevant part of Article 8 reads as follows:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.”

A. Admissibility

1. *Locus standi, Article 34 of the Convention*

65. The Court notes that in the present case the same general principles apply as set out in the *Eberhard* judgment (cited above, §§ 85–88). It further notes that the application concerns non-enforcement of contact arrangements and length of proceedings regarding contact and custody rights. It does not, however, concern the merits of the decisions on the right of custody. The Court therefore concludes that the first applicant's position as a natural parent cannot be regarded as a sufficient basis also to bring the present application on behalf of the second applicant.

66. Consequently, the first applicant has no standing to act on the second applicant's behalf. The Court will therefore limit its examination of the case to the part that concerns the first applicant, hereinafter referred to as “the applicant”. The second applicant will hereinafter be referred to as Č.

2. *Exhaustion of domestic remedies*

(a) The Government's arguments

67. The Government proposed that the Court declare the application inadmissible for non-exhaustion of domestic remedies.

68. They relied on The Act on the Protection of the Right to a Hearing without Undue Delay (“the 2006 Act”) and argued that the applicant had failed to properly exhaust the domestic remedies. The Government argued that the applicant did exhaust both acceleratory remedies, but failed to properly institute the proceedings for just satisfaction. The applicant's request for just satisfaction was premature, since he had lodged it before the domestic proceedings became final and terminated.

69. The Government maintained that since the applicant alleged that because of the unreasonable duration of the proceedings there was also a violation of the right to family life under Article 8 of the Convention, the alleged violation of Article 8 is also inadmissible for non-exhaustion of domestic remedies.

70. Finally, in their additional observations the Government informed the Court that they had offered the applicant a settlement proposal for the undue delay and that the applicant had not yet sent a response.

(b) The applicant's arguments

71. The applicant stated that since the major part of the proceedings had been conducted before 1 January 2007 the acceleratory remedies in such cases do not serve their purpose, namely that of accelerating the proceedings. According to him such remedies are just an unreasonable formality. In support of his allegations, the applicant submitted copies of more than a hundred decisions by which supervisory appeals and motions for a deadline lodged by the applicants' lawyer in other, unrelated cases were rejected. The applicant submitted that the problem of lack of effective remedies stemmed from the fact that the courts refused to directly apply the Convention in this area.

72. The applicant also argued that his request for compensation should not have been rejected as premature, since there is no such provision in the 2006 Act.

73. The applicant went on to argue in general that the proceedings for compensation for undue delays were lengthy, ineffective and burdensome. He stated that the parties were required to prove the damage they had suffered; that the parties were normally required to testify before the court, which was a very traumatic experience, particularly in family-related cases; that the courts would assess a particular judge's responsibility for delays instead of accepting that the delays were a systemic problem; and that the courts had applied domestic law wrongly and were biased. In this connection, the applicant submitted a large number of domestic decisions concerning compensation for alleged unreasonable length of proceedings sought in claims that had been lodged with the domestic courts.

74. Finally, the applicant stated that the amounts of compensation awarded by the State Attorney's Office were too low and not in accordance with the Court's case-law.

(c) The Court's assessment

75. With regard to the Government's objection concerning the exhaustion of the remedies available under the 2006 Act, the Court notes that this legislation introduced remedies concerning specifically the right to have one's case examined within a reasonable time within the meaning of Article 6 § 1 of the Convention. However, in the present case it is not

merely the excessive length of civil proceedings which is in issue, but the question whether, in the circumstances of the case seen as a whole, the State can be said to have complied with its positive obligations under Article 8 of the Convention (see *Eberhard and M.*, cited above, § 105). The Court therefore rejects this objection of the Government as far as Article 8 issues are concerned.

76. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' arguments

77. The Court notes that some of the parties' arguments which referred to Article 6 § 1 also concerned in substance the issues raised under Article 8 of the Convention. The Court deems it appropriate to examine these arguments in the context of the latter provision (see *Eberhard and M.*, cited above, § 105, and *V.A.M. v. Serbia*, no. 39177/05, 13 March 2007, § 115).

(a) The applicant's arguments

78. The applicant stated that in the present case the domestic courts were completely incompetent and had done nothing to expedite the proceedings and safeguard the best interests of the child. There were long periods without any contact visits between father and son despite a multitude of interim orders, and the courts had done nothing to remedy the situation. The applicant alleged that the domestic courts were continuing to tolerate the unacceptable behaviour of S.Č., who tried to do everything possible to prevent contact and obstruct the development of a loving relationship between father and son.

79. The applicant submitted that the incompetence of the domestic court could be seen by the large number of interim orders issued, all of which were allegedly rejected on procedural grounds by appellate courts. According to him the interim orders were useless; there were too many of them, they were issued for limited periods and were not enforceable. The applicant further stated that he had lodged several requests for imposition of a penalty and enforcement and had done everything in his power to expedite the proceedings, but to no avail. As a result, his contact visits with Č. were seriously obstructed by the appalling behaviour of S.Č. and the incompetence of the domestic courts to prevent such behaviour.

80. The applicant also expressed disagreement with the contact arrangements, whereby he could see his son under the supervision of

Ljubljana Moste Polje Social Work Centre. He stated that such an arrangement was completely unacceptable and that the employees of the said Centre were dealing with his case in a discriminatory manner. According to him the domestic courts should have not relied on the professional opinions of such an incompetent and questionable establishment.

81. Finally, the applicant more generally submitted that as a matter of practice the Slovenian courts did not pursue the enforcement of interim orders in cases such as the present one.

(b) The Government's arguments

82. The Government argued that the domestic proceedings were instituted in the first place due to the inability of the parents to reach a friendly solution regarding their child. According to the Government the obviously unresolved emotional issues between the parents strongly affected the duration of the proceedings. During the proceedings the parents lodged several criminal complaints against each other, making allegations of serious criminal offences, which in the Government's view was a clear demonstration of the severity and complexity of the situation.

83. The Government further argued that, putting the complexity of the case aside, the delays in the proceedings were predominantly attributable to the applicant, who was constantly lodging new requests for interim contact orders. They stated that following the first order, issued on 17 May 2006, contact visits between the applicant and Č. did not always take place, which was mostly due to unresolved issues between the parents and to Č.'s illnesses, but which gradually improved later in the course of the proceedings. The applicant lodged eight requests for interim orders and the first-instance court issued eleven such orders extending contact visits accordingly, taking into account the improving relations between the parents and the reports of the social workers. According to the Government, the domestic courts, having regard to the complexity of the matter, considered the case swiftly, with extreme care and constantly sought solutions in the best interest of the child.

84. The Government also contested the applicant's statements regarding the delay in the issuing of the first interim order and the issue of enforcement of the order, which they maintained to be simplified and false. They argued that it took the first-instance court three months to issue the first interim order, which cannot be considered excessive. As to the enforcement of the interim orders the Government maintained that with the exception of the first interim order the following orders did impose a criminal fine in the event of non-compliance.

85. The Government further argued that the applicant did request that a criminal fine be imposed on the defendant for non-compliance with the interim order, but those requests were rejected mostly because the applicant

was unable to prove that there had been other reasons for the failure of contact visits than the illness of Č. In addition, the Government stated that imposing a criminal fine would also be contrary to the child's best interests, since in the period concerned S.Č. was unemployed. As for the applicant's request for an enforcement measure of immediate physical constraint, the court rejected it as disproportionate, keeping the best interests of the child in mind.

86. Finally, the Government argued that in the present case the State had complied with its positive obligations under Article 8 and that this complaint should be rejected as unfounded. According to them the alleged violation was neither a consequence of the alleged violation of the right to a trial within a reasonable time nor could it be attributable to the State.

2. The Court's assessment

87. The Court notes that the mutual enjoyment by parent and child of each other's company constitutes a fundamental element of "family life" within the meaning of Article 8 of the Convention (see, among other authorities, *Monory v. Romania and Hungary*, no. 71099/01, 5 April 2005, § 70).

88. Further, even though the primary object of Article 8 is to protect the individual against arbitrary action by public authorities, there are, in addition, positive obligations inherent in effective "respect" for family life. In both contexts, regard must be had to the fair balance which has to be struck between the competing interests of the individual and of the community as a whole; in both contexts the State enjoys a certain margin of appreciation (see *Keegan v. Ireland*, judgment of 26 May 1994, Series A no. 290, p. 19, § 49).

89. In addition, the Court's role is not to substitute itself for the competent national authorities in regulating custody and access issues in Slovenia, but rather to review under the Convention the decisions that those authorities have taken in the exercise of their power of appreciation (see, *mutatis mutandis*, *the Handyside v. the United Kingdom* judgment of 7 December 1976, Series A no. 24, p. 23, § 50). In so doing, it must determine whether the reasons purporting to justify the actual measures adopted with regard to the applicant's enjoyment of his right to respect for family life are relevant and sufficient under Article 8.

90. In cases concerning the enforcement of decisions in the realm of family law, the Court has repeatedly found that what is decisive is whether the national authorities have taken all necessary steps to facilitate execution as can reasonably be demanded in the special circumstances of each case (see *Hokkanen v. Finland*, 23 September 1994, § 58, Series A no. 299-A p. 22, and *Ignaccolo-Zenide v. Romania*, no. 31679/96, § 96, ECHR 2000-I).

91. In this context, the adequacy of a measure is to be judged by the swiftness of its implementation, as the passage of time can have irremediable consequences for relations between the child and the parent who do not cohabit (see *Ignaccolo-Zenide*, cited above, § 102).

92. Finally, the Court has held that although coercive measures against the children are not desirable in this sensitive area, the use of sanctions must not be ruled out in the event of unlawful behaviour by the parent with whom the children live (see *Ignaccolo-Zenide*, cited above, § 106).

93. The Court's first task in the present case is therefore to consider whether, in the light of the relevant principles of its case-law, the measures taken by the Slovenian authorities were adequate and effective.

94. The Court notes that the relationship between the applicant and S.Č. ended four months before Č. was born. The applicant acknowledged his son and further to S.Č.'s unwillingness to let him participate in the upbringing of Č. he instituted court proceedings. The domestic proceedings were instituted on 10 February 2006 and aside from custody the applicant also requested an interim contact order to be issued ensuring him contact with Č. pending the outcome of the proceedings. On 17 May 2006 the first interim order was issued. In the course of the proceedings, the applicant lodged eight requests for an interim contact order and the court issued eleven such orders in total. All interim contact orders were immediately enforceable (see paragraph 12).

95. Notwithstanding the rather large number of interim contact orders issued, the Court cannot accept the applicant's argument that they were not effective, that there was too many of them and were not enforceable.

96. The Court observes that as regards the contact visits between the applicant and Č., there have indeed been periods of poor or obstructed contacts. Although S.Č.'s reluctance to accept the idea of the applicant being involved in their son's life may have played a role in this, contact visits often could not take place due to Č.'s illnesses. The longer periods of obstructed contact visits coincide, as noted by the domestic court, with Č. being ill and on several occasions hospitalised (see paragraphs 25, 31 and 39), which cannot be attributable to the State. The Court also notes that the relationship between father and son was gradually improving throughout the proceedings; that being particularly evident in the second half of the proceedings where both parties referred to the contacts as satisfactory (see paragraph 60 above). The Court is aware that in such difficult situations as the present one, involving unresolved issues between the parents, a certain amount of time has to pass in order for the parents to overcome the emotional hurdles and establish a mature relationship focusing on the best interests of the child.

97. More importantly, the Court observes that apart from the first interim contact order all subsequent orders included a fine, to be imposed in the event of non-compliance. However, the applicant lodged only two requests for the fine to be imposed in periods where contact visits were

prevented on only a few occasions, due to Č.'s illness (see paragraph 25). Both requests were rejected as unsubstantiated. Instead he kept resorting to lodging criminal complaints (see paragraphs 16 and 28) and new requests for interim orders. The Court cannot therefore accept that the applicant did everything in his power to obtain the enforcement of the interim contact orders to ensure contacts with his son had he considered that S.Č. was not complying with them.

98. Having regard to the facts of the case, the Court's case-law and the parties' submissions, the Court concludes that the State cannot be considered to have failed in making adequate and effective efforts to execute the contact orders.

99. As regards the alleged delays in the proceedings, the Court reiterates its case-law where it has previously considered that where conduct of custody proceedings is ineffective, and in particular where the proceedings are delayed, this may give rise to a breach of Article 8 of the Convention (see *V.A.M. v. Serbia*, cited above, § 49 and *Eberhard and M.*, cited above, §§ 142–143).

100. In the present case, the Court notes that the proceedings lasted three years and ten months at two levels of jurisdiction. The first interim contact order was issued on 17 May 2006, that is three months after the proceedings were instituted. The first hearing was held on 5 July 2006. The court issued eleven interim contact orders, held six hearings and appointed one expert. The Court is satisfied that aside from a few delays, which were however not excessive (see, for example, paragraphs 54–57 and 58–59 above), the proceedings were sufficiently prompt and effective, considering that the court had had to deal with a large number of requests for new interim contact orders and objections to and appeals against such orders. Moreover, the contact visits between the applicant and Č. had generally been allowed to happen. In this connection the Court also notes that with every newly issued order the access arrangements were modified so to allow more frequent contact taking into account the best interest of the child.

101. In view of the duration of the impugned court proceedings and the conduct of the domestic courts, and having regard to the fact that the contact visits between the applicant and Č. were not significantly obstructed, (see by contrast *Eberhard and M.*, cited above, §139), the Court finds that the proceedings were conducted effectively and promptly enough, as required by Article 8 of the Convention.

102. The Court therefore concludes that as regards the enforcement of the contact orders and the conduct of the court proceedings concerning contact and custody rights, the Slovenian authorities did not fail to meet their positive obligations arising from Article 8 of the Convention. There has accordingly been no violation of Article 8 of the Convention in the present case.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

103. The applicants also complained that the length of the court proceedings concerning custody rights and provisional contact arrangements had exceeded a reasonable time, in breach of Article 6 § 1 of the Convention, the relevant part of which reads as follows:

“In the determination of his civil rights and obligations ..., everyone is entitled to a... hearing within a reasonable time by a ... tribunal...”

104. The Government and the applicant relied on the arguments outlined in paragraphs 67-70 and paragraphs 71-74 respectively.

105. The Court notes that the applicant was offered compensation in respect of non-pecuniary damage (see paragraph 70) and had at his disposal remedies available under special legislation concerning length of proceedings. If the applicant was not satisfied with this offer, he could have lodged a “claim for just satisfaction” in accordance with the relevant provisions of the 2006 Act. In this connection, the Court notes that the above-mentioned claim has been considered by the Court to constitute an appropriate means of redressing a breach of the reasonable time requirement of Article 6 that has already occurred (see *Pohlen v. Slovenia* (dec.), no. 28457/03, §§ 40-43, 3 June 2008).

106. In view of the above, the Court finds that this part of the application must be rejected for non-exhaustion of domestic remedies, in accordance with Article 35 §§ 1 and 4 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* that the applicant has no standing to act on behalf of Č.;
2. *Declares* the complaint under Article 8 of the Convention admissible and the complaint under Article 6 § 1 of the Convention inadmissible;
3. *Holds* that there has been no violation of Article 8 of the Convention.

Done in English, and notified in writing on 7 December 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President