



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

FIRST SECTION

CASE OF RYTCHENKO v. RUSSIA

(Application no. 22266/04)

JUDGMENT

STRASBOURG

20 January 2011

FINAL

20/04/2011

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

In the case of Rytchenko v. Russia,

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

Christos Rozakis, *President*,

Nina Vajić,

Anatoly Kovler,

Khanlar Hajiyeu,

Dean Spielmann,

Sverre Erik Jebens,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 14 December 2010,

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

PROCEDURE

1. The case originated in an application (no. 22266/04) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Mr Igor Vasilyevich Rytchenko (“the applicant”), on 20 March 2004.

2. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

3. On 10 September 2008 the President of the First Section decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 1).

4. On 7 October 2008 the President of the First Section decided to grant the application priority under Rule 41 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1956 and lives in Moscow.

A. Background of the case

6. On 11 February 1995 the applicant and Ms B. got married. Ms B. already had a daughter, T., by a different father. On 23 December 1995 Ms B. gave birth to a daughter, A. In May 1998 the applicant moved out of his and Ms B.'s household. He continued to visit A. every week. From November 1998 Ms B. refused all contact between the applicant and the girl. His attempts to see A., with the help of the local custody and guardianship office, were unsuccessful.

7. On 15 November 1998 A. was examined by M., the director of the psychological centre, Inex-92. M. stated that A. had a wide range of fears and displayed increased anxiety. On the basis of the tests conducted, it was established that A. had a close relationship with her mother and elder sister, but was distanced from her father and tended to reject him.

8. On 9 December 1999 A. was examined by psychologist M-va, with a view to determining her emotional state following the long absence of her father. M-va's conclusion stated:

“1. [A.] easily establishes contact with a stranger (psychologist) which proves that [she] has developed a feeling of safety.

2. [A.] is in stable emotional state. The girl is cheery, clever, actively reacts to jokes, displays initiative in communication and in games.

3. The child is surrounded by love and care from her mother and grandmother [and] likes to play with her elder sister.

4. The following [A.'s] statements give rise to concern: “My father does not give me presents...”, “I feel good without him...” and “I don't want to see him”.

5. The absence of the father is compensated by communication with a great-uncle and role-play games (used as a therapeutic means).”

9. On 14 January 2001 the applicant's marriage was dissolved and Ms B. was granted full custody of A.

B. First set of custody and access proceedings

10. On 22 February 2001 the applicant sued Ms B. for the obstruction of access to his daughter, A.

11. On 26 April 2001 Ms B. filed a counter-claim seeking to divest the applicant of his parental rights.

12. On 5 April 2001 Moscow Psychoneurological Dispensary No. 4 carried out a psychological examination of the applicant at the request of the Izmaylovskiy District Court of Moscow. The applicant consented to the examination. The panel of three doctors that examined the applicant stated that he might be suffering from paranoid personality disorder or “sluggish

schizophrenia”. However, the conclusive diagnosis could only be made upon an in-patient examination.

13. On 4 November 2001 A. was examined for a second time by M., the director of the psychological centre, Inex-92. M. stated that A. was highly communicative, intellectually developed and emotionally free. She also displayed a high degree of reflection, stability of mood, optimism and an interest in life. Various tests conducted revealed close relationships between A. and her mother and her elder sister and a rejection of her father. The main reasons for the rejection were expressed by A. as follows: “he offends T. (the elder sister)”, “it is bad with him” and “he is mean”. According to M., the latter statement could be understood to mean that the applicant had an excessive tendency to preach. M. further stated that A.'s rejection of her father was of a stable psychological and motivated nature, which might have been caused by a previous traumatic experience and was not inspired by another person. At the same time, A. willingly accepted the father of her elder sister, her maternal grandfather, sports coaches and a male psychologist. M. concluded that there had been a positive development in A. over the three years that had passed since her first examination: the fears had disappeared, the anxiety had eased, she displayed optimism and emotional stability. A phobic reaction to men, which had previously been observed, had also disappeared. M. stated that, in his view, it was necessary to take into account A.'s opinion concerning the choice of parent so as not to cause repeated psychological trauma.

14. On 18 December 2001 M. examined the applicant. He noted that the examination was of a superficial nature and could not substitute a complete in-patient psychological examination. M. further stated that the examination did not reveal any psychopathic symptoms. However, taking into account A's persistent rejection of her father, he recommended exercising caution as regards their interaction so as not to cause repeated psychological trauma.

15. On 8 February 2002 the Izmaylovskiy District Court of Moscow allowed the applicant to visit A. every first Sunday of the month between 12 noon and 2 p.m. in the presence of Ms B. The court relied, *inter alia*, on an expert's opinion which stated that contact with the father would not have a negative effect on the child. At the same time the court dismissed Ms B.'s counter-claim.

16. The applicant appealed, requesting additional visiting hours. On 16 April 2002 the Moscow City Court dismissed his appeal and upheld the judgment.

C. Enforcement of the court order

17. Ms B. failed to comply with the court order and the visit scheduled for 5 May 2002 did not take place. On 27 May 2002 the bailiffs' office opened enforcement proceedings.

18. The applicant was not able to see A. on either 2 June or 7 July 2002. The bailiff summoned Ms B. and requested her to obey the court order on pain of an administrative fine.

19. The applicant saw his daughter on 4 August, 1 September, 6 October, 3 November and 1 December 2002, and 5 January, 2 February, 2 March, 6 April, 4 May and 1 June 2003. The meetings were held in the presence of Ms B. who, according to the applicant, prevented A. from speaking to him, playing with him or accepting his gifts.

D. Second set of access proceedings

20. On 17 October 2002 the applicant applied to the Izmaylovskiy District Court claiming additional visiting hours without Ms B.'s supervision. Ms B. requested that the applicant's access rights be terminated.

21. On 17 February 2003 the Izmaylovskiy District Court held a hearing during which it granted Ms B.'s motion to adduce the following documents for examination: the medical report from the Psychoneurological Dispensary No. 4 on A.'s psychological state, psychologists' reports on her mental state between 1998-2001, reports from the school and the sports centre that A. had attended and the two reports from A.'s psychological examinations. The applicant submitted a detailed statement in support of his claim and requested an expert psychological examination of A. The court granted the request. It also granted the motion of the local custody and guardianship office to examine A. at the hearing.

22. Following the examination conducted pursuant to the court order, expert K. stated the following.

a) A. and her mother had a close relationship characterised by an emotional bond and cooperation. Ms B.'s attitude to her daughter was emotionally-open, she tried to understand and accept the child's emotional state and the relationship was based on the girl's interests. The mother undertook a democratic approach to parenting, which included a high level of verbal communication, the inclusion of the girl in discussions on family issues, the supporting of the child's interests and independence. She paid sufficient attention to the girl's physical and intellectual development.

b) During the previous four years A.'s contact with the applicant had been of an episodic and formal nature and, as a rule, in the presence of third persons. The applicant substituted direct parental communication with moralising and attempts to obtain assurances of A.'s affection in front of third persons or to demonstrate Ms B.'s "undue" conduct. The values and behavioural motives of the applicant and Ms B. differed significantly. The applicant typically had formal relationships with people devoid of pronounced emotional involvement, which were based on certain rules, worked out in the course of his life. His approach to parenting was based on control, implying significant restrictions to the child's conduct. The

applicant did not recognise his daughter's right to her own interests and independent choice. He poorly understood, and did not take into account, the girl's psycho-emotional and age-related behaviour.

c) A child's "core personality" is formed at approximately five years old. A. had a sufficiently high level of intellectual development. However, her emotional sphere was much more labile than that of an adult and mostly depended on her environment. Her own values and opinions were being developed in the course of communication within the family. Furthermore, it is typical for children to copy the conduct of other persons, primarily the parent of the same sex. Therefore, it might be asserted that A.'s perspective of the issue was nearly identical to her mother's. From the point of view of further social adaptation, her female upbringing (mother, grandmother, elder sister) was sufficiently auspicious as it enabled a model of "female conduct" in society to be successfully put into practice. The remote negative result is that A. might have difficulties in building her own family, due to the absence of an adequate model of conjugal partnership. However, this applies to all children from single-parent families.

d) The feeling of safety is a vital human need. The basic feeling of safety is provided by the family. In the first seven years of a child's life, communication with the mother is more important, irrespective of the child's gender. The child forms an image of the father through the prism of the mother's perception and his/her own communication with him, which A. had been deprived of for the last four years. At the time in question, A. saw the applicant as an incomprehensible stranger, whose actions had subverted her feeling of safety. Her mother and grandmother, in compliance with the court order, had effectively forced A. to communicate with her father, whom she did not love and was afraid of. As a result, A.'s immediate family (mother and grandmother) and relatives (father), instead of being the safety factor, became the danger factor. A.'s negative emotional stress, brought about by the meetings with her father was expressed in affective reactions (shouts, tears, obsessive movements) observed after the meetings. The increase of the duration of the meetings, especially in the mother's absence, would entail the risk of the child's persistent neurosis or depression, due to the impossibility of avoiding the subjectively distressing situation. The extreme manifestation of such a condition is self-aggression (suicidal tendencies, thoughts and actions).

e) The so-called "female upbringing" was not a factor that would foster a negative or "wrong" attitude by the girl towards men in general. A. was unlikely to develop serious problems from the point of view of social or professional adaptation. She had sufficient experience of communication with the opposite gender through contacts with her peers, teachers, sports coaches, and so on.

f) Blood relations do not guarantee mutual love, respect or deep attachment. Emotional relationships are formed in the course of

cohabitation, communication, upbringing and communal activity. The inability or unwillingness of the parents to establish a civilised relationship might have affected the negative attitude of A. towards the applicant. The prolonged conflict between the applicant and Ms B., with whom A. identifies, resulted in the child's lack of belief in the possibility of a positive development of her relationship with her father.

g) Ignoring the girl's emotional and rational rejection of her father and forcing her to meet with him might cause irretrievable adverse effects on the latter's health and psychological well-being. It might also adversely affect A.'s moral development, since in such a situation neither the family nor the State would provide her with psychological support and safety.

23. On 24 June 2003 the Izmaylovskiy District Court delivered its judgment. The court had studied several expert reports. In particular, in August and September 2002 A. had been referred to a psychologist at the Izmaylovo centre for children. In the report, the psychologist stated that in August 2002 A. had been provided with psychological aid after meetings with her father since, after the resumption of contacts with her father, the girl was highly agitated, irritable and suffered from nightmares. The same psychologist had consulted the applicant and stated that he was showing no parental interest in or affection for his daughter. His perception of the child was "inadequate" and he displayed "a pathological tendency towards litigation".

24. The court also studied the report of the expert examination conducted pursuant to its order of 17 February 2003 and examined expert K. during the hearing. She confirmed the conclusions she had stated in the report and emphasised that forcing A. to meet with the applicant, especially without the presence of Ms B., might irreversibly affect her physical and psychological well-being and possibly lead to neurosis and depression. Furthermore, expert K. asserted a strong opinion that the applicant was interested in having contact with A. only to boost his self-esteem and not to establish a relationship with the child. The absence of such a relationship was acknowledged by the applicant himself in his letters to Ms B. and the bailiff, where he stated that his daughter did not wish to see him, hated him, wanted to change her surname and refused to accept his gifts.

25. The District Court further examined the opinion of the local custody and guardianship service which stated that meetings between the applicant and A. should be discontinued, having regard to the interests and wishes of the latter, who strongly resisted communication with her father.

26. The court questioned the applicant, who reiterated his claim. It also questioned Ms B., who stated that during the meetings the applicant had provoked a negative reaction on the part of A., for example, by forcibly removing her glasses or earphones, forcing her to accept a book as a present and then taking pictures so as to document her refusal. He failed to establish a relationship with the girl, did not take into account her opinion, applied

coercion and brought her to tears. After the meetings with the applicant A. developed nervousness, problems sleeping and refused to leave the house. This behaviour was noted in the psychologists' reports.

27. The District Court further examined several other witnesses. A.'s school sports coach and her aunt stated that the girl was very sociable, but reacted negatively to her father, wanted to have her mother's surname, had not allowed him to take a picture of her and had left the classroom when the applicant had come to visit her at school. The applicant's father and brother believed that Ms B. had turned her daughter against her former husband. Ms B.'s step-father said that the applicant and his child had had a wonderful relationship until the parents' separation.

28. The District Court also questioned A. in the presence of a teacher. A. explained that she did not like her father, did not want to see or talk to him and wanted to have her mother's surname.

The District Court held as follows:

“In accordance with Article 66 § 4 [of the Family Code] and section 8 of ruling no. 10 of 28 May 1998 of the Plenum of the Supreme Court of the Russian Federation, in exceptional cases a court may refuse a parent's claim to determine the order of [his or her] participation in the child's upbringing when communication between the child and ... the parent may adversely affect the child, his physical and psychological well-being.

The court grants the claim to discontinue the father's contact with his daughter and dismisses [his] claim for additional visiting hours, having regard exclusively to the interests of the minor, in particular: the contact ... affects the child's physical and psychological well-being, which is demonstrated by the lack of mutual understanding and communication between the father and the daughter during the meetings ordered by the court's previous decision; having the father's surname is a traumatising situation for the child; the meetings have a very formal nature; the child's conduct at the appearance of her father, when in her mother's presence, is characterised by strong rejection ([she] hid under the desk; ran away; tore up [her] letter of commendation bearing the surname “Rytchenko”; after seeing her father, she refused to go to a picnic with her classmates), which is not conducive to creating psychological comfort and a feeling of safety for the child; the very litigation is psychologically traumatising since it was initiated by [the applicant] but is centred around the seven year-old child, who knows about it because the court decision of 8 February 2002 is being enforced with her participation. Furthermore, the court takes into account that the child was being seen repeatedly by psychologists ...

The lack of contact between the father and the daughter and the psychologically traumatising environment for the child is corroborated by the parties' explanations, documentation from the case, statements by witnesses and the opinion of the local custody and guardianship office.”

29. At the hearing of 24 June 2003 the judge removed one of the applicant's representatives from the courtroom. The applicant also asked his second representative to leave the courtroom and requested that the judge provide him with legal representation. After the refusal to grant his request, the applicant unsuccessfully challenged the judge.

30. On 22 September 2003 the Moscow City Court upheld the first-instance judgment. It also mentioned that the applicant's representatives had been removed for contempt of court.

II. RELEVANT DOMESTIC LAW

A. The 1995 Family Code

Article 65. Exercise of parental rights

“1. The exercising of parental rights shall not be in contradiction with the children's interests. Providing for the children's interests shall be an object of the parents' primary care.

In exercising the parental rights, the parents will not have the right to inflict damage on the physical and psychological well-being of the children, or on their moral development. The methods of the children's upbringing must exclude neglectful, cruel, rude or degrading treatment, insults or exploitation of the children.

Parents exercising parental rights to the detriment of children's rights and interests shall be made answerable in conformity with the law-established procedure.

2. All issues concerning the children's upbringing and education shall be resolved by the parents by mutual consent based on the children's interests and taking into account [their] opinion. In the case of a disagreement, the parents (or one of them) shall have the right to apply to a custody and guardianship office or to a court to resolve any differences.

3. If the parents live apart, the children's place of residence shall be established by an agreement between the parents.

In the absence of an agreement, a dispute between the parents shall be resolved in court, proceeding from the children's interests and taking into account [the children's] opinion. The court shall take into account the child's attachment to each of his parents and to his brothers and sisters, the child's age, the moral and other personal qualities of the parents, the relations existing between each of the parents and the child, the possibility to create optimal conditions for the child's upbringing and development (the parents' activity, their work routine, their financial and family situation, etc.).

Article 66. Exercise of parental rights by the parent residing apart from the child

1. The parent residing apart from the child shall have the right to communicate with the child, participate in [the child's] upbringing and take decisions concerning the child's education.

The parent with whom the child resides shall not prevent the child from communicating with the other parent, unless the communication damages the child's physical or psychological well-being and his moral development.

2. Parents shall have the right to conclude a written agreement concerning the way in which the parent residing apart from the child exercises his parental duties.

If the parents fail to reach an agreement, the dispute shall be settled in court, upon the parents' claim (or one of them), with the participation of a custody and guardianship office.

3. In the case of failure to comply with the court's decision, the parent at fault shall be subjected to the measures provided in the Code of Civil Procedure. In the case of persistent failure to comply with the court's decision, the court may decide, upon the claim of the parent residing apart from the child, to transfer the child to that parent, proceeding from the child's interests and taking into account his opinion.

4. The parent residing apart from the child shall have the right to receive information about the child from educational and medical establishments, institutions for social protection and other similar bodies. The information may be withheld only if the parent presents a threat to the child's life and well-being. The refusal to provide information may be challenged before a court.

B. Ruling no. 10 of 28 May 1998 of the Plenum of the Supreme Court of the Russian Federation

31. Section 8 of the Ruling provides that, when a court has to determine the level of participation in a child's upbringing of the parent who resides apart from the child, it has to take into account the child's age, his state of health, his attachment to each of his parents and other circumstances which could affect the child's physical and psychological well-being and moral development. In exceptional cases, when communication with the parent who resides apart from the child may adversely affect the latter, the court may dismiss that parent's claim to participation in the child's upbringing on the basis of Article 65 § 1 of the Family Code. The reasons should be stated in the court's decision.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

32. The applicant complained under Article 8 of the Convention that the State had deprived him of the right of access to his child. Article 8 reads as follows:

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

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

33. The Government submitted that the decisions of the domestic courts had been in accordance with the domestic law and had taken into account the interests of the child. In particular, the courts had had before them numerous reports by psychologists corroborating the negative impact on A. of contact with the applicant and emphasising the possible irreversible harm to her well-being if contact was not discontinued. The courts had also examined numerous witnesses, including A., who had stated that she had not wished to communicate with her father. The domestic courts had thus fully complied with the requirement to attach particular importance to the best interests of the child, which, depending on their nature and seriousness, may override those of the parents (see *Eski v. Austria*, no. 21949/03, § 35, 25 January 2007).

34. The applicant contended that the courts had not duly assessed the evidence before them. In particular, he alleged that A.'s rejection of him was a result of her mother's psychological pressure and that he was a good father and only cared about A.'s well-being.

A. Admissibility

35. 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

36. The Court observes that it was not disputed between the parties that the decision refusing the applicant access to his daughter amounted to an interference with his right to respect for his family life, as guaranteed by Article 8 § 1. The Court takes the same view. Nor did the parties question that the decision had a basis in national law. The decision thus may be regarded as “in accordance with the law”. Furthermore, it was aimed at protecting the “health or morals” and the “rights and freedoms” of the child and thus pursued aims that are legitimate under paragraph 2 of Article 8. It remains to be examined whether the refusal of parental access can be considered “necessary in a democratic society”.

37. The Court has to consider whether, in the light of the case as a whole, the reasons adduced to justify this measure were relevant and sufficient for the purposes of paragraph 2 of Article 8 of the Convention.

Undoubtedly, consideration of what is in the best interests of the child is of crucial importance in every case of this kind. Moreover, it must be borne in mind that the national authorities have the benefit of direct contact with all the persons concerned. It follows from these considerations that the Court's task is not to substitute itself for the domestic authorities in the exercise of their responsibilities regarding custody and access issues, but rather to review, in the light of the Convention, the decisions taken by those authorities in the exercise of their power of appreciation (see *Hokkanen v. Finland*, judgment of 23 September 1994, Series A no. 299-A, p. 20, § 55, and *Kutzner v. Germany*, no. 46544/99, §§ 65-66, ECHR 2002-I).

38. The margin of appreciation to be accorded to the competent national authorities will vary in accordance with the nature of the issues and the importance of the interests at stake. Thus, the Court has recognised that the authorities enjoy a wide margin of appreciation when deciding on custody matters. However, a stricter scrutiny is called for as regards any further limitations, such as restrictions placed by those authorities on parental rights of access, and as regards any legal safeguards designed to secure the effective protection of the right of parents and children to respect for their family life. Such further limitations entail the danger that the family relations between a young child and one or both parents would be effectively curtailed (see *Sahin v. Germany* [GC], no. 30943/96, § 65, ECHR 2003-VIII; *Elsholz v. Germany* [GC], no. 25735/94, § 49, ECHR 2000-VIII; and *Kutzner*, cited above, § 67).

39. Article 8 requires that the domestic authorities should strike a fair balance between the interests of the child and those of the parents and that, in the balancing process, particular importance should be attached to the best interests of the child, which, depending on their nature and seriousness, may override those of the parents. In particular, a parent cannot be entitled under Article 8 to have such measures taken as would harm the child's health and development (see *Elsholz*, cited above, § 50; *T.P. and K.M. v. the United Kingdom* [GC], no. 28945/95, § 71, ECHR 2001-V; *Ignaccolo-Zenide v. Romania*, no. 31679/96, § 94, ECHR 2000-I; and *Nuutinen v. Finland*, no. 32842/96, § 128, ECHR 2000-VIII).

40. In the present case, the domestic courts adduced relevant reasons to justify their decisions refusing access, namely the lack of mutual understanding between the applicant and A., A.'s strong rejection of the applicant, the fact that contacts with the latter adversely affected A., who had had recourse to psychological aid in this regard, and the risk that visits would further affect her and interfere with her development in the residual family provided by the mother.

41. The Court considers that it cannot satisfactorily assess whether those reasons were "sufficient" for the purposes of Article 8 § 2 without, at the same time, determining whether the decision-making process, seen as a whole, provided the applicant with the requisite protection of his interests

(see *W. v. the United Kingdom*, judgment of 8 July 1987, Series A no. 121, pp. 28-29, § 64; *Elsholz*, cited above, § 52; and *T.P. and K.M. v. the United Kingdom*, cited above, § 72).

42. In the proceedings before the Izmaylovskiy District Court and Moscow City Court, the applicant was in a position to put forward all the arguments in favour of obtaining a visiting arrangement and had access to all the relevant information upon which the courts had relied (see, *mutatis mutandis*, *T.P. and K.M. v. the United Kingdom*, cited above, §§ 78-83; and *P., C. and S. v. the United Kingdom*, no. 56547/00, §§ 136-38, ECHR 2002-VI).

43. The evidential basis for the domestic courts' decisions included the parents' submissions, the statements from five other witnesses and an expert, the statement from A. herself, the opinion of the local custody and guardianship office and numerous psychologists' reports, including the report of the examination conducted pursuant to the court's order upon the applicant's request. The reports pertaining to the period from 1998 to 2001 showed that, while in 1998 A. had displayed increased anxiety and a wide range of fears, in the course of the subsequent period, during which she had had no contact with the applicant, she displayed optimism and emotional stability. At the same time, she continued to reject her father. Upon the resumption of contact with the applicant in 2002, pursuant to the court order, A. was referred to a psychologist. The psychologist stated that after the meetings with the applicant the girl had been highly agitated, irritable and suffered from nightmares. The same psychologist examined the applicant and stated that he had had no genuine parental interest in or affection for his daughter and that his perception of A. was "inadequate". Furthermore, according to the report of the expert examination of A., ordered by the court, the applicant sought to see his daughter only to boost his self-esteem and not to establish a genuine relationship with her. The same report stated that further compulsory contact between the applicant and A. could have irretrievable adverse effects on the latter's health and psychological well-being as the girl was afraid of her father and did not love him. The expert feared that spending more time with the applicant in the absence of her mother could entail A.'s persistent neurosis or depression. The local custody and guardianship office also submitted that all meetings between the applicant and A. should be discontinued having regard to the latter's interests. Finally, the courts took into account A.'s statement before the District Court to the effect that she did not like her father and did not wish to see him or talk to him.

44. Having regard to the foregoing and to the respondent State's margin of appreciation, the Court is satisfied that the domestic courts' procedural approach was reasonable in the circumstances and provided sufficient material to reach a reasoned decision on the question of access in the case at

hand. The Court thus finds that the interference was “necessary in a democratic society” within the meaning of Article 8 of the Convention.

45. Accordingly, there has been no violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

46. The applicant complained under Article 6 of the Convention about the allegedly excessive length of both sets of proceedings. He also complained about the District Court's refusal to provide him with legal representation and alleged that the judge had been biased. Article 6 provides, in so far as relevant:

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

47. In so far as the complaint concerns the first set of custody and access proceedings that ended with the decision of the Moscow City Court of 16 April 2002, the Court finds that, since the present application was introduced on 20 March 2004, the complaint must be rejected for non-compliance with the six month time-limit, pursuant to Article 35 §§ 3 and 4 of the Convention.

48. In so far as the complaint concerns the second set of access proceedings, the Court observes that they lasted approximately eleven months before two levels of jurisdiction, which is not “unreasonable” within the meaning of Article 6 § 1 of the Convention.

49. As regards the complaint concerning the District Court's refusal to provide the applicant with legal assistance, the Court notes that one of the applicant's representatives was removed from the courtroom for contempt of court. The applicant then requested his second representative to leave the courtroom and requested the judge to appoint counsel for him. His request was refused. Firstly, there is no indication that the order to the applicant's first representative to leave the courtroom was arbitrary. Secondly, in the present circumstances the Court does not find that the domestic courts were under an obligation to provide the applicant with legal assistance. The complaint concerning the alleged bias of the judge is unsubstantiated. Accordingly, there is no indication of unfairness within the meaning of Article 6 of the Convention.

50. It follows that this part of the application must be rejected, pursuant to Article 35 §§ 1 and 3 of the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

51. The applicant complained under Article 14 of the Convention that he had been discriminated against on the ground of his gender and under

Article 5 of Protocol No. 7 about lack of equality between spouses because his former wife had been granted full custody over the child while he had been deprived of access to his daughter. He also complained under Article 13 of the Convention that he had had no effective remedies in relation to his complaint under Article 8 of the Convention. Relying on Article 17 he asserted that the deprivation of access rights to his child had not pursued any legitimate aims.

52. The Court has examined those complaints and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols other than those examined above. Accordingly, these complaints must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint under Article 8 admissible and the remainder of the application inadmissible;
2. *Holds* that there has been no violation of Article 8 of the Convention;

Done in English, and notified in writing on 20 January 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President