



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

THIRD SECTION

CASE OF S.M. v. RUSSIA

(Application no. 17219/20)

JUDGMENT

Art 8 • Family life • Proportionate deprivation of parental authority, following exhaustion of all possibilities for maintaining ties and corresponding to children's best interest • History of addiction, substance abuse, neglect and multiple prior warnings • Applicant's interests adequately protected in decision-making process

STRASBOURG

21 June 2022

FINAL

21/09/2022

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

In the case of S.M. v. Russia,

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

Georges Ravarani, *President*,

Georgios A. Serghides,

Darian Pavli,

Anja Seibert-Fohr,

Andreas Zünd,

Frédéric Krenc,

Mikhail Lobov, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the application (no. 17219/20) 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, Ms S.M. (“the applicant”), on 12 March 2020;

the decision to give notice to the Russian Government (“the Government”) of the complaints under Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention and to declare inadmissible the remainder of the application;

the decision not to have the applicant’s name disclosed;

the decision to grant the application priority under Rule 41 of the Rules of Court;

the parties’ observations;

Having deliberated in private on 24 May 2022,

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

INTRODUCTION

1. The present case concerns the deprivation of the applicant’s parental authority over her two daughters.

THE FACTS

2. The applicant was born in 1982 and lives in Voronezh. She was represented by Mr I.V. Sivoldayev, a lawyer practising in Voronezh.

3. The Government were initially represented by Mr M. Galperin, Representative of the Russian Federation to the European Court of Human Rights, and later by his successor in this office, Mr M. Vinogradov.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

5. The applicant is the biological mother of two girls: Ye., born in 2010 from the applicant’s relationship with Mr D.B. (the latter died in 2018), and A., born in 2014 from the applicant’s marriage with Mr S.M. At the material

time, the applicant, her daughters and her mother, Ms V.A., lived at her home address in Voronezh.

6. The case file reveals that the applicant has been suffering from polydrug addiction since 1998.

7. On 21 September 2017 the applicant was convicted of manufacture and sale of narcotic drugs and sentenced to four years' imprisonment. The serving of the sentence was adjourned until the applicant's younger child turned fourteen years old.

I. PROCEEDINGS RELATING TO THE ADJOURNMENT OF THE SENTENCE

8. On 16 October 2017 and 11 January 2018 the Federal Service for the Execution of Sentences in the Voronezh Region (*ФКУ VIII УФСИН России по Воронежской области*) ("FSIN") warned the applicant that her failure to comply with her parental duties in respect of her minor children could lead to the lifting of the sentence adjournment.

9. On 6 August 2018 the FSIN requested the Sovetskiy District Court of Voronezh ("the District Court") to lift the adjournment of the applicant's sentence due to her failure to perform her duties in raising and maintaining her minor children.

10. On 10 September 2018 the District Court dismissed the request. It observed that the applicant had committed an administrative offence of neglecting her parental duties on two occasions, on 14 December 2017 and 5 July 2018, and had been fined in this connection. It also noted that on 11 January 2018 the applicant was warned that the sentence adjournment could be lifted. It further noted that in August 2018 the applicant had found a new job; Ye. and A. regularly went to school and kindergarten and they were emotionally stable; and the applicant participated in their educational activities. The court found that there was no evidence that the applicant had failed to perform her parental duties and there were no grounds to annul the adjournment of the sentence.

11. On 8 October 2018 the FSIN again warned the applicant that the sentence adjournment could be lifted if she failed to comply with her parental duties.

II. INSPECTION OF THE APPLICANT'S LIVING CONDITIONS

12. On 9 June 2018, 30 January and 14 February 2019 representatives of the Custody and Guardianship Agency in Voronezh (*Управа Советского района городского округа г. Воронежа – орган опеки и попечительства*) ("the childcare authority") inspected the living conditions at the applicant's home address.

13. According to the report of 9 June 2018, the applicant, her children and Ms V.A. lived in a two-room apartment. The sanitary conditions of the apartment were unsatisfactory, with persistent unpleasant odour, personal belongings scattered around, trash and dirt everywhere. There was insufficient food. The pictures made during the inspection showed that the conditions were unsuitable for children.

14. The report of 30 January 2019 stated that the flat had the necessary furniture and domestic appliances (a refrigerator and a washing machine were acquired), and enough food. Repair works and clean-up were required. Children had sleeping space and a place for educational activities. The inspection concluded that the living conditions were satisfactory.

15. According to a report of 14 February 2019, repair works were carried out in one of the rooms. The living conditions were satisfactory.

III. PROCEEDINGS RELATING TO DEPRIVATION OF THE APPLICANT'S PARENTAL AUTHORITY IN RESPECT OF HER CHILDREN

16. After repeated warnings, on 17 December 2018 the childcare authority brought an action against the applicant and her former husband S.M., seeking to have them deprived of their parental authority: the applicant – in respect of Ye. and A., and S.M. – in respect of A, and child maintenance. The childcare authority argued, among other things, that the applicant had been convicted of a drug related crime, and that she had committed an administrative offence of neglecting her parental duties on five occasions. In support of their action they also referred to the inspection report of 9 June 2018 that the children's living conditions had been unsatisfactory.

A. Proceedings before the first-instance court

17. On 27 February 2019 the District Court granted the action against the applicant and her former husband. In so far as the judgment concerned the applicant, the District Court relied on the following facts and evidence:

- the reports on inspection of the applicant's living conditions (see paragraphs 12-15 above);
- on 17 February 2019 the applicant acquired the furniture for the children and provided photographs of the room which had been repaired;
- the applicant was unemployed since December 2018;
- references from the applicant's former employer dated 6 November 2018 describing the applicant as a responsible employee;
- references given by the school and kindergarten which Ye. and A. attended, stating that the applicant was interested in their educational progress and attended school and kindergarten meetings and cultural events;

- information note from the Voronezh City Polyclinic No. 7 of 12 September 2018 in respect of Ye.: “vaccinated in accordance with age [requirements]; absence of chronic illnesses; being brought up by [maternal] grandmother; disorder, dirty clothes, unpleasant smell in the apartment; [the applicant] appeared in the state of alcoholic intoxication, on several other occasions in inadequate condition without alcohol smell”;
- information note from the Voronezh City Polyclinic No. 7 of 12 September 2018 in respect of A.: “vaccinated in accordance with age [requirements]; diagnosis: far-sighted astigmatism; inpatient treatment from 19 December to 27 December 2017 for acute obstructive bronchitis; [the applicant] does not follow the doctor’s recommendations, the flat is untidy; [the applicant] appeared in the state of alcoholic intoxication, on several other occasions in inadequate condition without alcohol smell”;
- on 15 June 1998 the applicant was put on the list of persons suffering from drug abuse with a diagnosis: “polydrug addiction”;
- on 13 September 2016 the applicant’s family was registered as a dysfunctional (*неблагополучная семья*) due to the applicant’s not complying with her parental obligations in respect of her daughters and her drug addiction; the applicant was not undergoing any treatment for her condition, abused alcohol;
- until July 2018 the applicant has not been receiving any treatment in connection with her drug addiction problem despite the fact that she had been referred for such treatment;
- on 13 October 2016, 2 March and 14 December 2017, 5 July and 27 September 2018 the applicant was subjected to administrative liability for neglecting her parental duties, administrative fines were imposed on her and formal warnings issued; on 15 January and 11 March 2016 the applicant was subjected to administrative liability for alcohol and drug abuse in public places;
- the applicant’s criminal conviction for manufacture and sale of narcotic drugs and adjournment of the applicant’s sentence (see paragraph 7 above);
- the information from FSIN dated 9 June 2018 to the effect that the applicant was not exercising due control over the children and that the latter found themselves in a socially dangerous situation;
- the refusal of the FSIN’s request to cancel the adjournment of the applicant’s sentence due to her failure to perform her duties in raising and maintaining her minor children (see paragraph 10 above);
- the submissions by witness Ms B., a FSIN officer, to the effect that the applicant regularly visited the authority for a check-up, that following the dismissal of FSIN’s request for annulment of the sentence adjournment the applicant demonstrated positive developments, such as improving living conditions and taking care of her children; until August 2018 the applicant’s flat was messy and full of garbage, the refrigerator did not function, there was no wall paper on the walls, the belongings were scattered around;

- the submissions by a social protection officer, Ms K., who monitored the applicant's family since 2016, to the effect that the applicant was actively taking care of her children for the last year and a half and that the applicant's flat and living conditions improved; and
- the opinion of the childcare authority to the effect that depriving the applicant of her parental authority would correspond to the interests of the children.

18. In the light of the foregoing, the District Court concluded that the applicant should have changed her conduct and attitude to the children, as well as created appropriate living conditions for them, at least as soon as she had been convicted in September 2017. However, on the date of 9 June 2018 the flat was in unsatisfactory sanitary condition unsuitable for the children. The District Court linked the positive dynamics in the applicant's behaviour with the institution of the proceedings for the annulment of the adjournment of her sentence and subsequently – with the proceedings for deprivation of her parental authority. The District Court noted the applicant's diagnosis of polydrug addiction and highlighted that she had been convicted of storing large amount of drugs in her flat where her minor children lived. It concluded with reference to Article 69 of the Family Code that there had been sufficient grounds for depriving the applicant of her parental authority in respect of the children.

19. The District Court further ordered that Ye. and A. be placed into public care, and that the applicant and her former husband pay child maintenance on a monthly basis starting from 17 December 2018 (the day the application was lodged for deprivation of parental authority, see paragraphs 16 above and 38 below). The court's order was to be enforced immediately.

B. Proceedings before the appellate court

20. On 1 April 2019 the applicant lodged an appeal against the judgment of 27 February 2019. She complained that the District Court had not given proper consideration to the fact that her living conditions had recently improved as attested by the inspection reports of 30 January and 14 February 2019. She also submitted that in March 2019 she had found a new job and referred to positive references given by the school and kindergarten which her daughters attended.

21. On 21 May 2019 the applicant requested the appellate court to adjourn the examination of her appeal, relying on her intention to conclude an agreement with human rights defender S., who was out of town until 28 May 2019. The court granted the applicant's request and scheduled the hearing for 30 May 2019. However, S. did not appear on that date. The applicant did not apply for a court-appointed counsel.

22. On 30 May 2019 the Voronezh Regional Court (“the Regional Court”) upheld the judgment of 27 February 2019 on appeal, reiterating the findings of the District Court. It noted, in particular, that the applicant had been taking drugs since age fifteen, had not been receiving any treatment, had not been taking care of the children for a long period of time despite all the efforts and warnings of the competent domestic authorities, that her behaviour had not met the interests of the children, endangered their physical and mental health, moral development due to the lack of positive example in life. It concluded that the District Court’s decision was well-reasoned and based on an adequate assessment of all the relevant circumstances.

C. Proceedings before the courts of cassation

23. On 10 June 2019 in the context of the cassation review procedure the applicant lodged an appeal with the Regional Court. Firstly, she complained that the appellate court had disregarded her request and held a hearing on 30 May 2019 in the absence of her lawyer. Secondly, she submitted that the courts had deprived her of parental authority solely on the ground that she had changed her behaviour following the court decision of 10 September 2018 and not earlier. She complained that the courts had disregarded the positive developments since September 2018. In the latter connection the applicant referred to the reports of 30 January and 14 February 2019. Lastly, she complained that the District Court had ordered her to pay maintenance for children starting from 17 December 2018, that is for the period when they were still living with her.

24. On 31 July 2019 the Regional Court dismissed her appeal, reiterating the findings of the first instance and the appellate courts.

25. On 19 August 2019 the applicant lodged an appeal with the Supreme Court of Russia. She reiterated her submissions and complained that neither the appellate court nor the court of cassation had addressed her arguments.

26. On 12 September 2019 the Supreme Court of Russia dismissed the applicant’s appeal and found no grounds to quash the decisions of the lower courts.

IV. PROCEEDINGS RELATING TO THE APPLICANT’S ATTEMPT TO HAVE HER PARENTAL AUTHORITY RESTORED

27. Meanwhile, on 10 June 2019 the applicant applied to the District Court seeking to have her parental authority in respect of her daughters restored (see paragraph 37 below).

28. However, on 1 August 2019 the District Court dismissed the applicant’s claim. The judgment was upheld on appeal and cassation appeal by the Regional Court on 24 December 2019 and 27 May 2020, respectively. The courts noted a positive development in the applicant’s lifestyle, but

considered that, taking into account the time elapsed since the deprivation of the applicant's parental authority, it was insufficient to evidence a persistent change in the applicant's behaviour towards the children in order to restore her parental authority.

V. REMOVAL OF THE CHILDREN

29. On 18 June 2019 the children were removed from the applicant and placed in the Voronezh Regional Children's Hospital No. 1 for a medical check-up.

30. On 9 July 2019 temporary guardianship was established in respect of the children by Ye.'s paternal grandmother, Ms G.B. Their maternal grandmother, V.A., never applied for the establishment of the guardianship.

31. On 27 December 2019 G.B. was appointed as the children's guardian.

32. It follows from G.B.'s submissions made to the Government in connection with the examination of the present application that the applicant never visited the children, did not call them, and G.B. was unaware of her whereabouts.

VI. FURTHER PROCEEDINGS RELATING TO THE ADJOURNMENT OF THE SENTENCE

33. On 18 March 2020, in connection with the applicant's having been deprived of parental authority in respect of her children, the FSIN requested the District Court to cancel the adjournment of her sentence.

34. On 24 July 2020 the District Court cancelled the adjournment of the applicant's sentence. On 19 October 2020 the Regional Court upheld the above judgment on appeal. Throughout the proceedings the applicant was represented by a lawyer. During the proceedings the applicant submitted that she had last seen the children in the summer of 2019 (see paragraph 29 above). She referred to her mother's illness and her own health condition as grounds for upholding the sentence adjournment.

35. On 16 December 2020 the applicant started serving her sentence of imprisonment.

RELEVANT LEGAL FRAMEWORK

36. Article 69 of the Russian Family Code ("the Code") establishes that a parent may be deprived of parental authority if he or she avoids parental duties, including persistent failure to pay child maintenance; refuses to collect his or her child from a maternity hospital, or any other medical, educational, social or similar institution; abuses his or her parental authority; mistreats his or her child by resorting to physical or psychological violence or sexual abuse; suffers from chronic alcohol or drug abuse; or has committed a

premeditated criminal offence against the life or health of his or her children or spouse.

37. Article 72 § 1 of the Code provides for the possibility to have one's parental authority restored in the event of a parent's change of behaviour, lifestyle and (or) attitude to child rearing.

38. Article 107 § 2 of the Code provides that child maintenance payments are recovered from the moment of application to the court by a person entitled to receive such payments.

39. Further relevant provisions of domestic law and practice concerning deprivation of parental authority are summarised in *Y.I. v. Russia* (no. 68868/14, §§ 51-55, 25 February 2020).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

40. The applicant complained that the deprivation of her parental authority over her children amounted to an unjustified interference with her right to respect for her private and family life. She relied on Article 8 of the Convention, which reads as follows:

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

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.”

A. Admissibility

41. The Court notes at the outset that, by its very nature, the tie between the applicant and her children comes within the notion of family life for the purposes of Article 8 of the Convention (see *A.K. and L. v. Croatia*, no. 37956/11, §§ 51-52, 8 January 2013, and *S.S. v. Slovenia*, no. 40938/16, § 78, 30 October 2018).

42. The Court further notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

43. The applicant maintained her complaint.

44. The Government acknowledged that depriving the applicant of her parental authority had constituted an interference with her right to respect for

her family life secured by Article 8 § 1 of the Convention. However, it had had a basis in domestic law, pursued the aim of protecting the children's best interests and had been "necessary in a democratic society". The domestic courts' decision had been based on their belief that maintaining the family ties between the applicant and her children could harm their health and development. The reasons established by the domestic courts for depriving the applicant of her parental authority had been both relevant and sufficient. Having examined abundant evidence, the domestic courts had come to the conclusion that the improvement in the applicant's lifestyle had occurred only while the proceedings for the lifting of the adjournment of the applicant's sentence had been pending, as well as after the initiation of the proceedings for depriving her of her parental authority in respect of the children. The domestic courts had given critical assessment to the positive references from the school and the kindergarten since they had been of little information and had contradicted the remaining evidence in the case file.

45. The Government further drew the Court's attention to the fact that the applicant had not been deprived of her parental authority instantly. Dismissing the FSIN's request to lift the adjournment of the applicant's sentence due to her failure to perform her duties in raising and maintaining her children, the District Court had afforded the applicant an opportunity to change her conduct and lifestyle. Furthermore, prior to initiating the proceedings for depriving the applicant of her parental authority the childcare authority had on several occasions warned the applicant about the consequences of her failure to comply with her parental duties towards the children. The applicant had also been brought to administrative liability. In addition, the FSIN had on several occasions warned the applicant that her evading of taking the proper care of the children could lead to the lifting of the sentence adjournment (see paragraphs 8 and 11 above). However, none of the above measures had led to the applicant's taking due care of her children. In such circumstances, the domestic courts had found that the only way to protect the rights of the children would be to withdraw the applicant's parental authority. The applicant had had ample opportunities to effectively present her arguments against the deprivation of her parental authority, but had chosen not to do so (see paragraph 21 above). The decision-making process had therefore been fair.

46. The Government further submitted that after the applicant had been deprived of her parental authority, the children had not been separated and remained in the family (see paragraphs 30-31 above). It remained open to the applicant to have her parental authority restored if she demonstrated a persistent positive change in her lifestyle.

2. *The Court's assessment*

47. The general principles relevant for the examination of the present case have been summarised in *Y.I. v. Russia* (no. 68868/14, §§ 75-78, 25 February 2020).

48. It was not in dispute between the parties that depriving the applicant of her parental authority in respect of her children had constituted an interference with her right to respect for her family life as guaranteed by Article 8 § 1 of the Convention. Such interference constitutes a violation of that provision unless it is “in accordance with the law”, pursues one of the legitimate aims under Article 8 § 2 and can be regarded as necessary in democratic society (see, among other authorities, *Jovanovic v. Sweden*, no. 10592/12, § 74, 22 October 2015, and *S.S. v. Slovenia*, cited above, § 79).

49. The Court further accepts the Government's argument that the measure complained of had a basis in domestic law, in particular Article 69 of the Family Code (see paragraph 36 above), and that it pursued the aim of protecting the rights of the applicant's children. It remains to be determined whether that measure was “necessary in a democratic society”.

50. The Court notes that in taking their decision to withdraw the applicant's parental authority the domestic courts took into account a variety of circumstances, namely: (1) the applicant's diagnosis of polydrug addiction since 1998 and her unwillingness to undergo specialised treatment in this connection until July 2018; (2) the monitoring of the applicant's family by the childcare authority in connection with the applicant's negligent performance of her parental duties and drug addiction since September 2016; (3) the applicant's being subjected to administrative liability on five occasions between October 2016 and September 2018 for neglecting her parental duties and on two occasions in 2016 for alcohol and drug abuse in public places; (4) repeated warnings by the childcare authority that the applicant's failure to comply with her parental duties in respect of the children could lead to the withdrawal of her parental authority; (5) the applicant's criminal conviction of 21 September 2017 on account of manufacture and sale of narcotic drugs; and (6) repeated warnings by the FSIN that the applicant's neglect of her parental duties could lead to the re-examination of the issue of the sentence adjournment (see paragraphs 17-18 above).

51. The domestic courts believed that the above circumstances clearly demonstrated that the applicant had not been taking care of the children for a long period of time despite all the efforts and warnings of the competent domestic authorities, that her behaviour had not met the interests of the children and endangered their physical and mental health, as well as their moral development (see paragraph 22 above).

52. The Court deems the above considerations both “relevant” and “sufficient” to justify the impugned measure in the circumstances of the present case. No failure on behalf of the State to adopt measures to preserve the parent-child bond as far as possible can be detected (compare and contrast

to *Y.I. v. Russia*, cited above, §§ 79-96,). The Court observes, in particular, that following the applicant's conviction in September 2017 the domestic authorities, regardless of the applicant's long-standing drug addiction, the nature of the committed crime and recorded incidents of neglect of parental duties, afforded her an opportunity to preserve her relations with the children by adjourning the serving of her sentence until the applicant's younger child turned fourteen years old (see paragraph 7 above). However, the applicant's conduct had again given rise to administrative liability for neglecting her parental duties in December 2017 and 5 July 2018. The inspection of the applicant's flat carried out by the childcare authority in June 2018 showed that the sanitary conditions were unsuitable for children (see paragraph 13 above). The applicant was afforded another opportunity to change her conduct and lifestyle when on 10 September 2018 the District Court dismissed the FSIN's request for annulment of the sentence adjournment (see paragraph 10 above). Shortly afterwards, however, on 27 September 2018 the applicant was yet again subjected to administrative liability for neglecting her parental duties.

53. Having regard to the foregoing, the Court considers sensible the finding of the domestic courts to the effect that the applicant's attempts to improve her living conditions, as recorded during the inspections carried out in January and February 2019 (see paragraphs 14-15 above), were prompted, in particular, by the institution in December 2018 of the proceedings for withdrawal of her parental authority.

54. The Court notes that after the children's removal in June 2019 the applicant never attempted to see them, expressed her attachment to them or complied with her obligation to support them financially (see paragraphs 32, 34 above and 59 below) even though such a possibility remained in practice, taking into account the fact that it was one of the girls' paternal grandmother who had been appointed the children's guardian, and that the applicant had started serving her sentence only in December 2020 (see paragraph 35 above).

55. The Court observes furthermore that the decision-making process, seen as a whole, provided the applicant with the requisite protection of her interests. She was present and made oral submissions before the first-instance and appellate courts, her written submissions were well-developed and reasoned. The applicant was therefore in a position to put forward all the arguments in favour of preserving her parental authority and had access to all the relevant information upon which the courts had relied. She was also afforded an opportunity to appoint a lawyer for the examination of the case on appeal, however, after the adjournment of the case so as to give the lawyer an opportunity to attend, the latter did not show up (see paragraph 21 above).

56. In the light of the foregoing and having in mind the fact that the national authorities have the benefit of direct contact with all the persons concerned, the Court finds that the impugned measure was "necessary in a democratic society", that it was taken after all possibilities for maintaining

the children's ties with their mother had been exhausted, and corresponded to the children's best interest to be brought up and develop in a sound environment. The interference with the applicant's family life was therefore proportionate to the legitimate aim pursued.

57. There has accordingly been no violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

58. The applicant complained that by the court judgment of 27 February 2019 she had been obliged to pay child maintenance starting from 17 December 2018, that is in the period when the children had still been in her care, thereby making her bear excessive financial burden. She relied on Article 1 of Protocol No. 1 to the Convention, which reads as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

59. The Government submitted that in her appeal against the judgment of the District Court of 27 February 2019 the applicant did not challenge the starting date of the child maintenance payments. In any event, the applicant was unemployed since December 2018, the family's income consisted of maternal grandmother's pension and the State's payments to the elder daughter in connection with the death of her father, no payments were made by the applicant after the children's removal.

60. The applicant made no comments in this regard.

61. The Court considers that the Government's submissions may be regarded as implying the applicant's failure to exhaust the domestic remedies. Having regard to the contents of the applicant's appeal against the judgment of 27 February 2019 (see paragraph 20 above), the Court notes, indeed, that the applicant did not raise any objection regarding child maintenance. In such circumstances the complaint under Article 1 of Protocol No. 1 to the Convention must be rejected for non-exhaustion of domestic remedies pursuant to Article 35 §§ 1 and 4 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 8 of the Convention admissible and the remainder of the application inadmissible;

S.M. v. RUSSIA JUDGMENT

2. *Holds* that there has been no violation of Article 8 of the Convention.

Done in English, and notified in writing on 21 June 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova
Deputy Registrar

Georges Ravarani
President