



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

THIRD SECTION

CASE OF D.G. AND S.G. v. SERBIA

(Application no. 61347/21)

JUDGMENT

Art 8 • Family life • Domestic courts' failure to take adequate and timely steps to properly address a child's continued placement in foster care and to ensure regular contact with his parents • Child's complete alienation from his parents
Art 8 • Family life • Length of the proceedings to divest the parents of their parental rights • Authorities' lack of prompt response to their requests for more regular contacts with their child, having adversely affected their relationship with him

Prepared by the Registry. Does not bind the Court.

STRASBOURG

24 June 2025

FINAL

03/11/2025

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

In the case of D.G. and S.G. v. Serbia,

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

Ioannis Ktistakis, *President*,

Peeter Roosma,

Lətif Hüseynov,

Diana Kovatcheva,

Úna Ní Raifeartaigh,

Mateja Đurović,

Canòlic Mingorance Cairat, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 61347/21) against the Republic of Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Serbian nationals, Mr D.G. and Ms S.G. (“the applicants”), on 11 December 2021;

the decision to give notice to the Serbian Government (“the Government”) of the complaints concerning the initial and then continued placement of the applicants’ son M. in foster care, the contact between the applicants and M. after his placement in foster care, and the length of the proceedings to divest the applicants of their parental rights in respect of M.;

the decision not to have the applicants’ names disclosed;

the parties’ observations;

Having deliberated in private on 20 May 2025,

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

INTRODUCTION

1. The present case concerns the immediate temporary placement of the applicants’ son M. in foster care in 2017 and the lack of regular contact between the applicants and M. thereafter, as well as the length of the proceedings to divest the applicants of their parental rights in respect of M.

THE FACTS

2. The applicants were born in 1964 and 1977 respectively and live in A. The applicants were represented by Ms Lekić Vrzić, a lawyer practising in A.

3. The Government were represented by their Agent, Ms Z. Jadrijević Mladar.

4. The facts of the case may be summarised as follows.

I. BACKGROUND TO THE CASE

5. The applicants are the father (D.G.) and the mother (S.G.) of the child M., born in 2014. The applicants have two more children (born in 2001 and 2002) in respect of whom the first applicant was completely divested of his parental rights and the second applicant was partially divested of her parental rights. The children were placed in foster care, all through the A. Social Care Centre (hereinafter “the A. Centre”). The first applicant also has a daughter from another relationship (born in 2013), as does the second applicant (born in 1996).

6. The first applicant was in pre-trial detention between 1 September 2014 and 6 August 2016, and was serving a prison sentence between 5 December 2016 and 4 August 2020. The second applicant lived with M. and the first applicant’s mother in their family home in the village of O.

7. The applicants have been receiving a family social allowance since 2012.

II. PLACEMENT OF M. IN FOSTER CARE

8. On 16 August 2017 the A. Centre received a telephone call from a person whose identity was kept secret. That person alleged that the applicants’ son, M., who was three years old at the time, had been neglected and spent every day with his grandmother, who was old and had reduced mobility.

Staff members from the A. Centre allegedly attempted to contact the second applicant by telephone, but there was no reply.

9. At about 3.30 p.m. two staff members from the A. Centre paid a visit to the applicants’ home. Two reports were drawn up on the same day, one prepared by the A. Centre’s special education professional (*defektolog*), and the other by the Centre’s social worker. The reports stated that the A. Centre’s staff members had found M. in the courtyard, sitting on concrete blocks 1.5 metres high and walking barefoot in an area where a lot of sharp objects lay scattered on the ground. In terms of hygiene, his physical appearance (both his clothes and body) had looked neglected, and he had had a laceration below his nose. When asked how he had sustained the injury, M. had replied that he had fallen down the stairs leading to the front door of the house.

There was no fence between the courtyard and a public road with steep sides, and there was a crossroads and a bridge nearby, all of which had posed a risk to the child’s safety. The child had told the A. Centre’s staff members that he had been keeping a goat, which had been tethered nearby.

The child’s grandmother had been sitting on the ground eating a bun, and she had informed the A. Centre’s staff members that M. had brought it to her. She had then asked M. to bring her some water from the house. When asked who was taking care of whom, the grandmother had answered that M. was

taking care of her and that she could not take care of him. The grandmother had informed the A. Centre's staff members that the child's mother had been working as a fruit picker. She had also said that she could not take the A. Centre's staff members to the house, but the child would do it.

The A. Centre's staff members reported that the grandmother had not followed the child or demonstrated that she was providing any form of care for him. They had also visited the house and reported that it had been untidy, dirty, and that there had been no suitable food for the child. The A. Centre's staff members assessed that the child had been neglected, that he had not been cared for, since he had been left all day with his grandmother, who was unable to look after him, and that his safety had been put at risk.

10. On the basis of the above-mentioned reports, the A. Centre issued a decision on 16 August 2017, temporarily placing M. in foster care on the same day. The Centre informed the second applicant about its decision the following day. The A. Centre stated that the identity of the child's father was unknown.

The decision stated that M. had no parental care, since the identity of his father was unknown and his mother was not taking proper care of him. The mother had been leaving the child with no adult supervision from morning to evening, for ten hours. Thus, on 16 August 2017 at 2 p.m. two staff members from the A. Centre had found the child and neither his mother nor any other adult had been looking after him. That was sufficient for the A. Centre to issue a measure temporarily placing M. in foster care.

The decision on the measure stated that it was to be served on the second applicant, but that instruction was not complied with.

11. The following day the second applicant lodged a criminal complaint against the A. Centre's staff members with the A. public prosecutor, alleging that on 16 August 2017 they had taken her child, M., from the courtyard of the family home, where he had been under the supervision of his paternal grandmother, and had driven him away in a car in an unknown direction.

12. On the same day the second applicant submitted a complaint to the Ministry of Labour and Social Politics (hereinafter "the Ministry"), alleging that on the afternoon of 16 August 2017, after she had returned home from her work in an orchard, she had learned from her mother-in-law that at about 3.30 p.m. two persons had arrived in a car and had taken her three-year-old son away with them and driven off in an unknown direction. She had called the police, who had arrived and had contacted the A. Centre, which had informed the police that its staff members had taken M. because he had been playing alone in the courtyard and had placed him in foster care.

13. On 18 August 2017 the A. Centre corrected its decision of 16 August 2017 to name the father of the child as D.G., the first applicant. The decision was served on the second applicant, but not the first applicant.

14. On 1 September 2017 the second applicant gave an oral statement to the A. Centre. She repeated what had happened on 16 August 2017 and added

that she, together with the police, had searched for the child. She said that when she had been working (doing seasonal agricultural work), M. had been looked after by her mother-in-law, who was capable of caring for him, feeding him and putting him to sleep. The courtyard of their house was fenced, and the door to the fence was locked with a key. Even the stairs leading to the front door of the house were fenced, so that the child could go up and down easily. The second applicant stressed that the A. Centre had her telephone number, but had not contacted her. She also stressed that she had taken good care of the child and that she could call witnesses to prove this. She asked that M. be returned to her, and objected to a guardian being appointed for him.

15. On the same day the second applicant lodged a written appeal with the Ministry against the decision of 16 August 2017. She stated that the contested decision had been served on her on 18 August 2017. She stressed that the child had never been without supervision, and that there was no evidence to the contrary. She also pointed out that even though the contested decision concerned a temporary measure, the duration of that measure had not been fixed. She also complained that she had had no contact with M. since he had been taken away, and mentioned that the decision on the temporary measure had not been served on the child's father.

16. On 12 September 2017 the A. Centre filed its reply to the second applicant's appeal with the Ministry. It stated that immediately after "the reported neglect [of the child]" it had attempted to call the mother on the telephone, but she had not answered, and therefore the staff members from the A. Centre had gone to the applicants' family home. There, they had "assessed that the life and safety of the minor child were at serious risk", and that was the reason why they had taken the child away. M. had been seen by a physician, who had found a wound on his body and head, and during a conversation with M. it had been established that his grandmother had hit him on the head.

17. On 22 September 2017 the second applicant made submissions to the A. Centre, asking for contact rights with M. She stressed that she had not been provided with any information concerning his whereabouts. She stated that two of her elder children who had also been placed in foster care had visited him and had told her that he had been scared, had cried and was not being fed properly. The second applicant stressed that she had been worried about him and that he had been very attached to her. She further stressed that her appeal against the decision on the temporary measure had not yet been processed, even though three weeks had passed.

18. On 6 October 2017 the second applicant made further submissions to the A. Centre, stating that she had seen M. that day from 10 a.m. to 11.20 a.m. She had noticed that he had lost weight and had a very pale complexion and dark circles under his eyes. M. had been wearing shoes with no socks, even though it had been quite cold. All the time he had clung to her and cried. She

had brought him chocolate milk and crisps and he had consumed both eagerly. The second applicant stressed again that there had been no reason to separate her from the child, and she insisted that he be returned to her.

19. On 20 October 2017 the second applicant met with M. in the K. Centre for Foster Care and Adoption (hereinafter “the K. Centre”).

20. On 3 November 2017 the Ministry annulled the decision of 16 August 2017 and remitted the case to the A. Centre for fresh examination. The Ministry concluded that the Centre had carried out an adequate assessment of all relevant circumstances, but had not provided adequate reasons in its decision. The Ministry’s decision was served on the second applicant on 23 November 2017.

21. On 7 November 2017 the second applicant gave an oral statement at the A. police station in connection with her criminal complaint against the A. Centre’s staff members. She explained that there had been no reason to take her child away from his home and not return him to her. She explained that M. had never been without her care, save for those two days when she had left him with his grandmother because she had been at work picking cherries.

22. On 15 November 2017 a team from the K. Centre composed of an educator (*pedagog*) and a psychologist drew up a report for the A. Centre on the second applicant’s two meetings with M.

As to the meeting of 6 October 2017, the report stated that the second applicant had arrived unprepared, visibly angry at the A. Centre’s staff members for taking M. from her, and for the first ten minutes both she and the child had cried. The second applicant had been telling M. in a dramatic loud voice that he had been kidnapped from her, and that he should indeed cry. The staff members present at the K. Centre at that time had warned the second applicant that the meeting would be terminated unless she controlled her emotions and engaged in positive interaction with the child. The second applicant had accepted the advice and the conversation between her and the child had concentrated on mutual experiences. The child had sat on his mother’s lap all the time, hugged her, touched her face, and laughed with her. The mother had given M. juice and sweets that she had brought with her. The separation had been stressful for M., and he had cried.

As to the meeting of 20 October 2017, the report stated that it had gone smoothly. M. had been happy to see his mother, had accepted the contact with her, had sat on her lap all the time, and they had talked about events from their life together and had laughed together. The child had not cried when they had separated and had looked forward to their next meetings with joy.

The report stated that there had been a good emotional connection between the second applicant and the child, and that the stressful start to the first contact session had been the result of their separation for a longer period.

After each meeting, the second applicant had expressed the need to talk with the K. Centre’s expert team.

23. On 9 December 2017 the second applicant made submissions to the A. Centre, stating that on 23 November 2017 she had received the Ministry's decision of 3 November 2017, only after she had come to the A. Centre in person to ask for it. She complained that in the four months since M. had been taken from his home, she had seen him only twice, for one hour each time, and only after she had complained to the police, the public prosecutor, the Ministry and the Ombudsperson. She repeated her allegations that the child had lost weight and seemed to be neglected and under constant stress as a result of being brutally separated from his mother and his home. She had only learned of the alleged facts which had served as the basis for taking the child away from the Ministry's decision, since these facts had not been mentioned in the A. Centre's decision of 16 August 2017. She had thus been prevented from effectively participating in the proceedings.

The second applicant asked that the medical report mentioned in the Ministry's decision – in which it was alleged that the child had said that his paternal grandmother had hit him on the head – be served on her, as well as the reports of the A. Centre's staff members, so that she could submit her comments. She contested the veracity of the facts alleged in those reports, and complained that the A. Centre's staff members had entered her house without authorisation. She also requested that reports from the K. Centre on her contact sessions with the child, a report on M.'s condition in foster care, and a psychiatric evaluation be commissioned. She further asked that the child's grandmother be heard as a witness.

24. On 29 December 2017 the A. Centre issued a fresh decision on M.'s urgent placement in foster care. It stated that on 16 August 2017, after a second telephone call about M. being neglected, the A. Centre's staff members had paid a visit to the applicants' house. The decision relied on the above-mentioned reports by the A. Centre, citing the findings in those reports extensively. On the basis of those findings, the A. Centre concluded that it had been necessary to place M. in foster care because his safety, life and development would have been threatened if he had stayed with the second applicant.

The decision also stated that the second applicant had given an oral statement, and that on 13 December 2017 the A. Centre had sent a request to the prison where the first applicant was serving his prison sentence in order to obtain a statement from him, but the prison authorities had not replied.

25. On 22 January 2018 the second applicant lodged an appeal against the above decision, reiterating her previous arguments and adding that the A. Centre had not collected all the relevant evidence. She also complained that there was no time frame as regards M.'s placement in foster care and that she did not have enough contact with him.

26. On 20 March 2018 the Ministry dismissed the second applicant's appeal and upheld the A. Centre's decision of 29 December 2017. It repeated the findings of the above-cited reports and endorsed the A. Centre's

conclusions. The Ministry held that the conditions in which M. had been found had required urgent measures, namely his removal from the applicants' family and placement in foster care. It did not address the second applicant's complaint that she did not have enough contact with M.

27. On 15 May 2018 the second applicant brought an action before the Administrative Court on her own behalf and on behalf of M. She reiterated her previous arguments and stressed that her contact rights with M. had not been established in the nine months since he had been taken away from her.

28. On 31 October 2018 the Administrative Court dismissed the second applicant's action, endorsing the findings of the A. Centre and the Ministry, and without addressing her complaint that she did not have enough contact with M.

III. PROCEEDINGS TO DIVEST THE APPLICANTS OF THEIR PARENTAL RIGHTS IN RESPECT OF M.

29. On 22 May 2019 the A. Centre lodged an action against the applicants with the A. Court of First Instance (*Osnovni sud u A.*), seeking the divestment of their parental rights.

It was stated that the A. Centre's team of experts had decided to initiate those proceedings. The action relied on a report of the A. Centre's social worker of 18 January 2019 which stated that the second applicant had reacted very emotionally to the A. Centre's decision to place M. in foster care. She had contested the findings of the A. Centre and could not accept that her care of M. had been inadequate, and had said that if the child were returned to her, she would do the same as before. During her first contact session with M. on the premises of the K. Centre, she had reacted intensely, encouraging M. to cry and forcing him to drink chocolate milk that she had brought with her, to the extent that the protection service had had to be summoned. The second contact session between the mother and the child had been more peaceful. The report stated that on several occasions they had invited the mother to come to the A. Centre so that a new plan of contact could be drawn up, but she had not replied, nor had she shown any initiative as regards contacting the A. Centre. She had called the A. Centre once, asking that the child be returned to her because she had ensured "physical conditions for the child" as regards the house. The report further stated that in the past year the mother had not contributed to the child's maintenance or offered anything for him. When she had been informed that M. had been asking for his toy tractor, she had replied that he could play with it when he came home.

The report further stated that the father, who had been in prison since 7 August 2017, had written a letter to the A. Centre enquiring about his other children, but not about M. In addition, he had been treated for alcoholism, had repeatedly ill-treated close relatives, and had sexually abused his other two children. He had shown no interest in M.'s care since his birth, and had

completely neglected all his needs. The report concluded that the applicants had no capacity to “improve their potential”, so the complete divestment of both parents’ parental rights would “create conditions to adequately protect the minor M. in accordance with his best interests”.

The action further relied on a report drawn up on 29 March 2019 by the A. Centre’s educator, who stated that after the child had been placed in foster care, the mother had reacted fiercely (*burno*) and had no insight into her behaviour which had put the child’s life, health and safety at risk. Since the placement of the child in foster care, the mother had had two contact sessions with him. In the past year she had not responded to the A. Centre’s attempts to make contact with her. On one occasion when she had come to the A. Centre to try to have her family allowance renewed, she had had no intention of asking the A. Centre’s staff members in charge of children’s affairs about M., but by chance, she had encountered the head of Children’s Affairs, who had told her to talk to the case manager. All members of the team had been present for the conversation and the second applicant had said that she had not received any invitation to attend from the A. Centre because the postman had not been delivering mail. When questioned why she herself had not initiated contact with the A. Centre and enquired about the child, she had replied that she had no intention of going to K. to see the child and had requested that the child be brought to her. She had repeated several times that she did not need to go anywhere to see the child.

The report stated that the second applicant had verbally expressed a wish to take care of M., but had not shown even minimal motivation to improve her parenting ability. The report characterised the second applicant as a parent who had no capacity to adequately meet the child’s developmental needs (“to offer basic care, ensure safety, make the child feel loved and valued, offer him adequate intellectual and social stimulation, set clear rules and boundaries”, and teach him to adapt his behaviour to socially acceptable norms). The report stated that the second applicant, through inadequate care, had put the child’s life, health and safety at serious risk, and that her lack of care could have had “permanent and profound consequences [for the child] as regards his psychomotor development and his overall functioning in puberty”.

As regards the first applicant, the educator expressed the same view as that expressed by the A. Centre’s social worker in the report.

The action further relied on a report drawn up on 15 May 2019 by the A. Centre’s psychologist which stated that M. had been conceived as a result of the applicants renewing their relationship when the first applicant had been out of prison. The second applicant had hidden her pregnancy from her elder children and those children had expressed great disappointment that she had renewed her relationship with their father, as that had shown them that she had no understanding of the seriousness of the abuse which he had inflicted on other family members. The children had expressed such feelings and

criticism to the second applicant during a visit, and after that she had stopped attending scheduled visits with them, so she had had no contact with her two elder children. The report assessed that the second applicant's main priority had been to maintain her relationship with the first applicant, and that the children had been used to achieve that aim.

The report also stated that the A. Centre's staff members had worked with the second applicant to try to foster her capacity to recognise risks to the safety and health of her children as well as their developmental needs. However, the second applicant had not made use of such expert assistance, which led to the conclusion that she did not see the children's safety and developmental needs as being sufficiently important, and that she did not have sufficient motivation to take care of them.

As regards the first applicant, the report stated that he had never made any attempt to maintain contact with the children or provide for them outside his relationship with the second applicant, and that he had been violent towards family members (his mother, the second applicant and their two elder children) over a long period.

The report concluded that neither the mother nor the father had the motivation or capacity to adequately care for M., and that it was in his best interests to completely divest the applicants of their parental rights in respect of him.

30. On 21 June 2019 the second applicant made submissions to the A. Centre, pointing out that even though its decision concerned the temporary placement of M. in foster care, it did not make any reference to the duration or conditions of that placement. She also complained that no steps whatsoever had been taken with a view to returning M. to her care. She enclosed an opinion produced by a court expert in civil engineering which she had commissioned as regards the living conditions in her house and the state of the courtyard. The expert had produced a report including photographs on the basis of a visit which he had made to the house on 14 May 2019, and had concluded that the house was functional and safe, of firm construction and suitable for multiple members of a household to live together. The photographs showed a tidy and well-equipped house, with a separate room for a child, a living room, a bathroom and a kitchen.

The second applicant also stated that she had already made all the arrangements to enrol M. in kindergarten in O., and that she also needed a medical certificate for him. She asked the A. Centre to issue a decision stating that there was no longer any need for M.'s placement in foster care, and to take into account that such a young child could easily become alienated from his mother and family.

31. On 24 June 2019 the applicants submitted a reply to the A. Centre's action to the A. Court of First Instance (see paragraph 29 above), complaining that they had not received the reports on which the A. Centre relied, and challenging the facts and conclusions presented in the Centre's action. The

second applicant stressed that she had always responded to all of the A. Centre's proposals when its invitations had been served on her, and that she had asked the centre to serve all invitations on her lawyer as well, but this had never been done. She further stressed that she had used all available remedies against the A. Centre's decision to place M. in foster care.

She explained that on 5 September 2017, together with her lawyer, she had approached the A. Centre to give a statement and make a proposal about the evidence to be presented, which had not been accepted. She had also travelled to K. twice to meet her son, each time for one hour.

In the period between 12 March and November 2018, owing to a leg injury and the related therapy, she had not been able to respond to the A. Centre's invitation. In that connection, the second applicant enclosed medical documentation and stated that she had already submitted the same documentation to the A. Centre, and that she had called the Centre by telephone to inform its staff members that she was not able to come to its premises.

As regards her contact with M., she confirmed that she had seen him twice on the premises of the K. Centre. However, she contested the allegations that she had encouraged him to cry, stating that none of the A. Centre's staff members had been present during her meeting with M., and he had cried because the meeting had been stressful for him, and had asked her to take him home with her.

The second applicant contested the A. Centre's allegations about her lack of motivation to care for M. which were contained in the report of the A. Centre's educator, and complained that the educator had never had any contact with her. The second applicant also asserted that the A. Centre's staff members had not taken any steps with a view to returning the child to her, and its conclusion that she had no adequate parenting ability was laconic.

As regards her house being appropriate for a child, she submitted the expert's opinion and asserted that there was grass in the courtyard, a fence between the courtyard and the road, and a door with a lock in the fence, and that the stairs leading to the front door of the house were fenced, so the house and its courtyard were safe for M.

The first applicant stressed that even before M.'s birth he had been in either pre-trial detention or prison, and therefore all the conclusions concerning his parenting capacity were arbitrary. He also denied that he had ever sexually abused his children or anyone else, and pointed out that he had never been convicted of such an offence.

32. On 25 June 2019 the second applicant submitted a request for an interim measure, requesting that the first-instance court regulate her contact rights with M. She stressed that she had seen him only twice since 16 August 2017, despite constantly urging the A. Centre to allow her to see him. She also asked that M. be returned to her.

33. On 2 July 2019 the A. Centre filed submissions in which it explained that on 18 September 2017 the first contact session between the second applicant and M. had been scheduled for 20 September 2017, to take place on the premises of the K. Centre, and the second applicant had agreed to that. The foster carer had taken M. to the Centre, but the second applicant had not appeared. The A. Centre's staff members had called her on the telephone and she had said that she was at home and would not come to K., and that they should contact her lawyer in relation to any issues concerning M.

The A. Centre alleged that on 25 September 2017 its staff members had again called the second applicant on the telephone and had agreed with her that the meeting with M. would take place on 28 September on the premises of the K. Centre. However, the second applicant had not appeared. The A. Centre's staff members had again contacted her by telephone, and she had said that she had not received a written invitation and that they should have contacted her lawyer.

On 29 September 2017 the second applicant had come to the A. Centre at its invitation, and when it had been proposed to her that a schedule should be drawn up to arrange visits with M. over a longer period, she had refused. After that the A. Centre had invited the second applicant, both orally and in writing, to come to its premises with a view to drawing up a schedule for her visits with M., but she had not responded to those invitations.

It was also alleged that the second applicant did not take any responsibility for her failures in her care of M., and that she had told the A. Centre's staff members that in her opinion, she had been right to leave the child with his grandmother because "she [the grandmother] needed someone to take care of her, and not someone to take care of". She had also said that she would do the same again. The A. Centre pointed out that after M. had been placed in foster care, his grandmother had accidentally set the house on fire.

The A. Centre confirmed that the second applicant had come to the A. Centre several times, but each time in connection with the family social allowance. She had approached the service in charge of her children only once, and only because the head of that service had met her in the corridors by chance and had asked her why she had not replied to the invitations sent by the A. Centre. The head of the service had also warned her that her ignoring the A. Centre's invitations and avoiding cooperation in the case of her children could be used against her in court.

In her verbal communication with the A. Centre's staff members, the second applicant had used abusive language and had shouted, cursed and threatened them, and had accused them of stealing an iron from her house, to the extent that the police had had to be called to intervene. She had once said to the person handling her case "now you will pay with your head". She had often slammed the doors of the A. Centre's offices or the entrance door.

The submissions concluded by stating that the second applicant had no insight into her behaviour and its consequences for her children, had no

stability or consistency, had not respected agreements, could not serve as a model for her children, and was incapable of maintaining a stable relationship with them.

The A. Centre contested the second applicant's allegation that she had not had any contact with the Centre's educator as being untrue, since the educator had been involved in her case since 2008 and had met both the second applicant and her children on many occasions.

As regards the second applicant's allegations that in the period between 12 March and November 2018 she had not been able to answer the A. Centre's invitation because of a leg injury and the related therapy, she had never informed the Centre's staff members of this.

On the basis of the above information, the A. Centre suggested that the court dismiss the second applicant's request for M. to be returned to her.

As regards her request for contact with M., the A. Centre stated that its team of experts considered that such contact was not in the child's best interests. However, it left that matter to the court and stressed that if such contact was allowed, the mother should be prepared for these meetings over a period of at least one month and should come to the A. Centre's premises once a week, every Tuesday at 9.30 a.m.

34. On 16 July 2019 the A. Centre drew up a schedule for preparing the second applicant for contact with M.

35. The first meeting between the second applicant and M. took place on 9 August 2019 on the premises of the K. Centre.

36. On 13 August 2019 the second applicant made written submissions to the A. Centre, excusing her absence from a meeting scheduled to take place at the Centre on that day because of "a death". She asked the A. Centre to reschedule the meeting for another day, and stated that in the absence of any information in that regard, she would come to the A. Centre's premises on 20 August 2019, as previously scheduled. She also asked that the next meeting with M. be scheduled as soon as possible, because at their last meeting on 9 August 2019 she had noticed that he had called his foster carers "Mummy and Daddy".

37. On 21 August 2019 the second applicant urged the court to adopt a decision on her request for an interim measure. She stated that since 19 July 2019 she had been going to the A. Centre once a week with a view to preparing herself for contact with M. At the meetings at the A. Centre, the discussions had concentrated on the conditions of M.'s placement and what he was being fed, and on asking the second applicant what M. had liked to eat, what toys he had liked to play with, and what she would give him at their first meeting. She had said that he had liked colouring books and riding his bicycle, and that she would give him a bigger bicycle.

As to her first meeting with M. on 9 August 2019, the second applicant submitted that M. had come with his foster carers, whom he had called "Mummy and Daddy". He had said that in their house he had two brothers,

and that he would never go home with the second applicant because he had been told so. He had also told her that the day before his “parents” had bought him a new bicycle and he wanted to go home to ride it. He had also said that they had bought him colouring books. The second applicant believed that the A. Centre’s staff members had told the foster carers to buy those toys for M., and had thus interfered with her intention to buy them for him herself. Such conduct on the part of the A. Centre’s staff members had been aimed at completely alienating the child from his biological mother, and had succeeded, since the M. at time five years old, considered his carers his parents, their children his brothers, and their house his home.

After that meeting a staff member from the A. Centre had told the second applicant that she no longer had to come to the A. Centre.

38. On 14 October 2019 the applicants asked the court to commission expert reports from a child psychologist, a psychologist and a neuropsychiatrist to assess their parenting capacity, whether it was in M.’s best interests to be separated from his parents, whether M.’s placement in foster care benefited his long-term interests, and what type of contact between M. and his parents would be most suitable during the court proceedings.

39. On 25 November 2019 the A. Court of First Instance commissioned a report from a psychologist. The second applicant was ordered to pay the costs of the expert report in advance.

40. On 5 March 2020 the psychologist submitted her report. As regards the first applicant, she considered that his parenting capacity would have to be assessed after his release from prison, where he had undergone treatment for alcoholism.

As regards the second applicant, the psychologist concluded that she was a person of lower intellectual capacity who did not suffer from a severe mental illness which might justify divesting her of her parental rights. She suffered from mild depression and heightened anxiety. She had expressed her need to take care of M. and her interest in doing so. As a mother, she was warm and capable of identifying and satisfying M.’s needs.

As regards M.’s placement in foster care, the psychologist considered that the A. Centre’s staff members had been justified in placing him in foster care, given the circumstances at that time, in order to prevent potential negative consequences for the child. However, the psychologist considered that the A. Centre had not taken adequate measures to re-establish the relationship between the second applicant and M., which had disrupted the child’s emotional connection with his mother.

The psychologist considered that the conditions for M.’s development in foster care were adequate, and that the carers took good care of him.

As to the contact between M. and the applicants during the court proceedings, the psychologist considered that, given the age and development of the child and the health and mental state of the mother, and the fact that the child had not seen his mother for a long time, which had caused emotional

disturbance, the re-establishment of contact and the relationship between them should be gradual; initially, contact should be supervised, and then it should be unsupervised for shorter intervals, after which time M. and his mother should spend weekends together. The psychologist also recommended that the Centre's staff members provide counselling for both the mother and the child.

41. On 22 May 2020, relying on the psychologist's assessment, the applicants urged the court to decide on contact between the second applicant and the child, and to dismiss the A. Centre's action to divest them of their parental rights in respect of M.

42. On 1 June 2020 the A. Centre informed the court that during the state of emergency caused by the COVID-19 pandemic, the second applicant had not once called the Centre to enquire about M. According to the A. Centre's team of experts, the second applicant's motivation for having contact with M. was not authentic, and such contact would not be in the child's best interests.

43. On 1 July 2020 the applicants urged the court to decide on their contact with M.

44. On 4 August 2020 the first applicant was released from prison and returned to live with the second applicant in their family home in O.

45. On 26 October 2020 the court-appointed psychologist submitted her assessment of the first applicant. She considered that he was of average intellectual capacity and had a personality disorder. In the past he had suffered from alcoholism, but he had undergone treatment for it in prison and had abstained from alcohol since 2016. His parenting capacity had been preserved and he had expressed a clear interest in having contact with M., establishing an emotional relationship with him, and fully taking care of him. The psychologist also considered that the first applicant should be obliged to continue treatment for alcoholism.

As regards contact between M. and the applicants, the psychologist repeated her previous opinion and specified three phases of re-establishing contact. She recommended that in the first phase, to last at least two months, the applicants should have supervised contact with M. twice a week in his place of residence, with prior psychological preparation of the child and cooperation with his foster carers.

She recommended that in the second phase, to last at least a further two months, the applicants should have unsupervised contact with M. twice a week for two to three hours, in his place of residence.

She recommended that in the third phase, the applicants should have unsupervised contact with M. in their house at weekends, until the end of the court proceedings.

She also recommended that, since the parents held the A. Centre's staff members responsible for their lack of contact with M., experts from the K. Centre should supervise and evaluate each phase, and make further recommendations accordingly.

46. On 5 November 2020, relying on the expert's opinion, the applicants urged the court to regulate their contact with M.

47. On 25 February 2021 the applicants again urged the court to regulate their contact with M.

48. On 9 March 2021 the applicants informed the court that the first applicant had seen a psychiatrist on 1 and 8 March 2021, and the psychiatrist's report had indicated that he had no symptoms of alcoholism.

49. On 10 March 2021 the applicants again urged the court to regulate their contact with M.

50. On 7 April 2021 the court commissioned a psychiatric report at the applicants' expense.

51. On 14 April 2021 the first-instance court dismissed the applicants' request for an interim measure in relation to their contact with M (see paragraph 41 above). As regards the psychologist's opinion, the first-instance court found that the psychologist had established that there had been visible progress in the second applicant's parenting capacity, but had not given any explanation for such a conclusion, and that the psychologist's conclusion that the first applicant's treatment for alcoholism had been successful had been based on his statement only. The first-instance court justified its decision by referring to the fact that the first applicant had been convicted of family violence and had suffered from alcoholism, and that both applicants had been divested of their parental rights in respect of their other two children.

52. On 5 May 2021 the applicants appealed against that decision.

53. On 17 May 2021 the applicants complained to the K. High Court (*Viši sud u K.*) that the first-instance court had not adopted any decision on their complaint about the length of the proceedings, submitted on 10 March 2021.

54. On 9 June 2021 the K. High Court allowed the applicants' complaint about the length of the proceedings and established that this had been excessive. It ordered the first-instance court to take all procedural steps to speed up the proceedings and adopt a decision on both the interim measure and the main action as soon as possible.

55. On 10 September 2021 a team of three experts (two psychiatrists and one psychologist) from the Institute for Mental Health in Belgrade submitted an opinion.

As regards the second applicant, they concluded that her intellectual capacity was borderline (below average), that she was illiterate and that she was able to satisfy only the basic biological needs of her child. She lacked the capacity to adequately participate in his development and satisfy his emotional needs in terms of an organised style of parenting.

As regards the first applicant, they concluded that his intellectual capacity was average, that he did not suffer from any temporary or permanent mental illness and that his alcoholism was in remission. He minimised the role he had played in the placement of his children in foster care and his responsibility in that connection, and blamed the A. Centre's staff members.

As a parent, he recognised only the basic biological needs of a child and had no clear and consolidated parenting style.

The experts recommended that it would be in M.'s best interests for the applicants to retain some parental rights in respect of him, under supervision, for a period of one year with a view to re-establishing the parental relationship and developing an emotional connection within the family, after which there should be a new assessment.

56. On 21 September 2021 the K. High Court allowed the applicants' appeal against the first-instance court's decision of 14 April 2021 and remitted the case to that court. The appeal court held that the first-instance court's conclusion that the conditions for regulating contact between the applicants and M. had not been met was wrong. The appeal court held that the first-instance court had not given sufficient reasons for not accepting the expert's opinion that it would be in the child's best interests to gradually re-establish contact with his parents.

57. On 14 October 2021 the applicants again urged the first-instance court to regulate their contact with M.

58. On 26 November 2021, relying on the opinions of the experts (see paragraphs 40, 45 and 51 above), the first-instance court dismissed the A. Centre's action to divest the applicants of their parental rights in respect of M. It did not adopt any decision as regards contact between the applicants and M. The A. Centre appealed that judgment.

59. On 13 January 2022 the applicants orally asked the A. Centre to ensure their contact with M.

60. On 17 January 2022 the first-instance court adopted a supplementary judgment (*dopunska presuda*) ordering the A. Centre to draw up a plan of contact between the applicants and M. immediately, and at the latest within forty-eight hours from the date it received that judgment, in line with the phases recommended by the psychologist in her opinion (see paragraph 45 above).

61. On 20 January 2022 the A. Centre submitted to the first-instance court a plan in accordance with which the applicants were to have supervised contact with M. every second Friday from 12 noon to 1.30 p.m. for a period of three months, on the premises of the K. Centre.

The contact meetings were held in the presence of the A. Centre's team of experts (a guardian, a social worker, an educator and a psychologist) and the K. Centre's foster care counsellor.

62. On 23 February 2022 the applicants submitted their comments on their contact with M. to the A. Centre. They stated that the contact had resumed on 28 January 2022. The child had seen his mother for the first time since 9 August 2019, and his father for the first time since December 2016. The applicants considered that the meeting had gone well, and the child had remembered some events from his childhood involving the second applicant, his family home and his toys. The applicants had presented him with an album

of photographs of family members and M. had recognised his brother and sister. He had asked the applicants to buy him some toys and boots. He had also expressed a wish for the second meeting to be held sooner rather than in two weeks' time.

However, at the meeting on 11 February 2022 the child had demonstrated a high level of resistance towards his parents, had refused to accept the presents they had brought for him and had told them that he did not need those presents because he had everything he needed at S.'s (one of the foster carers) home. In the applicants' view, such behaviour, which had been in stark contrast to the first meeting, had been the result of the influence of the foster carers and possibly some third parties. The child had also said a couple of times that he was very nervous. He had also told the second applicant that S. had given birth to him and that he loved S. most. He had avoided physical contact with the applicants. Several times he had attempted to say something but could not. He had written on a piece of paper that he had been sad in A. When the applicants had asked him what he would like them to bring him the next time, he had replied that he did not want anything from them. When the second applicant had then started to cry, the child had started to apologise.

After that meeting the applicants had consulted a psychologist, asking for some advice on further meetings with M. The applicants stressed that any advice from the psychologist would have no effect if their meetings with M. were influenced by a foster carer, and if none of the experts worked with M. and supported the attempts to re-establish his connection with them.

The applicants also asked for telephone contact and meetings with S., so that their reunification with M. would go more smoothly and so that they together could explain to him who his parents were. It appeared to the applicants that M. was confused about those issues, and consequently confused about his identity.

The applicants further objected that the child still had his mother's surname, even though it had been officially changed to his father's.

63. On 10 March 2022 the applicants made further submissions to the A. Centre. They complained that they had not received any reply to their request for telephone contact and meetings with S., or to their question about the child's surname. They further alleged that during the meeting on 11 February 2022 the child had asked them to agree to S. taking him to be baptised and to him signing his name with S.'s surname. The applicants had replied that he had already been baptised in 2015, and the staff member from the A. Centre who had been present at the meeting had said that that should be verified. The applicants alleged that it had been the same person who had taken the child from their house in August 2017 and who had prevented them from seeing him for many years.

The applicants asked to be informed about how the child had come to think of S. as his biological mother, who had told him to ask his parents to approve S. taking him to be baptised, who had told him that his surname was S.'s

surname, who had told him that the first applicant had been in prison, and what methods the A. Centre's staff members had implemented in order to prepare the child for reunification with his parents.

The applicants requested that a psychologist be present at their further meetings with M. so that the child's behaviour could be assessed, in addition to what was necessary to re-establish his connection with them. The applicants stressed that if the A. Centre could not ensure the presence of a psychologist, they would be willing to instruct a psychologist themselves and bear all the costs. If the A. Centre was to ensure the presence of a psychologist, they objected to the psychologist who had consistently assessed that they should not have any contact with M. and should be divested of their parental rights.

64. On 10 March 2022 the K. High Court quashed the first-instance judgment of 26 November 2021 and the supplementary judgment of 17 January 2022, and remitted the case to the first-instance court. It held that the first-instance court had not established all the relevant facts. In that connection, it stressed that the A. Centre had asked that the applicants' son V. be heard as a witness and, in an appeal, had alleged that V. had expressed to the A. Centre's staff members that he was scared about the prospect of M. being returned to the applicants, in particular because of the allegation that the first applicant had sexually abused V. and his sister Mi. and the second applicant had tolerated this. The appeal court also stressed that the applicants had never submitted any request that V. and Mi. be returned to them. It referred to a television programme called "DNA" in which the applicants had participated and had discussed M.'s paternity, and had also mentioned V. and Mi., which had embarrassed V. and Mi. in front of their schoolmates. The appeal court further referred to the A. Centre's allegations that the first applicant had not shown much interest in contact with M. when he had been in prison, and to the experts' opinions stressing the negative aspects of the applicants' personalities and parenting capacity. The appeal court also found that the first-instance court had given more weight to the interests of the applicants than to the best interests of M.

65. In further submissions to the A. Centre made on 22 March and 8 April 2022, the applicants repeated their allegations and requests and complained that they had not received any reply. They also alleged that during the meeting on 6 April 2022 they had noticed that M. had obvious symptoms of a respiratory infection, and they had asked for him to be taken to a doctor and for a medical report in that connection.

66. In submissions to the A. Centre made on 15 April 2022, the applicants asked that a plan for the second phase of their contact with M. be drawn up. They stressed that the first phase of contact – made up of supervised meetings – would end with a meeting scheduled for 20 April 2022, and that a new plan had to be made so that there would be no interruption in their contact with M. They reiterated that they had never received any reply from the A. Centre or

been contacted in any other way. They also stressed that they had been having regular appointments with a psychologist from the public health service who had a good insight into their family situation and who had suggested that the interruption of contact between them and M. would not be in M.'s best interests.

67. In comments on the appeal court's judgment, submitted to the first-instance court on 20 June 2022, the applicants, *inter alia*, objected that the appeal judgment had interrupted their contact with M. They alleged that at the meeting with M. on 20 April 2020 they had promised to bring Easter presents for him to the next meeting and had said that they would exchange Easter eggs, and the child had seemed happy and excited about this. However, at a meeting at the A. Centre on 21 April 2022 the applicants had been told that no further meetings with M. would take place unless a court adopted a decision on contact. The applicants asked the first-instance court to immediately adopt a new decision on their contact with M. (an interim measure).

68. A report by M.'s class teacher of 21 April 2022 indicated that M. had problems cooperating with his classmates in relation to teamwork and could not accept others' opinions or suggestions. He obeyed rules and listened to advice from adults, but did not always accept this. He had expressed love for his foster carers and had said that he did not want to see his biological parents, and had shown anxiety when he had had to go to meetings with them.

69. A report by a psychologist of 6 June 2022 indicated that she had seen M. and his foster carer S., and that they had mentioned that M.'s main problems were boredom, a lack of concentration at school and untidy handwriting. M. had said that he felt "super" in S.'s home, and that he was bored when he saw his parents and that they wished to separate him from S. The foster carer had indicated that M. had suffered from enuresis (bed-wetting) and encopresis (faecal soiling) for about four days after he had met his parents. The psychologist noted his anger and negative attitude towards his parents.

70. On 24 June 2022 a team from the A. Centre composed of a social worker, an educator, a psychologist and the A. Centre's director of service submitted to the first-instance court a report on the applicants' contact with M. in the period between 28 January and 20 April 2022. The report stated that during that period M. had shown signs of enuresis, night sweats and a lack of concentration, and the foster carers had been told to take him to see a psychologist, which they had done. The report further stated that the A. Centre's team had worked on preparing M. for contact and having conversations with him and the foster carer S. after contact, even though the team had still been of the opinion that it was in the child's best interests not to have any contact with the applicants and that the applicants should be divested of their parental rights.

The A. Centre's team assessed that S. had a good capacity to preserve M.'s identity and not obstruct him re-establishing a connection with the applicants. Thus, S. allowed M. to have regular contact with his brother V. and his sister Mi., over the telephone and in person.

The foster care counsellor reported that M. had resisted contact with the applicants, that he had sought assurances that the applicants would not take him for unsupervised visits, and that he had agreed to see them in the presence of an employee of the K. Centre, and on its premises.

The contact between M. and the applicants had taken place every second week for ninety minutes, on the premises of the K. Centre, which was adapted for such contact, as well as in the courtyard of the K. Centre, which had a children's playground.

Staff members from the A. Centre and the K. Centre had told the applicants to participate more actively and directly in their communication with M., to welcome him, to praise him, to sit closer to him once he had relaxed, to participate in his interests and activities in a manner adapted to his age, in terms of tone, gestures and vocabulary, and to be patient as regards his initial resistance.

Initially, the parents had been reserved, and had reacted negatively when M. had said that he had everything at S.'s home and did not need anything from them. They had also had a negative attitude towards S. and the A. Centre's staff members present at the meetings.

The report stated that the mother had given M. an album with photographs of their family home and had tried to make him remember it. When the child had recalled some negative memories from his childhood with her and his grandmother and had said that he had not been happy there, the mother had tried to convince him that this had not been the case. On the other hand, she had encouraged positive memories of M.'s childhood with her. The report stated that the mother had been more concerned about how the contact might influence the court proceedings, rather than her actual relationship with M.

The report stated that the parents had repeatedly presented false information to M. as regards their relationship and contact with his brother and sister, V. and Mi., and that M. had later found out that the parents had lied.

The A. Centre's report also cited the K. Centre's report, according to which the parents had been passive during the contact, the mother had been unpleasant towards the A. Centre's staff members who had been present at the meetings, and both parents had sought to create verbal and non-verbal tension with those staff members. Conversations between the K. Centre's staff members and M. and S. had revealed that M. had said that contact with his parents had disturbed him, that he had forgotten how to add and subtract numbers because of such contact, and that he had remembered everything, but had not specified any memories. The child had started to suffer from enuresis and nightmares.

The parents, and in particular the mother, had had numerous questions for M., often directed at finding fault with his foster carers or him. She had been critical of him and had addressed him in a demanding or accusatory tone. The parents had often brought presents that the child had not asked for, and had forgotten what he had asked for. As regards a question from M. about the father being in prison, the parents had not offered any acceptable explanation, but had replied “They have told you that”.

When M. had told his parents that he did not wish to live with them or go home with them, the mother had insinuated that he had been told to say that. She had also expressed anger at his resistance towards his parents.

The father had attempted to incite competitiveness in M. in order to make him do something that M. had refused to do. The A. Centre’s staff members believed that such behaviour on the part of the father was dangerous for M.

The parents had not tried to change their attitude or behaviour when the contact had not been satisfactory, but had blamed M., his brother V., the foster carer or the experts present at the meetings for any matters with which they had been dissatisfied.

Even though the parents had brought some books and other educational material, as well as toys, they had not shown any interest in engaging with M. in exploring those items. They had also not helped him with the homework which he had brought to the meetings, even though on several occasions they had been told to behave with him as they would in their own home. In particular, the mother had shown a very passive attitude in that regard, and had preferred to have coffee rather than participate in educational activities with M. When they had spent time outside, the mother had not participated in any activity, and had not shown any interest in M.’s activities with his father.

The father had also touched the child inappropriately on one occasion, and the mother had used inappropriate vocabulary.

The report assessed that the parents and the child had not grown closer, because the parents had not demonstrated any capacity for this, and the communication between them had remained superficial.

As regards the relationship between the parents, the report made reference to certain negative comments that they had made about each other.

The report concluded that the contact with his parents had had a negative effect on M. and had caused various symptoms in the child, such as enuresis, encopresis, nightmares and a lack of concentration at school, none of which he had had before.

The report concluded that it would be in the child’s best interests for the parents to be completely divested of their parental rights.

71. A report by the K. Centre’s foster care counsellor stated that a family counsellor had prepared M. and S. for the contact between the child and his parents beforehand, and had also discussed the contact afterwards. M. had said that he did not wish to see his parents, that he had forgotten them and

that he could not understand why he had to see them. After counselling, M. had agreed to see his parents, but only in the presence of the foster care counsellor and the A. Centre's staff members, and had asked for assurances that his parents would not take him with them.

The report indicated the same problems as those mentioned in the report by the A. Centre's team of experts, and recommended that the supervised contact continue, with additional preparation of M. and the parents.

72. A psychologist's report of 9 May 2022 indicated that M. had presented his parents in a bad light, and had reported a number of unpleasant incidents in connection with his contact with them and his early childhood in their home.

73. On 17 October 2022 the first-instance court completely divested the applicants of their parental rights in respect of M. It cited extensively the documents submitted by the parties, in particular the above-mentioned expert reports and the reports on the contact between the applicants and M. It concluded that despite the counselling and support provided by the A. Centre's staff members, the contact had not succeeded in re-establishing a satisfactory relationship between them, solely because of the applicants' behaviour and passivity.

74. On 21 November 2022 the applicants appealed against the first-instance judgment.

75. On 22 November 2022 the first-instance court adopted a supplementary judgment and dismissed the applicants' request for an interim measure regulating their contact with M., giving the same reasons as those justifying its decision to divest them of their parental rights.

76. On 14 December 2022 the applicants lodged an appeal against the supplementary judgment as well.

77. On 27 March 2023 the K. Appeal Court (*Apelacioni sud u K.*) quashed both first-instance judgments because they had been adopted by a single judge, contrary to the law. The appeal court itself then divested the applicants of their parental rights in respect of M. and dismissed their request for an interim measure regulating their contact with him. Relying on the above-mentioned reports, the appeal court concluded that the applicants' behaviour was contrary to the standards of healthy family relationships, and that it was necessary to protect M. from further trauma caused by their inappropriate behaviour, which would harm his normal emotional and overall personal development.

78. On 9 May 2023 the applicants lodged a further appeal with the Supreme Court.

79. On 12 October 2023 the Supreme Court quashed the appeal court's judgment and remitted the case to it for fresh examination. It held that completely divesting a person of his or her parental rights was the most serious measure reserved for a parent who gravely neglected his or her parental duties or abused his or her parental rights, thereby putting the child's

interests at risk to such an extent that his or her physical, emotional and intellectual development was jeopardised.

The Supreme Court held that the facts of the case did not show by which specific acts or omissions the applicants had neglected their duties in respect of M. or abused their parental rights, particularly as he had not lived with them since August 2016. It also held that the conclusion of the appeal court that the applicants should be divested of their parental rights had not been supported by any of the expert opinions commissioned by the courts in the proceedings at issue.

The Supreme Court considered that the appeal court had not complied with its obligation to establish all relevant facts so as to be able to adopt a decision in the child's best interests, and had instead been influenced by the fact that both applicants had been divested of their parental rights in respect of their two elder children.

The Supreme Court also held that the A. Centre had initiated the proceedings against the applicants, and the courts had decided the case on the basis of reports and assessments produced by that Centre. In the case, court-appointed experts had indicated that there was a need for the applicants' parenting of M. to be gradually re-established under supervision. However, the appeal court had based its decision largely on the assessment by the K. Centre of the contact between the applicants and M. which had taken place on its premises in the presence of the A. Centre's entire team.

The Supreme Court instructed the appeal court to clearly establish all the relevant facts, including the conditions in which the child lived, the conditions in which the applicants lived, the applicants' attempts to have contact with the child, the passage of time and the level of the child's adaptation to life with the foster carers.

80. On 6 March 2024 the K. Appeal Court asked the K. Centre to submit a report on the applicants and M., and to organise contact between them. On 7 May 2024 the K. Centre submitted a report on visits which its staff had made to the applicants' homes and the home of the foster carers.

The report stated that on 15 April 2024 the K. Centre's staff members had visited the first applicant in O., where they had learned that the second applicant had found employment in Belgrade and spent her weekdays there. She also spent a lot of time in the village of S., where she had inherited a house. The home of the first applicant consisted of two bedrooms equipped for children and a living room where the first applicant spent most of his time when he was at home. The bedrooms were tidy, but the living room was untidy. The first applicant had told the K. Centre's staff members that if M. was returned to his family home, he (the first applicant) would take care of him during the week, since he had no permanent employment, and at weekends the applicants would take care of M. together. The first applicant had also said that his daughter from another relationship spent every second Saturday with him, and sometimes also stayed the night.

The part of the report on the visit to the second applicant's new home in the village of S. on 19 April 2024 stated that the house she lived in was in a very bad state and needed to be completely repaired. The report assessed that the house was not suitable for normal living.

The part of the report on the visit to the home of the foster carers on 19 April 2024 stated that M. had his own room equipped for a child of his age and a warm and trusting relationship with his foster carers, with whom he felt at ease. However, any mention of possible contact with his parents made M. highly anxious, and the foster carers had reported that each time that topic had been mentioned, M. had reacted very negatively and had expressed fear for his future and a sense of uncertainty, and it had taken him a long time to get back into his routine.

The report therefore concluded that contact between M. and the applicants could not be resumed immediately, and time was needed to prepare M.

81. On 1 October 2024 the K. Appeal Court issued an interim measure ordering contact between the applicants and M. every last Friday of the month, between 12 noon and 1.30 p.m., on the K. Centre's premises. Such contact was to take place in the presence of the K. Centre's team of experts and S., one of M.'s foster carers.

82. The first meeting between the applicants and M. took place on 25 October 2024 on the K. Centre's premises.

83. On 28 October 2024 the K. Centre submitted a report on contact between the applicants and M. during the period between 10 and 25 October 2024. It stated that on 11 October the K. Centre's staff members had had a meeting with S. and had discussed her actively participating in preparing M. for the meetings with his parents. S. had been told to talk to M. about meeting his parents and to answer his questions in that regard.

On 16 and 23 October 2024 one of the K. Centre's counsellors had visited the home of M.'s foster carers and had discussed the meetings with his parents. The counsellor had explained the meeting schedule, the reasons why his parents wanted to see him, and had given assurances that a person of M.'s choice would accompany him. M. had insisted that S. be that person. He had been very nervous when he had been told about the meetings with his parents and had expressed a negative attitude about these meetings, fearing that his parents might take him away. The counsellor and S. had reassured him that that would not happen. M. had described negative experiences from his life with his parents, saying that they had often left him alone, had quarrelled and had had physical altercations in his presence. He had also said that once his father had broken a glass during an argument with his mother and he (M.) had stepped on the broken glass. His mother had not helped him, but had sent him outside and he had had to remove the glass from the soles of his feet himself.

The applicants had brought presents for M. to their meeting with him on 25 October 2024. He had accepted them, but had told his parents not to bring him any more presents in the future because he had everything he needed.

The first applicant had attempted to discuss with S. the fact that she was allowing M. to see his brother V., whom the first applicant considered to be a bad influence. The members of the K. Centre's team of experts had stopped that conversation.

M. had started to recount some negative experiences from his life with the applicants when he had been a small child, but the applicants had denied his allegations and had commented that he had been told to say such things. M. had become very nervous and anxious, and had asked to go outside with S. for a while. After his return he had told the applicants that he no longer wanted to see them and had asked them to allow him to live with S. When questioned about this, he had answered that he did not feel well when he saw them, that seeing them upset him and made him nervous, that he had wet his bed after the last meeting with them and that he could not concentrate well at school. The parents had not acknowledged M.'s emotions at that moment, and had insisted on their rights.

The meeting had continued in a tense atmosphere, and M. had been very nervous and exhausted afterwards.

The K. Centre's report proposed that the meetings should be reduced to forty-five minutes and that it should be possible to interrupt them.

84. On 14 November 2024, relying on the K. Centre's report of 28 October 2024, the K. Appeal Court varied its decision of 1 October 2024 (see paragraph 81 above) so that the meetings between the applicants and M. were to be held every last Friday of the month between 12 noon and 12.45 p.m., and could be interrupted if the team of experts concluded that M.'s functioning and stability were being seriously harmed in the course of a meeting.

85. The counsellor from the K. Centre discussed the meetings with M., who said that he no longer wished to see the applicants and that after the meeting of 25 October 2024 he had been angry and had spent a lot of time in his room waiting for the anger to pass. He had also been afraid that the applicants would come to take him away.

86. On 29 November 2024 the next meeting between the applicants and M. took place on the K. Centre's premises.

87. On 2 December 2024 the K. Centre submitted a report on the meeting of 29 November 2024. The report stated that the parents had insisted on discussing the previous meeting and the report on that meeting. M. had refused the presents they had brought. The applicants had commented that it was obvious that S. and the K. Centre's staff members had turned M. against them. M. had reassured them about this and had said that he did not want to see them because of his negative memories of his life with them. The applicants had expressed surprise that he could remember events from when he had been a very small child, and the first applicant had asked M. whether he remembered when he had been kidnapped by the A. Centre's staff members. The K. Centre's team of experts had stopped that conversation.

When M. had told the applicants that he had telephone conversations with his brother V. almost daily, the first applicant had told him that V. had not wanted him to be born and that V. could never love him.

M. had suggested that they play games, and afterwards that they go outside to play with a ball. The first applicant had joined in, but the second applicant had remained very passive during the whole meeting.

The report concluded that “no improvement [had been] observed as regards either the content or quality of the contact between the applicants and M., nor any improvement in the parents’ dedication to M. their response to his signals, to acknowledge his anger towards them so as to understand him and re-establish a relationship” with him. There was no genuine motivation on the part of the parents to establish a good (*kvalitetan*) and meaningful (*sadržajan*) relationship with M. Instead, the parents’ efforts were aimed at “proving their case” (*isteruju pravdu*).

88. The next meeting between the applicants and M. took place on 31 January 2025 on the K. Centre’s premises.

89. On 3 February 2025 the K. Centre submitted a report on that meeting. It stated that in all communications between M. and the K. Centre’s counsellor and its team of experts, M. had expressed that he was very reluctant to see his parents, that he did not want to have further meetings with them, and that he wondered why they would still want to see him and why they would not let him live his life without them, as he had asked them to. Each conversation had ended with M. asking how many more times he had to see his parents and when it would all be over.

S. had confirmed that after meeting his parents M. had been nervous, distracted and irritable, and had spent a lot of time in his room.

At the meeting of 31 January 2025 M. had politely refused presents his mother had attempted to give him. The parents had attempted to have a conversation about M.’s siblings, but M. had become angry about what they had been saying about his brother V.

When his parents had asked him questions about school and holidays, M. had given curt answers and had become upset when they had repeated the same questions. His body language had also expressed frustration and anger.

M. had confronted the applicants directly, asking them to stop insisting on seeing him and telling them that he no longer wished to see them, that he did not love them, and that he wanted to continue living with his foster carers.

At the end of the meeting M. had been visibly upset and exhausted and had said that he did not want to continue seeing his parents.

The report concluded that no emotional bond had been established between the applicants and M., and that the contact was having a negative impact on M.’s emotional well-being and stability.

90. The next meeting between the applicants and M. took place on 28 February 2025 on the K. Centre’s premises.

91. On 3 March 2025 the K. Centre submitted a report on the meeting of 28 February 2025. It stated that the meeting had been marked by a lot of tension, nervousness and verbal arguments between the first applicant and M. The first applicant had made negative comments about S.

The report stated that there was a complete lack of emotional closeness and spontaneity between the applicants and M., and that each meeting had been marked by less genuine contact and by the parents provoking reactions and imposing their points of view.

After the meeting, M. had commented that these meetings had been deeply frustrating and upsetting for him.

The report concluded that the contact between the applicants and M. had been traumatic for M., and that continuing such contact was not in his best interests.

92. On 13 March 2025 the K. Appeal Court divested the applicants of their parental rights in respect of M., save in respect of their obligation to contribute to his maintenance. It relied on the expert reports obtained during the proceedings and the reports of the K. Centre on the meetings between the applicants and M.

93. On 30 April 2025 the applicants lodged a further appeal with the Supreme Court. These proceedings are pending.

IV. REMEDIES USED BY THE APPLICANTS IN RESPECT OF THE LENGTH OF THE PROCEEDINGS TO DIVEST THEM OF THEIR PARENTAL RIGHTS

94. On 10 March 2021 the applicants complained about the length of the proceedings to divest them of their parental rights to the President of the A. Court of First Instance, but received no answer.

95. On 17 May 2021 the applicants complained to the K. High Court that the first-instance court had not adopted any decision on their complaint about the length of the proceedings submitted on 10 March 2021.

96. On 9 June 2021 the K. High Court allowed the applicants' complaint and established that the length of the proceedings had been excessive. It ordered the first-instance court to take all procedural steps to speed up the proceedings and adopt both a decision on the interim measure and a decision on the main action as soon as possible.

97. On 13 January 2022 the applicants lodged a claim with the A. Court of First Instance, seeking 3,000 euros (EUR) in compensation for the excessive length of the proceedings.

98. On 25 February 2022 the A. Court of First Instance allowed the applicants' claim in part and granted them EUR 400 each in compensation for the length of the proceedings. The applicants appealed and on 18 April 2022 the K. High Court dismissed their appeal and upheld the first-instance judgment.

99. On 8 June 2022 the applicants lodged a constitutional complaint, arguing that the amount of compensation awarded was not proportionate to the non-pecuniary damage which they had suffered. They stressed that the proceedings at issue concerned the A. Centre's action to divest them of their parental rights in respect of their child, who had been in foster care since 2017, and that their contact with him had not been regulated. They argued that because of that situation, their family life with their child had been interrupted and he had forgotten them and become attached to the family of his foster carers. They asked the Constitutional Court to award them EUR 2,600 – the difference between the amount they had sought and the amount that had been awarded to them by the lower courts.

It appears that these proceedings are still pending.

V. PROCEEDINGS TO PROTECT THE RIGHTS OF THE CHILD

100. On 14 October 2022 the applicants brought proceedings against the A. Centre before the A. Court of First Instance, asking the court to find that the A. Centre had violated M.'s right to live with his family because its staff had taken him from his family home on 16 August 2017 and placed him in foster care, where he had been ever since, and he had not had regular contact with his parents. The applicants also asked the court to order that the child be returned to them, and that an interim measure regulating contact between them and him during those proceedings be put in place.

101. On 28 November 2022 the first-instance court dismissed the applicants' request for an interim measure. Relying on all the documents from the proceedings to divest the applicants of their parental rights in respect of M., the judgments divesting them of their parental rights in respect of their two elder children, and the first applicant's convictions for family violence, the court held that all these circumstances, as well as the fact that the applicants had not succeeded in re-establishing a connection with M. during their contact with him, demonstrated that it was not in the child's best interests to maintain further contact with the applicants.

102. The applicants appealed against that decision and on 17 January 2023 the K. High Court dismissed their appeal and upheld the first-instance decision, endorsing the lower court's reasoning.

103. On 1 March 2023 the applicants asked that the case be transferred to another court, and on 17 May 2023 the Supreme Court allowed their request and transferred the case to the K. Court of First Instance. The proceedings before that court are pending.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. CONSTITUTION OF THE REPUBLIC OF SERBIA 2006 (*USTAV REPUBLIKE SRBIJE*; PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF SERBIA Nos. 98/2006 AND 115/2021)

104. Article 32 of the Constitution guarantees the right to a trial within a reasonable time.

105. Articles 64 and 65 read as follows:

Rights of the child **Article 64**

“A child shall enjoy human rights appropriate to his or her age and mental maturity.

Every child shall have the right to a personal name, an entry in the registry of births, the right to learn about [his or her] ancestry, and the right to preserve his or her identity.

A child shall be protected from psychological, physical, economic and any other form of exploitation or abuse.

A child born out of wedlock shall have the same rights as a child born in wedlock.

The rights of the child and their protection shall be regulated by law.”

Rights and duties of parents **Article 65**

“Parents shall have a right and duty to support [and] provide an upbringing and education for their children, [and] are equal in this regard.

One or both parents may have all or individual rights revoked only by a court decision and if it is in the best interests of the child, in accordance with the law.”

106. Article 170 provides that “a constitutional complaint may be lodged against individual decisions or actions of State bodies or organisations exercising delegated public powers which violate or deny human or minority rights and freedoms guaranteed by the Constitution, if other legal remedies for their protection have already been exhausted or have not been prescribed”.

II. THE FAMILY ACT (*PORODIČNI ZAKON*, PUBLISHED IN OG RS Nos. 18/05 AND 72/11)

107. The relevant provisions of the Family Act read as follows:

Article 60 **Life with Parents**

“(1) A child has the right to live with his or her parents and the right to be taken care of by his or her parents, in preference to all others.

(2) The right of a child to live with his or her parents may be limited only by a court decision, when that is in the best interest[s] of the child.

(3) A court may decide to separate a child from his or her parent if there are reasons for the parent to be completely or partially divested of his or her parental rights, or in the case of domestic violence.

...”

Personal Relations

Article 61

“(1) A child has the right to maintain personal relations with the parent he or she does not live with.

(2) The right of a child to maintain personal relations with the parent he or she does not live with may be limited only by a court decision, when that is in the best interest[s] of the child.

(3) A court may decide to limit the right of a child to maintain personal relations with the parent he or she does not live with if there are reasons to divest that parent completely or partially of his or her parental rights, or in the case of domestic violence.

...

(5) A child has the right to maintain personal relations with relatives and other persons he or she is particularly close to, if that right has not been limited by a court decision.”

Divestment of Parental Rights

Complete Divestment of Parental Rights

Article 81

“(1) A parent who abuses his or her rights or grossly neglects duties arising from his or her parental rights may be completely divested of [his or her] parental rights.

(2) A parent abuses rights arising from [his or her] parental rights

1. if he or she physically, sexually, or emotionally abuses the child;
2. if he or she exploits the child by forcing him or her to perform excessive labour, or labour that jeopardises the morals, health or education of the child, or labour that is prohibited by law;
3. if he or she encourages the child to commit criminal acts;
4. if he or she encourages the child to engage in harmful behaviour; [or]
5. if he or she in any other way abuses rights arising from [his or her] parental rights.

(3) A parent grossly neglects duties arising from [his or her] parental rights

1. if he or she abandons the child;
2. if he or she does not take care of the child he or she lives with at all;
3. if he or she avoids supporting the child or maintaining personal relations with the child he or she does not live with, or impedes the maintenance of the child’s personal relations with the parent the child does not live with;
4. if he or she intentionally and without good reason avoids creating conditions for the child to live with him or her when the child is placed in a residential institution; [or]
5. if he or she in any other way grossly neglects duties arising from [his or her] parental rights.

(4) A court decision on the complete divestment of parental rights divests the parent of all rights and duties arising from [his or her] parental rights, except the duty to support the child.

(5) A court decision on the complete divestment of parental rights may order one or more measures to protect the child from domestic violence.”

Partial Divestment of Parental Rights
Article 82

“(1) A parent who negligently exercises the rights or duties arising from his or her parental rights may be partially divested of [his or her] parental rights.

(2) A court decision on the partial divestment of parental rights may divest the parent of one or more rights and duties arising from [his or her] parental rights, except the duty to support the child.

(3) A parent who exercises parental rights may be divested of the rights and duties to care for, raise, bring up, educate and represent the child, as well as to manage and use the child’s property.

(4) A parent who does not exercise parental rights may be divested of the right to maintain personal relations with the child and the right to decide on issues that significantly affect the child’s life.

(5) The court decision on the partial divestment of parental rights may order one or more measures to protect the child from domestic violence.”

Restoration of Parental Rights
Article 83

“The parental rights of a parent may be restored when the reasons for which he or she was completely or partially divested of his or her parental rights cease to exist.”

Termination of Parental Rights
Grounds for Termination of Parental Rights
Article 84

“(1) Parental rights are terminated

1. when the child reaches eighteen years of age;
2. when the child acquires full legal capacity before becoming of age;
3. when the child is adopted;
4. when the parent is completely divested of [his or her] parental rights; [or]
5. when the child or parent dies.

(2) The parental rights of a parent are not terminated when his or her child is adopted by the parent’s spouse.”

Action to Protect a Child’s Rights
Article 263

“(1) An action to protect a child’s rights may be initiated by the child, the child’s parents, the public prosecutor and the guardianship authority.

(2) An action to protect a child's rights may be initiated in respect of all rights which are granted to the child by this Act and [which] are not protected in other proceedings.

(3) All children's [institutions], health and educational institutions or social service institutions, judicial and other State authorities, associations and citizens, have a right and duty to inform the public prosecutor or the guardianship authority of reasons why a child's rights should be protected."

Article 269

"(1) Proceedings to divest [a parent] of [his or her] parental rights and proceedings to protect the rights of a child are particularly urgent.

(2) The first hearing shall be scheduled within eight days of the date when an action is filed.

(3) Second-instance courts shall decide on appeals within fifteen days of the date when an appeal is filed."

Article 332

"(1) Proceedings to place [a person] under guardianship are urgent.

(2) The guardianship authority [*organ starateljstva*] shall adopt a temporary decision on a person's accommodation under guardianship within twenty-four hours from being informed of the need to [place the person under] guardianship."

..."

III. BY-LAWS

108. Measures to correct irregularities in the performance of tasks related to the accommodation of children and young people in social welfare institutions were adopted by the Ministry (see paragraph 12 above) on 3 November 2006 and published in the Official Gazette of the Republic of Serbia no. 79/05 (*Mere za otklanjanje nepravilnosti u vršenju poslova smeštaja dece i omladine u ustanove socijalne zaštite*). A child may be temporarily removed from his or her family by a measure adopted by a guardianship authority (in principle, a social care centre) only exceptionally, when he or she is facing a serious and imminent risk to his or her health or life. Such a measure is adopted under Article 332 § 2 of the Family Act and may last only until the reasons for its adoption have ceased to exist, or until a court decision on, *inter alia*, the divestment of the parents' parental rights.

When a child is temporarily removed from his or her family on the basis of a decision adopted by a guardianship authority, that authority is obliged to initiate court proceedings without delay in order to protect the rights of the child concerned, to manage the exercise of parental rights or to divest the parents of their parental rights. In such proceedings, a court must adopt a decision on the exercise or divestment of parental rights, or on any measure for the legal protection of the child concerned.

IV. THE CONSTITUTIONAL COURT'S CASE-LAW

109. According to the Constitutional Court's general opinions (*stavovi*) of 30 October 2008 and 2 April 2009, it is "bound" (*vezan*) by the complaints formulated in a constitutional complaint when examining whether there has been a breach of a right or freedom guaranteed by the Constitution. The Constitutional Court may only consider the complaint within the limits of the constitutional complaint as formulated by the applicants.

110. In decision no. UŽ-465/2017 of 4 June 2020, the Constitutional Court allowed a constitutional complaint lodged on 16 January 2017 by a child's mother against a decision on an interim measure adopted on 20 December 2016 giving custody of the child to the child's father. In those proceedings, the applicant had lodged a constitutional complaint against the first-instance decision without first lodging an appeal with an appeal court. The Constitutional Court established that the first-instance court had stated in its decision that the decision could not be appealed against, and found that in those circumstances, where the applicant had been given the wrong information by the first-instance court as to her right to appeal, she had been able to lodge a constitutional complaint without first lodging an appeal, even though such an appeal was prescribed by law. The Constitutional Court found that there had been a violation of the mother's right of access to a court as a component of the right to a fair trial.

111. In a number of decisions concerning child custody, contact between parents and children, or the exercise of other parental rights, the Constitutional Court found violations of applicants' rights under Article 65 of the Constitution (see paragraph 92 above) and Article 8 of the Convention, taken alone or together with their right to a hearing within a reasonable time, and awarded monetary compensation for the violations found (see, for example, decision no. UŽ-5261/2010 of 12 June 2012 of the Constitutional Court, where the applicant had complained, *inter alia*, that proceedings concerning the enforcement of a court's decision on the exercise of her parental rights had exceeded the reasonable time requirements).

112. In decision no. UŽ-14395/2018 of 26 December 2019, the Constitutional Court held that in cases concerning parental rights under Article 65 of the Constitution, it had competence to assess constitutional complaints about the length of proceedings even before other remedies had been exhausted. It held as follows:

"... as regards the parental rights [guaranteed] under Article 65 of the Constitution, the Constitutional Court reiterates that in numerous decisions ... it has held that the constitutional rights of parents to care for their child, to provide for his or her maintenance, to bring [him or her] up and educate him or her are derived from the parents' obligation to take care of their child, and that parental rights exist only in as much as they are needed for the protection of the child's personality, rights and interests. The precondition for a parent to exercise his or her constitutional obligation and his or her rights guaranteed by the Constitution in respect of his or her child, if the

parent has not been divested of his or her parental rights, is that the parent is able to have direct contact and establish a physical and emotional relationship with the child.”

The Constitutional Court allowed a constitutional complaint lodged on 14 December 2018 in respect of the non-enforcement of a decision regulating contact rights between the applicant and his child, found a violation of the applicant’s rights under Article 65 of the Constitution, and awarded him EUR 1,000 in compensation.

As regards a request by the applicant that the Constitutional Court order the court before which the proceedings had been pending to immediately enforce the decision in question, the Constitutional Court declared that part of the constitutional complaint inadmissible, on the grounds that the applicant had at his disposal a specific remedy for the length of those proceedings.

113. In decision no. Už-708/21 of 9 December 2021, the Constitutional Court allowed a constitutional complaint lodged on 21 January 2021 by a parent and children because courts had not adopted a decision on a request for a preliminary measure preventing the children’s other parent from taking them out of the country within a reasonable time. The Constitutional Court found a violation of the applicants’ rights guaranteed under Article 65 of the Constitution, and awarded them EUR 1,000 each in respect of non-pecuniary damage.

114. In decision no. Už-4154/2013 of 29 September 2016, the Constitutional Court allowed a constitutional complaint lodged on 24 May 2013 against decisions adopted in administrative proceedings concerning the placement of the applicant’s daughter in foster care, even before all other remedies had been exhausted, given the urgent nature of such proceedings. The Constitutional Court, relying on the Court’s case-law under Article 8 of the Convention, found a violation of the applicant’s rights under Article 65 of the Constitution and awarded the applicant EUR 1,000 in compensation.

THE LAW

I. ALLEGED VIOLATIONS OF ARTICLE 8 OF THE CONVENTION

115. Relying on Article 6 § 1, as well as Articles 8 and 13 of the Convention, the applicants complained about M.’s initial and continued placement in foster care, the lack of regular contact with him and the length of the proceedings to divest them of their parental rights in respect of him, and that they had no remedy in respect of these complaints.

116. Having regard to its current case-law and the nature of the applicants’ complaints, the Court, being the master of the characterisation to be given in law to the facts of a case, considers that the issues raised in the present case should be examined solely from the perspective of Article 8 of the Convention (compare *Veres v. Spain*, no. 57906/18, § 54, 8 November 2022, and the cases cited therein), which 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.”

A. Admissibility

1. Exhaustion of domestic remedies

(a) The parties’ arguments

(i) The Government

117. The Government contended that the applicants had not properly exhausted all available domestic remedies relevant to their complaints under Article 8 of the Convention.

118. As regards the proceedings in which a decision placing M. in foster care had been adopted, the applicants had failed to lodge a constitutional complaint against the Administrative Court’s decision of 31 October 2018. In those proceedings, the applicants could indeed have lodged a constitutional complaint even before all other remedies had been exhausted. The Government submitted a decision of the Constitutional Court in which that court had allowed a constitutional complaint and had found a violation of the rights of the applicant in that case guaranteed under Article 65 of the Constitution (see paragraph 114 above), in a case where a social care centre had adopted a conclusion on the placement of the applicant’s daughter in foster care and had initiated proceedings to divest the mother of her parental rights. The Constitutional Court had found that even though all other remedies had not been exhausted, the urgent nature of those proceedings allowed it to consider the merits of the constitutional complaint. In the Government’s view, that showed that a constitutional complaint was a potentially effective remedy for the applicants against a decision placing M. in foster care.

119. As regards the contact between the applicants and M., the Government claimed that the applicants could have complained to the Constitutional Court that the courts had not adopted a decision on their request for a preliminary measure within a reasonable time. In that connection, the Government relied on decision no. UŽ-708/21 of the Constitutional Court of 9 December 2021, described in paragraph 113 above.

120. As regards the applicants’ contact rights in respect of M. after the introduction of the proceedings to divest them of their parental rights, the Government claimed that the applicants could have lodged a constitutional complaint against the supplementary judgment of the A. Court of First Instance of 22 November 2022 and the judgment of the K. Appeal Court of

27 March 2023 which had dismissed their request for an interim measure regulating their contact with M. In that connection, they relied on decision no. UŽ-465/17 of the Constitutional Court of 4 June 2020, described in paragraph 110 above.

121. As regards the applicants' complaint under Article 8 about the length of those proceedings, the Government claimed that the applicants could have complained directly to the Constitutional Court about the length of the proceedings, and submitted that in family matters, the Constitutional Court assessed such complaints on the merits under Articles 64 and 65 of the Constitution even before other remedies had been exhausted, and awarded monetary compensation if it found that an applicant's rights had been violated. In that connection, the Government relied on decision no. UŽ-4154/2013 of the Constitutional Court of 29 September 2016, described in paragraph 114 above.

(ii) The applicants

122. The applicants argued that they had exhausted all effective remedies in the domestic system. They submitted that a constitutional complaint against a decision placing M. in foster care could not be seen as an effective remedy, because it usually took the Constitutional Court at least three years to decide on constitutional complaints, irrespective of the urgency of the matters raised.

123. As regards the Government's arguments about lodging a constitutional complaint in respect of the decisions on an interim measure concerning contact between the applicants and M., the applicants argued that a constitutional complaint could not address that issue, and that they had repeatedly lodged requests for interim measures in the court proceedings to divest them of their parental rights, because such interim measures could result in immediate contact with M., unlike a decision of the Constitutional Court.

(b) The Court's assessment

(i) General principles

124. The general principles on exhaustion of domestic remedies have been summarised in *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no.14305/17, §§ 205 and 206, 22 December 2020, and *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, §§ 138-44, 27 November 2023).

125. The Court has held, in particular, that the existence of mere doubts as to the prospects of success of a particular remedy which is not obviously futile is not a valid reason for failing to exhaust them. One aspect of the exhaustion requirement is that in the domestic proceedings applicants must make a reasonable effort to use procedural means capable of preventing or

remedying, as the case may be, the breach of the Convention (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 72 and 74, 25 March 2014).

(ii) *Application of these principles to the present case*

(α) Initial placement of M. in foster care

126. The Court notes that, as the Government pointed out, the applicants did not lodge a constitutional complaint against the Administrative Court's decision of 31 October 2018 (see paragraph 28 above) confirming the administrative decisions placing M. in foster care. The Court also notes that the Government submitted a decision of the Constitutional Court concerning the same issues as those in the applicant's case, namely the placement of a child in foster care by a temporary decision of a social care centre, and that same centre's institution of proceedings to divest the mother of her parental rights. The Constitutional Court had allowed the complaint by the applicant in that case, even though she had not exhausted all other remedies.

127. That shows that the applicants in the instant case could also have lodged a constitutional complaint against the Administrative Court's judgment confirming a decision placing M. in foster care. Although it is true that it took the Constitutional Court three years and four months to adopt the decision submitted by the Government, which obviously could not have affected the fact of the child's placement in foster care, the Court considers that that does not necessarily mean that the applicants' case would also be pending before the Constitutional Court for such a long time. The decision of the Constitutional Court submitted by the Government shows with sufficient clarity that the applicants could have lodged a constitutional complaint and that the Constitutional Court would have considered its merits. The mere doubt that the Constitutional Court might not react with sufficient diligence to affect M.'s placement in foster care cannot render such a complaint ineffective.

128. However, the applicants did not even attempt that remedy. Therefore, they have failed to properly exhaust available domestic remedies.

129. Accordingly, this complaint must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

(β) M.'s continued placement in foster care and the applicants' contact rights in respect of him

130. The Court notes that M. has been in foster care since the A. Centre's decision of 16 August 2017, and that that arrangement has not been assessed by the A. Centre in view of any possible new developments as regards the applicants' living conditions and ability to take care of M. On the other hand, the applicants did not institute proceedings for his return until 14 October 2022. Those proceedings are still pending.

131. The proceedings to divest the applicants of their parental rights in respect of M., instituted by the A. Centre on 22 May 2019, are also still pending. In the course of both sets of proceedings, the applicants submitted requests for interim measures in relation to their contact with M.

132. The applicants did not lodge a constitutional complaint in respect of the alleged violations of their rights under Article 8 of the Convention in any of those sets of proceedings.

133. In that connection, the Court reiterates that in proceedings in which the length of the proceedings has a clear impact on the applicant's family life (and which thus fall to be examined under Article 8 of the Convention), the States are obliged to put in place a remedy which is at the same time preventive and compensatory, since their positive obligation to take appropriate measures to ensure an applicant's right to respect for family life risks becoming illusory if the interested parties only have at their disposal a compensatory remedy, which can only lead to an *a posteriori* award for monetary compensation (see *Janočková and Kvocera v. Slovakia*, no. 39980/22, § 53, 8 February 2024, relying on *Kuppinger v. Germany*, no. 62198/11, § 137, 15 January 2015, with further references).

134. The case-law of the Constitutional Court submitted by the Government shows that the decisions of the Constitutional Court had no preventive effect. In those decisions, the Constitutional Court found a violation of those applicants' rights guaranteed under Article 65 of the Constitution, and sometimes also under Article 8 of the Convention, and awarded the applicants monetary compensation. However, none of the Constitutional Court's decisions had any effect on either the contact between the applicants and their children in those cases, or those applicants' custody rights.

135. It follows that a constitutional complaint could not have had any impact on the applicants' contact with M. or his continued placement in foster care. Therefore, the Government's objection as to the non-exhaustion of domestic remedies in respect of M.'s continued placement in foster care and the lack of regular contact between the applicants and M. must be dismissed.

(γ) Length of the proceedings to divest the applicants of their parental rights in respect of M.

136. As to the nature of remedies required in cases where the length of the proceedings has a clear impact on an applicant's family life, further to what is said in paragraph 124 above, the Court stresses that a remedy that is only compensatory in nature cannot be seen as effective (see *Veres*, cited above, § 64).

137. The Court notes that the remedy referred to by the Government in relation to the applicants' complaint under Article 8 of the Convention about the length of the proceedings at issue is only compensatory in nature, and therefore cannot be seen as effective. Therefore, the Government's objection

as to the non-exhaustion of domestic remedies in respect of the length of the proceedings to divest the applicants of their parental rights in respect of M. must also be dismissed.

2. Conclusion as to admissibility

138. The Court notes that the applicants' Article 8 complaints concerning M.'s continued placement in foster care, their contact rights in respect of him, and the length of the proceedings to divest them of their parental rights in respect of him are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. The parties' arguments

(a) The applicants

139. The applicants complained under Article 8 of the Convention that M.'s continued placement in foster care had no basis in law. In their view, only a court decision could have such an effect, there had been no reason to extend M.'s placement in foster care over the course of many years, and the domestic authorities had not made sufficient efforts to reunite M. with them. They pointed out that the A. Centre's staff members had in no way facilitated their reunification. On the contrary, from the start, those staff members had had a negative view of the applicants and had persisted in their view that the applicants should be divested of their parental rights in respect of M., and that it was in M.'s best interests that there should be no contact between them and him. The applicants objected to such an attitude on the part of the A. Centre's staff members and pointed out that the second applicant had always taken proper care of M. They also argued that the attitude of the A. Centre's staff members towards them had been influenced by events from the past, and not by their actual care of M.

140. The applicants also complained about their lack of regular contact with M. They strongly opposed the Government's assertion that they had no genuine wish to have contact with their son M. by stressing that they had continuously made efforts to see him more regularly by submitting numerous formal and informal requests to the A. Centre, the courts, the Ministry and the Ombudsperson.

141. The applicants further complained about the length of the proceedings to divest them of their parental rights in respect of M., which had kept them in a prolonged state of uncertainty as regards their relationship with him.

(b) The Government

142. The Government agreed that M.'s placement in foster care had constituted an interference with the applicants' rights under Article 8 of the Convention. They argued that that interference had a basis in law, namely the Family Act and the measures adopted by the Ministry (see paragraph 108 above). The Government agreed that the A. Centre, which had taken the urgent measure of placing M. in foster care, had been obliged to institute court proceedings without delay, but they also argued that the law did not provide any specific time-limit for that. The Government also agreed that the law obliged the courts to conduct the proceedings concerning the action to divest the applicants of their parental rights in respect of M. speedily, but submitted that there were no specific time-limits as to how long such proceedings could last.

143. The Government further argued that, given the circumstances in which the A. Centre's staff members had found M. on 16 August 2017, his placement in foster care had been necessary for his own protection.

144. As regards contact between the applicants and M., the Government referred to the opinion of the A. Centre that the second applicant had had no genuine interest in maintaining contact with M., and that she had not come to the first two scheduled meetings with M., had reacted negatively to the A. Centre's proposals for further meetings with him, and had refused to cooperate with the A. Centre in that regard. As regards the first applicant, the Government argued that while he had been serving his prison sentence, he had not shown any interest in M. The Government therefore submitted that the applicants had had no interest in having contact with M. before the A. Centre had instituted the court proceedings to divest them of their parental rights in respect of him. Therefore, the fact that approximately eighteen months had elapsed between M.'s placement in foster care and the institution of the court proceedings could not have affected the applicants' rights under Article 8 of the Convention, because in any event they had had no genuine interest in caring for and maintaining contact with M.

Furthermore, the fact that the courts had not ordered regular contact between the applicants and M. in those proceedings had been justified, since the experts had concluded that such contact was not in M.'s best interests.

145. The Government also relied on the opinions of the staff members from the A. Centre and the K. Centre, which showed that contact with the applicants had had a very negative impact on M.

146. As to the parenting capacity of the applicants, the Government referred to the reports by the A. Centre, the first applicant's convictions for domestic violence, the allegations that he had sexually abused his other children, and the fact that the applicants had been divested of their parental rights in respect of their other two children.

2. *The Court's assessment*

(a) **M.'s continued placement in foster care and contact between M. and the applicants**

(i) *General principles*

147. The relevant general principles were set out as follows in *Strand Lobben and Others v. Norway* ([GC], no. 37283/13, §§ 202-212, 10 September 2019):

“202. The first paragraph of Article 8 of the Convention guarantees to everyone the right to respect for his or her family life. As is well established in the Court's case-law, the mutual enjoyment by parent and child of each other's company constitutes a fundamental element of family life, and domestic measures hindering such enjoyment amount to an interference with the right protected by this provision. Any such interference constitutes a violation of this Article unless it is ‘in accordance with the law’, pursues an aim or aims that is or are legitimate under its second paragraph and can be regarded as ‘necessary in a democratic society’ (see, among other authorities, *K. and T. v. Finland* [GC], no. 25702/94, § 151, ECHR 2001-VII; and *Johansen*, cited above, § 52).

203. In determining whether the latter condition was fulfilled, the Court will consider whether, in the light of the case as a whole, the reasons adduced to justify that measure were relevant and sufficient for the purposes of paragraph 2 of Article 8 (see, among many other authorities, *Paradiso and Campanelli*, cited above, § 179). The notion of necessity further implies that the interference corresponds to a pressing social need and, in particular, that it is proportionate to the legitimate aim pursued, regard being had to the fair balance which has to be struck between the relevant competing interests (*ibid.*, § 181).

204. In so far as the family life of a child is concerned, the Court reiterates that there is a broad consensus, including in international law, in support of the idea that in all decisions concerning children, their best interests are of paramount importance (see, among other authorities, *Neulinger and Shuruk v. Switzerland* [GC], no. 41615/07, § 135, ECHR 2010). Indeed, the Court has emphasised that in cases involving the care of children and contact restrictions, the child's interests must come before all other considerations (see *Jovanovic*, cited above, § 77, and *Gnahoré v. France*, no. 40031/98, § 59, ECHR 2000-IX).

205. At the same time, it should be noted that regard for family unity and for family reunification in the event of separation are inherent considerations in the right to respect for family life under Article 8. Accordingly, in the case of imposition of public care restricting family life, a positive duty lies on the authorities to take measures to facilitate family reunification as soon as reasonably feasible (*K. and T. v. Finland*, cited above, § 178).

206. In instances where the respective interests of a child and those of the parents come into conflict, Article 8 requires that the domestic authorities should strike a fair balance between those interests 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 (see, for instance, *Sommerfeld v. Germany* [GC], no. 31871/96, § 64, ECHR 2003-VIII (extracts)), and the references therein).

207. Generally, the best interests of the child dictate, on the one hand, that the child's ties with its family must be maintained, except in cases where the family has proved particularly unfit, since severing those ties means cutting a child off from its roots. It follows that family ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, if and when appropriate, to 'rebuild' the family (see *Gnahoré*, cited above, § 59). On the other hand, it is clearly also in the child's interest to ensure its development in a sound environment, and a parent cannot be entitled under Article 8 to have such measures taken as would harm the child's health and development (see, among many other authorities, *Neulinger and Shuruk*, cited above, § 136; *Elsholz v. Germany* [GC], no. 25735/94, § 50, ECHR 2000-VIII; and *Maršálek v. the Czech Republic*, no. 8153/04, § 71, 4 April 2006). An important international consensus exists to the effect that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child (see Article 9 § 1 of the United Nations Convention on the Rights of the Child, recited in paragraph 134 above). In addition, it is incumbent on the Contracting States to put in place practical and effective procedural safeguards for the protection of the best interests of the child and to ensure their implementation (see the United Nations Committee on the Rights of the Child General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, paragraphs 85 and 87, quoted at paragraph 138 above).

208. Another guiding principle is that a care order should be regarded as a temporary measure, to be discontinued as soon as circumstances permit, and that any measures implementing temporary care should be consistent with the ultimate aim of reuniting the natural parents and the child (see, for instance, *Olsson v. Sweden (no. 1)*, 24 March 1988, § 81, Series A no. 130). The above-mentioned positive duty to take measures to facilitate family reunification as soon as reasonably feasible will begin to weigh on the competent authorities with progressively increasing force as from the commencement of the period of care, subject always to its being balanced against the duty to consider the best interests of the child (see, for example, *K. and T. v. Finland*, cited above, § 178). In this type of case 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 with whom it does not live (see, *inter alia*, *S.H. v. Italy*, no. 52557/14, § 42, 13 October 2015). Thus, where the authorities are responsible for a situation of family breakdown because they have failed in their above-mentioned obligation, they may not base a decision to authorise adoption on the grounds of the absence of bonds between the parents and the child (see *Pontes v. Portugal*, no. 19554/09, §§ 92 and 99, 10 April 2012). Furthermore, the ties between members of a family and the prospects of their successful reunification will perforce be weakened if impediments are placed in the way of their having easy and regular access to each other (see *Scozzari and Giunta*, cited above, § 174; and *Olsson (No. 1)*, cited above, § 81). However, when a considerable period of time has passed since the child was originally taken into public care, the interest of a child not to have his or her *de facto* family situation changed again may override the interests of the parents to have their family reunited (see *K. and T. v. Finland*, cited above, § 155).

209. As regards replacing a foster home arrangement with a more far-reaching measure such as deprivation of parental responsibilities and authorisation of adoption, with the consequence that the applicants' legal ties with the child are definitively severed, it is to be reiterated that 'such measures should only be applied in exceptional circumstances and could only be justified if they were motivated by an overriding requirement pertaining to the child's best interests' (see, for example, *Johansen*, cited

above, § 78, and *Aune*, cited above, § 66). It is in the very nature of adoption that no real prospects for rehabilitation or family reunification exist and that it is instead in the child's best interests that he or she be placed permanently in a new family (see *R. and H. v. the United Kingdom*, no. 35348/06, § 88, 31 May 2011).

210. In determining whether the reasons for the impugned measures were relevant and sufficient for the purpose of paragraph 2 of Article 8 of the Convention, the Court will have regard to the fact that perceptions as to the appropriateness of intervention by public authorities in the care of children vary from one Contracting State to another, depending on such factors as traditions relating to the role of the family and to State intervention in family affairs and the availability of resources for public measures in this particular area. However, consideration of what is in the best interests of the child is in every case of crucial importance. Moreover, it must be borne in mind that the national authorities have the benefit of direct contact with all the persons concerned, often at the very stage when care measures are being envisaged or immediately after their implementation. 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 for the regulation of the care of children and the rights of parents whose children have been taken into public care, but rather to review under the Convention the decisions taken by those authorities in the exercise of their power of appreciation (see, for example, *K. and T. v. Finland*, cited above, § 154; and *Johansen*, cited above, § 64).

211. The margin of appreciation to be accorded to the competent national authorities will vary in the light of the nature of the issues and the seriousness of the interests at stake, such as, on the one hand, the importance of protecting a child in a situation which is assessed as seriously threatening his or her health or development and, on the other hand, the aim to reunite the family as soon as circumstances permit. The Court thus recognises that the authorities enjoy a wide margin of appreciation in assessing the necessity of taking a child into care (see, for example, *K. and T. v. Finland*, cited above, § 155; and *Johansen*, cited above, § 64). However, this margin is not unfettered. For example, the Court has in certain instances attached weight to whether the authorities, before taking a child into public care, had first attempted to take less drastic measures, such as supportive or preventive ones, and whether these had proved unsuccessful (see, for example, *Olsson (no. 1)*, cited above, §§ 72-74; *R.M.S. v. Spain*, no. 28775/12, § 86, 18 June 2013, § 86; and *Kutzner v. Germany*, no. 46544/99, § 75, ECHR 2002-I). A stricter scrutiny is called for in respect of any further limitations, such as restrictions placed by the authorities on parental rights of access, and of any legal safeguards designed to secure an 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 the parents and a young child are effectively curtailed (see *K. and T. v. Finland*, cited above, *ibid.*, and *Johansen*, cited above, *ibid.*).

212. In cases relating to public-care measures, the Court will further have regard to the authorities' decision-making process, to determine whether it has been conducted such as to secure that the views and interests of the natural parents are made known to and duly taken into account by the authorities and that they are able to exercise in due time any remedies available to them (see, for instance, *W. v. the United Kingdom*, 8 July 1987, § 63, Series A no. 121, and *Elsholz*, cited above, § 52). What has to be determined is whether, having regard to the particular circumstances of the case and notably the serious nature of the decisions to be taken, the parents have been involved in the decision-making process, seen as a whole, to a degree sufficient to provide them with the requisite protection of their interests and have been able fully to present their case (see, for example, *W. v. the United Kingdom*, cited above, § 64; *T.P. and K.M. v. the United Kingdom* [GC], no. 28945/95, § 72, ECHR 2001-V (extracts); *Neulinger and*

Shuruk, cited above, § 139; and *Y.C. v. the United Kingdom*, no. 4547/10, § 138, 13 March 2012). From the foregoing considerations it follows that natural parents' exercise of judicial remedies with a view to obtaining family reunification with their child cannot as such be held against them. In addition, in cases of this kind there is always the danger that any procedural delay will result in the *de facto* determination of the issue submitted to the court before it has held its hearing. Equally, effective respect for family life requires that future relations between parent and child be determined solely in the light of all relevant considerations and not by the mere effluxion of time (see *W. v. the United Kingdom*, cited above, § 65)."

(ii) *Application of these principles to the present case*

148. It was common ground that the bond between the applicants and their son M. fell within the scope of "family life" within the meaning of Article 8 of the Convention (see *Strand Lobben and Others*, § 202, cited in paragraph 147 above).

149. The Court notes that from the standpoint of their rights under Article 8, the applicants challenged a number of decisions and measures taken by the authorities, arguing, in essence, that the combination of those had resulted in a breach of the Convention. The Court will examine the issues related to the fact that M. was not returned to the applicants' care and the lack of regular contact between the applicants and M. after his placement in foster care. Having regard to the inseparability of the various aspects of the complaints as formulated before it, the Court will reach a conclusion on whether or not Article 8 has been violated, taking into consideration both aspects (see *Kılıc v. Austria*, no. 27700/15, § 109, 12 January 2023).

150. The applicants' complaints concerned an alleged interference with their family life, but also an alleged failure by the State to comply with a positive duty to facilitate their family reunification and ensure regular contact between them and M. The principles applicable to assessing a State's positive and negative obligations under the Convention are similar. Regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole, the aims in the second paragraph of Article 8 being of a certain relevance (*ibid.*, § 124; see also *A.-M.V. v. Finland*, no. 53251/13, § 71, 23 March 2017, relying on *Hämäläinen v. Finland* [GC], no. 37359/09, § 65, ECHR 2014, and *Dubská and Krejzová v. the Czech Republic* [GC], nos. 28859/11 and 28473/12, § 165, ECHR 2016).

151. There is no dispute that M.'s continued placement in foster care amounted to an "interference" with the applicants' right to respect for their family life. The measure was aimed at protecting the child's interests. Thus, it pursued a legitimate aim under Article 8 § 2 of the Convention, namely the protection of the rights and freedoms of others (compare *Achim v. Romania*, no. 45959/11, § 94, 24 October 2017).

152. As regards the question of whether the measure was in accordance with the law, the Court stresses that it is not for it to assess whether there were

relevant and sufficient reasons supporting the initial decision to place M. in foster care. Moreover, any complaint concerning M.'s initial placement in foster care has been declared inadmissible (see paragraphs 124-127 above). As regards M.'s continued placement in foster care on the basis of the A. Centre's decision, the Court notes that such a decision could only be temporary, and that the A. Centre was obliged to institute court proceedings before a civil court without delay (see paragraph 108 above). However, the A. Centre did not institute court proceedings until M. had been in foster care for approximately one year and nine months. In those proceedings, there was no interim decision on his continued placement in foster care. In these circumstances, the Court considers that the question of the "lawfulness" of the interference with the applicants' right to respect for their family life is closely interrelated with the analysis of whether the overall manner in which the authorities approached the applicants' situation struck a fair balance between the competing interests at stake, in line with their negative and positive obligations to achieve the legitimate aim pursued in the particular circumstances of the case (compare *Kryvitska and Kryvitsky v. Ukraine*, no. 30856/03, § 49, 2 December 2010; *M.S. v. Croatia*, no. 36337/10, § 94, 25 April 2013; and *Vujica v. Croatia*, no. 56163/12, § 88, 8 October 2015; see also *Kilic*, cited above, § 126).

153. The Court notes that M. has been in foster care since 16 August 2017, that is, for more than seven years and six months. After the initial decision placing him in foster care, there was no further assessment of the possibility of returning him to the applicants' care.

154. As regards the efforts made by the A. Centre to regulate contact between the second applicant and M., the Court notes that the A. Centre asserted that the second applicant had not attended the meetings at the K. Centre scheduled for 20 and 28 September 2017, even though she had previously agreed to those meetings and the foster carers had brought M. to the premises. The A. Centre further alleged that its staff had called the second applicant on the telephone, and she had said that she was at home and would not come to K., and that they should contact her lawyer in relation to any issue concerning M. The Centre also stated that its further attempts to organise and schedule meetings between the second applicant and M. had been frustrated by her (see paragraph 33 above).

155. On the other hand, the second applicant asserted that she had always responded to all of the A. Centre's proposals when its invitations had been served on her, and that she had asked the Centre to serve all invitations on her lawyer as well, which had never been done.

156. The Court notes that none of the domestic authorities ever attempted to establish why there had been a lack of regular contact between the second applicant and M. Be that as it may, the Court notes that, contrary to the A. Centre's assertions, the second applicant did come to the K. Centre for two scheduled meetings with M. on 7 and 20 October 2017. The Court also notes

her efforts to have her contact rights with M. regulated. In her appeal of 1 September 2017 against the A. Centre's decision of 16 August 2017, the second applicant complained, *inter alia*, that she had not had any contact with M. since he had been taken into foster care. On 22 September 2017 she asked the A. Centre for contact rights with M. On 9 December 2017 she again complained to the A. Centre about the lack of regular contact with M., and said that she had seen him only twice since his placement in foster care. In her appeal of 22 January 2018 against the A. Centre's decision of 29 December 2017, the second applicant again complained to the Ministry about the lack of contact with M. She submitted that in the period between 12 March and November 2018, owing to her leg injury and the related therapy, she had not been able to respond to the A. Centre's invitation. In that connection, the second applicant enclosed medical documentation and stated that she had already submitted the same documentation to the A. Centre, and that she had called the Centre on the telephone to inform its staff members that she was not able to come to its premises. However, again, there is no explanation as to why the contact between the second applicant and M. did not resume after that.

157. In her appeal of 22 January 2018 against the A. Centre's decision of 29 December 2017, the second applicant again complained to the Ministry about the lack of contact with M. In her action before the Administrative Court on 15 May 2018, she again complained that her contact rights with M. had not been established in the nine months since he had been taken from her. The Court notes that there was no response or reaction to these specific complaints addressed to the Ministry and the Administrative Court. Even if it was not for the Ministry or the Administrative Court to take any action in their decisions on the applicant's appeal and claim, since those decisions concerned only M.'s placement in foster care, the Ministry could have ordered the A. Centre to regulate contact between the second applicant and M. Moreover, the A. Centre was aware of the allegations in the applicant's appeal, and could have acted of its own motion.

158. The first contact meeting between the second applicant and M. took place on 6 October 2017, and the second on 20 October 2017. Even though the second applicant displayed problematic behaviour and a problematic approach to M. at the beginning of the first meeting, she accepted the advice from the staff members of the K. Centre who were present during that meeting to have a more positive and constructive approach to M. The second meeting went well and at that point M. was still attached to the second applicant and responded warmly to their contact, and he was keen to see her again (see paragraph 22 above). There was clearly a strong emotional bond between M. and the second applicant. However, after just two meetings, their contact was interrupted. The authorities did not provide the reason why these meetings did not continue.

159. After the A. Centre initiated court proceedings to divest the applicants of their parental rights in respect of M., on 15 June 2019 the second applicant asked the A. Court of First Instance to adopt an interim measure regulating her contact with M. On several occasions she urged that court to adopt such a measure (see paragraphs 37, 41, 43, 46, 49, 57 and 67 above).

160. After the court proceedings had been initiated, the first meeting between the second applicant and M. took place on 9 August 2019 on the premises of the K. Centre. Even at the time of that meeting, M. showed resistance towards the second applicant, considered his foster carers his parents and called them “Mummy and Daddy”. M.’s reaction to the second applicant at that meeting was in stark contrast to his attitude towards her at the meetings of 6 and 20 October 2017, when only a short period of time had passed since his initial placement in foster care. This in itself shows that the lack of regular meetings between the second applicant and M. after October 2017 contributed to M.’s alienation from his biological mother to a significant degree. After the meeting of 9 August 2019, a staff member from the A. Centre had told the second applicant that she no longer had to come to the centre, allegedly because there was no court decision on contact between her and M.

161. The Court notes that it was left to the A. Centre’s staff members to decide on and organise contact between the applicants and M. However, those staff members initiated court proceedings to completely divest the applicants of their parental rights and considered that it was in M.’s best interests not to have any contact with them. Therefore, it could hardly be expected that they would make efforts to ensure that the applicants maintained contact with M.

162. During the court proceedings, two expert reports were commissioned. In that regard, the Court notes firstly that the applicants bore all the costs of these reports, which is yet another indication that they expressed their strong motivation to maintain contact and eventually be reunited with M.

163. A psychologist gave her opinion on the applicants in her reports of 5 March and 26 October 2020. As regards the second applicant, the psychologist concluded that she had expressed her need to take care of M. and her interest in doing so, and that as a mother, she was warm and capable of identifying and satisfying his needs. As to the first applicant, the psychologist concluded that his parenting capacity had been preserved and that he had expressed a clear interest in having contact, establishing an emotional relationship with M. and fully taking care of him.

164. As to the contact between M. and the applicants during the court proceedings, the psychologist considered that, given the age and development of the child and the health and mental state of the mother, and the fact that the child had not seen his mother for a long time, which had caused emotional disturbance, the re-establishment of contact and the relationship between them should be gradual; initially, contact should be supervised and then it

should be unsupervised for shorter intervals, after which time they should spend weekends together. She recommended that contact between the applicants and M. should be gradually re-established in three phases. In the first phase, to last at least two months, the applicants were to have supervised contact with M. in his place of residence twice a week, with prior psychological preparation of the child and cooperation with his foster carers. In the second phase, to last at least two more months, the applicants were to have unsupervised contact with M. for two to three hours, twice a week in his place of residence. In the third phase, the applicants were to have unsupervised contact with M. in their house at weekends, until the end of the court proceedings.

165. When, on 14 April 2021, more than a year and ten months after the initial request for an interim measure, the first-instance court dismissed the applicants' request for such a measure in relation to their contact with M., it relied on the psychologist's report commissioned for the court proceedings. In that report, the psychologist had recommended that contact between the applicants and M. be gradually re-established. Nevertheless, the first-instance court gave significant weight to the first applicant's conviction for family violence and previous alcohol addiction, and to the fact that both applicants had been divested of their parental rights in respect of the other two children they had had together. The conclusions of the first-instance court were based on historical facts. The Court accepts that a conviction for family violence weighs heavily against one's parenting capacity, as does alcohol addiction. However, the first applicant had already served his prison sentence, and submitted that he had not consumed alcohol since 2016. The first-instance court did nothing to assess whether that was true, and completely ignored the psychologist's conclusions about the first applicant's parenting capacity without giving any explanation for this. As regards the first-instance court's reliance on the fact that both applicants had been divested of their parental rights in respect of their other two children, the Court notes that this in itself cannot be regarded as a sufficient reason not to allow them contact with M., who had been born some years after the applicants had been divested of their parental rights in respect of the other two children.

166. In their report of 10 September 2021, a team of three experts (two psychiatrists and one psychologist) from the Institute for Mental Health in Belgrade recommended that despite the problems which the applicants had as parents, it would be in M.'s best interests for them to retain some parental rights in respect of him, under supervision, for a period of one year with a view to re-establishing the parental relationship and developing emotional connection within the family, after which there should be a new assessment. The experts considered that the second applicant's intellectual capacity was borderline (below average), that she was illiterate and that she was able to satisfy only M.'s basic biological needs. In their view, she lacked the capacity to adequately participate in his development and satisfy his emotional needs

in terms of an organised style of parenting. As regards the first applicant, they concluded that his intellectual capacity was average, that he did not suffer from any temporary or permanent mental illness and that his alcoholism was in remission. As a parent, he recognised only the basic biological needs of a child and had no clear and consolidated parenting style.

167. The decision of the first-instance court of 14 April 2021 resulted in contact between the applicants and M. being discontinued, and the fact that the appeal court quashed that decision on 21 September 2021 and remitted the case to the first-instance court for fresh examination did not change the fact that such contact remained interrupted. The first-instance court did not adopt a new decision on contact between the applicants and M. until 12 January 2022, and on 20 January 2022 the A. Centre submitted a plan of meetings between the applicants and M. which resumed on 28 January 2022, more than two years and five months after the last meeting between the second applicant and M., which had taken place on 9 August 2019. For the first applicant, it was his first contact with his son since he had been released from prison on 4 August 2020.

168. In their submissions to the A. Centre of 15 April 2022, the applicants asked that a plan for the second phase of their meetings with M. be devised, since the last meeting in the first phase was to take place on 20 April. However, at a meeting at the A. Centre on 21 April 2022 the applicants were told that no further meetings with M. would take place unless a court adopted a decision on contact.

169. Contact was interrupted again from 10 March 2022 onwards, when the appeal court quashed the first-instance judgment. On 20 June 2022 the applicants submitted a fresh request for an interim measure to the first-instance court, stressing that there was a risk that M. would be further alienated from them if contact continued to be interrupted.

170. Contact between the applicants and M. was infrequent, sporadic and sparse, and as such could not serve as a means by which the authorities could properly observe and assess the applicants' parenting capacity and their needs for assistance, counselling and advice so that they had a good chance of improving their parenting skills. Consequently, the authorities could not come up with a counselling programme adjusted to the specific needs of the applicants as parents. In that regard, the Court notes that in her report commissioned for the court proceedings, the psychologist considered that the A. Centre had not taken adequate measures to re-establish the relationship between the second applicant and M., which had disrupted the emotional connection between the child and his mother. She recommended that since the parents held the A. Centre's staff members responsible for their lack of contact with M., experts from the K. Centre should supervise and evaluate each phase and make further recommendations accordingly.

171. The A. Centre, in its reports on the applicants and submissions to the courts, repeatedly stated that the applicants' interest in having M. returned

to their care was not genuine and was only motivated by their standing in the court proceedings. However, the Court notes that the second applicant in particular was highly proactive in her efforts to have M. returned to her care and to have more contact with him.

172. As soon as the second applicant returned from work on 16 August 2017 and found that M. was not at home, she immediately informed the police that he was missing. Likewise, on 17 August 2017 she complained to the Ministry about M. being taken from her, and as soon as she learned that he had been taken by the A. Centre's staff members, she asked that he be returned to her. She continued to complain about the child being taken from her and asked for his return. She sought advice from the K. Centre's staff members as soon as she had had the first two meetings with M. She also showed concern for the child's well-being, thus in her submissions of 9 December 2017 she repeated her allegations that the child had lost weight and seemed neglected and under constant stress from being brutally separated from his mother and his home. She used remedies against all the decisions concerning M.'s removal from her, his continued placement in foster care, and her lack of contact rights. She also proposed evidence and requested that reports from the K. Centre on her contact with the child, a report on M.'s condition in foster care, and a psychiatric evaluation be commissioned. She also asked that the child's grandmother be heard as a witness.

173. In their submissions to the A. Centre of 15 April 2022, the applicants indicated that they had been having regular appointments with a psychologist. They sought professional help, advice and assistance. They also offered to pay for a psychologist to be present at their meetings with M.

174. All this shows that the applicants, and in particular the second applicant, demonstrated a clear interest in having M. returned to their care.

175. The Court reiterates in that regard that in relation to the State's obligation to implement positive measures, it has held that for parents, Article 8 includes a right that steps be taken to reunite them with their children and an obligation on the national authorities to facilitate such reunions (see, among other authorities, *Ignaccolo-Zenide v. Romania*, no. 31679/96, § 94, ECHR 2000-I; *Nuutinen v. Finland*, no. 32842/96, § 128, ECHR 2000-VIII; *Iglesias Gil and A.U.I. v. Spain*, no. 56673/00, § 49, ECHR 2003-V; and *Ball v. Andorra*, no. 40628/10, § 47, 11 December 2012).

176. In the instant case, the Court notes that enquiries were made in order to ascertain whether the applicants would be able to bond with M. They did not, however, amount to such serious or sustained effort to facilitate family reunification as could reasonably be expected for the purposes of Article 8, especially since that was the only effort which the authorities made in that regard during the more than five years that M. had been in care up to that point. The minimum to be expected of the authorities is to examine the situation anew from time to time to see whether there has been any improvement in the family's situation. The possibilities of reunification will

be progressively diminished and eventually destroyed if the biological parents and the children are not allowed to meet each other at all, or only so rarely that no natural bonding between them is likely to occur. The restrictions and prohibitions imposed on the applicants' access to M., far from preparing a possible reunification of the family, rather contributed to hindering it. What is striking in the present case is the exceptionally firm negative attitude of the authorities (compare *K. and T. v. Finland* [GC], no. 25702/94, § 179, 12 July 2001).

177. The competent authorities seemed to have consistently assumed that long-term care and placement in foster care were necessary. The obstacles to the family's reunification created by this attitude were no doubt compounded by the restrictions and prohibitions on the applicants' access to M. It appears that no effort was made to seriously consider the termination of public care and to collect all relevant evidence relating to any potential improvement in the situation which had prompted the care order.

178. There is no indication that the child was adequately prepared to re-establish contact with firstly the second applicant and then later the first applicant. The Court notes the applicants' efforts in that regard, which they referred to in their submissions to the first-instance court of 23 February, 10 and 22 March and 8 April 2022, when they described how much M. had been alienated from them, asked that he be prepared by a psychologist to reconnect with them, and requested that a psychologist be present at their meetings to assess whether he needed to be prepared for reconnecting with them. They also asked to have contact with one of the foster carers whom M., by that time, considered to be his mother, and whose surname he gave as his own. They also asked that they and the foster carers jointly explain to M. who his biological parents were. There is no indication that any of those requests were granted or addressed in any way.

179. It appears that M. first saw a psychologist on 6 June 2022, when he attended an appointment with one of his foster carers, S., whom by that time he considered to be his mother. The psychologist observed his resistance to the applicants and his problems accepting them. After that he saw a psychologist on a more regular basis to be prepared for the meetings with the applicants. The Court notes that M. did not receive such assistance until he had been in foster care for four years and ten months, and it cannot be seen as adequate for the purposes of re-establishing the connection between him and the applicants, let alone their reunification as a family.

180. Following the decision that M. would be placed in foster care, there was no review of that decision or fresh assessment of the developments which had occurred in the meantime. In that connection, the Court notes the second applicant's attempts to have that issue addressed. On 21 June 2019 she made submissions to the A. Centre, pointing out that even though its decision concerned M.'s temporary placement in foster care, it made no reference to

the duration or conditions of the placement. She also complained that no steps whatsoever had been taken to return M. to her care.

181. In her submissions, the second applicant enclosed an opinion produced by a court expert in civil engineering that she had commissioned as regards the living conditions in her house and the state of the courtyard. The expert had produced a report with photographs on the basis of a visit which he had made to the house on 14 May 2019, and had concluded that the house was functional and safe, of firm construction and suitable for multiple members of a household to live together. The photographs showed a tidy and well-equipped house, with a separate room for a child, a living room, a bathroom and a kitchen. She also asserted that there was grass in the courtyard, a fence between the courtyard and the road, and a door with a lock in the fence, and that the stairs leading to the front door of the house were fenced, so the house and its courtyard were safe for M.

182. The second applicant also stated that she had already made all the preparations to enrol M. in kindergarten in O., and that she needed a medical certificate for him. She asked the centre to adopt a decision stating that there was no longer any need for him to be placed in foster care, and to take into account that such a young child could easily become alienated from his mother and family.

183. In that connection, the Court reiterates that the domestic authorities are required to conduct an in-depth examination of the entire family situation (see *Y.C. v. the United Kingdom*, no. 4547/10, § 138, 13 March 2012, and *M.L. v. Norway*, no. 43701/14, § 42, 7 September 2017). In the present case, the Court notes that the authorities did not respond to the above submissions by the second applicant, and no new assessment of the applicants' circumstances was carried out.

184. The report of the A. Centre's psychologist of 15 May 2019 stated that the A. Centre's staff members had worked with the second applicant with the aim of fostering her capacity to recognise risks to the safety and health of her children, as well as their developmental needs. However, no details have ever been provided about the dates of the second applicant's meetings with the A. Centre's experts, the frequency of these meetings, or their content. There is no evidence that a comprehensive plan was devised to assist her to develop her parenting skills, or that she was ever informed of such a plan.

185. It appears that the attitude of the A. Centre's staff members towards the applicants was largely related to the events preceding the imposition of the care order, such as the divestment of the applicants' parental rights in respect of their other two children, the first applicant's convictions for family violence and his alcoholism. Although those facts are in no way insignificant, there was no serious attempt to assess whether there had been any progress in the applicants' capacity to care for M., the first applicant's claim that he had been sober since 2016, or how his attitude towards his previous acts of family violence had changed.

186. On the other hand, the exact reasons why the extension of M.'s continued placement in foster care was necessary to protect him, and why alternatives were insufficient, were not made clear.

187. The Court also notes the negative attitude of the A. Centre's staff members towards the applicants, which was influenced by their previous negative experience with them, as acknowledged in the Supreme Court's judgment (see paragraph 79 above). However, there was no assessment of that factor by the Ministry, despite the second applicant's complaints in that regard. In that connection, the Court notes that the A. Centre's staff members initiated the proceedings against the applicants and opposed any contact between them and M., yet they supervised that contact, oversaw the family's reunification, and provided an assessment of both the contact and the applicants, on the basis of which the courts adopted their judgments. The suggestions in the opinion of the psychologist commissioned for the court proceedings – concluding that the A. Centre had not taken adequate measures to re-establish the relationship between the second applicant and M., which had disrupted the emotional connection between the child and his mother, and recommending that experts from the K. Centre supervised and evaluated each phase – were not entirely followed, and the A. Centre's staff members remained in charge of contact and were present during meetings between the applicants and M.

188. The lack of an adequate initial response by the authorities to the situation in question, and their lack of effort to re-establish regular contact between M. and the second applicant, and subsequently the first applicant as well, and the possible reunification of M. with his parents, resulted in M.'s complete alienation from his parents, as is evident from the reports on their most recent meetings at the end of 2024 and the beginning of 2025 (see paragraphs 83, 85, 87, 89 and 91 above).

189. The foregoing considerations are sufficient for the Court to conclude that the authorities have not taken adequate and timely steps to properly address M.'s continued placement in foster care, and have not ensured regular contact between them. There has therefore been a violation of the applicants' right to respect for their family life guaranteed under Article 8 of the Convention in that regard.

(b) Length of the proceedings to divest the applicants of their parental rights in respect of M.

190. The Court has held that in cases relating to family matters, what is at stake for the applicant is also a relevant consideration and special diligence is required in view of the possible consequences which the excessive length of proceedings may have, notably on enjoyment of the right to respect for family life (compare *Laino v. Italy* [GC], no. 33158/96, §§ 18 and 24-25, ECHR 1999-I; *Monory v. Romania and Hungary*, no. 71099/01, § 92, 5 April 2005; *V.A.M. v. Serbia*, no. 39177/05, § 99, 13 March 2007; *Zdravković*

v. Serbia, no. 28181/11, § 71, 20 September 2016; and *Kuppinger*, cited above, § 122).

191. In the present case, the proceedings at issue commenced on 22 May 2019 and are still pending. They have therefore lasted approximately six years so far. Those proceedings have had a strong bearing on the applicants' relations with M., and any uncertainty in that regard has had a serious impact on the applicants. Furthermore, the proceedings have also concerned measures related to their contact with M.

192. In those proceedings, the applicants have acted promptly and have not caused any delays.

193. The Court reiterates that there is a difference in the nature of the interests protected by Article 6 § 1 and Article 8. Thus, Article 6 § 1 affords a procedural safeguard including the right to have a determination of one's "civil rights and obligations" within a "reasonable time", while Article 8, including the procedural requirements inherent in it, is aimed at the wider purpose of ensuring proper respect for family life (see, *mutatis mutandis*, *McMichael v. the United Kingdom*, 24 February 1995, § 91, Series A no. 307-B, and *M.A. v. Austria*, no. 4097/13, § 81, 15 January 2015). Accordingly, while Article 8 contains no explicit procedural requirements, the decision-making process leading to measures of interference must be fair and such as to afford due respect to the interests safeguarded by Article 8 (see, among other authorities, *Kutzner v. Germany*, no. 46544/99, § 56, ECHR 2002-I).

194. As to the present case, the proceedings at issue concern a claim for divesting the applicants of their parental rights. Generally, it might not be in parents' interest that such proceedings are concluded speedily. To the contrary, parents' interests might better be served by giving them time to attempt, with proper assistance by the authorities, to re-establish contact and maybe even reunite with a child placed in foster care. In certain circumstances, even staying the proceedings for divestment of parents of their parental rights might be called for to afford more time for such efforts to give results. However, in the present case there is no indication that the length of the proceedings has been due to efforts to re-establish contact and relations between the applicants and M. The applicants repeatedly asked the courts to regulate their contact with M. and ensure that contacts be more regular. The courts and other authorities mostly remained passive in that respect. Given these circumstances, the Court considers that the lack of prompt response in that regard has adversely affected the applicants' relationship with M., who appears to have become completely alienated from them. This has had a negative impact on the applicants' family life and has amounted to a violation of Article 8 of the Convention (compare *Veres*, cited above, §§ 88 and 89).

II APPLICATION OF ARTICLE 41 OF THE CONVENTION

195. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

196. The applicants made no claim under Article 41 of the Convention. Consequently, no award is called for.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* admissible the complaints concerning the continued placement of the applicants’ son M. in foster care, the lack of regular contact between the applicants and M., and the length of the proceedings to divest the applicants of their parental rights in respect of M., and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 8 of the Convention on account of the continued placement of the applicants’ son M. in foster care and the lack of regular contact between the applicants and M.;
3. *Holds* that there has been a violation of Article 8 of the Convention on account of the length of the proceedings to divest the applicants of their parental rights in respect of their son M.

Done in English, and notified in writing on 24 June 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Ioannis Ktistakis
President