



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

SECOND SECTION

CASE OF M.L. v. NORTH MACEDONIA

(Application no. 30206/23)

JUDGMENT

Art 8 • Family life • Barring order prohibiting the applicant from approaching his nine-year-old daughter in the context of criminal proceedings against him concerning alleged violence and threats against his daughter and former wife • Pre-trial judge's order issued as a precautionary measure not unreasonable • Insufficient reasoning and lack of autonomous and comprehensive risk assessment by three-judge panel confirming the order on appeal • Absence of reasoned decisions by pre-trial judge in respect of mandatory periodic reassessment of order • Lack of meaningful scrutiny on the basis of updated information • Failure to involve applicant in reassessment • No procedural guarantees in periodic reassessment capable of enabling applicant to protect his interest in being reunited with his daughter

Prepared by the Registry. Does not bind the Court

STRASBOURG

24 June 2025

FINAL

24/09/2025

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

In the case of M.L. v. North Macedonia,

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

Arnfinn Bårdsen, *President*,

Saadet Yüksel,

Tim Eicke,

Jovan Ilievski,

Gediminas Sagatys,

Stéphane Pisani,

Juha Lavapuro, *judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 30206/23) against the Republic of North Macedonia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Macedonian/citizen of the Republic of North Macedonia, Mr M.L. (“the applicant”), on 21 July 2023;

the decision to give notice to the Government of North Macedonia (“the Government”) of the complaints concerning the issuing and the prolonged validity of a barring order prohibiting the applicant from approaching his daughter, and to declare the remainder of the application inadmissible;

the decision not to disclose the applicant’s name;

the parties’ observations;

Having deliberated in private on 3 June 2025,

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

INTRODUCTION

1. The case concerns a barring order prohibiting the applicant from approaching his daughter within 100 metres and from visiting her home and school and the alleged failure of the domestic court to reassess the need for that order every two months, as required by domestic law. It raises an issue under Article 8 of the Convention.

THE FACTS

2. The applicant was born in 1984 and lives in Skopje. He was represented by Mr L. Janev, a lawyer practising in Skopje.

3. The Government were represented by their Agent, Ms D. Djonova.

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

I. BACKGROUND TO THE CASE AND PROCEEDINGS FOR CUSTODY AND CONTACT RIGHTS

5. In July 2013 the applicant married D.B.L. (“the mother”). In December 2013 their daughter D. was born. In December 2021 the applicant filed for divorce and requested custody of D.

6. On 10 March 2022 the Social Care Centre (“the Centre”) issued an opinion recommending that the applicant be granted custody of D.

7. In June 2022 the applicant moved out of the family apartment. It appears that from June to October 2022 D. stayed with the applicant every other week.

8. On 25 October 2022 the applicant notified the Centre that the mother had initiated criminal proceedings against him (see paragraph 17 below) and that he had not seen D. since 2 October 2022. He requested that he be granted custody of D.

9. On 23 January 2023 the Centre delivered a decision establishing the applicant’s contact rights in respect of D., who, in accordance with that decision, was to spend, *inter alia*, every other weekend and every Wednesday with the applicant.

10. By submissions of 30 January, 2, 23 and 27 February and 2 March 2023, the applicant complained to the Centre that the mother had not complied with the decision setting out the contact rights and that he had almost not seen D. at all since October 2022, except for two brief encounters during which D. had been visibly upset. He submitted that D. had refused to see him as a result of the mother’s and her family’s influence over her. He requested that D. be entrusted to him, that the Centre organise a meeting between him and D. on its premises and that it instruct the mother not to hinder his contact with D.

11. On 19 April 2023 the Ministry of Labour and Social Policy dismissed the applicant’s appeal lodged against the contact-rights decision of 23 January 2023 (see paragraph 9 above).

12. On 8 May 2023, in view of the measures ordered against the applicant in concurrent criminal proceedings (see paragraphs 17-35 below), the Centre set aside its decision of 23 January 2023. On 11 September 2023 it issued a fresh opinion for the purposes of the divorce and custody proceedings, recommending that the mother be granted custody of D. It referred to several factors, among which were the measures ordered against the applicant in the criminal proceedings and the “longer period of separation” between the applicant and D.

13. On 4 December 2023 the Centre regulated anew the applicant’s contact rights in respect of D. In accordance with that decision, the applicant was to see D. for one hour twice per month on the Centre’s premises.

14. By a judgment of 11 March 2024, which became final on 5 June 2024, the Skopje Civil Court of First Instance (“the Civil Court”) dissolved the

marriage between the applicant and the mother, granted custody of D. to the mother and determined the applicant's contact rights in respect of D.

II. PROTECTIVE MEASURES ORDERED IN CIVIL PROCEEDINGS

15. While the proceedings described above were pending, on 23 November 2022 the Civil Court upheld a request submitted by the Centre and ordered protective measures under the Law on Prevention of and Protection from Violence Against Women and Domestic Violence against both the applicant and the mother. The court prohibited them from arguing in D.'s presence and threatening each other with domestic violence and from involving D. in their misunderstandings. It also specifically prohibited the applicant from committing any acts of domestic violence against the mother in D.'s presence. Additionally, the court ordered both the applicant and the mother to attend counselling sessions for perpetrators of domestic violence.

16. The Skopje Court of Appeal remitted the case and on 9 June 2023 the Civil Court again ordered those measures, which were upheld by the Court of Appeal on 10 July 2023.

III. CRIMINAL PROCEEDINGS AGAINST THE APPLICANT AND THE MOTHER AND THE BARRING ORDER AGAINST THE APPLICANT

17. While the divorce and custody proceedings were pending, on 20 October 2022 the mother reported to the police that the applicant had allegedly sent her threatening messages *via* an instant messaging application. Having interviewed the applicant, on 28 December 2022 the police filed a criminal complaint against the applicant with the public prosecutor for threatening D.'s mother (*загрозување на сигурноста*).

18. In the meantime, in December 2022 the applicant brought criminal complaints against the mother, submitting that she had threatened him and had falsely accused him of threatening her. The Court was not informed about the outcome of those proceedings.

19. On 1 March 2023 the mother reported to the police that between October 2022 and March 2023 the applicant had physically and psychologically abused D. while she had been staying with him. The mother submitted that the applicant had insulted, threatened and shouted at D. and had from time to time hit her on the head and kicked her on the legs.

20. On the same day, two police officers interviewed D., who stated that she had not seen the applicant since October 2022 because she had not wanted to and that when she had spent time with him after he had moved out of their apartment, he had hit her in the face and body and had threatened and insulted her. She further stated that she did not wish to see the applicant or spend any time with him.

21. On 2 and 3 March 2023 two other police officers interviewed D.'s schoolteacher, the school's psychologist and pedagogical expert, and D.'s maternal grandmother. The teacher stated that since 15 February 2023 D. had become absent-minded and had been in a bad mood. She described an event in which the applicant had been expected to pick D. up from school, but she had cried and had refused to leave with him. The grandmother stated, among other things, that the applicant had repeatedly physically and psychologically abused D.

22. On 6 March 2023 the police temporarily detained and interviewed the applicant, who denied the accusations and stated that he had not seen D. since 2 October 2022. The police then filed a criminal complaint with the public prosecutor against the applicant for bodily injury inflicted through domestic violence and for violence against a child. The criminal complaint was accompanied by, *inter alia*, copies of the statements of D. and the witnesses (see paragraphs 20 and 21 above), the other criminal complaints for threats which the applicant and the mother had lodged against each other (see paragraphs 17 and 18 above), and the Civil Court's decision of 23 November 2022 ordering protective measures against both the applicant and the mother (see paragraph 15 above). Copies of psychiatric medical reports and notes dated 6 and 15 February and 2 March 2023 were also attached. The report of 6 February 2023, issued by a psychiatrist from a private practice, noted, *inter alia*, that D. had stated that the father had been hitting her, insulting her and shouting at her and concluded that D. had been upset and anxious and that she had expressed fear of separation from her mother. The remaining medical notes, issued by psychiatrists from public institutions, referred to statements from D. to the effect that she had not wanted to see the applicant, found that D. had been angry, upset and afraid and recommended that D. talk to a psychologist.

23. On the same day, the public prosecutor requested that a pre-trial judge order protective measures (*мерки на претпазливост*) in respect of the applicant, pursuant to section 146(1)(5) and (6) and section 146(5) of the Criminal Proceedings Act (see paragraph 37 below) and in respect of the two criminal complaints against the applicant for threatening the mother and causing bodily injuries and for using violence against D. (see paragraphs 17 and 22 above). Copies of the evidence cited in paragraph 22 above were enclosed with the request, as were screenshots of the threatening messages allegedly sent to the mother by the applicant. The applicant was brought before a pre-trial judge of the Skopje Criminal Court of First Instance ("the Criminal Court"), where he stated that he had not seen his daughter for five months. He did not submit any documentary evidence.

24. Still on the same day (6 March 2023) the pre-trial judge accepted the prosecutor's request for protective measures. Pursuant to section 146(1)(5) and (6) of the Criminal Proceedings Act (see paragraph 37 below), he issued an order barring the applicant from approaching D. and the mother within 100

metres and from visiting D.'s school or the apartment where she and the mother lived ("the barring order"). Those measures would be applied for as long as needed, but at the latest until a final judgment was delivered in the criminal proceedings. The court would reassess the need for the measures every two months. The barring order stated the reasons for the decision as follows:

"... the type and severity of the sentence prescribed, the real possibility that it be imposed, the manner in which [the applicant] committed the offences [and] their consequences are circumstances which justifiably indicate that [the applicant] might influence the victims during the proceedings[.] ... [T]he court has assessed the personal, family and material situation of [the applicant], [that is] that he is a relatively young person [and] employed, [but it] has decided that these circumstances cannot sufficiently justify the expectation that he will not influence the victims ...

... bearing in mind the seriousness of the offences with which [the applicant] is charged, the sentence prescribed and, in particular, the psychological and physical health of the minor child [D.], in order to facilitate the unhindered conduct of the criminal proceedings, [the court finds that] there is a need to undertake measures with the purpose of avoiding any possible influence over the victims ..."

25. On 7 March 2023 the applicant received a copy of the barring order. On 9 March 2023 he appealed against it, arguing that he could not have possibly been violent towards D. between October 2022 and March 2023, as he had almost not seen her at all since 2 October 2022. In support he submitted, *inter alia*, a copy of his submission to the Centre dated 25 October 2022 (see paragraph 8 above), copies of the decision on contact rights dated 23 January 2023 and his complaints to the Centre lodged in January, February and March 2023 (see paragraph 10 above) in which he had complained of the non-enforcement of the decision on contact rights. In connection with the alleged threats against the mother, he stated that he had already initiated criminal proceedings against her for making false accusations and submitted an expert report which concluded that no messages had been sent to the mother from his telephone on the relevant day. The applicant further argued that the Centre had never found any irregularities in his conduct towards D. and that the barring order would distance D. from him.

26. On 15 March 2023 a three-judge panel of the Criminal Court dismissed his appeal and confirmed the barring order. The relevant part of the decision reads as follows:

"... the panel has assessed the decision of the pre-trial judge ... and found that it was justified and substantiated with sufficient facts and evidence. In the present case, there is a reasonable suspicion (*основано сомнение*) that [the applicant] committed the offences with which he was charged[. G]iven that the proceedings are at the investigation stage and that, currently, relevant investigation measures are being undertaken ... the imposition of the precautionary measures for ensuring the presence of [the applicant in the proceedings] and the uninhibited conduct of the proceedings, as set out in the operative provisions of the decision, was justified. At this stage of the proceedings, ... the type and severity of the prescribed sentences with which [the

applicant] is faced, the real possibility that they may be imposed, ... the reasonable suspicion that he committed the offences and the consequences thereof are circumstances which justifiably indicate that [the applicant] may influence the victims in the proceedings. For the above-mentioned [reasons], the panel does not accept the arguments raised in the appeal and considers that the decision was correct and lawful, bearing in mind the seriousness of the offences with which [the applicant] was charged and, in particular, the psychological and physical health of the minor [D.]. With the aim of enabling the unhindered conduct of the criminal proceedings and owing to the need to undertake measures aimed at avoiding any possible influence over the victims, thus ensuring unbiased statements of the victims in the proceedings, the panel considers that the imposition of the protective measures in question was justified.”

27. In the ensuing criminal proceedings, the prosecutor took statements from the mother, the applicant and D.’s teacher. The prosecutor further requested information from the Centre and ordered an expert report concerning, *inter alia*, D.’s psychological state.

28. On 16 March 2023 the Centre notified the prosecutor, *inter alia*, that D. had been involved in the disputes between the applicant and the mother and that she had been “a secondary victim to domestic violence by the parents”. The Centre further informed the prosecutor about the then-ongoing civil proceedings in which protective measures had been issued against both the applicant and the mother (see paragraph 15 above).

29. In their report concerning D.’s psychological state, dated 10 April 2023, the experts (a psychiatrist and a psychologist) established that D. had autonomously expressed her wish not to see the applicant and that she had stated that he had beaten her and her mother, but that she could not provide further details and did not understand the meaning of certain words she had used. The experts further established that there had been no signs of physical or psychological abuse or any indications that the applicant had threatened to remove D. from her mother or influenced her in respect of the offences which he had been charged with. She had not been upset or afraid to speak about those events and she had tried to convince the experts that her father – the applicant – was a very bad person.

30. On 12 May 2023 the prosecutor dismissed both criminal complaints against the applicant, finding no elements of the offences in question. She relied in particular on the above-mentioned expert report which had found no indications that D. had been subjected to violence. Furthermore, from information provided by the telecommunications company the prosecutor established that the threatening messages against the mother had not been sent from the applicant’s telephone but from another mobile telephone number whose user could not be identified.

31. On 25 July 2023 the applicant requested that the pre-trial judge lift the barring order, given that the prosecutor had dismissed the criminal complaints against him. The pre-trial judge communicated that request to the prosecutor, who replied that the mother had a right to appeal against the prosecutor’s decision to dismiss the criminal complaints, which had not yet been served

on her. It appears that the pre-trial judge did not adopt a written decision in respect of the applicant's request.

32. On 10 August 2023 the applicant asked to inspect the prosecutor's case file. As is evident from an official note (*службена белешка*) drawn up by the prosecutor, on 17 August 2023 the applicant's lawyer inspected the file.

33. On an unspecified date the mother appealed against the prosecutor's decision of 12 May 2023 dismissing the criminal complaints against the applicant. On 11 September 2023 the higher public prosecutor dismissed her appeal.

34. On 14 September 2023 the prosecutor informed the pre-trial judge that the criminal complaints against the applicant had been dismissed with final effect and proposed that the barring order against the applicant be lifted.

35. On 2 October 2023 a pre-trial judge, acting of his own motion and referring to the prosecutor's proposal, lifted the barring order. He found that the statutory conditions for its application were no longer fulfilled, given that the prosecutor had dismissed the criminal charges against the applicant.

RELEVANT LEGAL FRAMEWORK

I. RELEVANT DOMESTIC LAW

A. Criminal Proceedings Act of 2010 (*Закон за кривичната постапка*, Official Gazette nos. 150/2010, 100/2012 and 142/2016)

36. Under section 144(1) of the Criminal Proceedings Act, measures for ensuring the presence of an accused person in criminal proceedings and for the unhindered conduct of those proceedings may include, *inter alia*, precautionary measures (*мерки на претпазливост*).

37. Under section 146(1) of the Act, in respect of the aims stipulated in section 144(1) above, the court may order, *inter alia*, the following precautionary measures: a prohibition on visiting a certain place or area (section 146(1)(5)) and a prohibition on approaching or establishing and maintaining relationships with certain persons (section 146(1)(6)). Under section 146(2) the precautionary measures can last for as long as there is a need for them and at the latest until there is a final judgment in the case. Under section 146(3) the court, of its own motion (*по службена должност*), assesses every two months whether there is a need for prolonged validity of the precautionary measure, which can be lifted before the deadline specified in section 146(2) if the need for it or the statutory conditions for its application no longer exist. Under section 146(5) the precautionary measures may be issued on a request by the public prosecutor, during the investigation stage by the pre-trial judge, and after the indictment becomes final by the court which adjudicates in the criminal proceedings. Section 146(6) provides

that the parties have a right to appeal against the decision ordering or lifting precautionary measures within three days.

B. Relevant domestic practice

38. The Kumanovo Court of First Instance, by a publicly accessible decision (Ксп. бп. 13/17, dated 30 January 2017), of its own motion, reassessed the precautionary measures previously imposed on an accused in criminal proceedings on 27 April 2015.

II. RELEVANT INTERNATIONAL MATERIAL

A. United Nations

39. The United Nations Convention on the Rights of the Child has been in force in respect of the respondent State since 2 December 1993. The relevant parts of that Convention, as well as the relevant parts of the general comment no. 14 (2013) (on the right of the child to have his or her best interests taken as a primary consideration (CRC/C/GC/14), published on 29 May 2013) of the Committee on the Rights of the Child of the United Nations were presented, for example, in *Wetjen and Others v. Germany* (nos. 68125/14 and 72204/14, §§ 36 and 38, 22 March 2018). In addition, Article 9 § 3 of the Convention on the Rights of the Child provides that States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

B. Council of Europe

1. Convention on preventing and combating violence against women and domestic violence

40. The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention, CETS 210), adopted on 11 May 2011, entered into force in respect of the respondent State on 1 July 2018. In Article 3 of that Convention, "domestic violence" is defined as all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim. Other relevant provisions of the Istanbul Convention read as follows:

Article 18 – General obligations

"1. Parties shall take the necessary legislative or other measures to protect all victims from any further acts of violence.

2. Parties shall take the necessary legislative or other measures, in accordance with internal law, to ensure that there are appropriate mechanisms to provide for effective co-operation between all relevant state agencies, including the judiciary, public prosecutors, law enforcement agencies, local and regional authorities as well as non-governmental organisations and other relevant organisations and entities, in protecting and supporting victims and witnesses of all forms of violence covered by the scope of this Convention, including by referring to general and specialist support services as detailed in Articles 20 and 22 of this Convention.

...”

Article 50 – Immediate response, prevention and protection

“1. Parties shall take the necessary legislative or other measures to ensure that the responsible law enforcement agencies respond to all forms of violence covered by the scope of this Convention promptly and appropriately by offering adequate and immediate protection to victims.

2. Parties shall take the necessary legislative or other measures to ensure that the responsible law enforcement agencies engage promptly and appropriately in the prevention and protection against all forms of violence covered by the scope of this Convention, including the employment of preventive operational measures and the collection of evidence.”

Article 52 – Emergency barring orders

“Parties shall take the necessary legislative or other measures to ensure that the competent authorities are granted the power to order, in situations of immediate danger, a perpetrator of domestic violence to vacate the residence of the victim or person at risk for a sufficient period of time and to prohibit the perpetrator from entering the residence of or contacting the victim or person at risk. Measures taken pursuant to this article shall give priority to the safety of victims or persons at risk.”

Article 53 – Restraining or protection orders

“1. Parties shall take the necessary legislative or other measures to ensure that appropriate restraining or protection orders are available to victims of all forms of violence covered by the scope of this Convention.

2. Parties shall take the necessary legislative or other measures to ensure that the restraining or protection orders referred to in paragraph 1 are:

- available for immediate protection and without undue financial or administrative burdens placed on the victim;
- issued for a specified period or until modified or discharged;
- where necessary, issued on an ex parte basis which has immediate effect;

...”

41. The relevant parts of the Explanatory Report to the Istanbul Convention read as follows:

Article 53 - Restraining or protection orders

“...

268. ... [The] purpose [of a restraining or protection order] is to offer a fast legal remedy to protect persons at risk of any of the forms of violence covered by the scope

of this Convention by prohibiting, restraining or prescribing a certain behaviour by the perpetrator. ...

269. The drafters decided to leave to the Parties to choose the appropriate legal regime under which such orders may be issued. Whether restraining or protection orders are based in civil law, criminal procedure law or administrative law or in all of them will depend on the national legal system and above all on the necessity for effective protection of victims.

270. Paragraph 2 contains a number of specifications for restraining and protection orders. The first indent requires these orders to offer immediate protection and to be available without undue financial or administrative burdens placed on the victim. This means that any order should take effect immediately after it has been issued and shall be available without lengthy court proceedings. ...

272. The third indent requires Parties to ensure that in certain cases these orders may be issued, where necessary, on an ex parte basis with immediate effect. This means a judge or other competent official would have the authority to issue a temporary restraining or protection order based on the request of one party only. It should be noted that, in accordance with the general obligations provided for under Article 49 (2) of this Convention, the issuing of such orders must not be prejudicial to the rights of the defence and the requirements of a fair and impartial trial, in conformity with Article 6 ECHR. This means notably that the person against whom such an order has been issued should have the right to appeal it before the competent authorities and according to the appropriate internal procedures.”

2. Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice

42. The Guidelines on child-friendly justice were adopted by the Committee of Ministers on 17 November 2010. The relevant parts read as follows:

A. General elements of child-friendly justice

3. Safety (special preventive measures)

“11. In all judicial and non-judicial proceedings or other interventions, children should be protected from harm, including intimidation, reprisals and secondary victimisation.

...

13. Special precautionary measures should apply to children when the alleged perpetrator is a parent, a member of the family or a primary caregiver.”

...

D. Child-friendly justice during judicial proceedings

4. Avoiding undue delay

“50. In all proceedings involving children, the urgency principle should be applied to provide a speedy response and protect the best interests of the child, while respecting the rule of law.

...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

43. The applicant, relying on Article 6 of the Convention, complained about the barring order prohibiting him from approaching his nine-year-old daughter D. He argued, in particular, that the pre-trial judge had not sufficiently investigated the facts and had not given weight to the applicant's arguments when issuing the barring order, that the three-judge panel had not provided sufficient reasons when upholding that order, that the pre-trial judge had not reassessed the barring order two months after it had been issued, as required by domestic law, that the applicant's requests of 25 July 2023 that the barring order be lifted and of 10 August 2023 to inspect the prosecutor's case file had remained unanswered and that the barring order had caused irreparable damage to his relationship with his daughter D.

44. The Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 110-26, 20 March 2018, and *Grosam v. the Czech Republic* [GC], no. 19750/13, § 90, 1 June 2023), does not consider itself bound by the characterisation given by an applicant or a government (see *Ghişoiu v. Romania* (dec.), no. 40228/20, § 42, 29 November 2022). Accordingly, when giving notice of the applicant's complaints, the Court considered that it would be more appropriate to examine them under Article 8 of the Convention (compare, for example, *Popadić v. Serbia*, no. 7833/12, § 70, 20 September 2022; *Chizhov v. Russia*, no. 11536/19, §§ 39-40, 6 July 2021; and *Širvinskis v. Lithuania*, no. 21243/17, § 77, 23 July 2019). Article 8 reads as follows:

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

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

A. Admissibility

1. The Government's objection

45. The Government submitted that the applicant, having submitted his application to the Court only on 21 July 2023, had failed to comply with the four-month time-limit in respect of his complaints concerning the barring order, which he had been served with on 7 March 2023.

46. The applicant contested that objection.

47. The Court reiterates that, as a rule, the relevant period runs from the date of the final decision in the process of exhaustion of domestic remedies (see, among many other authorities, *Savickis and Others v. Latvia* [GC], no. 49270/11, § 131, 9 June 2022, and *Kitanovska and Barbulovski v. North Macedonia*, no. 53030/19, § 41, 9 May 2023). Article 35 § 1 cannot be interpreted so as to require an applicant to inform the Court of his complaint before his position in connection with the matter has been finally settled at the domestic level, otherwise the principle of subsidiarity would be breached (see, among many others, *Lekić v. Slovenia* [GC], no. 36480/07, § 65, 11 December 2018, and *Vlaisavljević v. North Macedonia*, no. 23215/21, § 33, 25 June 2024). In the present case, the barring order issued by the pre-trial judge on 6 March 2023 was not final, but, rather, it was amenable to appeal (section 146(6) of the Criminal Proceedings Act – see paragraph 37 above). The applicant appealed against it before the three-judge panel, which assessed his appeal on the merits and dismissed it by a decision dated 15 March 2023, which was served on the applicant on 22 March 2023. The applicant therefore lodged his application within four months of the date of notification of the decision of the three-judge panel, which was the final decision for the purposes of the relevant complaints. The Court accordingly dismisses the Government’s objection that the applicant failed to comply with the four-month time-limit.

2. *Other grounds for inadmissibility*

48. As regards the applicant’s complaint concerning the alleged lack of response to his request of 10 August 2023 to inspect the prosecutor’s case file, the Court notes that the Government, in their observations on the merits, submitted that the applicant’s lawyer had inspected the prosecutor’s case file on 17 August 2023. The applicant did not contest this submission. The Court further observes that the Government’s argument is confirmed by the official note of the public prosecutor (see paragraph 32 above). Moreover, there is no indication that the applicant made any subsequent attempt to inspect the case file himself or that he was in any way prevented from doing so. In these circumstances, the Court considers that this complaint is manifestly ill-founded and must be declared inadmissible pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

3. *Conclusion as to admissibility*

49. The Court considers that the applicant’s remaining complaints 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' submissions

(a) The applicant

50. The applicant submitted that the pre-trial judge and the three-judge panel had not sufficiently verified the mother's allegations and had not provided appropriate reasons when issuing and upholding the barring order. The mother's allegations that the applicant had been violent towards D. had not referred to any specific events or actions on the part of the applicant. There had been no evidence that D. had been abused, either physically or psychologically. The courts had not verified whether D. had had any injuries. The medical evidence submitted by the mother had been prepared immediately before she had lodged the criminal complaint by a psychiatrist from a private practice whom the courts had never examined. On the day when the pre-trial judge had issued the barring order, the applicant had been detained and taken before him, without having had any possibility of submitting documentary evidence. He had submitted such evidence as soon as he had been able to, with his appeal against the barring order. The order had caused irreparable damage to his relationship with D. and had influenced the outcome of the custody proceedings.

51. The applicant further submitted that the pre-trial judge had not reassessed the barring order two months after it had been issued, as required under domestic law. It was logical that the pre-trial judge would have adopted a decision concerning such reassessment. He could have lifted the barring order irrespective of the fact that the decision dismissing the criminal complaint against the applicant had not become final. The mother's right to appeal against that decision was immaterial.

(b) The Government

52. The Government submitted that the barring order had not amounted to an interference with the right to respect for the applicant's family life, given that D. had been refusing to see him. The barring order had not deprived him of his parental rights, nor had it restricted other means of contact between him and D. (for example, by telephone). The barring order had a legal basis (section 146(1)(5) and (6) of the Criminal Proceedings Act), and had the legitimate aim of, among other things, protecting D.'s physical and mental health. It had also been proportionate. The pre-trial judge had issued it on the same day he had received the prosecutor's request, having assessed all available evidence and having heard the applicant, who in turn had not submitted any evidence in support of his statement. Both the pre-trial judge and the three-judge panel had provided relevant and sufficient reasons for their decisions.

53. The Government contested the applicant's allegation that the pre-trial judge had not reassessed every two months the need for the prolonged validity of the barring order. The relevant domestic legislation did not specify that such reassessment was to be made by way of a decision and the applicant had not provided any evidence to the contrary. Given that the applicant had proposed that the barring order be lifted only on 25 July 2023 (that is, after the criminal complaints against him had been dismissed at first instance on 12 May 2023), it appeared that even he himself had not considered that the need for the prolonged validity of the barring order had ceased to exist before the criminal complaint had been dismissed. Following the proposal of 25 July 2023, the pre-trial judge had again reassessed and confirmed the need for the barring order to continue being applied. He had then lifted the barring order of his own motion only seventeen days after he had been informed that the criminal complaints against the applicant had been dismissed with final effect, which was a reasonable delay. The barring order had applied for nearly seven months, which had not been excessive.

2. *The Court's assessment*

(a) **General principles**

54. The Court reiterates that the mutual enjoyment by parent and child of each other's company constitutes a fundamental element of family life – even when the relationship between the parents has broken down. Family life in the Contracting States encompasses a broad range of parental rights and responsibilities with regard to the care and upbringing of minor children. Domestic measures hindering the enjoyment of family life constitute an interference with the right to respect for family life. Any such interference constitutes a violation of this Article unless it is “in accordance with the law”, pursues an aim or aims that are legitimate under paragraph 2 of Article 8 and can be regarded as “necessary in a democratic society” (see, among many other authorities, *X and Others v. Slovenia*, no. 27746/22, §§ 144-46, 19 December 2024, with further references).

(i) *“In accordance with the law”*

55. The general principles concerning the lawfulness of an interference with Article 8 of the Convention were recently summarised in *Giuliano Germano v. Italy* (no. 10794/12, §§ 91-95, 22 June 2023, with further references). For the purposes of the present case, the Court reiterates that the expression “in accordance with the law” not only requires that the impugned measure should have some basis in domestic law, but also refers to the quality of the law in question, requiring that it should be accessible to the persons concerned, foreseeable as to its effects and compatible with the rule of law. For domestic law to meet those requirements it must also afford a measure of legal protection against arbitrary interferences by public

authorities with the rights safeguarded by the Convention. The procedural safeguards available to the individual will be especially material in determining whether the respondent State has, when fixing the regulatory framework, remained within its margin of appreciation. In particular, the Court must examine whether the decision-making process leading to measures of interference was fair and such as to afford due respect to the interests safeguarded to the individual by Article 8 (*ibid.*, §§ 91, 93 and 94).

(ii) “*Necessary in a democratic society*”

56. In determining whether an interference with Article 8 was “necessary in a democratic society”, 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. 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 (see *Strand Lobben and Others v. Norway* [GC], no. 37283/13, § 203, 10 September 2019).

57. It must be borne in mind that the national authorities have the benefit of direct contact with all the persons concerned. It follows from these considerations that the Court’s task is not to substitute itself for the domestic authorities in the exercise of their responsibilities, but rather to review, in the light of the Convention, the decisions taken by those authorities in the exercise of their power of appreciation (see, among many other authorities, *Katsikeros v. Greece*, no. 2303/19, § 53, 21 July 2022, and *Bîzdîga v. the Republic of Moldova*, no. 15646/18, § 57, 17 October 2023). To that end the Court must ascertain whether the domestic courts conducted an in-depth examination of the entire family situation and of a whole series of factors, in particular of a factual, emotional, psychological, material and medical nature, and made a balanced and reasonable assessment of the respective interests of each person, with a constant concern for determining what the best solution would be for the child (see *Giannakopoulos v. Greece*, no. 20503/20, § 51 *in fine*, 3 December 2024, and *Širvinskas*, cited above, § 96).

58. The margin of appreciation to be accorded to the relevant national authorities will vary in accordance with the nature of the issues and the importance of the interests at stake. Thus, the Court has recognised that the authorities enjoy a wide margin of appreciation when deciding on custody matters. However, a stricter scrutiny is called for as regards any further limitations, such as restrictions placed by those authorities on parental rights of access, and as regards any legal safeguards designed to secure the effective protection of the right of parents and children to respect for their family life. Such further limitations entail the danger that the family relations between a young child and one or both parents would be effectively curtailed (see *X and Others v. Slovenia*, cited above, § 49; and *Katsikeros*, cited above, § 54).

59. Article 8 of the Convention requires that a fair balance must be struck between the interests of the child and those of the parent and, in striking such a balance, particular importance must be attached to the best interests of the child which, depending on their nature and seriousness, may override those of the parent. In particular, the parent cannot be entitled under Article 8 to have such measures taken as would harm the child's health and development (see, for example, *Elsholz v. Germany* [GC], no. 25735/94, § 50, ECHR 2000-VIII; *Sahin v. Germany* [GC], no. 30943/96, § 66, ECHR 2003-VIII; and *Nechay v. Russia*, no. 40639/17, § 52, 25 May 2021).

60. The Court has recognised in that context that it may be necessary for the domestic courts to promptly adopt interim orders on the basis of limited available evidence in order to safeguard a child's best interests. In a previous case in which the domestic authorities had been confronted with at least *prima facie* credible allegations of severe physical abuse of children, the Court found that an interim order removing them immediately from their family had not violated the parents' rights under Article 8 of the Convention (see *B.B. and F.B. v. Germany*, nos. 18734/09 and 9424/11, § 49, 14 March 2013).

61. The Court cannot satisfactorily assess whether the reasons advanced by the domestic courts were "sufficient" for the purposes of Article 8 § 2 without at the same time determining whether the decision-making process, seen as a whole, was fair. While Article 8 of the Convention does not lay down explicit procedural requirements, the decision-making process involved in measures of interference must be fair and such as to ensure due respect for the interests safeguarded by Article 8. The Court must therefore determine whether, having regard to the circumstances of the case and, in particular, the importance of the decisions to be taken, the applicant has been involved in the decision-making process to an extent sufficient to afford him the necessary protection of his interests (see *Petrov and X v. Russia*, no. 23608/16, § 101, 23 October 2018; *Babayeva*, cited above, § 37; and *Giannakopoulos*, cited above, § 54).

62. Lastly, Article 8 includes a right for a parent to have measures taken with a view to his or her being reunited with their child, and an obligation for the national authorities to take such measures. This applies not only to cases dealing with the compulsory taking of children into public care and the implementation of care measures, but also to cases where contact and residence disputes concerning children arise between parents and/or other members of the children's family. The obligation of the national authorities to take measures to facilitate contact by a non-custodial parent with children after divorce is not, however, absolute. The key consideration is whether those authorities have taken all necessary steps to facilitate contact as can reasonably be demanded in the special circumstances of each case (see, for example, *Bierski v. Poland*, no. 46342/19, §§ 43-44, 20 October 2022, with further references).

(iii) Other relevant principles

63. The Court also refers to the general principles concerning the State's obligation to protect individuals, and in particular children, from ill-treatment (see, for example, *Association Innocence en Danger and Association Enfance et Partage v. France*, nos. 15343/15 and 16806/15, § 157, 4 June 2020, with further references). It also reiterates that the State's positive obligation to prevent the risk of recurrent violence in the context of domestic abuse includes (a) an obligation to respond "immediately" to complaints of domestic violence and to process them with special diligence; (b) to undertake an "autonomous", "proactive" and "comprehensive" risk assessment of the treatment contrary to Article 3; and (c) once a risk to a victim of domestic violence has been identified, to take, as quickly as possible, preventive and protective operational measures that are adequate and proportionate to the risk. A proper preventive response often requires coordination between multiple authorities (see *Bîzdîga*, cited above, § 62, and refer to *Kurt v. Austria* [GC], no. 62903/15, § 190, 15 June 2021).

(b) Application of those principles in the present case*(i) Whether there has been an interference with the applicant's right to family life*

64. The Court observes at the outset that the barring order issued by the pre-trial judge prohibited the applicant from approaching D. within a distance of 100 metres and from visiting her home and school (see paragraph 24 above). It therefore practically prevented the applicant from seeing his nine-year-old daughter in person. The Court has found on many occasions that decisions restricting applicants' contact rights in respect of their children had amounted to an interference with their right to family life (see, among many others, *Bîzdîga*, cited above, § 55, and *Katsikeros*, cited above, § 49; compare *Giuliano Germano*, cited above, §§ 77 and 81). In the present case, the Government submitted that the barring order had not amounted to an interference with the right to respect for the applicant's family life, given that D. had been refusing to see him. However, the Court is not persuaded by this argument. It reiterates firstly that the right of a child to express his or her own views should not be interpreted as effectively giving an unconditional veto power to children without any other factors being considered and an examination being carried out to determine their best interests; such interests normally dictate that the child's ties with his or her family must be maintained, except in cases where this would harm the child's health and development (see, for example, *Suur v. Estonia*, no. 41736/18, § 79, 20 October 2020). The Court further observes that prior to the barring order, which was issued on 6 March 2023, there had been no decision by the relevant domestic authorities prohibiting the applicant's contact with D., either on account of her expressed wish not to contact him or on any other grounds. On the contrary, on 23 January 2023 the Centre delivered a decision regulating

the applicant's contact rights with D., according to which he was to see her, *inter alia*, every Wednesday and every second weekend (see paragraph 9 above). It appears that that decision was never enforced, as in January, February and March 2023 the applicant complained repeatedly to the Centre that he had been unable to see D. (see paragraph 10 above). However, the fact that the contact decision was not enforced, for reasons which appear not to be attributable to the applicant, cannot lead to the conclusion that the barring order did not interfere with the applicant's right to see D., as established in that decision. The Court therefore concludes that the barring order amounted to an interference with the applicant's right to respect for his family life.

(ii) Whether the interference was "in accordance with the law" and pursued a legitimate aim

65. The Court observes that the barring order had a legal basis in section 146(1)(5) and (6) of the Criminal Proceedings Act, a fact not disputed by the parties.

66. The applicant argued that the pre-trial judge failed to carry out the required bi-monthly reassessment of the necessity of the barring order, as required by section 146(3) of the Criminal Proceedings Act (see paragraph 37 above). The Government did not contest that the relevant domestic law required such a regular, bi-monthly reassessment. They rather submitted that the law did not require that the pre-trial judge adopt a decision concerning that reassessment. The Court notes, on the one hand, that section 146(3) of the Criminal Proceedings Act does not explicitly require that periodic reassessments be made by way of a formal decision, as does for example section 146(6) (see paragraph 37 above) in respect of the initial imposition or the subsequent lifting of precautionary measures. On the other hand, publicly available domestic case-law shows that at least one court in the respondent State adopted a formal decision concerning the periodic reassessment of a precautionary measure (see paragraph 38 above). The Court has serious reservations as to whether the interpretation of section 146(3) of the Criminal Proceedings Act advanced by the Government can be regarded as foreseeable. Nevertheless, in the light of its findings and analysis in paragraphs 75-78 below, the Court does not consider it necessary to determine whether the continued application of the barring order until its lifting on 2 October 2023 complied with the requirement of lawfulness under Article 8 § 2 of the Convention. It considers that the question of whether domestic law governing the mandatory periodic reassessment of the barring order afforded the applicant sufficient procedural safeguards is closely linked to the question of proportionality of that measure and will be addressed in the corresponding section below.

67. As to the aim of the interference, the Court observes that in their decisions, the pre-trial judge and the three-judge panel referred to the need to ensure the unhindered conduct of the criminal proceedings against the

applicant and notably to prevent the applicant's potential undue influence over the mother's and D.'s statements in those proceedings. In addition, both decisions referred to D.'s psychological and mental health (see paragraphs 24 and 26 above). The Court therefore accepts that the interference with the applicant's right to family life pursued the legitimate aims of prevention of disorder or crime (compare *Giuliano Germano*, cited above, § 122; *Deltuva v. Lithuania*, no. 38144/20, § 38, 21 March 2023; and *Hagyó v. Hungary*, no. 52624/10, § 77, 23 April 2013) and the protection of D.'s health and her rights and freedoms (compare, for example, *E.M. and Others v. Norway*, no. 53471/17, § 51, 20 January 2022; *Katsikeros*, cited above, § 51; and *D'Alconzo v. Italy*, no. 64297/12, § 62, 23 February 2017).

(iii) *Whether the interference was "necessary in a democratic society"*

68. The Court considers it important to highlight, at the outset, that the impugned barring order was not issued in regular proceedings concerned with the determination of contact rights between the applicant and his daughter. It was rather issued as a precautionary measure (compare *B.B. and F.B. v. Germany*, cited above, § 49) in criminal proceedings and, as such, was adopted swiftly and on the basis of limited available material. The Court is mindful of the challenges arising in such circumstances and will proceed with its analysis in light of this particular feature of the present case.

69. The Court notes that under domestic law the barring order was to be applied at the latest until a final decision was reached in respect of the criminal complaints against the applicant. Consequently, it did not entail a permanent or irreversible separation between the applicant and his daughter D. (compare, for example, *G.M. v. France*, no. 25075/18, § 54, 9 December 2021, and *E.M. and Others v. Norway*, cited above, § 57). However, even if for only a limited time-period, the barring order effectively prohibited the applicant from having any in-person contact with his nine-year-old daughter. Having regard to the severity of the interference, the Court must exercise a correspondingly stricter scrutiny when assessing the reasons advanced by the pre-trial judge and the three-judge panel in delivering and upholding the barring order.

70. In that connection, the relevant decisions referred to the need to prevent the applicant's possible undue influence on the mother and D. and, in particular, the need to obtain their unbiased statements in the criminal proceedings against the applicant. The Court notes in this respect that the impugned decisions did not refer to any indications that the applicant had ever attempted or would in future attempt to influence the mother or D. In particular, there was no indication that the applicant had attempted to influence the mother in the context of the criminal complaint against him for threatening D.'s mother, which had been lodged before the public prosecutor more than two months before the barring order was issued (see paragraph 17 above).

71. Be that as it may, the Court observes that in their decisions both the pre-trial judge and the three-judge panel also referred to D.'s physical and mental health. The Court is particularly mindful of the obligation of the State to provide effective protection, in particular, to children and other vulnerable persons, and include reasonable steps to prevent ill-treatment of which the authorities had or ought to have had knowledge (see *Association Innocence en Danger and Association Enfance et Partage*, cited above, § 157). It considers that the effective protection may in time-sensitive contexts require the adoption of urgent measures aimed at preventing ill-treatment. This need is also reflected in the relevant provisions of the Istanbul Convention and its Explanatory Report, as well as the Guidelines on child-friendly justice (see paragraphs 40-42 above).

72. In the case at hand, the barring order was imposed in the context of two criminal complaints against the applicant, including one for alleged physical and psychological violence against D. The prosecutor's request for a barring order was accompanied by, *inter alia*, medical notes and reports, which indicated that D. had been angry, upset and anxious, as well as by D.'s statement to the effect that the applicant had previously hit her, insulted her and threatened her, which was corroborated with the statement by her maternal grandmother (see paragraphs 21-22 above). This evidence could arguably have given *prima facie* credibility to the allegations against the applicant. Furthermore, the pre-trial judge issued the barring order on the same day when the prosecutor submitted the relevant request. It is true that, as argued by the applicant, none of the medical evidence submitted to the pre-trial judge indicated that D. had been physically injured. It is also true that the pre-trial judge did not provide reasons in respect of the applicant's statement that the latter could not have possibly inflicted any violence on D. as he had not seen her during the period which was covered in the criminal complaint. However, the Court is ready to accept that by issuing the barring order on the same day, the pre-trial judge was erring on the side of caution and acting speedily to protect D.'s interests which were paramount (compare *N.V. and C.C. v. Malta*, no. 4952/21, § 66, 10 November 2022). In view of the serious nature of the allegations before him, the Court considers that it was not unreasonable for the pre-trial judge to adopt urgent measures resulting in a temporary suspension of the in-person contact between the applicant and D. (compare *R.M. v. Latvia*, no. 53487/13, §§ 106 and 109, 9 December 2021, and *B.B. and F.B. v. Germany*, nos. 18734/09 and 9424/11, § 49, 14 March 2013).

73. These considerations, however, do not apply to the decision-making of the three-judge panel when it delivered its decision in the applicant's appeal against the barring order. It is true that the panel gave a speedy decision in the appeal, delivering that decision only six days after the appeal had been lodged. However, the Court considers that the three-judge panel was not prevented from performing a more in-depth examination of the

circumstances of the case, at the very least on the basis of a careful review of the material which was already available in the case file. In this regard, unlike the pre-trial judge, the three-judge panel had access to additional evidence submitted by the applicant with his appeal. The evidence included copies of the applicant's complaints before the Centre concerning the non-enforcement of the contact order of January 2023 in which the applicant repeatedly submitted that he had almost not seen his daughter at all since 2 October 2023, which covered the entire period in which he had allegedly been violent towards her (October 2022 to March 2023 – see paragraph 19 above). In addition, the applicant also submitted an expert report which concluded that no messages had been sent to the mother from his telephone on the day when she had allegedly been threatened.

74. Despite this, the three-judge panel did not provide any specific reasons responding to those additional arguments advanced by the applicant (compare *Širvinskas*, cited above, §§ 102 and 113). The very scarce reasoning of its decision (see paragraph 26 above) appears to replicate the reasons advanced by the pre-trial judge in the barring order (compare, *mutatis mutandis*, *Soares de Melo v. Portugal*, no. 72850/14, § 115 *in fine*, 16 February 2016). Moreover, the decision does not demonstrate that any autonomous and comprehensive risk assessment had taken place (see *Bîzdîga*, cited above, § 62). The panel notably failed to look into whether there had been any real risk that D. would be subjected to violence and overlooked relevant information brought to its attention (compare *N.V. and C.C. v. Malta*, cited above, § 66). Furthermore, it did not provide any assessment as to whether prohibiting the applicant's in-person contact with D. was in her best interest or give any consideration as to whether any other measures were available which would protect D. while resulting in a less serious encroachment of the contact between her and the applicant (see *Bîzdîga*, cited above, § 63, and contrast *Wetjen and Others v. Germany* (nos. 68125/14 and 72204/14, § 85, 22 March 2018), potentially in coordination with the Centre, the Civil Court or any other relevant State authorities.

75. In addition, the Court observes that the barring order was imposed on 6 March 2023 and lifted on 2 October 2023. It therefore applied for nearly seven months. Pursuant to section 146(3) of the Criminal Proceedings Act and as indicated in the barring order itself (see paragraph 24 above), it was to be reassessed every two months, that is by 6 May, 6 July and 6 September 2023.

76. Even assuming that the pre-trial judge did conduct the required reassessments without adopting written decisions, it would have been impossible in such circumstances for him to provide any reasoning, let alone reasoning that was relevant and sufficient, for the continued application of the barring order. In the absence of reasoned decisions, the Court is unable to determine whether the judge undertook the in-depth examination required under Article 8 (see paragraph 57 above), taking into account all relevant

aspects of the family situation and assessing the interests of all those concerned, including D.'s best interests.

77. Moreover, the mandatory periodic reassessment of the need for the barring order could in principle ensure a procedural guarantee which would oblige the court to follow closely the evolution of the investigation and the conduct of the persons concerned and would enable it to lift the barring order when the need for it no longer persisted. However, in the applicant's case, there is no indication that for the purposes of periodic reassessment the pre-trial judge sought or obtained any information from the prosecutor concerning the developments in the criminal investigation, as he did following the applicant's proposal of 25 July 2023 that the barring order be lifted (see paragraph 31 above). Those developments included the expert's report of 10 April 2023 finding no signs that D. had been subjected to physical or psychological abuse (see paragraph 29 above) and the prosecutor's decision of 12 May 2023 dismissing the criminal complaints against the applicant (see paragraph 30 above). There is furthermore no indication that the pre-trial judge requested or obtained any information from the Centre or the Civil Court concerning developments in the family situation. The Court considers that a periodic reassessment based on the information available to the pre-trial judge at the moment when he had initially issued the barring order could not have entailed any meaningful scrutiny of the prolonged need for that barring order and was therefore devoid of any purpose.

78. Lastly, the applicant was not even informed, let alone involved in any such reassessment conducted by the pre-trial judge, and the Government did not argue otherwise. His subsequent request of 25 July 2023 that the barring order be lifted apparently went unanswered. The Court cannot but conclude that, in respect of the mandatory reassessment of whether the need for the barring order persisted, the applicant was not afforded any procedural guarantees capable of enabling him to protect his interest in being reunited with his daughter.

79. In sum, the insufficient reasoning of the three-judge panel confirming the barring order, together with the absence of formal reasoned decisions, the lack of meaningful scrutiny on the basis of relevant updated information and the failure to involve the applicant in the mandatory periodic reassessment of the barring order, fell short of the procedural requirements under Article 8 of the Convention.

80. The foregoing considerations are sufficient for the Court to conclude that there has been a violation of Article 8 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

81. 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.”

A. Damage

82. The applicant claimed non-pecuniary damage, asking the Court to determine its amount on an equitable basis.

83. The Government argued that there was no causal link between the violation of the Convention and the applicant’s claim in respect of non-pecuniary damage.

84. The Court accepts that the applicant must have suffered distress and emotional hardship as a result of the violation found, which is not sufficiently compensated by the finding of the violation. Making an assessment on an equitable basis, it awards the applicant 4,500 euros (EUR) in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

85. The applicant also claimed the equivalent of approximately EUR 1,610 for the costs and expenses incurred before the Court.

86. The Government contested the claim as unsubstantiated and excessive.

87. According to the Court’s case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum (see, for example, *Mitrevska v. North Macedonia*, no. 20949/21, § 66, 14 May 2024). In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,460 for costs and expenses in the proceedings before it, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the applicant’s complaint that his request to inspect the public prosecutor’s case file remained unanswered inadmissible, and the remainder of the application admissible;
2. *Holds* that there has been a violation of Article 8 of the Convention on account of the procedural shortcomings in the confirmation and periodic reassessment of the barring order;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with

Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

- (i) EUR 4,500 (four thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
- (ii) EUR 1,460 (one thousand four hundred and sixty euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
- (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

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

Dorothee von Arnim
Deputy Registrar

Arnfinn Bårdsen
President