



## Grand Chamber hearing in a case concerning the placement in social-service care of a child born in Russia as a result of a gestational surrogacy arrangement

The European Court of Human Rights is holding a **Grand Chamber**<sup>1</sup> hearing today **Wednesday 9 December 2015 at 9.15 a.m.** in the case of **Paradiso and Campanelli v. Italy** (application no. 25358/12).

The case concerns the placement in social-service care of a nine-month-old child who had been born in Russia following a gestational surrogacy contract entered into by a couple; it subsequently transpired that the couple had no biological relationship with the child.

*The hearing will be broadcast from 2.30 p.m. on the Court's Internet site ([www.echr.coe.int](http://www.echr.coe.int)). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.*

The applicants, Donatina Paradiso and Giovanni Campanelli, are Italian nationals who were born in 1967 and 1955 respectively and live in Colletorto (Italy). They are a married couple.

Having decided to resort to gestational surrogacy, Ms Paradiso and Mr Campanelli entered into an agreement with the company Rosjurconsulting in Russia. Embryos conceived via *in vitro* fertilization were implanted in a surrogate mother, and a baby was born on 27 February 2011 in Moscow. As permitted by Russian law, Ms Paradiso and Mr Campanelli were registered as the child's parents, with no indication that he had been born to a surrogate mother. In Italy, Mr Campanelli asked the Colletorto municipal authorities to enter the details of the birth certificate in the civil-status register, but without success. The Italian Consulate in Moscow informed the Campobasso Minors Court, the Ministry of Foreign Affairs and the Colletorto municipality that the file on the child's birth contained false information. On 5 May 2011 Ms Paradiso and Mr Campanelli were placed under formal investigation for "misrepresentation of civil status", "forgery" and breach of the law on international adoption. On the same date the public prosecutor at the Campobasso Minors Court asked that proceedings be opened to declare the child available for adoption, since, for the purposes of Italian law, he had been abandoned.

In August 2011 a DNA test revealed that Mr Campanelli was not the child's biological father. In consequence, the minors court decided on 20 October 2011 to remove the child immediately from the applicants and to place him under guardianship, on the ground that there was no biological link with them and that Ms Paradiso's and Mr Campanelli's conduct had been contrary to the law.

The child was placed in a children's home; the applicants were not informed of its location and were not allowed contact with him. Then, in January 2013, he was placed in a foster family.

In April 2013 the refusal to enter the Russian birth certificate in the civil-status register was confirmed on the ground that it was inaccurate, given that there was no biological relationship between the child and the applicants. The latter submitted, unsuccessfully, that they had been

<sup>1</sup> Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

acting in good faith, claiming to have been unaware of how the fertilisation procedure had been carried out.

The child was considered, from an administrative point of view, to be the son of unknown parents. On 5 June 2013 the minors court held that the applicants could not take part in the adoption proceedings brought by them, as they were neither the child's parents nor members of his family.

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, the applicants complained about the removal of the child.

## Procedure

The application was lodged with the European Court of Human Rights on 27 April 2012.

In its Chamber [judgment](#) of 27 January 2015, the European Court of Human Rights declared the application admissible in respect of the complaint lodged by the applicants on their own behalf under Article 8 (right to respect for private and family life) of the Convention in so far as it related to the measures taken with regard to the child, and the remainder inadmissible. It concluded, by five votes to two, that there had been a violation of Article 8. It found, in particular, that the public policy considerations which had influenced the Italian authorities' decisions – finding that the applicants had attempted to circumvent the ban on heterologous fertilisation in Italy and the rules on international adoption – could not take precedence over the child's best interests, in spite of the absence of any biological relationship and the short period during which the applicants had cared for him. Reiterating that the removal of a child from the family setting was an extreme measure that could be justified only in the event of immediate danger to that child, the Chamber held that, in this case, the conditions justifying a removal had not been met.

On 1 June 2015 the case was referred to the Grand Chamber at the request of the Italian Government.

## Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Luis **López Guerra** (Spain), *President*,  
Guido **Raimondi** (Italy),  
Mirjana **Lazarova Trajkovska** ("the former Yugoslav Republic of Macedonia"),  
Angelika **Nußberger** (Germany),  
Vincent A. **de Gaetano** (Malta),  
Paul **Lemmens** (Belgium),  
Boštjan M. **Zupančič** (Slovenia),  
Khanlar **Hajiyev** (Azerbaijan),  
Ledi **Bianku** (Albania),  
Julia **Laffranque** (Estonia),  
Paulo **Pinto de Albuquerque** (Portugal),  
André **Potocki** (France),  
Helena **Jäderblom** (Sweden),  
Johannes **Silvis** (the Netherlands),  
Valeriu **Griţco** (the Republic of Moldova),  
Dmitry **Dedov** (Russia),  
Síofra **O'Leary** (Ireland), *judges*,  
Krzysztof **Wojtyczek** (Poland),  
Yonko **Grozev** (Bulgaria),  
Ganna **Yudkivska** (Ukraine),  
Päivi **Hirvelä** (Finland), *substitute judges*,

and also Roderick Liddell, *Registrar*.

## Representatives of the parties

### Government

Paola **Accardo**, *Co-Agent*,

Maria Laura **Aversano**, Assuntina **Morresi**, Gabriella **Palmieri**, and Galileo **D'Agostino**, *Advisers*;

### Applicants

Patrice **Spinosi**, *Counsel*,

Yehudi **Pelosi** and Nicolas **Hervieu**, *Advisers*.

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.