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

FOURTH SECTION

DECISION

Application no. 3485/21
Marius-Cosmin ANDRONACHE
against Romania

The European Court of Human Rights (Fourth Section), sitting on 17 June 2025 as a Chamber composed of:

Lado Chanturia*, President*,
Tim Eicke,
Lorraine Schembri Orland,
Ana Maria Guerra Martins,
Anne Louise Bormann,
Sebastian Răduleţu,
András Jakab*, judges*,

and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to the above application lodged on 23 April 2021,

Having regard to the decision to give priority under Rule 41 of the Rules of Court to the application;

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Marius-Cosmin Andronache, is a Romanian national, who was born in 1987 and is serving a prison sentence in Brăila Prison. The applicant, who was granted legal aid, was represented by Ms C.-A. Petrescu-Filote, a lawyer practising in Focşani.

2. The Romanian Government ("the Government") were represented by their Agent, Ms O.F. Ezer, of the Ministry of Foreign Affairs.

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

A. Background

4. The applicant and P.A. were cohabiting in a relationship and had three sons together, A, B and C, born respectively on 13 June 2012, 28 May 2014 and 2 January 2016. P.A. was still legally married to P.M.C., who was therefore registered as the children's father and appeared as such on their birth certificates.

5. On 5 October 2015 the applicant was taken into police custody on suspicion of the sexual corruption of a minor and of having raped D, the daughter of P.A. and P.M.C., when she was eight years old. He was convicted of those crimes on 28 January 2016 by the Braşov County Court and the conviction was upheld on 8 April 2016 in a final decision of the Braşov Court of Appeal. The applicant was sentenced to fourteen years and four months in prison. The courts made supplementary orders under Article 66 § 1 (n) of the Criminal Code, including prohibiting the applicant from going within fifty metres of the victim for the duration of his sentence (*pedeapsă accesorie*) and for a further three years after the execution of his sentence (*pedeapsă complementară*).

B. Contacts with children and paternity

6. On 17 February 2016 P.A., who had the care of the children, made a formal notarised statement that she and the applicant were living together as a family, which read as follows:

> "I hereby declare, of my own free will, that I am cohabiting with Andronache Marius-Cosmin, born on [...]in the county of [...], currently detained in the Codlea Prison."

7. P.A. also visited him in detention with the children.

8. On 26 October 2016 P.A. was killed by her new partner.

9. The Braşov County Directorate General for Social Welfare and Child Protection ("the child protection authority") was informed of P.A.'s death and her partner's arrest on the same day and made arrangements for the care of the children. They could not find any family member able to look after the children and sought authorisation to take the children into State care, which was granted by decisions of 13 and 20 January 2017 of the Braşov County Court. Special care arrangements were made for A because of his disability, and B and C were placed with a professional foster carer. The County Court also gave the director of the child protection authority parental rights over the children during the applicant's detention. D was then already in State care as a protective measure following the sexual abuse of which she had been a victim within the family (by the applicant and the maternal grandfather).

10. On 14 June 2018 the Braşov District Court recognised the applicant as the children's biological father on the basis of P.A.'s notarised statement (see paragraph 6 above), prison records showing that P.A. had visited the

applicant with the children and was registered as the applicant's partner, and letters sent by P.A. to the applicant in detention which showed that she had recognised him as the children's father.

11. After P.A.'s death the applicant made repeated requests through the prison's social assistant to the child protection authority for contact with his children, but the authority declined to organise it. Instead, he was given photographs of the children and written reports about their progress.

12. On 2 August 2018 the applicant was informed that a psychologist would meet B and C to prepare them for online contact with their father. After meeting the children on 10 October 2018, the psychologist's view was that contact with their father would be detrimental to the children's development and emotional stability.

13. On 23 October 2018 the child protection authority's lawyers advised them that the court order of 28 January 2016 (see paragraph 5 above) prohibited the applicant from having contact not only with D but also with D's family members, so therefore also with his sons.

14. Consequently, the child protection authority informed the applicant (on 30 October 2018) and the prison authority (on 14 February 2019) that, on the basis of the psychologist's and legal advisers' assessments discussed above, contact with their father would not then be beneficial to the children's interests and development.

15. On 14 August 2019 the applicant lodged a criminal complaint, asking the prosecutor's office attached to the Braşov District Court to identify and prosecute the persons responsible for several alleged violations of his rights in detention, including the fact that since 13 October 2016 he had been unable to see his children either through direct contact at the prison or online. He relied on Article 3 of the Convention, and on Article 281 of the Criminal Code which prohibits ill-treatment in detention.

16. On 11 February 2020 the child protection authority replied to a request for information from the Braşov County Police in the course of its investigation of the complaint, and reiterated that in their view the court order of 28 January 2016 prohibited the applicant from having contact with his sons (see paragraph 13 above).

17. On 15 June 2020 the Braşov County Police recommended that the investigation be closed. It considered that the acts alleged by the applicant did not constitute a crime and that the civil courts were better placed to deal with them.

18. On 15 January 2021, the prosecutor's office attached to the Braşov District Court took note of the information given by the child protection authority and decided not to prosecute, on the grounds that the facts complained about by the applicant had not been committed with the criminal intent required for them to constitute ill-treatment. The prosecutor's decision indicated that it could be challenged before the prosecutor in chief of the same prosecutor's office within twenty days. The applicant did not appeal.

C. Termination of the applicant's parental authority and the adoption away of the children

19. The child protection authority carried out multiple social inquiries from December 2018 onwards with a view to identifying members of the applicant's extended family who could take responsibility for the care of A, B, and C while the applicant remained in detention. No family member was found who was willing and able to take care of the children.

20. On an unspecified date, the child protection authority started proceedings to terminate the applicant's parental authority and to free B and C for adoption. It stated that the father was serving a prison sentence, that the children had been in State care since their mother's death (see paragraph 8 above) and that no member of the extended family could look after them. It filed social inquiry reports about the situation of the two children and individual assessments of their prospects for adoption.

21. On 4 November 2020 the applicant, who had previously received information and counselling from the child protection authority about the consequences of adoption, was heard by the court via videoconference on the child protection authority's application for the termination of his parental authority. He opposed the application, expressed his intention to bring the children up after his release from prison and stated that he would be eligible for release in five years. He proposed that the child protection authority should continue to exercise parental authority over the three children until his release from prison.

22. B and C, who were then aged 6 and 4, were interviewed online by the court and stated that they wished to have a family where they could grow up together and that they had not maintained contact with their father.

23. On 16 December 2020 the Braşov County Court terminated the applicant's parental authority and the children were freed for adoption. The County Court ruled that the applicant's opposition to the children's adoption was abusive within the meaning of Article 8 § 2 of Law no. 273/2004 ("the Adoption Act", see paragraph 28 below), given that he was not in a position to take care of them, and found that to show that he did not wish to offer his children the opportunity to grow up in a family.

24. The applicant appealed, reaffirming his desire to look after his children after his release from prison and reiterating that he had made numerous requests to be allowed contact with his children, including asking the authorities to provide him with their phone numbers so that he could call them from prison, but his requests were not granted. He argued that the sole reason for the termination of his parental authority was the fact that he was serving a prison sentence. The child protection authority argued that contact was not possible bearing in mind the supplementary court order (see paragraph 5 above).

25. On 4 March 2021 the Braşov Court of Appeal made a final decision upholding the decision of the County Court. It observed that the applicant had not made any efforts to recognise the children while their mother was still alive. The court also observed that since 13 October 2016 the applicant had been prohibited from having contact with the children following an assessment by the child protection authority (see paragraphs 12-14 above). It also found that, given the nature of the crime committed by the applicant, he could no longer be considered an appropriate person to take care of the children, and noted that no member of the applicant's family had been willing to take the children in (see paragraph 19 above). The court held that it was in the children's best interests to be raised in a stable environment favourable to their physical and psychological development. It concluded that the family ties between the applicant and his children had broken down and his opposition to their adoption was abusive.

26. In 2022, the two children were adopted away together. According to the information submitted by the Government on 17 January 2025, they have integrated in their new, adoptive, family. The family climate is harmonious and functional, stable and supportive for the children.

RELEVANT LEGAL FRAMEWORK

A. Domestic law

27. The relevant provisions of the Children Act (Law no. 272/2004 on the protection and promotion of the rights of the child), read as follows (see also, for further details, *Simona Mihaela Dobre v. Romania*, no. 8361/21, § 35, 21 March 2023):

Article 1

"1. This Law regulates the legal framework on respect for [and] the promotion and safeguarding of children's rights.

2. Public authorities, accredited private providers and natural persons and legal entities responsible for child protection are obliged to respect, promote and safeguard the rights of the child [as] set out in the Constitution and [Romania's] laws, in accordance with the provisions of the United Nations Convention on the Rights of the Child, ratified by Law no. 18/1990 ... with subsequent amendments, and of the other relevant international covenants to which Romania is party."

Article 2

"1. This Law [and] any other regulations made [in order to further] respect for and [to promote] the rights of the child – as well as any instrument issued or, as the case may be, concluded in this field – shall be subordinated to the principle of [giving priority to] the best interests of the child, which takes precedence.

2. The best interests of the child encompass the child's rights to normal physical and moral development, to socio-emotional balance and to family life.

3. The principle of [giving priority to] the best interests of the child is [connected] to the rights and obligations of the child's parents, other legal guardians and any persons legally responsible for the child's care.

4. The principle of [giving priority to] the best interests of the child shall prevail in respect of all actions and decisions concerning children taken by public authorities and accredited private providers, as well as in court cases.

5. The persons referred to in paragraph 4 are obliged to involve the family in all decisions, actions and measures concerning the child and to support the care, upbringing, development and education of the child within the family.

6. In determining the best interests of the child the following aspects shall be taken into account, as a minimum:

a) the child's need for physical and psychological development, education and health, security and stability and [to] belong to a family;

b) the child's opinion, depending on [his or her] age and degree of maturity;

(c) the child's background, taking into account in particular any instances of abuse, neglect, exploitation or any other form of violence against the child, as well as potentially risky situations that may arise in the future;

(d) the ability of the parents or carers to meet the child's specific needs;

(e) the maintenance of personal relationships with persons to whom the child has developed an attachment."

28. The relevant provisions of the Adoption Act (Law no. 273/2004 on the procedure for adoption), read as follows:

Article 1

"The following principles must be respected during the adoption procedure:

(a) the principle of the best interests of the child;

(b) the principle of raising and educating the child in a family environment;

...

(d) the principle of informing the child and taking into account his or her views in relation to his or her age and maturity; ..."

Article 8

"(1) The court may overrule the refusal of the natural parents or, where applicable, of the legal guardian to consent to the adoption of the child if it is established by any means of proof that their refusal to consent to the adoption is abusive and the court considers that the adoption is in the best interests of the child, taking into account the opinion of the child given in accordance with the law, and giving express reasons for its decision in this regard.

..."

Article 9

"The child's natural parents or, where appropriate, the child's legal guardian must consent to the adoption freely and unconditionally, only after having been informed, in

accessible language, of the consequences of expressing consent and of the consequences of the termination of the child's family ties with his or her family of origin as a result of an adoption order being made. The obligation to provide counselling and information prior to the expression of consent to adoption shall be incumbent on the [child protection authority] within whose territorial radius the natural parents or, where appropriate, the legal guardian, currently live, and the [child protection authority] shall draw up a report to that effect. The report shall be communicated to the [child protection authority] local to the child within [fifteen] working days of its request."

29. The provisions of the Civil Code relevant to contact rights read as follows:

Article 397 Exercise of parental authority by both parents

"After divorce, parental authority is shared by both parents, unless the court decides otherwise."

Article 398 Exercise of parental authority by one parent

"(1) When there are good reasons, having regard to the best interests of the child, the court may decide that parental authority shall be exercised by one parent only.

(2) The other parent retains the right to supervise the child's care and education, as well as the right to consent to the adoption."

Article 399 Exercise of parental authority by other persons

"(1) In exceptional cases, the guardianship court may order the placement of the child with a relative or another family or person, with their consent, or in a care institution. They exercise the rights and duties of the parents in respect of the person of the child."

Article 505 Children born out of wedlock

"(1) Where a child is born out of wedlock and parentage has been established concurrently or, where applicable, successively in relation to both parents, parental authority shall be exercised jointly and equally by the parents, if they live together.

(2) If the parents of a child born out of wedlock do not live together, the manner of exercising parental authority shall be determined by the guardianship court, and the provisions relating to divorce shall apply by analogy.

(3) A court dealing with a filiation claim must rule on the manner of exercising parental authority, and the provisions relating to divorce are to be applied by analogy."

Article 507 The exercise of parental authority by one parent

"(1) Where one of the parents is deceased, ... the other parent exercises parental authority alone."

30. The relevant provision of the Code of Criminal Procedure reads as follows:

Article 340 – Complaint against the decision not to prosecute or to discontinue proceedings

"(1) A person whose complaint against a decision not to prosecute (*clasare*) made by order of a prosecutor or in proceedings on indictment has been rejected under Article 339 [complaints against prosecutor's activities or decisions] may complain, within [twenty] days of the date of notification of that decision to the preliminary chamber judge of the court that would, by law, hear the case at first instance."

31. The relevant provisions of the Execution of Sentences Act (Law no. 254/2013 on sentencing and the execution of sentences and detention measures) are described in *Bechi v. Romania* (no. 45709/20, § 24, 25 June 2024). In addition, that Act provides as follows:

Article 7 Exercise of rights

"Prisoners shall exercise all civil and political rights, with the exception of those which have been prohibited by law by a final judgment on conviction, and those whose non-exercise or restricted exercise is inherently connected with the deprivation of liberty or for reasons of maintaining the security of detention."

Article 56 Exercise of rights of sentenced persons

"(1) The exercise of the rights of convicted persons may be restricted only within the limits and under the conditions provided for by the Constitution and the law.

(2) Convicted persons may lodge a complaint against measures taken by the prison administration against the exercise of the rights provided for by this Act, with the judge supervising the deprivation of liberty, within [ten] days from the date on which they became aware of the measure taken.

...

(9) The convicted person and the prison administration may lodge an appeal against a decision of the probation supervision judge with the court for the district in which the prison is located within [five] days of service of the decision."

Article 65 § 1 Right to telephone calls

"Convicted persons have the right to make telephone calls from public telephones installed in prisons. Telephone calls are confidential."

Article 66 § 1 Right to online communications

"For certain categories of convicted persons, online communication with family members or other persons may be facilitated."

Article 68 § 1 Right to receive visits and right to be informed about particular family situations

"Convicted persons have the right to receive visits in specially designated areas under the visual supervision of prison administration staff."

B. International law material

32. The relevant provisions of the United Nation Convention on the Rights of the Child ("the CRC") and the European Union Charter – as well as UN material relating to the concept of what is in a child's best interests – are described in *Simona Mihaela Dobre*, cited above, §§ 37-44).

33. Recommendation CM/Rec(2018)5 of the Committee of Ministers of the Council of Europe to member States concerning children with imprisoned parents, adopted by the Committee of Ministers on 4 April 2018 at the 1312th meeting of the Ministers' Deputies, provides in so far as relevant:

II. Basic Principles

"1. Children with imprisoned parents shall be treated with respect for their human rights and with due regard for their particular situation and needs. These children shall be provided with the opportunity for their views to be heard, directly or indirectly, in relation to decisions which may affect them. Measures that ensure child protection, including respect for the child's best interests, family life and privacy shall be integral to this, as shall be the measures which support the role of the imprisoned parent from the start of detention and after release.

2. Where a custodial sentence is being contemplated, the rights and best interests of any affected children should be taken into consideration and alternatives to detention be used as far as possible and appropriate, especially in the case of a parent who is a primary caregiver.

3. Whenever a parent is detained, particular consideration shall be given to allocating them to a facility close to their children.

4. When deciding to transfer sentenced persons to or from a State in which their children reside due regard shall be given to the best interests of the child when considering the rehabilitation purpose of the transfer.

..."

IV. Conditions of imprisonment

"Allocation, communication, contact and visits

16. Apart from considerations regarding requirements of administration of justice, safety and security, the allocation of an imprisoned parent to a particular prison, shall, where appropriate, and in the best interests of their child, be done such as to facilitate maintaining child-parent contact, relations and visits without undue burden either financially or geographically.

17. Children should normally be allowed to visit an imprisoned parent within a week following the parent's detention and, on a regular and frequent basis, from then on. Child-friendly visits should be authorised in principle once a week, with shorter, more frequent visits allowed for very young children, as appropriate.

18. Visits shall be organised so as not to interfere with other elements of the child's life, such as school attendance. If weekly visits are not feasible, proportionately longer, less frequent visits allowing for greater child-parent interaction should be facilitated.

...

20. A designated children's space shall be provided in prison waiting and visiting rooms (with a bottle warmer, a changing table, toys, books, drawing materials, games, etc.) where children can feel safe, welcome and respected. Prison visits shall provide an environment conducive to play and interaction with the parent. Consideration should also be given to permitting visits to take place in the vicinity of the detention facility, with a view to promoting, maintaining and developing child-parent relationships in as normal a setting as possible.

21. Measures should be taken to ensure that the visit context is respectful to the child's dignity and right to privacy, including facilitating access and visits for children with special needs.

...

23. Any security checks on children shall be carried out in a child-friendly manner that respects children's dignity and right to privacy, as well as their right to physical and psychological integrity and safety. Any intrusive searches on children, including body cavity searches, shall be prohibited.

...

28. Child-parent activities should include extended prison visits for special occasions (Mother's Day, Father's Day, end of year holidays, etc.) and other visits to further the child-parent relationship, in addition to regular visits. Consideration on such occasions should be given to prison and other staff in visiting areas being dressed less formally, in an effort to normalise the atmosphere.

29. Children shall be offered the opportunity, when feasible and in the child's best interests, and with the support of an appropriate adult, to visit or receive information (including images) about areas in which their imprisoned parent spends time, including the parent's prison cell.

30. Special measures shall be taken to encourage and enable imprisoned parents to maintain regular and meaningful contact and relations with their children, thus safeguarding their development. Restrictions imposed on contact between prisoners and their children shall be implemented only exceptionally, for the shortest period possible, in order to alleviate the negative impact the restriction might have on children and to protect their right to an emotional and continuing bond with their imprisoned parent.

31. A child's right to direct contact shall be respected, even in cases where disciplinary sanctions or measures are taken against the imprisoned parent. In cases where security requirements are so extreme as to necessitate non-contact visits, additional measures shall be taken to ensure that the child-parent bond is supported."

COMPLAINT

34. The applicant complained under Article 8 of the Convention that he had been prohibited from having contact with his children and that his parental authority had been terminated against his will and B and C had been freed for adoption merely because he was serving a prison sentence.

THE LAW

35. The applicant complained of a violation of Article 8 of the Convention, 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. Preliminary remarks

36. Both the domestic proceedings and the complaint brought before the Court exclusively concern the relationship between the applicant on the one hand and B and C on the other. Those proceedings do not concern A.

B. The parties' submissions

1. The Government

37. The Government argued that the applicant had failed to exhaust the domestic remedies available to him, because he had not contested the decision not to prosecute of 15 January 2021 (see paragraph 18 above).

38. The Government argued that, despite the biological link, there was nothing capable of establishing the existence of family life between the applicant and his sons. Consequently, the applicant could not claim to be the victim of a violation of his right to respect for his family life. Furthermore, the applicant had never seen his children during his detention. P.A. visited him nineteen times, but, according to the prison records, always on her own. The Government questioned the stability of the relationship between the applicant and P.A. by pointing out that at the time of the facts of the case she was already in a relationship with another man, who killed her soon after that (see paragraph 8 above).

39. Furthermore, the Government argued that there had been no interference with the applicant's right to respect for his family life. In any case, they said that the termination of the applicant's parental authority over his children had complied with the general principles and the requirements of the Adoption Act (see paragraph 28 above). His objection as a natural parent to the adoption had been assessed, and the process had focused on protecting the children's interests.

40. In the Government's view, the termination of the applicant's parental authority was justified by the exceptional circumstances of the case. The nature of his crime showed that he would not be able to fulfil the obligation

to care for his children and was not an appropriate person to exercise parental authority over them.

41. Moreover, the applicant's case was heard and evidence was brought before the court. The domestic authorities had acted within the margin of appreciation accorded to them under the Convention and were guided by the children's best interests.

2. The applicant's submissions

42. In so far as the Government argued that domestic remedies had not been exhausted (see paragraph 37 above), the applicant asserted that an objection to the prosecutor's decision would not have been capable of putting an end to the violations complained about, given that the prosecutor had said the facts he asserted did not constitute the crime of ill-treatment, as he had alleged, and that the matter fell within the jurisdiction of the civil courts. Furthermore, the violation was alleged to be continuing, and he could not be expected to lodge a separate action with the civil courts for the non-enforcement of each individual measure taken by the authorities. He further argued that his situation should be examined as a whole.

43. The applicant further reiterated that family life for the purpose of Article 8 also applies to filiation outside marriage and can exist even in the absence of cohabitation. Furthermore, a detainee retained the right to respect for his family life and an absolute ban on family visits in detention could only be justified in exceptional circumstances.

44. He argued that although adoption should have been a measure of last resort, the child protection authority had disregarded the possibility of reuniting him with his children.

45. The courts had decided the case without necessary evidence such as an evaluation of his parental capacities and skills. He was not given the opportunity to prove that he was fit to exercise parental authority. The courts had unjustly set aside his opposition to the adoption despite his unequivocally expressing his intention to look after the children (see paragraph 21 above). The courts relied on the children's views to find that the relationship between them and their father had broken down without taking into account that that break had occurred because the authorities themselves had refused to allow the contact to continue, and despite his efforts and requests to ensure it continued.

46. Ultimately, the decision to terminate his parental authority and free the children for adoption was based exclusively on the fact that the children's mother had died, which had no connection with his criminal conviction.

C. The Court's assessment

1. Contact rights

47. The general principles concerning exhaustion of domestic remedies have most recently been set out in *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC], no. 21881/20, §§ 138-45, 27 November 2023). The Court reiterates that the obligation to exhaust the available domestic remedies requires an applicant to make normal use of remedies which are available and sufficient in respect of his or her Convention grievances. The existence of these remedies must be sufficiently certain not only in theory but also in practice, failing which they will lack the requisite accessibility and effectiveness (ibid., § 139).

48. In the present case, the Court observes that the applicant lodged a criminal complaint with the prosecutor's office about the lack of contact with his children (see paragraph 15 above) but failed to challenge the prosecutor's decision not to pursue it before the prosecutor in chief of the same prosecutor's office (see paragraph 18 above). Had he done so, and in the case of rejection of the challenge by the prosecutor in chief, the applicant would have had the opportunity to take his complaint to the courts (see Article 340 of the Code of Criminal Procedure, cited in paragraph 30 above). The applicant did not claim that he had been unaware of this possibility or that he had been prevented from doing so in any way.

49. The complaint is therefore inadmissible for non-exhaustion of domestic remedies in so far as it concerns the applicant's allegations of a refusal to organise contact with his children.

2. Termination of parental authority and the adoption

(a) Non exhaustion of domestic remedies

50. The Court notes that the Government did not bring any evidence that pursuing the criminal complaint with the prosecutor's office (see paragraph 15 above) would have had an effect on the outcome of the applicant's complaint about the termination of his parental authority and the adoption away of his children.

51. Therefore, the Court rejects the Government's objection of non-exhaustion of domestic remedies as far as it may be interpreted as relating also to the complaint about the termination of the applicant's parental authority and the adoption away of his children against his will.

(b) Other reasons for inadmissibility

52. The general principles concerning the existence of family life have been reiterated by the Court in *Katsikeros v. Greece* (no. 2303/19, §§ 42-44, 21 July 2022). Furthermore, the relevant principles concerning the protection of the rights of parents and children have been summarised in *Strand Lobben*

and Others v. Norway ([GC], no. 37283/13, §§ 202-13, 10 September 2019), and *Khoroshenko v. Russia* ([GC], no. 41418/04, §§ 106, 116-26, ECHR 2015).

53. In particular, the Court has already found that it is in a child's interests (which are of paramount importance in all decisions concerning the upbringing of children) to ensure his or her development in a stable environment, and a parent cannot be entitled under Article 8 to have measures taken that would harm the child's health and development (see *Strand Lobben and Others*, cited above, §§ 204-07). Furthermore, the Court reiterates that a prison sentence, like any other measure depriving a person of his or her liberty, entails inherent limitations on his or her private and family life (see *Khoroshenko*, cited above, § 106, with further references and *Spînu v. Romania (No. 2)* (dec.), no. 17/19, § 27, 18 June 2024).

54. In the present case, the Court notes that the evidence in the file indicates that the applicant lived together with P.A. until his arrest on 5 October 2015 (see paragraphs 5, 6 and 9 above). They had three children together (see paragraph 4 above). It was not contested that they lived as a family with their children and that two of them, A and B, were therefore cared for by the applicant and P.A. for three years and four months and one year and four months respectively before the applicant's arrest (see paragraph 5 above). The parents had therefore demonstrated their commitment to each other by having children and bringing them up together (see *Van der Heijden v. the Netherlands* [GC], no. 42857/05, § 50, 3 April 2012; and *Gulijev v. Lithuania*, no. 10425/03, § 38, 16 December 2008).

55. Moreover, P.A. had acknowledged the applicant as her partner and the father of A, B and C, including by making a notarised statement (see paragraph 6 above) and, according to the prison records examined by the domestic courts she had visited the applicant in detention on several occasions, with the children (see paragraph 10 above).

56. The applicant was able to assert his paternity over the children without any challenges or objections (see paragraph 10 above).

57. The Court observes, as did the Court of Appeal in its final decision of 4 March 2021, that the applicant had only applied for formal recognition as the children's father after P.A.'s death (see paragraph 25 above). However, the Court considers that that fact alone cannot be interpreted as invalidating his claims to a family life with his children.

58. Furthermore, notwithstanding his failure to use the legal avenues available to seek contact with his children during his detention (see paragraph 49 above), he did make efforts to maintain contact with his children and showed consistent interest in their situation (see paragraphs 10, 11, 15 above). Throughout his detention, he unequivocally expressed his intention to bring up the children after serving his sentence (see paragraph 21 above).

59. In the light of the above, the Court considers it established that the applicant has a claim to a family life with his children, for the purpose of Article 8 of the Convention (see, *mutatis mutandis*, for a similar finding in the context of a request for a stay of execution of the prison sentence, *Alexandru Enache v. Romania*, no. 16986/12, §§ 56-57, 3 October 2017).

60. The Court notes that at that time of the events complained about, the applicant was serving a prison sentence of fourteen years and four months for crimes of sexual nature committed against his minor stepdaughter (see paragraph 5 above). Following their mother's death (see paragraph 8 above) and in the absence of any family member willing or able to take care of them, B and C were taken into State care (see paragraph 9 above). It is not contested that the applicant was in no position to take full responsibility for the children's care at that time, having served less than six years of his prison sentence by the time the Court of Appeal gave its final decision on freeing the children for adoption (see paragraphs 5 and 25 above). The applicant himself estimated that he had about five years of his prison sentence left to serve (see paragraph 21 above). It was therefore uncontestably in the children's best interests that a solution was found for their situation.

61. Importantly, the principle of the child's best interests, which must guide domestic decision making, permeates both the domestic legislation (see paragraphs 27 and 28 above) and international law (see paragraphs 32-33 above). Precise guidelines on how to identify and assess the child's best interests are present in both domestic and international law. In particular, in accordance with General Comment No. 14 on the CRC, the courts must determine and assess the child's best interests in the light of the specific circumstances of the child concerned, taking into consideration his or her personal context, situation and needs (see paragraph 32 above). This international obligation is reflected in Article 2 of the Children Act, which gives the Romanian courts guidelines on how to identify and assess the best interests of the child (see paragraph 27 above, and *Simona Mihaela Dobre v. Romania*, no. 8361/21, § 61, 21 March 2023).

62. The Court reiterates that, in the context of a parent deprived of liberty, a child who is separated from one or both parents has a corresponding right to maintain personal relations and direct contact with both parents on a regular basis, unless that contact is contrary to the child's best interests. This is the principle referred to in all international studies of the importance for children of maintaining a bond with their incarcerated parents (see the Recommendation CM/Rec(2018)5 of the Committee of Ministers of the Council of Europe, cited in paragraph 33 above, and also, *mutatis mutandis*, *Namık Yüksel v. Türkiye*, no. 28791/10, § 55, 27 August 2024).

63. In the present case, the domestic courts weighed the evidence in the case in order to reach an informed decision. They relied on social inquiry reports about the applicant's extended family conducted by the child protection authority prior to lodging the application for the termination of the

applicant's parental authority with a view to finding a suitable carer for the children within the family (see paragraphs 19 and 20 above), and on the assessments, including a psychological assessment, of the children by the child protection authority (see paragraph 25 above). The Braşov County Court also heard the children, who expressed their desire to have a family where they could grow up together (see paragraph 22 above).

64. The applicant had received counselling from the child protection authority about the consequences of adoption (see paragraph 21 above), participated in the proceedings and was able to present his arguments before the domestic courts (see paragraphs 21 and 24 above). Nothing in the file suggests that his arguments had not been properly considered or that he had been in any way prevented from fully participating in the proceedings (see paragraphs 21 and 24 above). The courts were able to identify the children's best interests and to justify their decision by giving reasons which were both relevant and sufficient.

65. The Court is therefore persuaded that the domestic courts made their decision after an in-depth analysis of the family's situation, notably the ties between the applicant and his children and the children's best interests, after careful examination of all the evidence brought before them (see notably paragraph 25 above, and, *mutatis mutandis*, *Neulinger and Shuruk v. Switzerland* [GC], no. 41615/07, § 139, ECHR 2010, and *Ilya Lyapin*, cited above, § 47). It follows that, contrary to the arguments made by the applicant both in the domestic courts and in the present proceedings (see paragraphs 24 and 34 above), it was the conclusions of the in-depth assessments discussed above and not his detention that lead the domestic courts to decide to terminate his parental authority (see paragraph 63 above).

66. Furthermore, given the nature of the crime committed by the applicant, the Court of Appeal's finding that he could no longer be considered an appropriate person to take care of the children is not without merit (see paragraph 25 above and, in contrast, *Sabou and Pircalab v. Romania*, no. 46572/99, §§ 48-49, 28 September 2004).

67. In the light of the whole situation as it was assessed by the domestic authorities the Court is persuaded that exceptional circumstances allowing for the breaking of family ties were shown (see the case-law cited in paragraphs 61 and 62 above) and that the domestic courts struck a fair balance between the competing interests at stake, giving appropriate weight to the best interests of the children, and that they provided relevant and sufficient reasons for their decisions.

68. Accordingly, this part of the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 10 July 2025.

Simeon Petrovski	Lado Chanturia
Deputy Registrar	President