

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

THIRD SECTION

CASE OF Y v. SERBIA

(Application no. 28322/20)

JUDGMENT

Art 8 • Positive obligations • Family life • Severance of contact between the applicant and her half-brother after he was adopted by a family living abroad • Applicant's refusal to be adopted could not be allowed to outweigh her half-brother's own interests • In case-circumstances adoption of the applicant's half-brother by a family living abroad was, in the long-term, in his best interests • Domestic authorities' assessment not arbitrary • Prevailing interests of the adoptive family in enjoying and building a family life together with the applicant's half-brother, undisturbed by attempts by his biological family members to re-establish contact

Prepared by the Registry. Does not bind the Court.

STRASBOURG

12 May 2026

FINAL

21/09/2026

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



In the case of Y v. Serbia,

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

Ioannis Ktistakis*, President*,
Peeter Roosma,
Lətif Hüseynov,
Diana Kovatcheva,
Úna Ní Raifeartaigh,
Mateja Đurović,
Canòlic Mingorance Cairat*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 28322/20) against the Republic of Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Serbian national, Ms Y ("the applicant"), on 10 October 2020;

the decision to give notice to the Serbian Government ("the Government") of the complaints concerning the applicant's right to respect for her family life, her right to a fair trial and her right to an effective remedy;

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

the parties' observations;

Having deliberated in private on 24 March 2026,

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

INTRODUCTION

1. The present case concerns the applicant's lack of contact with her half-brother, X, after he was adopted by a family living abroad.

THE FACTS

2. The applicant was born in 2007 and lives in T. She was granted leave to be represented by Ms L. (Rule 36 § 4 (a) of the Rules of Court).

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

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

I. BACKGROUND TO THE CASE

5. In 2015 the applicant's parents asked the Social Care Centre for T. and Ž. Municipalities (hereinafter "the Centre") to place their children in foster care because they could not provide adequate care for them. The Centre's staff members found that the children had been seriously neglected. In the same year, the applicant and her three siblings were placed in foster care. The

applicant and her maternal half-brother X, who was born in February 2014 and whose biological father is unknown, were placed with Ms L., who lived in a household with her parents and a brother. The applicant's two other siblings were placed with another family living in the same town. The children had contact with each other at least once a week.

6. In May 2015 Ms L. was appointed legal guardian of the applicant and X.

7. Given that the applicant's parents had not made any effort to maintain contact with their children, they were deprived of their parental rights in respect of all four children on 16 May 2016. The children thus met the criteria for adoption.

II. ADOPTION OF X

8. In 2016 the Centre assessed that it was in the best interests of the applicant and her siblings, in the long term, to be adopted. It therefore started the procedure for their adoption. The Centre decided to seek a family that would adopt all four siblings, or, failing that, one that would adopt both the applicant and X.

9. In an opinion given on 29 August 2016, the paediatrician in charge of X's care expressed his opinion that X was suitable for adoption.

10. Since all attempts to find potential adoptive parents for the children in Serbia had failed, in September 2017 the Centre began to look internationally for adoptive parents.

11. In that same month a couple from abroad expressed an interest in adopting the applicant and X. September 2017 was also the month in which the applicant turned ten, which meant that she had the right to decide whether she wished to be adopted or not. On 13 November 2017 she expressed a wish not to be adopted and to continue living with Ms L. instead. She repeated that wish on 1 December 2017, both orally and in writing, stating that she did not wish to be adopted even if her siblings were.

12. Initially Ms L. had given her consent for the domestic or international adoption of X. However, when the applicant expressed a wish not to be adopted Ms L. withdrew her consent to the adoption of X.

13. On 14 December 2017 the Centre relieved Ms L. of her legal guardianship over X. It held that Ms L., by opposing X's adoption, had not recognised that being adopted and having his "family situation ... permanently remedied" was in his best interests. The Centre appointed one of its lawyers as X's legal guardian instead. Ms L. remained X's foster carer. She was notified of that decision on 22 December 2017 at the Centre's premises.

14. In a report of 8 January 2018, the Centre established that the potential adoptive parents had been interviewed by the relevant authorities of their country of origin, had undergone an obligatory course for potential adoptive

parents and had been found suitable. The report also stated that the child's former legal guardian, Ms L., had given her consent for X's adoption. However, when she had learned that potential adoptive parents had been identified she had started to express doubts about his potential adoption. She had stated that she would have been willing to adopt the applicant, but not X, because she did not have sufficient means to support both children. Ms L. had previously expressed her intention to adopt the applicant, but had changed her mind once she had learned that the applicant's biological mother suffered from mental issues and had been a prostitute.

The report stated that Ms L.'s reservations about the adoption being in X's best interests had been fuelled by comments she had read about adoption on social media and by conversations she claimed to have had with psychologists. The report continued that Ms L. had expressed her reservations but had not contacted the staff member at the Centre in charge of the case in order to discuss them, as she could have done.

The report recommended that X be placed under Centre's direct guardianship so that the main aim of "the stability plan for the child", namely his adoption, could be attained.

The report concluded that the reports on the potential adoptive parents indicated that they would be capable of satisfying X's needs and were good potential adoptive parents for him.

15. On 10 January 2018 a team comprised of staff from the Centre, namely a psychologist, a social worker, a lawyer, and the head of the Centre, drew up a written report which concluded that it would be in X's best interest to be adopted by the potential adoptive parents from abroad, given that no potential adoptive parents had been found for him in Serbia.

16. A meeting was held in the Ministry for Labour, Employment, War Veterans and Social Affairs (hereinafter "the Ministry") on 5 February 2018, which was attended by a lawyer and a special educator from the Ministry, a psychologist from the Centre (who was also in charge of X's file there), the lawyer who had been made X's legal guardian, X's foster carer (Ms L.), the potential adoptive parents, a representative of the adoption agency, and an interpreter. It was concluded that the process of X's adoption by the potential adoptive parents would begin with a first period of contact between them followed by a period of adjustment.

17. The meetings between X and the potential adoptive parents were held on 5, 6, 7 and 8 February 2018 in the household of Ms L., in a nearby park and at the Centre's premises. The Centre's reports of those meetings described the first contact between them as having gone well.

18. On 9 February 2018 X's legal guardian gave her consent to his living with the potential adoptive parents until his adoption by them.

19. On 12 February 2018 the Centre submitted a report expressing a very positive assessment of the adjustment period following contact between X and his potential adoptive parents.

20. On 13 February 2018 a team of experts (a psychologist, an educator and a lawyer) from the Ministry gave their opinion about the adoption of X. It was stated that the initial plan had been that the applicant and X would be adopted together. However, after the applicant had expressed her wish not to be adopted, the procedure for the adoption of X had been set in motion. The team of experts expressed the opinion that it was in X's best interests to be adopted by the potential adoptive parents. In conclusion (point 4) it was stated that the potential adoptive parents would ensure contact between X and the applicant "in accordance with their means, needs and interests (*mogućnostima potrebama i interesovanjima*)".

21. On 14 February 2018 the Ministry adopted a decision allowing the potential adoptive parents to adopt X. The decision did not mention any contact between the applicant and X after his adoption.

22. On 21 February 2018 the Centre issued a decision approving the adoption of X by the potential adoptive parents. The decision stated, *inter alia*, that all conditions under the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption had been met. The decision did not mention any contact between the applicant and X after his adoption.

23. There has been no contact between the applicant and X since the latter's adoption.

24. At the initiative of staff members at the Centre, Ms L. took the applicant to see a psychologist after X's adoption. A report drawn up by the psychologist on 9 March 2018 indicated that the applicant had been sad and cried often in the immediate aftermath of the adoption of her brother, but that as of three weeks before their meeting her condition had improved. Since then she had had no problems with sleeping or eating, had had good relations with her classmates and there had been no major issues with her personality or relationships with children of her age or in the family.

III. PROCEEDINGS CHALLENGING THE ADOPTION OF X

A. Request for the re-opening of the adoption process

25. On 25 July 2019 Ms L. lodged an application with the N. Regional Secretariat for Demography and Gender Equality (*Pokrajinski sekretrijat za demografiju i ravnopravnost spolova u N.* – "the Regional Secretariat") for the re-opening of the process concerning X's adoption. The request was dismissed on 18 October 2019.

26. Ms L. then lodged a claim with the N. Administrative Court to the same end, which was dismissed on 16 June 2025.

B. Request for the annulment of X's adoption

27. On 4 December 2019 Ms L. lodged a claim, on behalf of the applicant, with the N. Court of First Instance against the Centre, seeking the annulment of X's adoption on the basis that it had not been in X's best interests since it had led to the complete severance of ties between the applicant and X. In its reply to that claim, the Centre submitted that the applicant did not have legal standing to lodge a claim for the annulment of the adoption of her half-brother, since the only persons with legal standing to do so were X's biological parents.

28. On 27 March 2020 the Centre relieved Ms L. of her legal guardianship over the applicant on the ground that she had attempted to obstruct X's adoption, had involved the applicant in various legal proceedings by naming her as a "claimant" in those proceedings, and had nurtured in her a false hope that her brother would be "returned". In the Centre's view, all that had confused the applicant and had had a negative impact on her emotional well-being. The Centre further assessed that Ms L. had not come to terms with the loss of X after his adoption, which had led her co-operation with the Centre's staff members to deteriorate and had resulted in Ms L. preventing the Centre's staff members from seeing and interviewing the applicant alone. The applicant was placed under the direct guardianship of the Centre but continued to live with Ms L., who continued to be her foster carer.

29. On 27 April 2020 Ms L. lodged an appeal against the decision of 27 March 2020 with the Regional Secretariat, which dismissed it on 27 May 2020.

30. On 1 June 2020 Ms L. lodged an application with the N. Administrative Court seeking that enforcement of the decision to relieve her of legal guardianship over applicant be stayed. That request was dismissed on 16 June 2020.

31. On 22 June 2020 Ms L. brought an action in the N. Administrative Court challenging the decision to relieve her of legal guardianship over the applicant.

32. On 11 and 21 July 2020 Ms L. lodged fresh applications with the N. Administrative Court seeking that enforcement of the decision to relieve her of legal guardianship over the applicant be stayed. Those applications were dismissed on 14 and 24 of July 2020 respectively. Ms L. lodged a constitutional complaint against the latter decision on 7 August 2020.

33. In the proceedings for the annulment of X's adoption before the N. Court of First Instance (see paragraph 27 above), the Centre staff member who had replaced Ms L. as the applicant's legal guardian informed the court that she did not approve of the action taken by Ms L. on behalf of the applicant. Therefore, on 22 October 2020 that court dismissed the claim for the annulment of X's adoption on the ground that it had been submitted by a person who lacked the requisite standing to do so, given that Ms L. was no

longer the applicant's legal guardian. Ms L. lodged an appeal against that decision.

34. On 3 February 2021 the N. Appeal Court remitted the case file to the first-instance court so that a guardian *ad litem* could be appointed for the applicant for the relevant proceedings because the claim had been submitted against the Centre and, therefore, the Centre could not serve as the applicant's guardian in the proceedings. Ms L. lodged a constitutional complaint against that procedural decision, and those proceedings are still pending before the Constitutional Court.

35. On 19 February 2021 the N. Administrative Court dismissed Ms L.'s challenge of the decision depriving her of guardianship over the applicant (see paragraph 31 above).

36. On 26 March 2021 Ms L. lodged a constitutional complaint seeking the annulment of all decisions depriving her of guardianship over the applicant.

37. A guardian *ad litem* was appointed for the applicant as requested by the appeal court in the proceedings for the annulment of X's adoption. The guardian *ad litem* did not approve of the legal actions taken by Ms L. and the case was forwarded to the N. Court of Appeal. On 28 September 2022 that court declared the appeal lodged by Ms L. inadmissible owing to her lack of standing, since she was neither a party to the proceedings nor the applicant's legal representative in them. On 16 December 2022 Ms L. submitted that decision to the Constitutional Court in the file concerning her complaint about decisions relieving her of legal guardianship over the applicant (see paragraph 36 above), but did not make any specific complaints about it.

38. On 3 October 2022 the Constitutional Court declared inadmissible Ms L.'s constitutional complaint of 7 August 2020 challenging the administrative courts' refusal to stay the execution of the order relieving her of guardianship over the applicant (see paragraph 32 above) since it had not been lodged against any decision on the merits.

39. The applicant spent the school year of 2023/24 in a student residence (*internat*) in Z., but Ms L. remained her foster carer.

40. On 14 September 2023 the Constitutional Court accepted the constitutional complaint lodged by Ms L. on 26 March 2021 (see paragraph 36 above) and quashed the decisions relieving her of legal guardianship over the applicant. It held that those decisions had not given adequate reasons for the conclusion that Ms L. had abused her position as the applicant's legal guardian, and that the fact that Ms L. had instituted the proceedings for the annulment of X's adoption and made attempts to secure contact between the applicant and X after the latter's adoption could not be seen as an abuse of her position. The Government confirmed that as from the date of the aforesaid Constitutional Court's decision Ms L. continued to be the applicant's legal guardian.

41. On 13 October 2023 the applicant sought the re-opening of the proceedings for the annulment of X's adoption.

42. On 22 March 2024 the Constitutional Court declared inadmissible the constitutional complaint against the N. Court of Appeal's decision of 3 February 2021 because that had been a procedural decision, and not a decision on the merits (see paragraph 34 above). In the same decision the Constitutional Court also declared inadmissible Ms L.'s complaint against the N. Court of Appeal's decision of 28 September 2022 (see paragraph 37 above). In respect of that decision, the Constitutional Court noted that it would be possible for Ms L. to seek the re-opening of those proceedings in view of its having quashed on 14 September 2023 the decisions relieving her of legal guardianship over the applicant (see paragraph 40 above).

43. On 24 June 2024 the N. Court of First Instance dismissed an application lodged by Ms L. seeking the reopening of the proceedings for the annulment of X's adoption (see paragraph 41 above), finding that the decision of the Constitutional Court of 14 September 2023 (see paragraph 40 above) could not affect the fact that the applicant was represented by a special guardian in those proceedings or the fact that the guardian *ad litem* had not agreed with the application for the annulment of X's adoption. On 2 August 2024 Ms L. lodged an appeal in her own name against that decision.

44. In September 2024 a team of experts – comprising an educator, a psychologist and a social worker – from the N. Centre for Family Accommodation and Adoption (*Centar za porodični smeštaj i usvojenje u N.*) carried out an assessment of Ms L.'s performance as foster carer. They found that the Centre's staff members had been prevented by Ms L. from seeing the applicant alone, that is to say in the absence of Ms L., and that therefore staff had been unable to obtain the applicant's opinion on the care provided to her by Ms L. Ms L. had also refused to give the name of the applicant's class teacher to the staff member responsible for her file at the Centre. The assessment found that relations between Ms L. as foster carer and the Centre as the authority with responsibility for the applicant had deteriorated since X's adoption, and that she had not been acting in the best interest of the applicant. The team of experts considered that Ms L. had failed to understand the roles of the various people involved in the care of children given to foster care, and that she was not capable of assisting in the preparation of the applicant for her transition out of foster care. They further found that the L. family was characterised by a rigid "family structure" and did not support the applicant's autonomy. They found that Ms L.'s resistance to X's adoption also showed her lack of understanding of her role as a foster carer. They also saw Ms L.'s attitude towards the applicant as controlling and judged that she was incapable of accepting the applicant's individuality. They concluded that Ms L. did not possess the "minimal skills and knowledge" necessary for a foster carer. On 30 September 2024 the Centre issued a decision terminating her status as a foster carer. Ms L. lodged an appeal against that decision.

45. On 1 October 2024 the N. Court of Appeal dismissed Ms L.'s appeal against the judgment of the N. Court of First Instance of 24 June 2024 (see paragraph 43 above).

46. On 20 November 2024 Ms L.'s appeal against the Centre's decision of 30 September 2024 (see paragraph 44 above) was dismissed by the Regional Secretariat. Ms L. lodged an administrative claim against that decision.

47. In September 2025 the applicant turned eighteen. On 26 September and 7 October 2025, she confirmed that she wished to pursue the instant application which Ms L. had originally introduced on her behalf. She approved of all actions taken by Ms L. and expressed a wish that the latter continue to represent her in the proceedings before the Court.

48. On 9 October 2025 the Centre issued a decision terminating Ms L.'s guardianship over the applicant because she had attained full age. That decision became final on 29 October 2025.

49. On 24 October 2025 the Administrative Court dismissed Ms L.'s administrative claim against the decision of the Regional Secretariat of 20 November 2024 (see paragraph 46 above).

50. On 24 December 2025 the Centre initiated proceedings for termination of Ms L.'s status as the applicant's foster care giver, on the grounds that by judgment of the Administrative Court of 24 October 2025 (see paragraph 49 above) she had been stripped of her general status as a foster care giver.

IV. OTHER RELEVANT DEVELOPMENTS

51. Soon after X's adoption, Ms L. started to contact the relevant authorities in Serbia and in the country where X was living with his adoptive family, as well as X's adoptive parents, asking them to secure contact between X and his siblings in Serbia. A representative of those authorities informed Ms L. on 21 December 2021 that they had contacted X's adoptive parents, who had stated that they talked to X about his origin and his family in Serbia regularly, but that he was not ready for contact with them. However, with time and as he grew up, he could cultivate his relationship with his sibling if he wished to do so.

RELEVANT LEGAL FRAMEWORK

I. DOMESTIC LEGAL FRAMEWORK

A. Constitution of the Republic of Serbia 2006 (*Ustav Republike Srbije*; published in the Official Gazette of the Republic of Serbia ("OG RS") nos. 98/2006 and 115/2021)

52. The relevant part of the Constitution reads as follows:

International relations
Article 16 § 2

"... [R]atified international treaties are an integral part of the [Serbian] legal system ... and shall be directly applicable ..."

Rights of the child
Article 64

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

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

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

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

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

B. The Family Act (*Porodični zakon*, published in OG RS nos. 18/05 and 72/11)

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

Article 88

"Adoption is established by a decision of the guardianship authority."

Article 89

"A child may be adopted if it is in his or her best interest."

Article 90

"(1) Only a minor may be adopted.

(2) A child may not be adopted before reaching the third month of life.

(3) A minor who has acquired full legal capacity may not be adopted."

Article 91

"Children in the following situations may be adopted:

1. a child who has no living parents;

2. a child whose parents, or the dwelling place thereof, are unknown;

3. a child whose parents have been fully deprived of parental rights;

4. a child whose parents have been fully deprived of legal capacity;

5. a child whose parents gave their consent to adoption."

Article 95

"(1) A child may be adopted only with the consent of his or her parents.

(2) A parent may give his or her consent to adoption with or without designating the adopters.

(3) A parent may not give his or her consent to adoption before the child reaches his or her second month of life.

(4) A parent may withdraw his or her consent to adoption within thirty days from the day the consent was given.

(5) A parent can use the right outlined in paragraph 4 only once."

Article 96

"The consent of a parent to adoption is not necessary:

1. if the parent has been fully deprived of parental rights;

2. if the parent has been deprived of the right to decide on issues that significantly influence the child's life;

3. if the parent has been fully deprived of legal capacity."

Article 97

"If a child is under guardianship, the consent to adoption is given by his or her guardian."

Article 98

"A child who has reached ten years of age and who is capable of reasoning has to give his or her consent to adoption."

Article 103

"(1) A foreign citizen may adopt a child under the conditions:

1. that adopters cannot be found among [Serbian] citizens;

2. that the minister responsible for family protection gives his consent to the adoption.

(2) It is to be considered that adopters cannot be found among [Serbian] citizens if more than one year has passed from the day when data on the future adoptee was entered in the Unified Personal Register of Adoptions.

(3) Exceptionally, the minister responsible for family protection can [approve an] adoption [by] a foreign citizen before the time-limit set in paragraph 2 of this Article, if that is in the best interests of the child."

Article 104

"Adoption results in the establishment of the same rights and duties between the adoptee and his or her offspring and the adopters and their relatives, as between a child and his or her parents and other relatives."

Article 105

"(1) Adoption terminates the parental rights of parents, unless the child is adopted by the spouse or the cohabitee of the child's parent.

(2) Adoption terminates the rights and duties of the child towards his or her relatives and the rights and duties of the relatives towards the child."

Article 106

"(1) Adoption may be terminated by annulment, if it is null and void or voidable.

(2) Adoption may not be rescinded."

Article 107

"An adoption is null and void if, [when it occurred], the conditions for its validity as specified by this Act had not been met."

Article 108

"An adoption is voidable if the consent to adoption was given under duress or in error."

Article 119

"(1) A foster parent has the right and duty to protect, raise, bring up and educate the child.

(2) A foster parent has the duty to take special care to prepare the child for independent life and work.

(3) A foster parent has the right to compensation, in accordance with law."

Article 121

"(1) Foster care is terminated:

1. when the child reaches eighteen years of age;

2. when the child acquires full legal capacity before coming of age;

3. when the child is adopted;

4. when the child or the foster parent dies; or

5. by revocation of foster care.

(2) Foster care may be prolonged, at most, to the child's twenty-sixth year of life, if the child is in regular schooling.

(3) In the case of the death of the foster parent, a person who lived with him or her in the same family household has priority [among the candidates to be the child's] new foster carer."

Article 131

"(1) The guardianship authority may decide, if it is in the ward's interest, not to appoint a guardian to a person under guardianship, but to perform the guardianship duties directly.

(2) An expert from the guardianship authority, who will perform the activities of the guardian in the name of the guardianship authority, is appointed by a ruling on direct performance of guardianship activities.

(3) The expert from the guardianship authority may validly perform the guardianship activities which, when performed by a guardian, are valid only upon an approval from the guardianship authority, only if he or she does not hold guardianship administrative powers and [only] under the [same] conditions and in the manner [as they would have to be] performed by a guardian.

(4) The guardianship authority may perform a legal transaction with the ward under its direct care only with the consent of the ministry responsible for family protection."

Article 132

"(1) The guardianship authority may decide to appoint a temporary guardian to a ward, to a child under parental care, or to a person with legal capacity, if it finds that necessary for the temporary protection of the personality, rights or interests of such persons.

(2) Under the conditions referred to in paragraph 1 of this Article, the guardianship authority is under an obligation to appoint a temporary guardian to:

1. a person whose dwelling place is unknown and who does not have a legal representative or [who hasn't created a] power of attorney;

2. the owner of property [when he or she is unknown];

3. a person whose interests are adverse to the interests of his or her legal representative, or to persons who have adverse interests and the same legal representative (collision guardian);

4. a foreign citizen who is present or has property in the territory of the Republic of Serbia;

5. a person who requests that a temporary guardian be appointed to him or her and gives a justified reason;

6. any other person when so provided for by law.

(3) The decision on the appointment of a temporary guardian must also state the legal transactions or type of legal transactions that the guardian may undertake depending on the circumstances of each specific case."

Article 133

"(1) The guardianship authority is under an obligation to relieve the guardian of guardianship without delay if it establishes that the guardian has, for any reason, ceased to perform his or her duties, or that the guardian has abused the rights or grossly neglected the duties of a guardian, or that a circumstance has arisen owing to which he or she [was not eligible to be] appointed as a guardian."

Article 275

"(1) An action for the annulment of an adoption on the grounds listed in Articles 89 through 103 of this Act can be initiated by the adopters, the adoptee, the parents or guardian of the adoptee, persons having a legal interest in the annulment of the adoption or the public prosecutor.

(2) An individual who has given a statement of consent to adoption under duress or in error has the right to bring an action for the annulment of the adoption within one year from the day the duress ceased or the error was noticed."

II. RELEVANT INTERNATIONAL MATERIALS

A. European Convention on the Adoption of Children (Revised)

54. The European Convention on the Adoption of Children (Revised) of 27 November 2008, CETS 202, was signed by Serbia on 18 June 2009, but has yet to be ratified. The relevant parts of that Convention read as follows:

Article 4 – Granting of an adoption

"1. The competent authority shall not grant an adoption unless it is satisfied that the adoption will be in the best interests of the child.

2. In each case the competent authority shall pay particular attention to the importance of the adoption providing the child with a stable and harmonious home."

Article 5 – Consents to an adoption

"1. Subject to paragraphs 2 to 5 of this article, an adoption shall not be granted unless at least the following consents to the adoption have been given and not withdrawn:

(a) the consent of the mother and the father; or if there is neither father nor mother to consent, the consent of any person or body who is entitled to consent in their place;

(b) the consent of the child considered by law as having sufficient understanding; a child shall be considered as having sufficient understanding on attaining an age which shall be prescribed by law and shall not be more than 14 years;

(c) the consent of the spouse or registered partner of the adopter.

2. The persons whose consent is required for adoption must have been counselled as may be necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin. The consent must have been given freely, in the required legal form, and expressed or evidenced in writing.

3. The competent authority shall not dispense with the consent or overrule the refusal to consent of any person or body mentioned in paragraph 1 save on exceptional grounds determined by law. However, the consent of a child who suffers from a disability preventing the expression of a valid consent may be dispensed with.

4. If the father or mother is not a holder of parental responsibility in respect of the child, or at least of the right to consent to an adoption, the law may provide that it shall not be necessary to obtain his or her consent.

5. A mother's consent to the adoption of her child shall be valid when it is given at such time after the birth of the child, not being less than six weeks, as may be prescribed by law, or, if no such time has been prescribed, at such time as, in the opinion of the competent authority, will have enabled her to recover sufficiently from the effects of giving birth to the child.

6. For the purposes of this Convention 'father' and 'mother' mean the persons who according to law are the parents of the child."

Article 10 – Preliminary enquiries

"1. The competent authority shall not grant an adoption until appropriate enquiries have been made concerning the adopter, the child and his or her family. During such enquiries and thereafter, data may only be collected, processed and communicated according to the rules relating to professional confidentiality and personal data protection.

2. The enquiries, to the extent appropriate in each case, shall concern, as far as possible and *inter alia*, the following matters:

(a) the personality, health and social environment of the adopter, particulars of his or her home and household and his or her ability to bring up the child;

(b) why the adopter wishes to adopt the child;

(c) where only one of two spouses or registered partners applies to adopt the child, why the other does not join in the application;

(d) the mutual suitability of the child and the adopter, and the length of time that the child has been in his or her care;

(e) the personality, health and social environment of the child and, subject to any limitations imposed by law, his or her background and civil status;

(f) the ethnic, religious and cultural background of the adopter and of the child.

3. These enquiries shall be entrusted to a person or body recognised for that purpose by law or by a competent authority. They shall, as far as practicable, be made by social workers who are qualified in this field as a result of either their training or their experience.

4. The provisions of this article shall not affect the power or duty of the competent authority to obtain any information or evidence, whether or not within the scope of these enquiries, which it considers likely to be of assistance.

5. Enquiries relating to the suitability to adopt and the eligibility of the adopter, the circumstances and the motives of the persons concerned and the appropriateness of the placement of the child shall be made before the child is entrusted with a view to adoption to the care of the prospective adopter."

Article 11 – Effects of an adoption

"1. Upon adoption a child shall become a full member of the family of the adopter(s) and shall have in regard to the adopter(s) and his, her or their family the same rights and obligations as a child of the adopter(s) whose parentage is legally established. The adopter(s) shall have parental responsibility for the child. The adoption shall terminate the legal relationship between the child and his or her father, mother and family of origin.

...

3. As regards the termination of the legal relationship between the child and his or her family of origin, States Parties may make exceptions in respect of matters such as the surname of the child and impediments to marriage or to entering into a registered partnership.

4. States Parties may make provision for other forms of adoption having more limited effects than those stated in the preceding paragraphs of this article."

Article 14 – Revocation and annulment of an adoption

"1. An adoption may be revoked or annulled only by decision of the competent authority. The best interests of the child shall always be the paramount consideration.

2. An adoption may be revoked only on serious grounds permitted by law before the child reaches the age of majority.

3. An application for annulment must be made within a period prescribed by law."

B. Convention on Protection of Children and Co-Operation in respect of Intercountry Adoption

55. The Convention on Protection of Children and Co-Operation in respect of Intercountry Adoption (1993) was acceded to by Serbia on 18 December 2013 and entered into force on 1 April 2014. The relevant parts of that Convention read as follows:

Article 1

"The objects of the present Convention are –

a) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognised in international law;

b) to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;

c) to secure the recognition in Contracting States of adoptions made in accordance with the Convention."

Article 4

"An adoption within the scope of the Convention shall take place only if the competent authorities of the State of origin –

a) have established that the child is adoptable;

b) have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interests;

c) have ensured that

(1) the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their

consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin,

(2) such persons, institutions and authorities have given their consent freely, in the required legal form, and expressed or evidenced in writing,

(3) the consents have not been induced by payment or compensation of any kind and have not been withdrawn, and

(4) the consent of the mother, where required, has been given only after the birth of the child;

and

d) have ensured, having regard to the age and degree of maturity of the child, that

(1) he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required,

(2) consideration has been given to the child's wishes and opinions,

(3) the child's consent to the adoption, where such consent is required, has been given freely, in the required legal form, and expressed or evidenced in writing, and

(4) such consent has not been induced by payment or compensation of any kind."

Article 21

"(1) Where the adoption is to take place after the transfer of the child to the receiving State and it appears to the Central Authority of that State that the continued placement of the child with the prospective adoptive parents is not in the child's best interests, such Central Authority shall take the measures necessary to protect the child, in particular –

a) to cause the child to be withdrawn from the prospective adoptive parents and to arrange temporary care;

b) in consultation with the Central Authority of the State of origin, to arrange without delay a new placement of the child with a view to adoption or, if this is not appropriate, to arrange alternative long-term care; an adoption shall not take place until the Central Authority of the State of origin has been duly informed concerning the new prospective adoptive parents;

c) as a last resort, to arrange the return of the child, if his or her interests so require.

(2) Having regard in particular to the age and degree of maturity of the child, he or she shall be consulted and, where appropriate, his or her consent obtained in relation to measures to be taken under this Article."

Article 26

"(1) The recognition of an adoption includes recognition of

a) the legal parent-child relationship between the child and his or her adoptive parents;

b) parental responsibility of the adoptive parents for the child;

c) the termination of a pre-existing legal relationship between the child and his or her mother and father, if the adoption has this effect in the Contracting State where it was made.

(2) In the case of an adoption having the effect of terminating a pre-existing legal parent-child relationship, the child shall enjoy in the receiving State, and in any other Contracting State where the adoption is recognised, rights equivalent to those resulting from adoptions having this effect in each such State.

(3) The preceding paragraphs shall not prejudice the application of any provision more favourable for the child, in force in the Contracting State which recognises the adoption."

C. Convention on the Rights of the Child

56. The Convention on the Rights of the Child of 20 November 1989, UNTS 27531 (ratified by Serbia on 12 March 2001), in so far as relevant reads as follows:

Article 21

"States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs."

57. The relevant part of General Comment no. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), UN Doc CRC/C/GC/14, adopted by the Committee on the Rights of the Child at its sixty-second session (14 January – 1 February 2013), reads as follows:

"4. 'Shall be a primary consideration'

...

39. However, since Article 3, Paragraph 1, covers a wide range of situations, the Committee recognizes the need for a degree of flexibility in its application. The best interests of the child – once assessed and determined – might conflict with other interests or rights (e.g. of other children, the public, parents, etc.). Potential conflicts

between the best interests of a child, considered individually, and those of a group of children or children in general have to be resolved on a case-by-case basis, carefully balancing the interests of all parties and finding a suitable compromise. The same must be done if the rights of other persons are in conflict with the child's best interests. If harmonization is not possible, authorities and decision-makers will have to analyse and weigh the rights of all those concerned, bearing in mind that the right of the child to have his or her best interests taken as a primary consideration means that the child's interests have high priority and not just one of several considerations. Therefore, a larger weight must be attached to what serves the child best."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

58. The applicant complained that she had had no contact with her half-brother X after his adoption abroad. She relied on Article 8 of the Convention, which, in so far as relevant, reads as follows:

"1. Everyone has the right to respect for his ... family life...

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

A. Admissibility

1. The parties' submissions

(a) The Government

59. The Government argued that Ms L. had no standing to lodge the application on behalf of the applicant because she had been stripped of her status as the applicant's legal guardian by the Centre's decision of 27 March 2020 which had come into effect immediately, or at the latest on 27 May 2020 when that decision had been confirmed by the Regional Secretariat. Ms L. had submitted the application almost seven months after the latter decision. Furthermore, the administrative decision stripping Ms L. of her status as the applicant's legal guardian had also been confirmed by the Administrative Court on 19 February 2021.

60. The Government also argued that there was a conflict of interest between Ms L. and the applicant because of the reasons advanced by the domestic authorities for stripping Ms L. of her status as the applicant's legal guardian (see paragraph 28 above). In the Government's view, it was important for the applicant's proper emotional and psychological development to receive truthful and correct information about the adoption of X which would enable her to adopt a rational view about such an important event in her life. The applicant's interest in receiving such information was

at odds with Ms L.'s behaviour, which included nurturing a false hope in the applicant that X would be "returned", initiating various court proceedings on the applicant's behalf, and creating mistrust towards the Centre's staff members, including by preventing them from seeing the applicant alone, without Ms L. present.

61. The Government also pointed out that Ms L. had been contacting the authorities of the country in which X lived with his adoptive parents, as well as X's adoptive parents directly, and had insinuated that his adoption had been illegal, thus reducing the probability of X's adoptive parents facilitating contact between the applicant and X.

62. The Government conceded that the applicant had remained in Ms L.'s foster care because of strong emotional ties between them.

63. The Government argued further that the applicant had not exhausted the available domestic remedies because she had not properly lodged a constitutional complaint against the N. Court of Appeal's decision of 28 September 2022 by which the applicant's appeal against the N. Court of First Instance's decision (dismissing the claim for the annulment of X's adoption) of 22 October 2020 had been declared inadmissible.

(b) The applicant

64. The applicant argued that Ms L. had been stripped of her status as her legal guardian by domestic authorities in a manipulative manner and that no other person would have submitted the application on her behalf in order to protect her right to contact with her brother after his adoption abroad. She contended that there had been no conflict of interest between her and Ms L. and that Ms L. had merely been attempting to protect the applicant's rights before the domestic courts.

65. After she had attained majority, the applicant submitted that she wished to pursue the application and approved of all the actions taken by Ms L. on her behalf. She also confirmed that she wished that Ms L. continue representing her before the Court.

2. The Court's assessment

(a) Standing of Ms L. to lodge the application on behalf and in the name of the applicant

66. The Court reiterates that, in principle, a person who is not entitled under domestic law to represent another may nevertheless, in certain circumstances, act before the Court in the name of the other person. In cases involving a minor, three criteria must be met in order for a person to have standing: (a) a sufficiently close link between the minor and the person lodging the complaint before the Court in the name of that minor, (b) the risk that in the absence of the complaint, the minor will be deprived of effective protection of his or her rights, and (c) the absence of any conflict of interests

between the minor and the person representing him or her (see *T.A. and Others v. the Republic of Moldova*, no. 25450/20, §§ 32 and 33, 30 November 2021, with further references).

67. Both parties agree that Ms L. was the applicant's legal guardian between May 2015 and 27 March 2020, when the Centre stripped her of that status. That decision was confirmed by the Regional Secretariat on 27 May 2020. Given those decisions, the domestic courts held that Ms L. was not entitled to represent the applicant in domestic proceedings for the annulment of X's adoption. However, both these decisions were quashed by the Constitutional Court on 14 September 2023 (see paragraph 40 above), and no further decision concerning Ms L.'s status as the applicant's legal guardian had been adopted until October 2025 when Ms L.'s legal guardianship ended since the applicant had attained majority in September 2025. The present application was submitted on 10 October 2020, at the time when the decisions stripping Ms L. of legal guardianship over the applicant were not yet quashed by the Constitutional Court. Those being the relevant facts, the Court will apply the three criteria cited above to them.

68. As to the link between the applicant and Ms L., the Court notes that the applicant has been in the foster care of Ms L. since 2015, and that Ms L. was appointed the applicant's legal guardian in the same year. When the applicant turned ten, she decided that she did not wish to be adopted, but wanted instead to continue living with Ms L. and her family. The applicant expressed her attachment to Ms L. before the domestic authorities. It was in consideration of those emotional ties that the domestic authorities, having stripped Ms L. of her status as the applicant's legal guardian, did not remove the applicant from Ms L.'s foster care.

69. Given the legal status of Ms L. in relation to the applicant and the close emotional ties between the applicant and Ms L., the Court considers that there was a sufficiently close link between them.

70. The Court also considers that, apart from Ms L., there was no-one to lodge the present application on behalf of the applicant since her parents had been divested of their parental rights and the applicant has no contact with any of her other adult biological relatives.

71. As to the possible conflict of interests between the applicant and Ms L., the Court notes that the Centre found that Ms L. had abused her position of the applicant's legal guardian because she had initiated various court proceedings on behalf of the applicant, had insisted on contact between the applicant and X after the latter's adoption and had nurtured in the applicant a hope that she would be reunited with X. However, the Constitutional Court did not agree with that assessment and considered that such justification for stripping Ms L. of the status of the applicant's legal guardian was not acceptable (see paragraph 40 above).

72. The Court is inclined to agree with the reasoning of the Constitutional Court. The attempts of Ms L. to secure contact between the applicant and X

cannot be seen as running counter to the applicant's wishes and interests. The Court notes that the present application concerns exactly that issue, and that the applicant, after she turned eighteen, expressed a wish to pursue the present application and appointed Ms L. as her representative in the proceedings before the Court.

73. In the Court's view the above considerations show that there is no conflict of interest between the applicant and Ms L. which would prevent the latter from initially bringing the application on behalf of the applicant.

74. In conclusion, the Court considers that Ms L. had standing to bring and pursue the application on behalf of the applicant.

(b) Exhaustion of domestic remedies

75. The Court considers that the central issue in this case is not whether the adoption of X should be annulled, but whether the severance of contact between the applicant and X after the latter's adoption amounts to a violation of the applicant's rights protected under Article 8 of the Convention. In this respect the Court notes that there are no domestic proceedings by which the applicant could seek that contact between her and X be established, nor did the Government claim so. Therefore, the proceedings for the annulment of X's adoption are irrelevant from the viewpoint of the requirement to exhaust domestic remedies, and consequently so is the question whether a constitutional complaint was properly lodged in these proceedings on behalf of the applicant.

76. It follows that the Government's objection as to the exhaustion of domestic remedies must be dismissed.

(c) Compliance with the six-month rule

77. The Court notes that X was adopted on 21 February 2018, and that the present application was lodged on 10 October 2020. It found above that the proceedings for the annulment of X's adoption were not a remedy which the applicant was required to exhaust. Therefore, they cannot be taken into consideration, and the question arises whether she complied with the six-month time-limit laid down in Article 35 § 1 of the Convention as in force at the relevant time.

78. Even though the Government have not raised an objection as to non-compliance with the six-month rule, the Court has held that it is a public policy rule and that, consequently, it has jurisdiction to apply it of its own motion (see, for example, *Blokhin v. Russia* [GC], no. 47152/06, § 102, 23 March 2016).

79. The essence of the applicant's complaint is that her contact with X had been severed ever since his adoption. In the Court's view that situation did not arise at one particular moment, and certainly not from the very moment of X's adoption. The applicant's complaint does not relate to any

specific event but concerns the failure of the competent authorities to ensure her contact with her brother during the entire period since his adoption. Given the mention in the opinion of the Ministry's team of experts that X's adoptive parents would ensure contact between X and the applicant "in accordance with their means, needs and interests" (see paragraph 20 above), the applicant could have expected that such contact would be established after X's adoption. It was only on 21 December 2021 that the applicant learned that no such contact would take place in the near future (see paragraph 51 above). It follows that the application cannot be rejected as having been introduced belatedly.

(d) Conclusion on admissibility

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

B. Merits

1. The parties' arguments

(a) The applicant

81. The applicant challenged at length X's adoption, arguing that it had resulted in the severing of all ties between them. The applicant stressed her emotional and biological ties with X prior to his adoption and argued that it had not been in her or X's best interest to separate them. She also submitted that the adoptive parents had promised to maintain contact between her and X after his adoption, which had not happened.

82. She also contended that Ms L. had intended to adopt X but had not been allowed to do so.

(b) The Government

83. The Government accepted that the adoption of X, which had resulted in the severance of all ties between the applicant and her half-brother, amounted to an interference with the right to respect for the applicant's family life. However, the Government considered that that interference had been justified, and in the best interests of both the applicant and X.

84. They submitted that, in Serbia, foster care was a temporary arrangement for children without parental care, and that X's adoption had been in his best interests as it represented a permanent solution providing him with a stable family situation. Domestic authorities had first attempted to secure the adoption of all four children together, but had not found potential adoptive parents. They had then proceeded with attempts to find adoptive parents for the applicant and X. No such parents had been found in Serbia, but a couple from abroad had expressed a wish to adopt both the applicant

and X. Since the applicant had refused to be adopted, the domestic authorities had continued with adoption of X. Given that no interested potential adoptive parents had been identified in Serbia, the adoption abroad had been assessed by domestic authorities as the best solution for X because he had been a small child at the time and it had been in his best interests to be adopted early.

85. The Government submitted further that there was no option for an "open adoption" in Serbia, and that when a child was adopted all his or her ties with the biological family were thus severed. Irrespective of that, X's adoptive parents had expressed a willingness to allow contact between X and the applicant "in accordance with their means, needs and interests". However, Ms L. had begun contacting the authorities in the county in which X had been living with his adoptive parents, and his adoptive parents directly, and had begun expressing her view that X's adoption had been illegal and accusing them of separating the applicant and X. They submitted that that had led the adoptive parents to indicate that X had not been ready at that point to establish contact with the applicant, but that he might be willing to do so when he grew older.

86. The Government further submitted that, at the initiative of the Centre's staff members, the applicant had seen a psychologist who had found that she had been sad and cried often after X had been adopted, but that with time she had accepted the situation and her general state had improved, and that she had not shown any signs of problems as regards her personality or her relationships with her classmates or family members.

2. The Court's assessment

(a) General principles

87. The applicant complained about the lack of contact with her half-brother X after his adoption abroad. The Court reiterates that while the essential object of Article 8 is to protect the individual against arbitrary interference by the public authorities, it does not merely compel the State to abstain from such interference: in addition to this negative undertaking, there may be positive obligations inherent in an effective respect for private or family life (see *Fernández Martínez v. Spain* [GC], no. 56030/07, § 114, ECHR 2014 (extracts)). Although the adoption and its legal effects may be viewed as having interfered with the applicant's pre-existing family life, the complaint before the Court is more appropriately examined from the standpoint of the respondent State's positive obligations, if any, to secure effective respect for that family life after the lawful intercountry adoption. The boundaries between the State's positive and negative obligations under Article 8 do not lend themselves to precise definition. The applicable principles are nonetheless similar. In determining whether or not such an obligation exists, regard must be had to the fair balance which has to be struck between the general interest and the interests of the individual; and in both

contexts the State enjoys a certain margin of appreciation (see also *I.S. v. Germany*, no. 31021/08, § 70, 5 June 2014, referring to *Evans v. the United Kingdom* [GC], no. 6339/05, § 75, ECHR 2007-I; *S.H. and Others v. Austria* [GC], no. 57813/00, § 88, ECHR 2011; and *Mikulić v. Croatia*, no. 53176/99, § 58, ECHR 2002-I). That said, the Court will have to put the applicant's complaint of lack of contact with her adopted half-brother in context, which inevitably means that it must, to some degree, have regard to the adoption proceedings (compare *Strand Lobben and Others v. Norway* [GC], no. 37283/13, § 148, 10 September 2019, and *Abdi Ibrahim v. Norway* [GC], no. 15379/16, § 133, 10 December 2021).

(b) Application of these principles to the present case

88. The Government accepted that the applicant and her half-brother had a family life prior to his adoption, and the Court sees no reason to hold otherwise.

89. The Government also submitted that lack of contact between the applicant and X after his adoption amounted to an interference with the applicant's right to respect for her family life. However, the Court considers that the essence of this case is not the adoption of X as such, but the lack of contact between the applicant and X after his adoption abroad. That is the basis upon which the applicant challenged X's adoption. Therefore, the present case concerns the question whether there was a positive obligation on the Serbian State to secure contact between the applicant and X after his adoption abroad.

90. The Court notes that both the applicant and X were children who had been left without parental care because their biological parents had been divested of their parental rights, and that the applicant and all her siblings were placed in foster care with two different families. In Serbia the placement of children in foster care is temporary and foster carers are remunerated by the State. Children stay in foster care until they reach eighteen. Exceptionally, foster care may be extended to the child's twenty-sixth birthday if the child is in regular schooling. No formal family ties are established between foster carers and children in their care and, once the foster care is terminated, there are no obligations for foster carers to preserve ties with children formerly in their care.

91. The Court, therefore, accepts the Government's contention that placement of X in foster care could not be seen as the best permanent solution for him. The domestic authorities had a delicate task in finding the best solution to protect interests of X. The Court refers in that connection to the General Comment no. 14 of the Committee on the Rights of the Child according to which potential conflicts between the best interests of a child, considered individually, and those of a group of children have to be resolved on a case-by-case basis by carefully balancing the interests of all parties and

finding a suitable compromise (see paragraph 57 above, and compare *Vujica v. Croatia*, no. 56163/12, § 101, 8 October 2015).

92. The Court accepts that the best solution would have been the adoption of the applicant and X together. Indeed, the domestic authorities first attempted to facilitate the adoption of all four children together, and even when no potential adoptive parents were found for all four children the domestic authorities sought that X and the applicant be adopted together. However, no potential adoptive parents for them were found in Serbia. The Court further notes the applicant's submission that Ms L. had wanted to adopt X but had not been allowed. However, there is no indication in the case file or in the documents submitted by the parties that Ms L. has ever made an application to adopt either the applicant or X, or that she has even started the procedure for her assessment as a potential adoptive mother. The material before the Court does not suffice to establish that Ms L. had taken concrete steps to adopt X, or that such an option had reached a stage requiring consideration by the domestic authorities.

93. When potential adoptive parents were identified abroad, the domestic authorities started the process for the adoption of the applicant and X together in September 2017. Almost immediately after that the applicant turned ten, and was thus authorised under domestic law to express her wish as to the potential adoption. She expressly refused to be adopted on two occasions, both orally and in writing, and expressed her wish to stay with Ms L. The position taken by the applicant on that question cannot, however, be taken as absolutely preventing the adoption of X. Her refusal to be adopted could not be allowed to outweigh X's own interests, which the authorities considered were that he be adopted.

94. It follows that the adoption of X by a family living abroad was, in the long-term, in his best interests because, as a child whose mother had been deprived of her parental rights and whose father was unknown, he had not had a permanent stable family situation, and no potential adoptive parents had been found for him in Serbia. The Court is mindful of the arguments submitted by the applicant concerning Ms L.'s misgivings about the adoption of X. There is, however, nothing to suggest that the adoption of X was contrary to the law, or that the adoption produced adverse effects on X. Therefore, the assessment of domestic authorities that it was in X's best interest to be adopted abroad cannot be seen as arbitrary.

95. The Court observes that in Serbia there is no possibility for an "open" adoption which would secure contact between the adopted child and members of his or her biological family. Furthermore, there is no law regulating contact between a child and his or her biological family after adoption in any respect.

96. As regards the relevant international instruments, the Court notes that they do not appear to impose, as such, a general obligation on States to preserve contact between siblings following a full adoption.

97. The applicant argued that the Centre staff members had promised that she would maintain contact with X after his adoption. The Court notes that the only mention of such contact was in the opinion of 13 February 2018 written by the Ministry's team of experts, in which it was stated that the potential adoptive parents would ensure contact between X and the applicant "in accordance with their means, needs and interests" (see paragraph 20 above). However, that did not create any legal obligation on the adoptive parents to ensure such contact. The decision on X's adoption did not stipulate any contact between the applicant and X after the latter's adoption. The Court further notes that there is nothing to indicate that either the Centre or the prospective adoptive parents had wanted to deviate from Serbian statutory law on adoption, which does not provide for an "open" adoption (compare *I.S. v. Germany*, cited above, §§ 83-85).

98. Unlike the placement of children in foster care or in an institution, adoption is a permanent solution and there is no obligation on the States to make attempts to preserve ties between biological family members and an adopted child, such as continued contact after adoption (compare, in a different context, *R. and H. v. the United Kingdom*, no. 35348/06, § 88, 31 May 2011).

99. The State fulfilled its obligation to pursue the best interests of the child, properly assessing the possibilities and interests of the two minors. After his adoption, X had to become accustomed to his new family and accept his new surroundings, as well as learn a foreign language. All of that combined represented a delicate situation. In these circumstances, the domestic authorities were entitled to attach decisive weight to X's need for permanence, stability and integration into his new family environment, especially in the immediate period following the adoption. Given those circumstances, as well as the fact that X was only four years old when adopted, the Court considers that the interests of the adoptive family in enjoying and building a family life together with X, undisturbed by attempts by his biological family members to re-establish contact, prevailed (compare *I.S. v. Germany*, cited above, § 86).

100. The foregoing considerations are sufficient to enable the Court to conclude that there has been no violation of Article 8 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

101. Lastly, the applicant complained under Article 6 § 1 of the Convention of a lack of fairness in the proceedings for the annulment of X's adoption, and also under Article 13 that she had had no remedy by which to assert her right to contact with X after his adoption.

102. The Court notes that the final decision in these proceedings was adopted by the N. Court of Appeal on 28 September 2022, and that the Government claimed that the applicant had not lodged a constitutional

complaint against it, whereas the applicant claimed that she had lodged such a complaint. The Court notes that on 16 December 2022 Ms L. informed the Constitutional Court of the aforesaid decision, and submitted it in the file concerning her other constitutional complaint against the decisions relieving her of legal guardianship over the applicant (see paragraph 37 above). However, she did not submit a formal constitutional complaint, nor did she raise any specific complaints against it.

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

104. As regards the request for the reopening of these proceedings, lodged on 13 October 2023, the Court notes that it was lodged in the name of Ms L. and not the applicant. Furthermore, that request was dismissed. Even assuming that the complaint under Article 6 of the Convention is compatible *ratione personae*, the Court reiterates that Article 6 is not applicable to proceedings concerning an application for reopening of civil proceedings which have been terminated by a final decision (see *Kolu v. Finland* (dec.), no. 56463/10, 3 May 2011, with further references).

105. Accordingly, this part of the application is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4 of the Convention.

106. As regards the complaint under Article 13 of the Convention, the Court has already noted that in Serbia there is no possibility for an "open" adoption and that, generally, adoption results in the severance of ties between the adopted child and his or her biological family. The guarantees under Article 13 of the Convention, therefore, cannot be seen as requiring member States to provide for a remedy which would enable biological relatives of an adopted child to seek contact with him or her after his or her adoption.

107. Accordingly, this 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,

1. *Declares* the complaint under Article 8 of the Convention concerning the applicant's right to respect for her family life admissible and the remainder of the application inadmissible;

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

Done in English, and notified in writing on 12 May 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Ioannis Ktistakis President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judges Hüseynov and Ní Raifeartaigh is annexed to this judgment.

JOINT CONCURRING OPINION OF JUDGES HÜSEYNOV AND NÍ RAIFEARTAIGH

1. The present case raises a novel issue, as the Court has thus far not had the occasion to deal with a complaint concerning post-adoption sibling contact in the context of inter-country adoption. More specifically, unlike the few previous cases on post-adoption contact (see, for example, *Bogonosovy v. Russia*, no. 38201/16, 5 March 2019, and *Pedersen and Others v. Norway*, no. 39710/15, 10 March 2020), the present case has three distinct factual elements: (1) the applicant's 4-year-old half-brother was adopted by a family living abroad; (2) the adoption was "closed", as Serbian law did not provide for an "open" adoption; and (3) it was not the biological parents, but a sibling (the applicant) who sought contact with her adopted half-brother.

2. The judgment mainly analyses the pre-adoption procedures and safeguards, concluding that the adoption of the applicant's half-brother by a foreign family was not unlawful and arbitrary. However, the crux of the applicant's complaint is that she had no contact with her half-brother after his adoption abroad (see paragraphs 58 and 89 of the judgment). Accordingly, the principal legal question the Court was called upon to address was whether the Serbian State had a positive obligation to facilitate contact between the applicant and her half-brother after the latter's adoption by a foreign family (see paragraph 89 of the judgment), and if so, what the nature and scope of that positive obligation was. We regret that the judgment fails to address or explain the basis on which any positive obligation to maintain post-adoption sibling contact might exist in an inter-country adoption situation, or the circumstances in which it might arise.

3. In that regard, and as a general observation, we respectfully submit that a number of issues need to be clarified in the Court's case-law, including but not limited to the following: (a) whether, and to what extent, the Court's current case-law on post-adoption contact can be transposed to "closed" adoptions, be they international or national; (b) the nature and scope of the positive obligation to facilitate post-adoption contact between the adopted child and the different members of his or her biological family, including through the use of modern technologies; (c) the type of action or measures required of the State to facilitate meaningful contact if and when that positive obligation arises; (d) how adoption impacts the relationship between siblings, in particular for the purpose of assessing the positive obligation (if any) to facilitate post-adoption contact; and (e) in cases of inter-country adoption, the modalities of possible cooperation between the respective States, including on judicial matters, in particular in assessing the adopted child's best interests.