

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

FIFTH SECTION

DECISION

Application no. 59252/19
Martin VINŠKOVSKÝ
against the Czech Republic

The European Court of Human Rights (Fifth Section), sitting on 5 September 2023 as a Chamber composed of:

Georges Ravarani*, President*,
Lado Chanturia,
Mārtiņš Mits,
Stéphanie Mourou-Vikström,
María Elósegui,
Mattias Guyomar,
Kateřina Šimáčková*, judges*,

and Victor Soloveytchik, *Section Registrar,*

Having regard to the above application lodged on 8 November 2019,

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

Having deliberated, decides as follows:

INTRODUCTION

1. The present application concerns the refusal of the applicant's request to be granted the right to contact with the child of his former partner, with whom he had lived for two years (Article 8 of the Convention).

THE FACTS

2. The applicant, Mr Martin Vinškovský, is a Czech national who was born in 1982 and lives in Prague. He was represented before the Court by Mr T. Dvořáček, a lawyer practising in Prague.

3. The Czech Government ("the Government") were represented by their Agent, Mr P. Konůpka, of the Ministry of Justice.

The circumstances of the case

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

5. From March 2015 the applicant was in a relationship with J.H., who had a daughter, A. (born in November 2012) from a previous relationship; in July 2016, the applicant married J.H. Having no regular contact with her biological father, A. considered the applicant to be her father and addressed him as "Daddy". The applicant separated from J.H. in June 2017, following which he was unable to see A. until September 2017; he last saw her at Christmas 2017.

1. The applicant's applications for interim measures

6. On 20 April 2018 the applicant lodged an application for an interim measure granting him the right to contact with A. under Article 927 of the Czech Civil Code, arguing that he had developed a strong emotional relationship with her.

7. On 25 April 2018 the Prague 8 District Court (hereinafter "the District Court) dismissed that application, finding that the situation was not so urgent as to warrant an interim measure. Moreover, a decision on contact rights required that evidence be gathered and properly assessed, which was not possible within the short time-limit set for interim measures; furthermore, no ordinary action had been brought by the applicant.

8. On 14 May 2018 the applicant appealed; in order that the main proceedings not be protracted, the District Court did not notify the appellate court of that appeal until it had delivered its judgment of 5 September 2018 (see paragraph 15 below).

9. On 21 June 2018 the District Court dismissed another application for an interim measure under which the applicant sought to be granted supervised contact with A. Referring to Article 927 of the Civil Code, the court considered that any such decision could not be made without hearing the parents and without adducing further evidence; it also noted that the main proceedings which were pending (see below).

In July 2018, the applicant withdrew an appeal that he had lodged against that decision.

2. Main proceedings in respect of the applicant's contact rights

10. On 4 May 2018 the applicant lodged an application with the District Court, seeking to be granted the right to contact with A. under Article 927 of the Civil Code.

11. On 7 May 2018 the court appointed a child-protection authority as A.'s guardian *ad litem* and invited the parties to submit relevant evidence.

12. On 21 May 2018 A. was interviewed by her guardian and responded positively when asked whether she would like to see her "daddy". The guardian observed in its report of 23 May 2018 that questions about the applicant asked during the interview had not aroused particular interest or emotion on the part of A., who had been more interested in toys and pictures.

13. Following a request lodged by the applicant's lawyer, a hearing scheduled for 4 June 2018 was postponed until 11 June 2018, when the child's biological father and the applicant were heard.

14. At the hearings of 4 and 16 July 2018 the court finished hearing the applicant, heard A.'s mother and read out documentary evidence. The parties were informed that, at the guardian's suggestion, the judge would interview A. The interview took place on 21 August 2018, in the presence of a social worker and through the medium of play. A. stated that her mother had told her that the judge would ask her about "Daddy" and had advised her to say that he had hurt them. She also stated that she did not remember "Daddy" taking her to nursery school but remembered him reading her fairy tales; when asked explicitly whether she missed him, she answered in the negative.

15. By a judgment of 5 September 2018 the District Court dismissed the applicant's above-mentioned application for contact rights (see paragraph 10 above); it did so on the grounds that the applicant did not meet the conditions set out under Article 927 of the Civil Code in respect of the granting of contact rights to persons socially close to the child in question when the lack of such contact would be harmful to the child. The court noted, firstly, that A.'s biological father had stopped taking an interest in her after her mother had started living with the applicant (who had then begun to share responsibility for caring for A.); the court further noted that A.'s mother had encouraged A. to call the applicant "Daddy" but had changed her attitude after her separation from the applicant, preventing him from seeing A. The court then observed that more than eight months had elapsed since the last contact between the applicant and A., during which time the latter had been under the influence of her mother, as demonstrated at the interview with the judge; the court further observed that although A.'s memories of the applicant were generally positive, she did not miss him. Thus, the court found it established that A. no longer had any emotional ties to the applicant that would amount to a family life – all the more so given the fact that her mother had entered into a new relationship with another man, who was thus involved in A.'s care. If the applicant were to be granted contact rights, A. would be placed in a very complicated and challenging situation in which she would have a biological father who might at any time successfully apply for contact rights; at the same time the applicant would have been granted the right to have contact with A. (against the wishes of her mother, while A. would be living with her mother's new partner who acted as a "social parent" (*sociální rodič*). The court thus concluded that granting contact rights to the applicant would not be in A.'s

best interest, and called upon A.'s biological father to foster his relationship with her in order to restore a certain degree of stability in her life.

16. Following the applicant's appeals, the Prague Municipal Court upheld the District Court judgment as well as the decision on the interim measure of 25 April 2018 (see paragraph 8 above). The court emphasised the fact that Article 927 of the Civil Code only allowed the granting of contact rights to a person who was socially close to the child in question if (i) there existed, on the part of the child, an emotional bond with that person that was not merely temporary (an emotional bond on the part of the person seeking contact not being sufficient), and (ii) a lack of such contact would cause the child emotional harm; the court concluded that neither of those conditions had been met in the instant case. The court pointed out that the applicant had acted as A.'s father for approximately two years, until she had been four and a half years old; that did not amount to a long period of meaningful contact likely to result in a persistently strong relationship. Although a child was able to form an emotional bond at that age, such a bond tended to fade faster when the contact was interrupted, without the child's emotional state being profoundly affected; that had been so in the present case, as demonstrated by A.'s attitude during the interviews with her. It had indeed been established that A. was not suffering from the applicant's absence from her life and that she was capable of accepting another male figure – namely, her mother's new partner. The court thus concluded that contact with the applicant, whom her mother wanted her to hate, would not be in A.'s best interests.

17. On 30 April 2019, a constitutional appeal lodged by the applicant on 24 April 2019, in which he relied mainly on his right to a fair trial and to respect for his family life, was dismissed as manifestly ill-founded (IV. US 1378/19). While acknowledging that the applicant had developed strong emotional ties to A. at the time when he had acted as her social father (*sociální otec*), the Constitutional Court considered it established that no similarly strong ties existed on the part of A., who had not shown any sign of harm after they had stopped seeing each other. Taking into account the fact that A.'s mother had a negative, manipulative attitude towards the applicant and that the latter's position *vis-à-vis* A. was much weaker than that of her biological father, the Constitutional Court considered that requiring A. to have contact with the applicant would carry more drawbacks than benefits and could seriously hinder her development.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

A. Domestic law and practice

1. The Civil Code (Act No. 89/2012)

18. Article 927 provides that persons having a close or distant family relationship with a child, as well as persons socially close to the child, have

the right to contact with the child if the child has an emotional relationship with them that is not temporary and if it is clear that a lack of contact with those persons would cause harm to the child.

2. Case-law of the Czech Supreme and Constitutional Courts

19. In its plenary judgment no. Pl. ÚS 10/15 of 19 November 2015, the Constitutional Court observed that it was the first time that it had been called on to examine a case in which a child had been adopted by the partner of one of the parents in which there was already an existing relationship between the adoptee and the adopter (the so-called "social parent" (*sociální rodič*)). It noted that in such cases, usually, family life was already shared by the child (the potential adoptee) and the social parent (the potential adopter), within the meaning of Article 8 of the Convention, which covered also long-term and constant *de facto* relations that were not based on biologically or legally recognised ties.

20. In its decision no. III. ÚS 3273/16 of 31 January 2017 addressing the issue of contact rights between a child and a social father, the Constitutional Court stressed the importance of a biological tie or, as in the case at hand, of the absence thereof.

21. In its decision no. III. ÚS 1741/21 of 27 July 2021, concerning the refusal to grant the right to contact with a child to the latter's mother's former partner, the Constitutional Court emphasised that under Article 927 of the Civil Code the emotional attachment of the person seeking contact was irrelevant, since the only determining factor was the child's emotional bond with that person.

22. In its decisions no. III. ÚS 3694/14 of 22 January 2015 and no. IV. ÚS 458/15 of 12 May 2015, as well as in its judgments no. I. ÚS 1081/20 of 30 August 2021 and no. II. ÚS 395/22 of 28 July 2022, which concerned the contact rights of grandparents or other family relatives, the Constitutional Court pointed to the need to examine the nature of the relationship between all the persons concerned and to the importance of a sense of belonging to and (deriving benefit from the social support of) an extended family, as well as to the necessity to take into account the best interests of the child.

23. In its decision no. 24 Cdo 1238/2022 of 21 June 2022, the Supreme Court noted that according to its established case-law, it is generally in the best interests of the child that there be a concordance between biological, legal and social parenthood – that is, between parenthood based on biological ties between the child and the provider of the genetic material (biological parenthood); parenthood in which the parent takes care of the child – that is, takes responsibility, in particular, for the child's health, physical, emotional, intellectual and moral development (social parenthood); and parenthood based on legal presumptions, whereby the parent is the person considered as such by the law (legal parenthood).

B. International material

24. The Explanatory Report to the Convention on Contact concerning Children, adopted on 3 May 2002, states the following in its relevant parts:

> "34. Article 2 letter d defines the notion of « family ties » as understood in the framework of this Convention..."Family ties" means a close relationship between the child and certain persons other than parents (for instance grandparents and siblings) based on law or on a *de facto* family relationship. ... Such a close relationship may also arise from a *de facto* family relationship; that is to say that a person has been living in the same household as the child and therefore there has been a certain period of family life (e.g. former foster parents, a parent's spouse or former spouse who is not the child's parent or a person who has cohabited with a parent and the child). ...
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> 46. ... it is important for children and certain persons, in addition to parents, having family ties with the child to maintain contact subject to the child's best interests. The expression of "persons having family ties", stated in paragraph 1 of Article 5, has been borrowed from the case-law of the European Court of Human Rights. Although in most of this case-law the expression is used to distinguish "family life" based on relationships outside the marriage from "family life" based on marriage, its usefulness resides in the fact that it shows quite graphically that certain factors other than legal factors may indicate that a relationship has sufficient constancy to create family ties.
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> 47. Concerning the circle of "persons other than his or her parents" who can obtain and maintain contact with the child, there are three different categories of persons:
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> – The first one concerns persons having a close family relationship with the child by law. ... In most States this will include persons such as grandparents and siblings. ...
>
> – The second category concerns persons having a *de facto* family relationship with the child. Here it is the factual connection with the child, independent of any legal family ties, which is decisive. This group covers not only persons having, at present, *de facto* family ties with the child but also persons who have had *de facto* family ties with the child in the recent past (e.g. former foster parents, a spouse or former spouse of a parent, a person with whom the child has been living in the same household for a considerable period of time, a person who has cohabited with a parent and the child, a relative of the child such as an aunt or uncle).
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> – The third category, which is mentioned in paragraph 2 of Article 5 covers persons other than those having family ties with the child, as freely determined by each State Party; for instance, persons having close personal links with the child. ...
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> 49. Taking into account the above considerations, it could be said that:
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> – Persons, other than parents, having family ties with a child may have a right to apply for contact. However, this right is not on an equal footing with the right of a child and his or her parents to contact because there is a presumption of contact for legally recognised parents and their children, and only where it is necessary in the best interests of the child the parents and the child can be deprived of their right of contact (see paragraph 1 and 2 of Article 4 of this Convention). A child and persons, other than parents, having family ties with the child do not have a right to obtain and maintain contact but may only have a right to apply for contact subject to the best interests of the child.
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> In the implementation of this right, States have some room for discretion concerning the determination of persons who are regarded by national law as having family ties with the child. ... As regards the rights of persons having family ties with the child to

apply for contact, it should be kept in mind that such contact should normally take account of the views of the child's parents.

– ... It is sufficient if national law provides for the possibility of applying for direct (personal) contact or other forms of contact (e.g. letters, e-mail).

– his right of the child and of certain persons, other than parents, having family ties with a child to apply for contact will always be subject to the condition that this contact is in the best interests of the child. Even where such contact is in itself in the best interests of the child initially, if contact leads to family friction, the court may consider that contact, which causes such family friction, may, after taking account of all the circumstances, be against the best interests of a child.

50. Paragraph 1 of Article 5 is giving to such persons and a child the possibility to establish contact ("contact may be established"), that it is to say, that judicial authorities should not refuse *a limine* an application for contact if *de facto* family ties with the child exist. ..."

COMPLAINTS

25. The applicant complained under Article 8 of the Convention that the decisions denying him the right to contact with A. had been in breach of his right to respect for family life, and that the State had failed to take any measures to restore their relationship.

26. Relying on his fair-trial rights guaranteed by Article 6 of the Convention, he mainly complained of the erroneous assessment of evidence regarding the existence of his family life and the emotional bonds between him and A. He also contended that A. had not been informed at all of the nature of the proceedings; he moreover argued that her opinion should have been investigated in a more thorough manner, with attention being paid to the manipulative behaviour of her mother.

THE LAW

27. The applicant complained under Articles 6 and 8 of the Convention that the courts' refusal to afford him the right to contact with the child of his former partner had contravened his right to a fair trial and to respect for his family life.

28. The Court reiterates that it has previously held that while Article 8 contains no explicit procedural requirements, the decision-making process leading to measures of interference must be fair and such as to afford due respect to the interests safeguarded by Article 8 (see, among other authorities, *Kutzner v. Germany*, no. 46544/99, § 56, ECHR 2002-I).

29. In the instant case the Court, being the master of the characterisation to be given in law to the facts of the case, considers that all the complaints raised by the applicant, in so far as they raise issues under the Convention, fall to be examined as part of his main complaint under Article 8 of the Convention (see, *mutatis mutandis*, *Macready v. the Czech Republic*,

nos. 4824/06 and 15512/08, § 41, 22 April 2010). That provision reads as follows:

> "1. Everyone has the right to respect for his ... family life ...
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> 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. The parties' submissions

30. The Government argued, firstly, that in view of the absence of a biological tie between the applicant and A., of the short period of their cohabitation and of the factual findings made by the domestic courts, there was not a strong emotional attachment between the applicant and A. that could be characterised as "family life" within the meaning of Article 8. In their view, the case rather concerned the applicant's private life.

31. Referring to the conditions set out in Article 927 of the Civil Code and to the application thereof (see paragraphs 19-22 above), they further contended that domestic court decisions in this area were always based on an assessment of the specific circumstances of each case and, in particular, on the best interests of the child whose participatory rights were being observed (which, in their view, distinguished the Czech law from the Russian law that was at issue in *V.D. and Others v. Russia*, no. 72931/10, § 129, 9 April 2019, and *Nazarenko v. Russia*, no. 39438/13, § 66, ECHR 2015 (extracts)).

32. In the Government's view, that was also the case for the present applicant. Indeed, having heard the latter and A.'s parents, ascertained A.'s opinion through two interviews and considered the report of her guardian, the District Court acknowledged that the applicant had cared for A. for a period of more than two years and that she had accepted him and viewed him positively– but more as a person brought in by her mother, without the applicant having played a genuine parental role. The influence exercised on A. by her mother had been taken into account and duly reflected, but could not change the conclusion that, at the time of the court's decision, A. had no longer had an emotional bond with the applicant that had amounted to a family relationship.

33. Thus, it had been established that the lack of contact with the applicant was not harmful to A.; on the contrary, allowing the applicant's application would have placed A. in a complicated and burdensome situation that would not have been in her best interests. In the Government's view, the courts had therefore complied with the Court's case-law requiring them to carry out an individual examination of the child's best interests and to give them primary consideration, while carefully balancing all the interests at stake (the Government referred to *Honner v. France*, no. 19511/16, §§ 55 and 61,

12 November 2020, and, conversely, to *Bogonosovy v. Russia*, no. 38201/16, § 94, 5 March 2019).

34. As to whether the domestic authorities have exercised exceptional diligence in view of the passage of time having operated to the applicant's detriment, the Government emphasized that the applicant had not applied for interim measures until 20 April 2018 and that he had lodged a full application for contact rights only on 4 May 2018 – that is, several months after his last contact with A. In the following days and weeks, the court took several procedural steps and held several hearings, which led to the adoption of the judgment of 5 September 2018. This demonstrated, according to the Government, that the District Court had acted with due diligence, and so had the appellate court and the Constitutional Court (which had dealt with the applicant's constitutional appeal within six days). Thus, although the passage of time obviously had an effect on A.'s attitude towards the applicant, given that eight months had elapsed from their last meeting when the District Court had adopted its judgment, it was noteworthy that half of that period was ascribable to the applicant's inactivity.

35. The applicant emphasised that in a situation where the emotional bond between a child and a person socially close had been interrupted, the domestic law and the Court's case-law required the authorities to examine whether that bond could be re-established and, if so, to take positive measure to restore it. However, the courts had failed to do so in the present case, even though A. had viewed him as her father, and their strong relationship had been disturbed only as a result of the influence of the mother; moreover, A. had stated in May 2018 that she would like to see him (see paragraph 12 above).

36. The applicant further argued that the interviews with A. had not been conducted in a professional manner. Specifically, no psychologist had been present, no audio or video recording had been made, A. had not been informed of the nature and purpose of the proceedings and of the consequences of what she chose to say; moreover, he had not had the opportunity to ask her questions, or to formulate questions in advance. In his view, the courts had not ascertained A.'s true wishes; they had merely ascertained her attitude, which had resulted from her having been manipulated by her mother, but which had ultimately been viewed as a reason for him not being granted contact rights – and nor had they secured the opinion of an expert on this point.

37. Concerning the issue of diligence, the applicant contended that he had lodged his applications of 20 April and 4 May 2018 only after having unsuccessfully tried to reach an agreement with A.'s mother. He also pointed to the fact that the first of those applications had been dismissed on the grounds that the situation had not been so urgent as to warrant an interim measure (see paragraph 7 above).

B. The Court's assessment

38. The Court observes that the applicant's complaint concerned the refusal of his request to be granted the right to contact with the child of his former partner, A., to whom he had no biological ties but for whom he had cared while being in a relationship (at first non-marital and then marital) with her mother.

39. Therefore, the Court must first examine whether there existed a relationship between the applicant and A. amounting to private or family life within the meaning of Article 8 of the Convention.

40. The Court reiterates that the notion of "family life" under Article 8 of the Convention is not confined to marriage-based relationships and may encompass other *de facto* family ties (see also paragraph 24 above). The existence or non-existence of "family life" for the purposes of Article 8 is essentially a question of fact that depends on the real existence in practice of close personal ties. Although, as a rule, cohabitation may be a requirement for such a relationship, exceptionally other factors may also serve to demonstrate that a relationship has sufficient constancy to create *de facto* family ties. That may be so in the case of a parent's partner/spouse or former partner/spouse who is neither the child's biological nor legal parent but takes care of the child or participates in his or her upbringing, or did so in the recent past – such a relationship being often referred as "social parenthood" (see *Moretti and Benedetti v. Italy* (no. 16318/07, §§ 60-71, 27 April 2010), *V.D. and Others v. Russia* (cited above, §§ 125-131); *Honner* (cited above, § 50); and *Carbonai v. Italy* [Committee] (no. 9825/21, 29 November 2022), which concerned the issue of maintaining *de facto* family ties between such adults and children; for the domestic context, see paragraphs 19 and 23 above).

41. In the present case, the Court observes that, together with her biological mother (whom he married in July 2016), the applicant cared for A. from March 2015, when she was two and a half years old, until June 2017 – that is, for more than two years; following his separation from her mother, the applicant was still able to see A. between September 2017 and Christmas of that year (see paragraph 5 above). It was also established by the domestic courts that A. considered him to be her father and addressed him as "Daddy".

42. As in the case of *Callamand v. France* (no. 2338/20, §§ 20-22, 7 April 2022), the Court considers that the above-noted circumstances demonstrate the existence at the time in question of effective personal ties between the applicant (acting like a father) and A. that amounted to a *de facto* parent-child bond constituting family life within the meaning of Article 8 of the Convention. Those circumstances also allow the Court to consider that the applicant and A. had developed a relationship that also fell within the scope of "private life". Indeed, there is no valid reason to understand the concept of "private life" as excluding the emotional bonds created and developed

between an adult and a child in situations other than the classic situations of kinship (see *Paradiso and Campanelli v. Italy* [GC], no. 25358/12, § 161, 24 January 2017, and *Callamand*, cited above, § 22).

43. The Court has also held that, in view of the great variety of family situations possibly concerned, a fair balancing of the rights of all individuals involved necessitates an examination of the particular circumstances of each case. Accordingly, Article 8 of the Convention can be interpreted as imposing on member States an obligation to examine on a case-by-case basis whether it is in the child's best interests to maintain contact with a person, whether biologically related or not, who has taken care of him or her for a sufficiently long period of time (see *Nazarenko v. Russia*, no. 39438/13, § 66, ECHR 2015 (extracts); *Jírová and Others v. the Czech Republic*, no. 66015/17, § 121, 13 April 2023).

44. In the case at hand, the Court notes that the alleged breach of Article 8 is the consequence of the applicant's separation from the child's biological mother, and does not stem directly from a decision or an act of a public authority (see *mutatis mutandis*, the above-cited cases of *Callamand*, § 32, and *Carbonai*, § 15). Indeed, the domestic courts did not act to limit or prevent the applicant's contact with A.; rather, they only intervened *a posteriori* when they dismissed the request that he had lodged under Article 927 of the Civil Code.

45. It follows that the present application is to be assessed in the light of the State's positive obligation under Article 8. Within this context, the Court's task is to review whether a fair balance was struck between the competing interests and Convention rights at stake, taking into account not only the applicant's right to respect for his private and family life but also the best interests and the rights of A. under Article 8 and the rights of her biological mother. In doing so, the Court must bear in mind that the child's best interests ought to be paramount and that the State authorities enjoy a wide margin of appreciation in this domain (see paragraph 43 above and the above-cited cases of *Callamand*, §§ 33-37, and *Honner*, §§ 53-57).

46. The Court first observes that Article 927 of the Czech Civil Code allows persons socially close to a child to apply for contact rights, with the aim of maintaining their *de facto* family ties with that child. It follows from the relevant domestic judicial decisions that such persons may include social parents in a position similar to the applicant (see paragraphs 20-21 above). Those persons may be granted contact rights if the child has an emotional relationship with them that is not temporary and if it is clear that a lack of contact with those persons would cause harm to the child (see paragraph 18 above).

47. The Czech law thus gave the applicant the opportunity to have the issue of maintaining his contact with A. examined by the courts – an opportunity which he made use of. The Court observes that the courts duly paid attention to all the points that were relevant under Article 927 of the Civil

Code and Article 8 of the Convention; they assessed the specific circumstances of the case – in particular, the nature of the relationship that had existed between the applicant and A. when they had still lived together and after their cohabitation had ceased (contrast *V.D. v. Russia*, cited above, § 129). Having relied on multiple items of evidence (including two interviews with A.), they established that A.'s emotional bond with the applicant had not been strong enough to resist the passage of time and that she had not suffered from the applicant being absent from her life. In concluding that contact with the applicant would not be in A.'s best interests, the courts took into due account: the manipulative behaviour of her mother and the latter's negative attitude towards the applicant; the fact that A.'s biological father could at any time apply for contact rights (which would probably to be granted); and the fact that A. had been at the time in question living with yet another partner of her mother.

48. The Court reiterates that while the State should in principle enable the ties between biological parents and their children to be preserved, it should examine on a case-by-case basis whether it is in the child's best interests to maintain contact with a person who is not biologically related but who has taken care of him or her for a sufficiently long period of time (see paragraph 43 above). Indeed, special caution may be needed when the contact rights of a "social parent" are at stake, and the child's best interests must remain the overriding principle (see also paragraph 24 *in fine* above). This follows from the very nature of "social parenthood", in which adults engage through their own informed choice but which for a child implies the possibility to have several social parents over time; if the child were to maintain contact with all of them, his or her family situation could become unduly complicated – particularly in the event that conflict existed between the child's biological and "social" parents. Therefore, before granting contact rights to a child's "social parent", the courts have to ascertain that there is a strong interest on the part of the child in maintaining such contact, and that that interest is capable of counterbalancing any potential drawbacks.

49. In the present case, the Court is satisfied that the Czech courts took into account the major elements that are relevant within this context – namely, the length of the duration of A.'s cohabitation with the applicant, her age at the time of the cohabitation and her attitude towards the applicant at the time of the courts' decisions. In doing so, they adduced relevant reasons to justify their decision and gave proper consideration to A.'s best interests. Although it can be agreed with the applicant that the judge's interview with A. (at which the applicant had not been present) should have been video-recorded and that A. had not received an appropriate prior explanation as to the nature and the purpose of the proceedings, the Court considers that A. was sufficiently involved in the decision-making process and had adequate opportunity to express her views. The Court adds that it would have been going too far to

require that a psychologist be present at the judge's interview with A., as argued by the applicant.

50. Lastly, the Court considers that the domestic courts cannot be blamed for refusing to deal with the issues raised by the present case by means of ordering an interim measure. It is also convinced that the procedural requirement of particular diligence was complied with in the main proceedings, which lasted one year over three levels of jurisdiction; it is to be noted in this respect that the first-instance judgment was delivered only four months after the applicant lodged his application to the court.

51. Having regard to all these considerations and to the wide margin of appreciation afforded to the national authorities, the Court finds that the domestic courts did not fail to fulfil their positive obligations arising Article 8 of the Convention.

52. It follows that the present application must be declared inadmissible as manifestly ill-founded, pursuant to 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 28 September 2023.

Victor Soloveytchik
Registrar

Georges Ravarani
President