



## Romanian authorities failed to act effectively to reunite mother and children despite court custody orders

In today's **Committee** judgment in the case of [R. I. and Others v. Romania](#) (application no. 57077/16) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 8 (right to respect for private and family life)** of the European Convention on Human Rights.

The case concerned a woman who was given custody of her two children but who was not able to enforce the orders, which left the children with the father.

While accepting that the authorities had been placed in a difficult position given opposition from the father and from the children themselves, possibly under the father's influence, the Court found that they had not acted in a timely or reasonable manner to enforce the custody orders.

The Court criticised the fact that the authorities had not paid attention to the gradual dissolution of the first applicant's relationship with her children during the separation, or to the father's manipulative behaviour. Overall, the applicants had not received effective protection of their rights.

*The judgment is final.*

### Principal facts

The applicants, Ms R.I. and her two children, M.I. and I.I., are Romanian nationals who were born in 1975, 2006, and 2009 respectively. R.I. lives in Bucharest.

The first applicant had a relationship with R., during which the second and third applicants were born. The relationship broke down in 2010 and the parents agreed that the children would live with the first applicant, their mother.

In October 2013 R. took the children away from the first applicant's home without her consent and they have been living with him since. The first applicant began court proceedings and was awarded custody under interim (May 2014) and final orders (September 2014). The father did not comply with the decisions and the first applicant involved court bailiffs, to no avail.

Throughout the proceedings the first applicant alleged that the father had turned the children against her, complaining of child abuse. A court-ordered psychological assessment found in November 2015 that there was an indication of parental alienation exercised by the father.

In August 2016 the father applied for custody and was initially successful, the first-instance court finding that the children had been separated from their mother for three years and that a sudden change in their residence would cause them distress. The first applicant appealed and the judgment was quashed in May 2018.

The appeal court found that it was not the first applicant's fault that the children were still living with their father and that she should not be penalised because of the failure to enforce the custody orders. The father had also been able to influence the children against her.

## Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of torture and inhuman and degrading treatment), the first applicant complained on behalf of the second and third applicants that they had been subjected to abuse in the form of parental alienation by their father. Under Article 8 (right to respect for private and family life), she also complained that the authorities had failed to help her and her children enforce the custody orders and act efficiently over the psychological abuse the children had suffered at their father's hands.

The application was lodged with the European Court of Human Rights on 23 September 2016.

Judgment was given by a Committee of three judges, composed as follows:

**Paulo Pinto de Albuquerque** (Portugal), *President*,  
**Egidijus Kūris** (Lithuania),  
**Iulia Antoanella Motoc** (Romania),

and also **Andrea Tamietti**, *Deputy Section Registrar*.

## Decision of the Court

After deciding to deal with the case under Article 8 alone, the Court noted that the authorities had been under a duty to act speedily to take measures to reunite the first applicant with her children. However, she had not lived with them since November 2013 and was still not doing so as of July 2018, the date of her representatives' latest communication.

The authorities had faced the father's opposition and that of the children, who had refused, possibly under his influence, to return to their mother. Nevertheless, such a lack of cooperation did not absolve authorities from taking the necessary steps to maintain or restore family ties.

Overall it appeared that the child protection authorities had been passive. The first applicant had twice told the Bucharest child protection authority of her difficulty in accessing the children, but it had been unable to act as the father had not been at home. There was no sign it had gone beyond simply visiting the father at home or had set up a mechanism for punishing his obstructive attitude.

Although a psychologist had raised the need in January 2015 for an assessment of the children, it had only been carried out after the first applicant had sought a court order in July of the same year. It had later confirmed psychological abuse in the form of parental alienation by the father.

The Court, deploring the fact that the authorities had in their decisions not paid any attention to the progressive failure of the first applicant's relationship with her children and to the father's manipulative behaviour, concluded that the authorities had not acted in a timely manner and had not done what was reasonable in the circumstances to enforce the court orders.

They had failed to strike a fair balance between the competing interests of the individual and the community and the applicants had not received effective protection of their right to respect for their family life. The Court added that the judgment should not be interpreted as suggesting that the authorities had to reunite the first applicant and her children without proper preparatory measures.

Given its judgment under Article 8, the Court saw no need to examine complaints raised under Article 13 (right to an effective remedy) and Article 34 (right of individual petition).

### [Just satisfaction \(Article 41\)](#)

The Court held that Romania was to pay the second and third applicants 7,500 euros (EUR) jointly in respect of non-pecuniary damage and EUR 3,199.37 to the first applicant in respect of costs and expenses.

*The judgment is available only in English.*

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