



## Temporary refusal to issue a passport to an applicant in arrears with child maintenance payments was justified and proportionate

In its decision in the case of [Torresi v. Italy](#) (application no. 68957/16) the European Court of Human Rights has unanimously declared the application inadmissible.

The case concerns the fact that the applicant was unable to obtain a passport for over six months because of his failure to make the maintenance payments which he owed.

The Court noted that the national courts had re-examined the applicant's personal situation on several occasions, as well as his ability to pay the amounts due. They had taken account of all the relevant information in order to ensure that the temporary restriction on Mr Torresi's freedom of movement was justified and proportionate in the light of the circumstances of the case. Lastly, they had regularly reviewed the contested measure, although such review was not necessarily automatic.

This decision is final.

### Principal facts

The applicant, Cristian Torresi, is an Italian national who was born in 1985 and lives in Tsuen Wan (Hong Kong).

On 14 March 2011 Mr Torresi married M.T. in Italy. The couple had two daughters. On an unspecified date they separated. On 11 September 2015 the Ascoli Piceno chief of police revoked Mr Torresi's passport owing to his wife's refusal to give her consent for its renewal. In a decision of 5 November 2015 the guardianship judge held that M.T.'s refusal was justified as it had been proven that Mr Torresi was evading his responsibilities towards his children, was preventing his wife from returning to her own family in Russia and had withheld his consent to the issuing of valid travel papers for his daughters in order to prevent their mother from taking them with her. The guardianship judge further held that the father's virtually permanent move to China was incompatible with the interests of his minor daughters as the recovery of maintenance payments outside Europe was very difficult in practice. On 24 May 2016 Mr Torresi applied for a passport to travel to China, both in order to work there and to join his new Chinese girlfriend who was due to give birth to their first child, whom he wished to recognise as his own. In view of the baby's right to be recognised, the judge authorised the issuing of the passport on 25 May 2016. M.T. sought to have that decision annulled. On 17 May 2017 the guardianship judge granted her request, observing that Mr Torresi paid only a small proportion of the maintenance payments owed to his daughters and that they and their mother had had to leave their apartment because they could not afford to live there. On 30 November 2017 the parties reached agreement on the financial issues and the issue of the passport; they each gave the consent required for the issuing of the papers and withdrew from the proceedings before the guardianship judge. The Fermo District Court pronounced their judicial separation by mutual consent on 13 December 2017.

### Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 19 November 2016.

Relying on Article 2 of Protocol No. 4 (freedom of movement) and Article 8 (right to private and family life), the applicant complained about the authorities' refusal to issue him with a passport.

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

Krzysztof **Wojtyczek** (Poland), *President*,  
Pere **Pastor Vilanova** (Andorra),  
Pauliine **Koskelo** (Finland),

and also Renata **Degener**, *Deputy Registrar*.

## Decision of the Court

### Article 2 of Protocol No. 4

The Court referred to its judgment in *Battista v. Italy* for an exhaustive review of restrictions on the freedom to leave a country and the relevant case-law in this area.

The Court reiterated that Article 2 § 2 of Protocol No. 4 guaranteed to any person the right to leave any country for any other country of that person's choice to which he or she may be admitted. The refusal to issue Mr Torresi with a passport thus amounted to interference with this right.

With regard to the lawfulness of the measure, the Court reiterated that the interference was based on the law, given that Mr Torresi was failing to make all of the maintenance payments which he was required to pay for his children. The measure was intended to guarantee the interests of the children and pursued the legitimate aim of protecting the rights of others, namely the children's right to receive maintenance payments.

With regard to the proportionality of the measure, the Court noted that Mr Torresi had been unable to leave the country for a limited period. In his decision of 5 November 2015 the guardianship judge had emphasised that the recovery of maintenance payments outside Europe was very difficult. In addition, the guardianship judge's decision had been re-examined by the family court, which had upheld the guardianship judge's decision. The Court noted that on 24 May 2016 the guardianship judge had authorised M Torresi to travel to China in order to recognise his child, who was due to be born. Following an appeal by M.T., that authorisation was revoked, since Mr Torresi was failing almost entirely to comply with his obligations towards his daughters.

The Court was of the view that the national courts had re-examined the applicant's personal situation on several occasions, as well as his ability to pay the amounts due. They had taken account of all the relevant information in order to ensure that the temporary restriction on Mr Torresi's freedom of movement was justified and proportionate in the light of the circumstances of the case. Lastly, they had regularly reviewed the contested measure, thus ensuring that it was not applied automatically.

The application was manifestly ill-founded and had to be rejected.

*The decision is available only in French.*

---

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

### Press contacts

[echrpress@echr.coe.int](mailto:echrpress@echr.coe.int) | tel: +33 3 90 21 42 08

**Denis Lambert** (tel: + 33 3 90 21 41 09)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Patrick Lannin (tel: + 33 3 90 21 44 18)

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