



Delays in the proceedings to determine arrangements for a father's access to his child breached his right to respect for family life

In today's Chamber judgment¹ in the case of [Anagnostakis and Others v. Greece](#) (application no. 46075/16) 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 the access rights granted to the applicants, the father and grandparents of the child concerned (who was two years old when the application was lodged), and the length of various sets of proceedings in which the opposing party was the child's mother.

With regard to the child's father, the Court noted that the proceedings – which began on 18 December 2015 – had thus lasted, to date, more than five years and nine months for four levels of jurisdiction, including the proceedings for interim orders. The Court reiterated that in cases of this kind there was always the danger that any procedural delay would result in the *de facto* determination of the issue.

Having regard to the States' positive obligation under the Convention to act with special diligence in such cases, involving residence and access rights in respect of children, the Court concluded that the period of time which had elapsed in the present case could not be considered reasonable. It followed that there had been a violation of Article 8 of the Convention.

With regard to the grandparents, the Court considered that the length of the proceedings to determine the arrangements for access to the child – less than six months – had not been unreasonable and that, in consequence, there had been no failure by the national authorities to comply with their positive obligations under Article 8 of the Convention.

Principal facts

The applicants, Nikolaos Anagnostakis, Ioanna Anagnostaki Pouloupoulou and Andreas Anagnostakis, are three Greek nationals who are, respectively, the father, grandmother and grandfather of a child who was two years old when the application was lodged; they were born in 1983, 1949 and 1940, and live in Ilioupoli.

In September 2014 a child was born, outside wedlock, to Mr N. Anagnostakis and Ms Evgenia-Martha Karabali. The father recognised the child before a notary. The certificate of recognition specified that the parents had agreed to exercise joint parental responsibility.

On 23 November 2015 Ms Karabali brought proceedings before the Athens Court of First Instance, requesting that interim measures be imposed so that the father or, alternatively, the grandparents, be ordered to pay an interim allowance of 1,000 euros [EUR] per month to cover the child's needs. The request was scheduled to be examined on 18 December 2015. On 10 December 2015 the grandparents submitted a request for interim measures against Ms Karabali and asked the court to

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

examine their request on the same date, 18 December 2015, at the same time as Ms Karabali's request.

In a judgment delivered on 27 June 2016 (no. 2924/2016), the first-instance partly granted Ms Karabali's request and ordered Mr N. Anagnostakis, on an interim basis, to pay her EUR 600 per month. It partly granted the grandparents' request and made interim provisions for their visiting rights.

The hearing at which the dispute was to be settled on a final basis was scheduled for 4 June 2018, and the provisions of judgment no. 2924/2016 applied until that date.

In the meantime, each of the parties lodged several claims and actions before the court.

On 4 June 2018 the court held a hearing on the merits and, on 10 September 2018, published its judgment (no. 585/2018). The judgment determined the access arrangements for the first applicant, and the monthly maintenance payments that he was to make to the mother.

Mr N. Anagnostakis and Ms Karabali lodged appeals against judgment no. 585/2018.

On 21 March 2019 the Athens Court of Appeal examined the appeals. It reassessed the level of the monthly maintenance payments. It also verified the access arrangements imposed by the first-instance court in judgment no. 585/2018.

On 7 June 2019 Mr N. Anagnostakis appealed on points of law. He put forward several arguments in favour of shared residence rights and submitted that it was in the child's interest for an alternative residence arrangement to be put in place.

On 11 August 2021 the Court of Cassation delivered judgment no. 1020/2021. It appears from the case file that this judgment has not yet been finalised.

Complaints, procedure and composition of the Court

Relying on Articles 6 (right to a fair hearing) and 8 (right to respect for family life), the applicants complained, firstly, about delays in the proceedings, and, secondly, about the weekly three-hour access rights that the domestic courts had granted them, on an interim basis, pending the hearing scheduled to take place before the first-instance court on 4 June 2018.

The application was lodged with the European Court of Human Rights on 28 July 2016.

Judgment was given by a Chamber of seven judges, composed as follows:

Péter **Paczolay** (Hungary), *President*,
Krzysztof **Wojtyczek** (Poland),
Alena **Poláčková** (Slovakia),
Gilberto **Felici** (San Marino),
Erik **Wennerström** (Sweden),
Lorraine **Schembri Orland** (Malta),
Ioannis **Ktistakis** (Greece),

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

Decision of the Court

Article 8

The Court noted that the first applicant had submitted a request for interim measures to the first-instance court on 18 December 2015; that, in decision no. 2924/2016 of 27 June 2016, the first-instance court had decided on the interim arrangements for contact with the child; and that the

hearing for consideration of the merits of the case had been scheduled for 4 June 2018, that is, almost two years later. Examination of the merits of this case was still pending, although the applicant's main request, from the outset, had been for shared access rights, to be granted rapidly and on an equal footing with the child's mother.

The Court noted that the proceedings in question had begun on 18 December 2015 and that judgment no. 1020/2021, delivered on 11 August 2021 by the Court of Cassation, had not yet been finalised. The proceedings had thus lasted, to date, more than five years and nine months for four levels of jurisdiction, including the proceedings for interim orders. The Court reiterated that in cases of this kind there was always the danger that any procedural delay would result in the *de facto* determination of the issue.

Having regard to the States' positive obligation to act with special diligence in cases of this kind, the Court concluded that the period of time which had elapsed in the present case could not be considered reasonable. It followed that there had been a violation of Article 8 of the Convention.

With regard to the second and third applicants, the Court noted that they had not brought a principal action against the child's mother concerning their access rights.

The period which was to be taken into consideration had begun on 10 December 2015, and had ended on 27 June 2016, when decision no. 2924/2016 – by which the first-instance court granted interim access rights – had been published. The proceedings had thus lasted less than six months. The Court considered that, in the present case, the length of the proceedings to determine the arrangements for these two applicants' access rights in respect of the child had not been unreasonable and that, in consequence, there had been no failure by the national authorities to comply with their positive obligations under Article 8 of the Convention.

It followed that their application had to be rejected as being manifestly ill-founded.

Just satisfaction (Article 41)

The Court held that Greece was to pay the first applicant EUR 2,600 in respect of pecuniary damage and EUR 1,000 in respect of costs and expenses.

The judgment 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. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

echrpess@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)

Neil Connolly (tel : + 33 3 90 21 48 05)

Jane Swift (tel : + 33 3 88 41 29 04)

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.