



Mother benefitted from unlawful relocation of her children to win sole custody; breach of father's rights

In today's **Chamber** judgment¹ in the case of [Novák v. the Czech Republic](#) (application no. 6656/24) 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 dispute between Mr Novák and his ex-wife over custody of their two daughters. When the couple separated in 2021, they had initially agreed to share custody, but the mother then sought sole custody and relocated to Prague, 200 km away. Mr Novák's attempts in the courts to prevent the relocation were unsuccessful. In 2023 the courts ultimately awarded the mother sole custody because the children could not be expected to attend two schools at such a distance from one another and they had, in the meantime, adapted to their new situation.

The Court found that the national courts' decision-making in the case had not struck a fair balance between all the respective interests involved, bearing in mind what was the best solution for the children. In particular, the decisions had disregarded the crucial importance of handling matters involving children urgently, had not taken into account the father's obvious commitment to his daughters and had ultimately legitimised the mother's unlawful decision to relocate them.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicant, Stanislav Novák, is a Czech national who was born in 1989 and lives in Brno (the Czech Republic). He has two daughters, born in 2014 and 2018.

He lived with them in Brno until 2021 when he and the mother separated. The parents initially agreed to share custody, but when the mother filed for divorce, she sought sole custody.

In July 2022 the first-instance court awarded, however, the parents shared custody on a weekly basis. The court considered that both parents were capable of raising the children properly.

Before the mother's appeal against this decision was heard, she relocated to Prague with the children, without Mr Novák's consent. He found out about the move and that the children were enrolled in a Prague school in an email from the mother in August 2022.

Mr Novák's attempts in the courts (through interim measures) to have the children returned to Brno and to grant him custody until the final decision on the merits were all unsuccessful. This was in essence because the courts found that the children were not in any danger.

In April 2023 the Regional Court overturned the first-instance decision, granting the mother sole custody and Mr Novák contact rights every second weekend during the school holidays. This decision was essentially based on the fact that the circumstances since July 2022 had significantly changed. The

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.

children had in the meantime adapted to their new environment. Moreover, the distance between their parents' homes had made a shared custody arrangement unworkable as it would have forced the children to attend two schools and involved onerous travelling for them.

Ultimately, in December 2023 the mother was granted her application for a court order authorising the children's relocation and change of school without Mr Novák's consent.

The mother has been fined on several occasions for missed visits/handovers and most recently, in February 2025, was convicted of obstructing Mr Novák's contact rights.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life), Mr Novák complained about the decision in 2023 by the appeal court granting the mother sole custody and limiting his contact rights. He alleged that the courts had allowed the outcome of the case to be settled by the passage of time, instead of rectifying the mother's arbitrary decision to relocate the children.

The application was lodged with the European Court of Human Rights on 26 February 2024.

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

Andreas Zünd (Switzerland), *President*,
Kateřina Šimáčková (the Czech Republic),
Georgios A. Serghides (Cyprus),
Diana Sârcu (the Republic of Moldova),
Mykola Gnatovskyy (Ukraine),
Vahe Grigoryan (Armenia),
Sébastien Biancheri (Monaco),

and also Victor Soloveytchik, *Section Registrar*.

Decision of the Court

Firstly, the Court reiterated that authorities had considerable leeway when deciding on custody matters, but that stricter scrutiny was called for concerning any further restrictions on parental access, which could lead to relations being curtailed.

It went on to examine whether the national courts had carried out an in-depth examination of the entire family situation and a balanced and reasonable assessment of the respective interests of each person, bearing in mind in particular what was the best solution for the children.

It found, however, that neither the decisions with regard to Mr Novák's applications for interim measures nor the proceedings before the Regional Court had effectively examined the children's best interests. The courts had merely observed the situation at a particular moment in time, without taking into account that such a situation had come about because the children had been unlawfully relocated or the fact that no enforceable decision on custody had as yet been adopted. Nor had they taken into account Mr Novák's clear commitment to maintaining a proper and permanent relationship with his children.

Proceedings relating to parental responsibility required urgent handling. They should not be decided simply by the passage of time. That approach had led to the consolidation of an unlawful situation and had fostered a sense of impunity on the part of the mother who had indeed subsequently obstructed contact between Mr Novák and his daughters.

Ultimately, the Court found that the decision of December 2023 had legitimised the mother's actions. The fines and criminal prosecution for the mother's failure to respect contact rights had come too late.

There had accordingly been a violation of Article 8.

Just satisfaction (Article 41)

The Court held that the Czech Republic was to pay Mr Novák 12,000 euros (EUR) in respect of non-pecuniary damage and EUR 5,798 in respect of costs and expenses.

The judgment is available only in English.

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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.