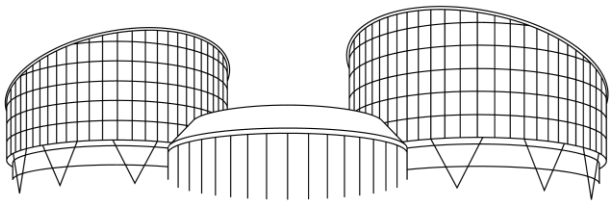

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF AGEYEVY v. RUSSIA

(Application no. 7075/10)

JUDGMENT

STRASBOURG

18 April 2013

FINAL

09/09/2013

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Ageyevy v. Russia,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Isabelle Berro-Lefèvre, *President,*
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Linos-Alexandre Sicilianos,
Erik Møse,
Ksenija Turković,
Dmitry Dedov, *judges,*

and Søren Nielsen, *Section Registrar,*

Having deliberated in private on 26 March 2013,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 7075/10) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Russian nationals, Mr Anton Petrovich Ageyev and Mrs Larisa Vladimirovna Ageyeva ("the applicants"), on 21 January 2010.

2. The applicants were represented by Ms Nadezhda Deyeva, Ms Tatiana Chernikova, Ms Nadezhda Yermolayeva and Mr Furkat Tishayev, lawyers at the Memorial Human Rights Centre and practising in Moscow, and Ms Joanna Evans, Mr Philip Leach and Mr Bill Bowring, lawyers at the European Human Rights Advocacy Centre based in London. The respondent Government were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

3. The applicants claimed that the sudden removal of their adopted children, the revocation of the adoption and the continued lack of access to the children following their removal was unlawful, disproportionate and arbitrary. They also complained of a breach of their privacy by the media and the authorities, who had gained access to G. during his stay in hospital, widely disseminated private information about the applicants and their children and given premature, factually incorrect and defamatory assessments of what had happened. The applicants also complained about the domestic courts' failure to protect them in this connection. They relied on Articles 3, 6, 8, 13 and 14 of the Convention.

4. On 27 August 2010 the application was communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants were born in 1962 and 1963 respectively and live in the village of Korobovo in the Leninskiy District of the Moscow Region.

A. The background to the case

1. The adoption proceedings

6. The applicants have been married since 1990.

7. In 2000 their seventeen-year-old son R., who suffered from widespread vasculitis, died. Some time later the couple decided to adopt two children.

8. On 19 March 2008 the Nagatinskiy District Court of the City of Moscow approved the applicants' full adoption of two unrelated children, a boy, A. (first name), born on 7 April 2005, and a girl, D. (first name), born on 11 June 2006.

9. Following the adoption, the children became brother and sister and their first names were changed from A. to G. and from D. to P. respectively. Their surnames and patronymics were also changed to reflect the surname of their adoptive parents and the first name of their adoptive father.

2. The children's medical condition at the time of the adoption

10. Both children had been removed from their respective birth parents' care in their infancy. The boy was aged one year and six months at the time of the removal, whilst the girl was aged seven months. Prior to adoption, both children had lived in various foster homes and displayed slight developmental delays. G. was recorded as being developmentally delayed in speech and motor skills and to have suffered neglect. It appears that G. had problems walking and often fell. As a result, he had three front teeth missing. At the time of her removal, P. was recorded as having minor heart anomalies and delays in her mental and verbal skills.

3. General information concerning the applicants' life with G. and P. prior to the incident of 20 March 2009

11. After the adoption the children lived with the applicants as a family in a detached two-storey house in the village of Korobovo in the Leninskiy District of the Moscow Region.

12. The children's placement was assessed prior to the adoption and the Leninskiy District Custody and Guardianship Agency ("the Leninskiy District Agency") made two post-adoption visits to their home, in May and September 2008.

(a) Report on examination of living conditions dated 21 May 2008

13. On 21 May 2008 official E. of the Leninskiy District Agency visited the applicants' house and issued a report describing the family's living conditions. The report stated, in particular, that the house was "kept in order, the rooms had furniture, had been recently renovated, all rooms being decorated with wood, the floor having been covered with laminated wood and soft carpets". The report mentioned that the family was well-off financially and that the children had a room measuring 20 square metres containing two beds, a wardrobe and many toys. The report did not mention any problems, and concluded that the living conditions were in compliance with the relevant requirements and that relations within the family were "normal".

14. The report was approved by the head of the Leninskiy District Agency, Ms F.

(b) Report on examination of living conditions dated 12 September 2008

15. On 12 September 2008 official E. of the Leninskiy District Agency again visited the house and issued a report on the living conditions. The report concluded: "it was excellent that the children's living conditions and their relations with the family were normal and that normal conditions had been created for bringing up the children".

16. Following this visit, official E. also issued a separate report stating as follows:

> "... it is a good family, in which two children are being brought up. They have grown and developed a sun-tan over the summer period. They have spent time with their parents in the south. The children are very cheerful and lively. The speech of P. has become more articulate, whilst G.'s has become good, with much thorough composition and expression of thoughts. The boy is very active; his hyperactivity is a concern to the parents, they are going to take the boy to a neurologist at a medical centre for children. P. has become calm and affectionate. The children like to listen to and look at the books read aloud to them by their parents ..."

> "... [the applicants] create all the necessary conditions for the children. G. and P. are being correctly fed a varied diet, including many vegetables and fruit. G. loves meat, whilst P. loves dairy products ..."

"The children are attached to [their parents]. The family lives in a cottage situated in a suburban area, in which the children have a room measuring some 18 square metres with two beds, a wardrobe and a table. All furniture is suitable for their size and age. The children continue to be fashionably and well dressed. There are even more board games stimulating development. [The second applicant] accompanies the children to the educational centre for children in Moscow. The centre gives its classes four times a week. The parents are very happy because the knowledge and skills acquired during these classes have produced demonstrable results for P. and G."

17. The report went on to conclude that:

"... the living conditions for the children in the family as well as the relations between the parents and children are good. The children communicate happily with their parents. The parents love their children and take care of them."

B. Incident of 20 March 2009

18. In the evening of 20 March 2009, at around 7.30 p.m., all the family was at home and the children were playing in the house.

19. The second applicant saw G. lying near the stairs. G. was bleeding and had burns on his face. She called the first applicant and they immediately tried to give G. first aid, treating the wounds with hydrogen dioxide and applying plasters on the wounds. G. was put to bed.

20. The applicants submitted that they had not seen how the incident had occurred, but they suspected that because of a momentary lack of supervision G. might have scalded himself with hot water from an electric kettle on the second floor and then run downstairs, falling on the stairs.

21. At around 9 p.m. the applicants examined G. and saw that the left side of their son's face was red, the plasters had come unstuck and the wounds on his chin and eyebrow had started bleeding again. The applicants decided that it was necessary to have him checked by a doctor.

22. At 9.50 p.m. the first applicant took G. to the Emergency Unit of Children's Hospital No. 145 of Moscow. Since the Unit was not open, he took the boy to the Burn Care Centre of the G. N. Spiranskiy Children's Hospital No. 9 of the Department of Healthcare of the City of Moscow ("the Burn Care Hospital").

23. From that date until 27 March 2009 G. remained in the hospital for treatment.

24. The admission entry of 20 March 2009 in G.'s medical file no. 2264 from the Burn Care Hospital described G.'s condition as "serious". He was diagnosed by the surgeon on duty as follows:

"... closed crano-cerebral trauma, brain concussion? A burn caused by hot liquid, I-II-IIIA degree, to the face covering S=8% of the body's surface. Bruises to the head. Multiple scratches, bruises, haematomas on the body, limbs and sexual organs of various degrees of maturity. Battered child syndrome?"

25. A combined report by the surgeon in charge and the resuscitation specialist made later the same day confirmed the above conclusions, with a reduction of the estimated surface of the burn to 4%.

C. Removal orders of 27 and 28 March 2009

26. In the morning of 23 March 2009 official E. of the Leninskiy District Agency, along with her colleague Ef., again visited the applicants' house. The resulting report stated that the next visit had been planned for April 2009 but that because of the incident of 20 March 2009, of which the Agency had learnt from the police on 23 March 2009, it had been decided to visit the applicants immediately. The report stated in respect of the incident:

> "... G. was in hospital, since, according to the parents, on 20 March 2009 he had spilled boiling water from a kettle on himself and, panicking, tripped and fallen down the stairs. The boy had been brought by [the first applicant] to [the hospital]. [The second applicant] was in a state of shock during the visit, could hardly speak and was constantly crying. The minor child P. was all the time nearby and did not leave her mother even for a second."

27. The report further stated that the family would be visited and checked frequently and that the information about the incident was to be transferred to the municipal authority responsible for the adoption.

28. On 27 March 2009, at the applicants' request, G. was discharged from the Burn Care Hospital and returned home.

29. On the same day the Head of the Golyanovo District Custody and Guardianship Agency ("the Golyanovo District Agency") issued removal orders in respect of G. and P. because of an "immediate threat to their health and life".

30. It appears that later on 27 March 2009 officials M., S. and F. of the Golyanovo District Agency visited the applicants' house. The resulting report stated that because of the incident of 20 March 2009 and the institution of criminal proceedings in that connection, as well as because of the media coverage of the case, it had been decided to visit the applicants' family and to consider the question of removing the children pending the investigation. The report then went on as follows:

> "... From the interviews with the children it was established that the parents loved them; the children looked well groomed and clean. During the visit the children were playing and looked happy; they then watched a fairy tale, held and kissed their mother affectionately ...
>
> Given that there was no immediate threat to the life and health of the children, the children were sleeping and the family would remain under the close supervision of the [Golyanovo District Agency], and regard being had to the pending investigation, we consider it unnecessary to remove the children and that consideration of the question should be suspended until the conclusion of the criminal case."

31. It appears that based on the findings of the above report the Head of the Golyanovo District Agency withdrew the removal orders on 28 March 2009.

32. In a letter of the same date the Deputy Head of the Main Department of the Interior in the Moscow Region, K., referred the Head of the Golyanovo District Agency to the incident of 20 March 2009 and then stated:

> "With a view to avoiding any pressure from the parents on G. and the infliction of any physical or mental harm on him, I would ask you to consider the possibility of removing G. from the conditions representing a threat to his life and health pending the resolution of [these criminal proceedings]."

33. Furthermore, on 28 March 2009 other officials of the Golyanovo District Agency G., Z. and E. compiled the following report:

> "... as a result of examining the housing and living conditions of the family of [the applicants], the visits of the officials of the [agency] during the period from 23 March 2009 to 28 March 2009, and reviewing the video materials presented by the family showing episodes from the life of the parents and children, and the continuous interviews with [the applicants], the following has been established:
>
> At present, despite repeated recommendations by the officials of the agency, the stairs connecting the first and second floors have still not been made secure (according to [the applicants] it was precisely these stairs that caused serious injuries to G., who fell down them). The previous security mechanism had been taken down before the New Year period.
>
> The injuries received by the minor child G. on 20 March 2009 were not without precedent. Serious falls of the child occurred previously as well, as can be seen from the video materials in the family archive, as well as being confirmed by the parents.
>
> Given the above, as well as the institution of criminal proceedings ... together with the fact of the infliction of the injuries in question, we consider that the parents do not fulfil the security requirements for the life and health of minors and do not keep a close enough watch over the children, who are prone to trauma because of their high levels of activity and mobility .
>
> Thus there are reasons to remove [the children] from their parents."

34. Late in the evening of 28 March 2009 official F. of the Golyanovo District Agency accordingly issued removal orders in respect of G. and P. because of "the immediate threat to their health and life".

35. On 29 March, at around 9 p.m., the removal of both children took place, with both children being placed in the Vidnovskaya District Hospital.

36. On 31 March 2009 the children were removed from the Vidnovskaya District Hospital and were placed in the Morozovskaya City Children's Hospital.

D. Court proceedings concerning the removal orders

37. On 10 April 2009 the applicants challenged the removal orders. They argued that the authorities had acted unlawfully and that the orders were generally unjustified and disproportionate. The applicants maintained that the authorities had denied them any possibility of visiting the children.

38. On 24 April 2009 the Golyanovo District Agency carried out an additional investigation into the living conditions of the applicants' family.

39. On 27 April 2009 the Golyanovo District Agency replied to the applicants' challenge.

40. On 28 April 2009 the Vidnovskiy District Court of the Moscow Region ("the Vidnovskiy District Court") held a hearing in the case and rejected the applicants' challenge to the removal orders as follows:

> "... having before it the explanations of the participants in the proceedings, the statements of witnesses and the case materials, the court finds that the [applicants'] claims are unfounded for the following reasons.
>
> In accordance with part 1 of Article 77 of the Family Code, in case of an imminent threat to the life and health of a child [the agency] can immediately remove the child from its parents, the removal being carried out on the basis of a decision by a municipal authority ...
>
> Taking into account the evidence collected, the court is also of the view that there were reasons to remove the children because of an immediate threat to their life and health. On the date the contested removal order was made, the stairs [in question] had still not been secured, despite repeated warnings. Criminal proceedings have been brought in respect of [the second applicant] ... and investigative actions are being taken. In view of this situation, with the presence of serious injuries on G. and the failure to secure the hazardous items, [the agency] had reasons to issue the removal orders ..."

41. On 21 July 2009, upon an appeal by the applicants, the Moscow Regional Court upheld the judgment of 28 April 2009, essentially confirming the conclusions of the first-instance court.

E. Court proceedings concerning the revocation of the adoption

42. On 1 April 2009 the Golyanovo District Agency brought court proceedings for the revocation of the adoption of G. and P. in the Preobrazhenskiy District Court of the City of Moscow ("the Preobrazhenskiy District Court").

43. On 15 and 27 May 2009 the Preobrazhenskiy District Court held hearings in the case.

44. On 17 June 2009 the Preobrazhenskiy District Court rendered a judgment in the case in which it revoked the adoption. The court stated as follows:

"On 28 March 2009 [the Agency] conducted a check of the applicant's house, which included a review of video materials showing episodes in the life of the parents and children and, as a result of continuous interviews with [the applicants], it was established that the stairs [in question] had still not been secured, whilst the trauma sustained on 20 March 2009 by G. was not an unusual event because serious falls had taken place before as well.

The fact of G. having fallen off the dog's kennel (in February 2009), which occurred before the incident of 20 March 2009, was not denied by the [applicants] in court.

On 28 March 2009 [G. and P.] were removed from the [applicants' family] owing to the situation in the family, which posed a threat to the life and health of the children, as well as owing to the institution of criminal proceedings ...

On 30 March 2009 the Vidnovskaya District Hospital issued the results of an examination of the children from which it could be seen that P. had arrived at the hospital in a satisfactory condition, but with a wet cough, a congested pharynx, rough breathing, elongated exhalation, wheezing, ... diagnosis: obstructive bronchitis. At the same time, until the removal the child had not been treated by a paediatrician, since [the applicants] had not registered the child with a hospital and had not had her examined by a paediatrician.

The examination of G. showed that his condition was satisfactory and that he was admitted suffering from the consequences of skull and brain trauma as well as a thermal burn to the face and scalp.

In the set of criminal proceedings instituted on 22 April 2009 [the second applicant] was accused of a criminal offence under subpart (d), part 2, of Articles 117 and 156 of the Criminal Code, whilst [the first applicant] was accused under Article 156 of the Criminal Code.

On 31 March 2009 the children G. and P. were placed in the Morozovskaya City Children's Clinical Hospital for a medical examination and treatment as a result of their transfer from the Vidnovskaya District Hospital of the Moscow Region. G. was admitted to the Morozovskaya Hospital in a moderately serious condition.

At the time of his admission ... G. was diagnosed as follows: hyperactivity syndrome with attention deficit, bruises on the left frontal bone and scratches on the body and extremities, balanitis, navel hernia, seborrhoeic dermatitis. From the medical card it also appears that apart from the above-mentioned diagnosis, G. was also diagnosed with developmental delay, acute rhino-pharyngitis, functional cardiopathy, acute pancreatitis, dyskinesia of the biliary pathways, slight isometropic myopia, acute allergic reaction (food) and first-degree obstruction of the adenoids.

At the time of her admission ... P. was diagnosed as having: minimal brain dysfunction, acute rhino-pharyngitis, functional cardiopathy, reactive pancreatitis, dyskinesia of the biliary pathways, weak long vision, acute allergic reaction (food). The condition at the time of admission was of medium gravity.

The above diagnosis confirms that the [applicants] failed to pay sufficient attention to the children's health, did not take steps to treat them in due time and moreover did not even register them with a local polyclinic ...

Moreover, as has been established by the court and can be seen from the statements of the [applicants], they are not keen to apply to [local] polyclinics and prefer self-treatment for both themselves and their children, as well as an uncontrolled cold-water treatment, which, according to the [agency], the prosecutor and the court, is obviously not in the children's interest and actually poses a danger to the life and health of the children remaining in this [family] without access to the necessary medical aid. Further, at the time of [the adoption] they were given recommendations concerning the mandatory follow-up of each child by the appropriate doctors, including a paediatrician.

It cannot be concluded from the fact that the [applicants] took their children to a neurologist, orthopaedist, and dentist, that they took due care of the children's health, since the examinations at the Vidnovskaya and Morozovskaya hospitals diagnosed the children as being in need of treatment by doctors and attention from the [applicants], but the [applicants] did not take any such measures.

The [applicants' family] did not find the time to obtain medical insurance certificates in due time and only on 10 December 2008 did they receive an insurance certificate in respect of P., and on 18 March 2009 in respect of G. This also confirms their improper attitude in respect of the children's health, and that very attitude fails in securing the protection of the children's health and poses a threat to the health and life of the children ...

... under Article 141 of the Family Code an adoption may be revoked in cases where the adoptive parents fail to fulfil their parental obligations, abuse their parental rights, treat the adopted children cruelly, or suffer from chronic alcoholism or drug addiction.

The court may also revoke an adoption in other cases, taking into account the interests of the child and having regard to the children's opinion.

The court is of the view that in the present case there are grounds to revoke the adoption because the [applicants] had an improper attitude in respect of the health and security of the children, which posed and still poses a danger to the life and health of the children, including, among other things, failure to provide the children with the necessary medical assistance, which, it was established by the court, they need. The reckless attitude of the [applicants] in respect of the health and security of the children, and the strong inclination of the [applicants] towards self-treatment poses a danger to the life and health of the children, and therefore the revocation of the adoption is in [the children's] interest.

The fact that the [applicants] have received positive character references, including by all witnesses questioned by the court during the examination of the case, and that they have some savings and property, even though they are unemployed, as well as the fact that they wish to continue to bring up the children, cannot serve as a basis for refusing the application, since the claims have been proved and [the application] is made solely in the interests of the children.

The statements of witnesses [who all without exception gave positive character references concerning the applicants] ... cannot be taken into account by the court in order to reject the application, since those witnesses did not witness the events of 20 March 2009 and these events pose a threat to the security of the children, and to their life and health, and make it impossibile for the children to remain in the [applicants'] family.

> Having examined the evidence presented ... and taking into account the opinion of the [agency] concerning the need to revoke the adoption of the children, and given the improper attitude of the [applicants] in respect of the health and security of the children, the court finds that the application must be granted in full, since this is in the interests of the children, who in the future will be able to find a home with another family that will take due care of them and provide them with secure conditions for their life and development, as well as take due care of their health and development ..."

45. In addition to revoking the adoption, the court cancelled the relevant entries in the official database concerning the parental relationship between the applicants and G. and P.

46. On 22 June 2009 the Preobrazhenskiy District Court issued a full version of the judgment.

47. The judgment was upheld on appeal by the Moscow Regional Court on 13 August 2009.

F. Criminal proceedings against the applicants

48. On 26 March 2009 criminal proceedings were brought by the investigatory department of the Main Directorate of Investigations of the Moscow Regional Department of the Interior ("the investigation authority") against the applicants on account of the incident of 20 March 2009.

49. On 28 March 2009 G. was examined at the State institute of forensic examinations in the town of Vidnoye in the Moscow Region.

50. Between 13 May and 8 July 2009 G. was also examined at the Bureau of Forensic Examinations of the State Department of Health of the Moscow Region. The commission consisted of eight doctors of various specialisations, including paediatricians.

51. On the basis of the evidence collected during the criminal investigation, on 23 November 2009 the investigation authority brought criminal charges against the second applicant. She was charged under Article 156 (non-fulfilment of duties relating to the care of minors), part 2 of subpart "d" of Article 117 (infliction of physical sufferings through regular beatings in respect of a minor), part 2 of subpart "c" of Article 112 (intentional infliction of moderate harm on health in respect of a person in a helpless situation) and Article 125 (knowingly leaving in a dangerous situation a person incapable of taking measures to save himself due to young age) of the Criminal Code of Russia. Criminal charges were also brought against the first applicant. He was charged in connection with the same events under Articles 156 and 125 of the Criminal Code. G. became a victim in the criminal case, his interests being represented by an official of the Leninskiy District Agency.

52. During the hearing of 29 March 2010 the trial court examined the witness Prod., a principal doctor at the Burn Care Hospital. He stated, among other things, that the press had been "admitted upon the order of

someone in the Department of Health of Moscow, to be ‘allowed at [his] discretion’...”.

53. During a cross-examination on the same date, witness Dav., a children’s surgeon at the same hospital, admitted that the photographs disseminated by the media had been taken with her personal camera but stated that they had been taken by someone else and not by her. As regards the question whether it was usual practice to take photographs of sick patients, she stated as follows: “I know nothing about such a practice, I did it only once, with the permission of the patient ...”.

54. She also stated: “... during the medical examination I asked the father what had happened and where the injuries had come from, to which the father ... responded that the boy had spilled hot water on himself from a kettle and then fallen down the stairs leading from the second to the first floor. Thereafter the father went [out of the room] and I asked the child [the same question]. The boy answered that his mother had pushed him, and at that moment the boy’s father came back and, having apparently overheard our conversation, said that the child would ‘come up with a story’ now. Since the child was diagnosed with having injuries dating from different times, I indicated to the medical sister in charge that she should ... [report the case to the police] ...”.

55. On the same day, during a cross-examination before the trial court the witness Gor., head of the department of microsurgery at the same hospital, admitted that the photograph distributed by the media had been taken by him, that photographs had been taken for professional use and that he had given them to doctor Pen. He also admitted that no consent had been obtained either from G. or from his parents in connection with the taking of the photographs, that the taking of photographs was not a usual practice, and that the photographs had been taken because “the police had been informed [about the case]”.

56. Doctor Pen., the head of the third department of traumatology, was questioned as a witness on the same day. He gave evidence as follows:

> “Q: Explain more about the photographs of G. and how you gave them out and to whom?
>
> A: Since the child was in my department, they were all here. Then Mr Ger. came, and showed his ID as an assistant to [a well known member of the Russian State Duma] and very seriously asked me to make him copies. I remembered that I was obliged to obey. Ger. then went to my PC and sent the photographs by electronic mail to his account.
>
> Q: Did you check his identity?
>
> A: He showed his ID.
>
> Q: Did he show you a written request for information?

A: No.

...

Q: What was the purpose of these photographs?

A: They had no value for me – G. had third-degree burns, that is quite rare. They heal on their own. Usually burns are deep and take a longer time to recover.

...

Q: Were you fired [after the events]?

A: Yes, but not because of the photographs, but because of the admission of the press into the department.

Q: Did you do it [allow the admission of the press]?

A: No, that was the order of my superior ..."

57. The witness Leb., a doctor with the emergency services, was questioned in court on the same day and stated it was he who had made an entry in the medical file to the effect that G.'s father had told him that G. had been ill-treated by his drunken mother. He conceded that this information was a falsehood, that the first applicant had never told him this, that he had no grounds to believe it, and that he had made this entry as a result of "pure emotion".

58. On 15 November 2010 the Vidnovskiy District Court of the Moscow Region examined the criminal case against the applicants and delivered their judgment. The first applicant was acquitted in respect of the charges under Article 156 of the Code and the prosecution had dropped the charges against him under Article 125 of the Criminal Code. The second applicant was found guilty under Articles 156 (non-fulfilment of duties relating to the care of minors) and 115 (intentional infliction of mild harm to health) of the Criminal Code. She received a cumulative sentence of one year and eight months' correctional work, which meant that during that period the second applicant had to pay fifteen per cent of her salary to the State. As regards the other charges, the second applicant was either acquitted or the charges were dropped.

59. Both the second applicant and the legal representatives of G. appealed against the judgment. They all disagreed with the court's conclusion and argued that the second applicant should be acquitted in full.

60. The prosecution also appealed against the judgment, insisting that the applicants were guilty and demanding the quashing of the judgment in the part acquitting them.

61. On 17 February 2011 the Moscow Regional Court examined and rejected the parties' appeals and upheld the judgment of 5 March 2010.

G. Media coverage of the case and libel proceedings

1. The applicants' account

62. The applicants submitted that during G.'s stay in the Burn Care Hospital between 20 and 27 March 2009, the hospital's administration on several occasions admitted a number of third persons, including journalists, photographers and various public figures, to G.'s room. These third persons were allowed to interview G. and to take photographs of him and his injuries. Among those admitted to see G. by the hospital's administration was one Ger., an assistant to a well-known member of the Russian State Duma.

63. The applicants were not informed about these visits, interviews and photograph sessions, let alone asked for their authorisation.

64. On 24 March 2009 a number of national media sources belonging to the same media group and including the life.ru website and the newspapers *Zhizn'* and *Tvoy den'* started publishing material about the case of G. and his adoptive parents, using their full names and photographs. According to the applicants, the material included photographs of G. in the Burn Care Hospital and suggested that G.'s injuries had been caused by ill-treatment at the hands of his parents. The newspapers also learned from unspecified sources of G.'s adopted status and at once made this information public.

65. Thereafter various national media sources followed suit, publishing articles with the following titles: "Mother with a devil's heart", "I was beaten by my Mum", "Mummy beat me up with a hot kettle full of boiling water", "Monster-mummy is facing jail for ill-treatment of child", "Mummy tortured adopted [child]", "Gestapo Mummy" and so on.

66. On 30 March 2009 the applicants' case was discussed in the Public Chamber of the Russian Federation.

67. On 16 April 2009 the Russia-wide TV channel *Pervyy* broadcast a programme, *Pust' Govoryat*, ("Let them speak") entirely devoted to the applicants' case, with various individuals, including public figures, commenting and speculating on what had happened to G. and what was the appropriate State reaction in this connection. Ger. was invited as a guest and stated as follows:

> "... The child was admitted to hospital with so-called multi-trauma. This means that the injuries were not isolated but were multiple, including the burn on the face and heavy beatings and bruises to the sexual organs. And the doctors have now clearly given an assessment of these actions. They say that the child was admitted unconscious, which means that he could not tolerate the level of pain that he was suffering at home. And he was at home in this condition not for just one day. And the parents had taken him to the hospital not to have stitches to a scratch on his face, but because he was nearly dead. This is clearly confirmed by doctors ..."

68. This statement was accompanied by both photographs and video footage of G. taken by the crew of the television channel during his stay in hospital. It is clear from the video footage that the media crew had direct access to G. during filming. During the programme Ger. publicly showed photographs of G. obtained from the doctors of the Burn Care Hospital.

69. On 17 October 2009 the NTV channel broadcast video footage of G. in the Burn Care Hospital in its programme *Maksimum*. The media crew had direct contact with G. and was, among other things, able to question him in respect of the circumstances of the incident.

2. The Government's account

70. The Government submitted that the Burn Care Hospital did not keep any logs of visits by third persons, but that visits by third persons were possible under the applicable rules. The Government admitted that the applicants' allegations concerning unauthorised access to G. by third persons, the unauthorised taking of photographs of G. and the dissemination of these photographs were true. They submitted the following description of the events.

71. On 23 March 2009 a police officer was admitted for a talk with a doctor and the hospital administration. He did not have access to G.

72. On 25 March 2009, with the permission of the Department of Health of the City of Moscow and the hospital administration, four media crews from the leading Russian TV channels (*Pervyy*, *Vesti*, NTV and TNT) were admitted to the relevant department, but did not have access to G., so they stood and filmed their footage in the lobby.

73. On 26 March 2009 the head of the relevant department of the hospital received a direct oral request from Ger. seeking to gather information about the child. Ger. did not have access to the child, but he received electronic copies of photographs of G. with injuries, in hospital settings. According to the Government, the photographs had not been meant for dissemination in public but had been taken by a doctor for professional reasons.

74. The Government also submitted that on 31 March 2009 the Presnenskiy Interdistrict Prosecutor's office of the City of Moscow had issued an official warning to the Burn Care Hospital in connection with media access to the hospital. This warning had resulted in the decision to dismiss the head of the department, Pen., and to reprimand a deputy principal doctor at the hospital. The Government denied that the leaks about the adopted status of the child had come from the doctors of that hospital.

3. The applicants' attempts to initiate proceedings in connection with these events

(a) The applicants' attempts to institute a criminal investigation in respect of the breach of the secrecy of the adoption and the invasion of their privacy

75. On 5 November 2009 the applicants requested the investigation authorities to institute criminal proceedings in respect of a breach of secrecy concerning the adopted status of their children under Article 155 of the Criminal Code.

76. It appears that this application was initially joined to the criminal proceedings in connection with G.'s alleged ill-treatment. In the decision of 23 November 2009 the investigation authority mentioned that the secrecy of G's adoption had been breached. The discussion of this question apparently did not initially result in any developments leading to a separate investigation. The applicants were not notified of the decision.

77. In an application of 25 November 2009 the applicants also requested the investigation authority, *inter alia*, to investigate the actions of the hospital administration which had authorised access to G. by the various third persons, and which had resulted in the allegedly intrusive media coverage of their case. This application was apparently not responded to.

78. On 12 December 2010 the Investigative Department of the Department of the Interior of the Leninskiy District of the Moscow Region initiated a separate investigation in connection with the breach of the secrecy of G.'s adoption.

79. On 15 December 2010 the applicants were given victim status and subsequently questioned.

80. On 28 January 2011, in the absence of any suspects, the criminal investigation was suspended. It does not appear that the investigation had taken any steps with a view to identifying the suspects in the case or to question the journalists or editors of the media which had made the relevant information public.

81. On 1 February 2011 the suspension of the investigation was quashed by the deputy at the Vidnoye Town Prosecutor's office, because "not all possible investigatory measures" had been carried out.

82. The investigation is apparently still pending.

(b) Civil proceedings against Ger.

83. On 13 July 2009 the applicants attempted to bring defamation proceedings against Ger., the *Tvoy Den'* newspaper, and the *Pervyy* Channel in the Ostanskinskiy District Court of the City of Moscow on account of Ger.'s statements that he had been in contact with G. in the hospital and that the boy had been severely beaten and was barely alive.

84. It appears the case was later transferred to the Lyublinskiy District Court of the City of Moscow, because Ger.'s exact place of residence could not be established. The Ostankinskiy District Court made some efforts to identify and summon Ger. to court. In particular, the court made a number of requests, *inter alia*, to the Russian State Duma and the Federal Migration Service. These efforts were to no avail because Ger. was an unpaid *pro bono* assistant, and not a staff member, so the State Duma did not have information on his whereabouts.

85. On 14 July 2010 the applicants withdrew the claim in view of the impossibility of locating and summoning Ger., whom they described as the main defendant in the case.

(c) Civil proceedings against OOO News Media-Rus

86. The second applicant brought civil proceedings in connection with her right to the protection of her honour, dignity and reputation against OOO News Media-Rus, the publisher of the *Tvoy Den'* newspaper. The claim contested the following four articles published in that newspaper and requested the defendant to officially refute them:

(a) In issue no. 62 of 25 March 2009, on the front page there was a photograph of the second applicant with the comment: "Mummy with a devil's heart". To the left of the photograph there was another comment: "A four year old, Gleb A., from an 'elite' village in the Moscow Region, was severely beaten by his drunken adoptive mother". Then there was a reference to an article by journalists A.S. and O.L., published on pages 4 and 5 of the same issue. The article was entitled "I was beaten by my mother". It stated: "A boy was beaten and burned by his adoptive mother [who was] in a state of alcoholic intoxication (according to his father)"... and included the following additional headlines "Drunken mother cripples her adoptive child", "Months of humiliation for four-year-old G.".

(b) In issue no. 63, of 26 March 2009, on the front page there was a photograph of the second applicant with the following comment: "Monster Mummy is facing jail for cruel treatment of child". On the left of the photograph and on pages 4 and 5 of the newspaper it was stated that "... doctors made an official conclusion that the child, who ended up in the Burn Care Hospital on 20 March, had been beaten by his adoptive mother". On the front page there was a headline "Mummy beat me up with a red hot kettle of boiling water". A headline above the article stated: "Mother tortured her adoptive 4-year son with a red hot kettle". A headline above the second applicant's photograph stated: "Gestapo Mummy".

(c) In issue no. 69, of 2 April 2009, on pages 4 and 5 there was an article entitled "Payback for the torments of an angel". The article stated: "On Tuesday she [the second applicant] was taken away to psychiatric clinic no. 24 in the town of Vidnoye". It further stated: "An expert examination made it clear to the specialists that [she] is of sound mind: the woman can

clearly, comprehensively and accessibly answer all questions, and the expert examination of her test drawings shows no signs of serious deviations. However, according to the doctors, [she] has long been in receipt of strong psychotropic substances. The adoptive mother is directed to undergo an additional examination; she needs to give blood samples to be tested for drugs and psychotropic substances".

(d) In the issue of 6 April 2009 an article covering the applicants' case mentioned that G. had "deep bloody scratches caused by human nails".

87. The Savelsovkisy District Court of Moscow examined the case on 4 March 2010. The court noted that the dissemination of the information referred to by the second applicant remained uncontested, and invited the defendant to justify the truthfulness of the published material in question. It then examined the evidence referred to by the defendants in order to establish the truthfulness of the material. In particular, the court examined Kor., one of the doctors who had treated G., who described G.'s condition at the time of his admission and repeated the version of events he had heard from the first applicant; he also stated that G. had at some point mentioned that he had been struck by his mother with a kettle. The court also examined an entry in the Emergency Team's medical register made by doctor Leb. which stated that, according to the boy's father, G. had been beaten and burned by his adoptive mother, who was in a state of alcoholic intoxication, the beatings having taken place at 8 p.m. The court also examined various photographs of G. with injuries and heard Sib., a nurse who had been assisting doctor Leb. at the time. Lastly, the court refused to hear the first applicant as a witness but examined the second applicant's medical file from psychiatric clinic no. 24, which confirmed that the second applicant had been in that clinic, with the diagnosis mentioned in the newspaper, and had been, among other things, ordered to give additional blood samples for testing for drugs and psychotropic substances.

88. Overall, the court concluded that the factual information contained in the contested material about G.'s case was truthful, and that the medical information about the second applicant's stay in clinic no. 24 was also truthful and could not be seen as in any way damaging to the second applicant's reputation. The court also rejected as unproven the second applicant's allegations that G.'s photographs had been heavily retouched by the defendant for a dramatic effect. As regards the descriptive comments about the second applicant's role in G.'s injuries, the court considered that they represented value judgments not susceptible of proof in court. On the basis of the above, the court rejected the second applicant's claim as groundless. The court did not address the second applicant's arguments concerning the breach of her right to the presumption of innocence as a result of premature speculations concerning the nature and degree of her responsibility for G.'s injuries.

89. On 10 June 2010 the Moscow Regional Court examined and, without responding to the second applicant's arguments, rejected her appeal against the first-instance judgment of 4 March 2010.

H. The applicants' access to G. and P. after their removal

90. On 31 March 2009 G. and P. were placed in the custody of the relevant bodies of the City of Moscow and some time later placed in the State educational establishment "Social asylum for children and adolescents" of the Department of Family and Juvenile Policy of the City of Moscow ("the children's home"). They remain there to date.

91. It does not appear that the applicants had any access to either G. or P. between 31 March 2009 and 3 June 2010. It appears that between 29 April 2009 and 19 May 2010 the applicants were allowed to leave food and gifts for the children at the foster home. On 3 June 2010 the children's home granted the applicants permission to visit. Since that day the applicants have had regular weekly access to both children.

92. On 22 February 2011 the applicant's lawyer interviewed Zhm., a teacher from the children's home, who confirmed that the children thought about and had not forgotten their parents and wanted to return to their family, and that it would be better to return the children to their parents.

93. In an interview conducted on the same day, the director of the children's home, Alb., stated that he agreed with the position of Zhm. and was also of the view that the children's condition had greatly improved and that it would be better for them to return to their parents.

I. The applicants' attempts to review the judgment of 17 June 2009

1. The review proceedings in view of newly discovered circumstances

94. On 11 March 2011 the first applicant lodged an application with the Preobrazhenskiy District Court requesting a review of the revocation of adoption proceedings in view of his recent acquittal, and sought to recover his lost rights. He asked the court to declare him the father of the children and to physically to return them to him.

95. On 17 March 2011 the children's home also lodged an application with the Preobrazhenskiy District Court asking for a review of the revocation proceedings in the interests of the children and with a view to reuniting the family.

96. The first applicant's application was supported by the Golyanovo District Municipal Authority, which now considered that G. and P. would be better off returning to the family of their former adoptive parents.

97. By a decision of 21 June 2011 the Preobrazhenskiy District Court examined the application by the children's home and dismissed it for lack of standing. The court concluded that since the children's home had not been a party to the original set of proceedings, it had no right to apply for a review of the judgment of 17 June 2009.

98. By a decision of 22 June 2011 the Preobrazhenskiy District Court examined and rejected the first applicant's application. The court considered that the circumstances referred to by the first applicant could not be seen as newly discovered within the meaning of the applicable domestic law.

2. The proceedings for the restoration of the adoption

99. On 12 July 2011 the first applicant applied for the restoration of the adoption to the Preobrazhenskiy District Court. Since the domestic law did not contain any legal provision allowing for restoration of adoption in respect of adoptive parents whose parental rights had been removed, the first applicant requested the court to apply the legal provisions applicable to natural parents which provided for the restoration of their parental rights if they had previously had such rights restricted or been deprived of them, and to apply them in his case by analogy.

100. This request was maintained and supported by the Golyanovo District Municipal Authority, which took the view that the return of G. and P. to the applicants' family was in the interests of the children.

101. By a decision of 9 August 2011 the Preobrazhenskiy District Court examined and rejected the first applicant's request. The court considered that the application of the law by analogy in such cases was not possible.

102. That decision was upheld on appeal by the Moscow City Court on 20 February 2012. The court took the view that the domestic law did not provide for the possibility of restoration of adoption after it had been revoked and agreed with the first instance court that the law in respect of natural parents could not be applied to the adoptive parents by analogy.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The Constitution of the Russian Federation

Article 23

"1. Everyone has the right to the inviolability of his/her private life, to personal and family confidentiality, and to the protection of his honour and good name ..."

Article 29

"1. Everyone is guaranteed freedom of thought and speech ...

4. Everyone has the right freely to seek, receive, transfer, produce and distribute information by any legal means. The list of information subject to State secrecy is set out in the federal law.

5. The freedom of the media is guaranteed. Censorship is prohibited."

B. The Family Code

Article 56: Children's Right to Protection

"1. Children shall have the right to the protection of their rights and legal interests.

A child's rights and legal interests shall be protected by his parents (or substitute parents), and, in the cases stipulated in the present Code, by the Custody and Guardianship Agency, the Prosecutor and the court.

...

2. Children shall have the right to protection from abuse on the part of the parents (or substitute parents).

If the child's rights and legal interests are violated, including where the parents (or one of them) fail to discharge, or improperly discharge, their duties in relation to the child's upbringing and education, or where they abuse their parental rights, the child shall have the right to apply on his own initiative for the protection of the Custody and Guardianship Agency, and – upon reaching the age of 14 years – to a court.

3. Officers of organisations or other citizens who have learnt of a threat to the life or health of a child or a violation of his rights or legal interests are obliged to report this to the Custody and Guardianship Agency for the child's current place of residence. Upon receipt of such information, the Custody and Guardianship Agency is obliged to take the necessary measures to protect the child's rights and legal interests."

Article 73: Restriction of Parental Rights

"1. A court may, taking into account the interests of the child, decide to remove the child from the parents (one of the parents) without stripping them of their parental rights (restricting their parental rights).

2. The restriction of parental rights is allowed when leaving the child with his parents (one of the parents) is dangerous for the child due to circumstances which do not depend on the parents (one of the parents), such as mental illness or other chronic disease, the combination of difficult circumstances, and so on.

The restriction of parental rights is only possible in cases where leaving the child with the parents (one of the parents) is dangerous for the child on account of their conduct, but sufficient grounds for stripping the parents (one of the parents) of their parental rights have not been established. If the parents (one of the parents) do not change their conduct, six months after a court decision restricting their parental rights the agency is under an obligation to file an application for the parents to be stripped of their parental rights. Acting in the interests of the child, the agency may file such an application up to the expiry of the above-mentioned term ...”

Article 74: Consequences of the Restriction on Parental Rights

“1. Parents whose parental rights are restricted by the court shall lose the right to bring the child up in person, and also the right to the privileges and State allowances granted to citizens with children.

2. The restriction on parental rights shall not relieve the parents from the duty to maintain the child.

3. A child whose parents’ (or one of them) parental rights are restricted shall retain the right of ownership of the living premises or the right to use the living premises, and shall also retain property rights, based on his kinship with his parents and with his other relatives, including the right to receive an inheritance.

4. If the parental rights of both parents are restricted, the child shall be placed in the care of the Custody and Guardianship Agency.”

Article 75: The Child’s Contact with Parents whose Parental Rights areRestricted by the Court

“Parents whose parental rights are restricted by the court may be allowed to maintain contact with the child, unless this has a negative impact on the latter. The parents’ contact with the child shall be permitted with the consent of the Custody and Guardianship Agency, or with the consent of the child’s guardian (trustee), of his foster parents, or of the authorities of the institution where he resides.”

Article 76: Lifting the Restriction on Parental Rights

“1. If the grounds on which one or both parents’ parental rights were restricted cease to exist, the court may, upon an application by the parents (or one of them) make a decision returning the child to the parents (or one of them) and lifting the restrictions stipulated by Article 74 of the present Code.

2. The court shall have the right, taking into account the child’s interests, to refuse to grant the application if the child’s return to the parents (or one of them) is contrary to his interests.”

Article 77: Removal of a Child in Cases of a Direct Threat to Life or Health

"1. If a direct threat exists to the child's life or health, the guardianship and trusteeship body shall have the right to remove the child from his parents (or from one of them) or from any other person whose charge he is in.

The immediate removal of the child shall be carried out by the Custody and Guardianship Agency pursuant to the corresponding order of the local self-governing body.

2. When removing the child, the Custody and Guardianship Agency must inform the prosecutor without delay, provide for the child's temporary accommodation and, within seven days of the decision of the local self-governing body to remove the child, lodge an application with the court for the withdrawal or restriction of parental rights."

Article 139: Secrecy of child adoption

"1. The secrecy of a child's adoption is protected by the law. Judges who have rendered a judgment concerning the adoption of a child, or other officials who have carried out the State registration of an adoption, as well as other persons who have otherwise become aware of an adoption, are obliged to maintain the secrecy of the child's adoption.

2. Persons indicated in part 1 of the present Article who disclose the adoption of the child against the will of the adoptive parents shall be held liable in accordance with the law."

Article 141: Grounds for revoking a child's adoption

"1. A child's adoption may be revoked if the adopters fail to discharge the parental duties imposed on them, abuse parental rights, treat the adopted children cruelly, or suffer from chronic alcoholism or drug addiction.

2. The court may also revoke a child's adoption on other grounds, proceeding from the child's interests and taking into account his opinion".

103. On 20 April 2006 the Plenary Supreme Court of Russia adopted Resolution no. 8 "On the application of legislation by the court during the examination of cases concerning the adoption of children".

"19. Since adoptive parents acquire their parental rights and obligations as a result of adoption, and not because of the birth of their children, it should be borne in mind that in cases of evasion of parental duties by the adoptive parents, the abuse of parental rights or cruel treatment of the adopted children, as well as if the adoptive parents are chronically sick alcoholics or drug addicts, a court can decide to revoke the adoption (Article 140, part 1 of Article 141 of the Family Code of Russia), or not to deprive or limit the parental rights (Articles 69, 70 and 73 of the Family Code). In such cases, the child's consent to the revocation of the adoption is not necessary (Article 57 of the Family Code) ..."

C. The Criminal Code

Article 115: Intentional infliction of mild harm to health

"1. The intentional infliction of mild harm to health producing a short-term health disorder or insignificant but durable loss of the general capacity to work ... shall be punishable by a fine ... or compulsory work of up to 480 hours, or correctional work for a term of up to one year ..."

Article 137: Breach of the inviolability of private life

"1. The unlawful collection or dissemination of information about the private life of a person constituting a private or family secret without his/her consent, or dissemination of such information during public addresses, in publicly visible work or in the media is punishable by a fine of up to 200,000 Russian roubles or the equivalent of the salary or other income of the convicted person for a period of up to eighteen months, or compulsory work for a term of up to 360 hours, or correctional work for a term of up to 1 year ...

2. The same acts committed by a person through the use of his/her official position are punishable by a fine ... or automatic disqualification from certain offices or certain occupations ..."

Article 155 of the Criminal Code: Disclosure of the secret of adoption

"1. The disclosure of the secrecy of a child's adoption against the will of the adoptive parent by a person who was under an obligation to keep the fact of the adoption a service-related or professional secret, or by other persons out of lucrative or base motives, shall be punishable by a fine ..., or community service ..., or an arrest ... combined with disqualification from holding certain posts or carrying out certain activities ..."

Article 156 of the Criminal Code: Non-fulfilment of obligations concerning the upbringing of a minor

"1. The non-fulfilment or improper fulfilment of duties concerning the upbringing of a minor by a parent or by another person ... if this conduct was accompanied by cruel treatment of the minor ... shall be punishable by a fine ..., or community service, or imprisonment ..."

D. The Health Care Act (Federal law no. 5487-I dated 22 July 1993), as in force at the relevant time

Article 61

"Information about the fact of an individual's application for medical aid, the state of health of a citizen, a diagnosis of disease or other data obtained as a result of his

examination and treatment constitute a medical secret. An individual should have a firm guarantee of the confidentiality of the information imparted.

The dissemination of information constituting a medical secret by persons who have had access to this information as a result of the educational process or the execution of professional, service or other obligations, except for the situations set out in parts 3 and 4 of the present article, is not allowed.

Upon an individual's or his representative's consent, the transfer of information constituting a medical secret to other individuals, including officials, in the interests of the medical examination and treatment of a patient, for scientific examination, publications in scientific literature, or the use of this information in the educational process, is allowed.

Information constituting a medical secret may be furnished without the consent of the individual in question or his representative:

1) in order to examine and treat an individual who is incapable on account of his condition of expressing his will;

2) in case of the threat of dissemination of infectious diseases, mass poisoning or infections;

3) upon the request of [various official investigation] bodies or a court in connection with a pending investigation or court proceedings;

3.1) upon a request from a body carrying out supervision in respect of the behaviour of a convict ...;

4) in case of treatment of an underage person [in cases of drug addiction], to keep their parents and legal representatives informed;

5) where there are grounds to believe that harm to the health of an individual has been inflicted as a result of unlawful actions;

6) with a view to carrying out a military medical examination ...

Persons, who, in accordance with the law, are in receipt of information constituting a medical secret, are, along with medical and pharmaceutical officials, liable, account being taken of the extent of the resulting damage, for the disclosure of the medical secret under the disciplinary, administrative or criminal law in accordance with the [relevant] legislation."

E. The Code of Administrative Offences of Russia

Article 13.14: Disclosure of information to which there is limited access

"Disclosure of information to which access is limited by a federal law (except for cases in which such disclosure leads to criminal liability), by a person who had access to this information connection with the execution of his service or professional duties

... is punishable by an administrative fine of between 500 and 1,000 Russian roubles in respect of individuals and between 4,000 and 5,000 Russian roubles in respect of officials."

F. The Civil Code

Article 150: Intangible rights

"1. Life and health, the dignity of an individual, personal integrity, honour and good name, business reputation, the inviolability of personal life, personal and family confidentiality ... belong to an individual by birth or by law, are inalienable and are not transferrable by any other means ...

2. Intangible rights are protected in accordance with this Code and other [relevant] laws ... as well as in such cases and within such limits where the use of the methods for the protection of ... the rights ... flows from the nature of the intangible right breached and the character of the consequences of such a breach."

Article 151: Compensation for non-pecuniary damage

"If non-pecuniary damage (physical or moral suffering) has been inflicted upon an individual by acts violating his personal non-pecuniary rights or encroaching upon other intangible interests belonging to the individual, as well as in other cases set out in the law, a court may order the perpetrator to pay monetary compensation for the said damage.

In determining the amount of compensation, the court takes into account the degree of liability of the perpetrator and other relevant circumstances. The court also has to take into account the degree of physical and moral sufferings in the context of the individual features of the person on whom the damage was inflicted."

Article 152: Protection of honour, dignity and business reputation

"1. An individual has a right to claim in court retraction of information damaging his/her honour, dignity or business reputation, if the person having disseminated such statements has failed to prove that they corresponded to reality ...

2. If damaging statements were disseminated in the media, they should be retracted in the same media ...

5. An individual concerned by the dissemination of damaging information ... has a right, along with the right to request refutation of such information, to ask for damages and compensation for non-pecuniary damage resulting from such dissemination ...

6. In case it is impossible to identify a person responsible for the dissemination of the [defamatory information], the individual concerned has the right to apply to court seeking to have the information in question declared untrue."

Article 152.1 of the Civil Code: Protection of the image of an individual

"1. Publication and further use of an image of an individual (including his photograph, as well as video footage or works of art in which he/she is depicted) are only permitted with the consent of the individual ...

Such consent is not necessary in cases where:

1) the use of the image takes place in the interest of the State, society or other public interest;

2) the image was obtained during filming which took place in places open for free admission or at public gatherings, except for cases in which the image is the main object of [commercial] use.

3) the individual posed for a fee."

Article 152.2: Protection of the private life of an individual

"1. Unless specifically authorised by law, the collection, storage, distribution and use of any information about the private life of an individual, including information about his origins, where he stays or resides, about private and family life, the biographical facts of such person, or his participation in court proceedings, is not allowed without his consent.

The collection, storage, distribution and use of information about the private life of an individual which is in the interest of the State, society in general, or other public interest is excluded from this rule. The other exception to this rule is when the information about the private life of an individual has been made commonly available or disclosed by the individual himself or with his agreement.

2. Unless a contract between the parties provides otherwise, the parties are bound not to disclose information that they have received under a contract about a party or an interested third party to such a contract ...

4. Where the information about the private life of an individual obtained through a breach of law is contained in documents, video footage or other material means of storage, the individual has the right to request a court to seize the means of storage ... and to destroy it without any compensation ..."

104. On 24 February 2005 the Plenary Supreme Court of Russia adopted Resolution no. 3 "On judicial practice in cases concerning the protection of the honour and dignity of individuals and the business reputation of individuals or legal persons", in which it reminded the lower courts that they should take into account the provisions of the European Convention on Human Rights and the case-law of the Strasbourg Court. More specifically, in part 8 of the Resolution, the Plenary Supreme Court noted that cases concerning the protection of honour, dignity and business reputation should be differentiated from cases concerning the protection of other intangible rights the inviolability of which is specifically protected by the Constitution

of Russia and other laws and the dissemination of which may cause non-pecuniary damage even if the information in question is truthful and non-defamatory. In particular, in cases concerning the dissemination of information about the private life of an individual, it should be taken into account that unauthorised dissemination of even truthful information concerning private life may lead a court to award compensation for non-pecuniary damage resulting from the dissemination of such information (Articles 150 and 151 of the Civil Code). The only exception to this rule was when the information about the private life of a plaintiff had been disseminated with the aim of protecting some public interest under part 5 of Section 49 of the Law "On the media"... If false information about the person's private life was disseminated, then a defendant could be obliged not only to retract such information, but also to compensate any resulting non-pecuniary damage under Article 152 of the Civil Code.

105. The Plenary Supreme Court also explained in part 2 of the Resolution that actions in defence of honour, dignity and business reputation could be brought by individuals and legal entities who considered themselves to have been injured by the disseminated information. Judicial protection in such cases could be granted even in cases where it was impossible to identify the person who had disseminated the information (for instance, in cases of anonymous letters directed at individuals and organisations, or publication of information on the internet by an anonymous user). Under part 6 of Article 152 of the Civil Code the court could declare the disseminated information untrue and defamatory. Such cases were examined by the courts under a special procedure set out in subsection IV of the Civil Procedure Code of Russia.

106. In part 5 of the Resolution, the Plenary Supreme Court also explained that the proper defendants in such cases were the authors of the disseminated information as well as those who had taken part in its dissemination. If the information had been disseminated by the media, the proper defendants were both the author of the information and the editorial board of the media involved, or the persons in charge of their production.

107. In its overview of the judicial practice in the examination of cases concerning the protection of honour, dignity and business reputation and the inviolability of the private life of public persons in the sphere of politics, art and sport (bulletin no. 12 for the year 2007), the Supreme Court noted that protected private information was listed, in particular, in Presidential Decree no. 1111 dated 23 September 2005.

108. On 23 September 2005 the President of Russia adopted decree no. 1111, which contains a list of information having a confidential character:

> "1. Information on facts, events and circumstances concerning the private life of an individual which enable the individual to be identified (personal data), except for

information which can be disseminated in the media in situations defined by the federal laws.

2. Secret information in an investigation or judicial procedure ...

3. Official data access to which is limited by the State bodies according to the Civil Code ... and federal laws (official secret).

4. Information relating to professional activity to which access is limited in accordance with the Constitution of Russia and federal laws ([including] medical confidentiality ...)."

G. The Code of Civil Procedure

109. Article 392 of the Code of Civil Procedure of the Russian Federation contains a list of situations which may justify the reopening of a finalised case on account of newly discovered circumstances. A judgment of the European Court of Human Rights finding a violation of the European Convention on Human Rights in a case in respect of which an applicant lodged a complaint with the Court should be considered a new circumstance warranting a reopening (Article 392 § 4 (4)).

H. Law on the Media

Section 49

This provision defines the duties of a journalist and mentions in its part 5 that when disseminating information on the private life of an individual in the media a journalist is bound to secure the consent of the person(s) concerned and/or their representative except for situations where dissemination is necessary for the protection of the interests of society.

I. Federal law no. 3 of 8 May 1994 "On the status of a member of the Council of the Federation and the status of a member of the State Duma of the Federal Assembly of the Russian Federation"

Article 17: Right of a member of the Council of the Federation or a member of the State Duma to receive and disseminate information

"...

2. Upon application by a member of the Council of the Federation or a member of the State Duma on questions relating to the functioning of State bodies, local authorities, NGOs and organisations to such bodies, the officials of such bodies and organisations are obliged to reply without delay (where further materials are required

– not later than 30 days from the date of application) and provide the requested documents and information. At the same time, information constituting a State secret is provided in accordance with an order set out in the federal law on State secrets ...”

Article 37: Assistants to a member of the Council of the Federation or a member of the State Duma

“1. ... A member of the State Duma has the right to have assistants in connection with their work in the State Duma ...

4. ... A member of the State Duma has the right to have up to 40 assistants working *pro bono* ...”

Article 39: Rights and obligations of an assistant to a member of the Council of the Federation or a member of the State Duma

“1. An assistant to a member of ... the State Duma:

...

c) upon assignment to the member of ... the State Duma, receives from State bodies [and other organisations] the documents required by the member ...”

III. RELEVANT INTERNATIONAL MATERIALS

A. Convention on the Rights of the Child

110. The Convention on the Rights of the Child was adopted by the General Assembly of the United Nations on 20 November 1989 and came into force on 2 September 1990. It has been ratified by all Council of Europe member States. Its relevant provisions read as follows:

Article 3

“1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.”

Article 9

"1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

..."

B. European Convention on the Adoption of Children (revised 2008)

111. The revised European Convention on the Adoption of Children was opened for signature on 27 November 2008 and entered into force on 1 September 2011. It has been ratified by seven States, namely Denmark, Finland, the Netherlands, Norway, Romania, Spain and Ukraine. The Russian Federation has not ratified or signed the Convention.

112. One of the reasons for the revision, as stated in the preamble to the 2008 Convention, was that some of the provisions of the 1967 European Convention on the Adoption of Children were outdated and contrary to the case-law of the European Court of Human Rights. The relevant provisions of the 2008 Convention read as follows:

Article 11 – Effects of an adoption

"1. Upon adoption a child shall become a full member of the family of the adopter(s) and shall have in regard to the adopter(s) and his, her or their family the same rights and obligations as a child of the adopter(s) whose parentage is legally established. The adopter(s) shall have parental responsibility for the child. The adoption shall terminate the legal relationship between the child and his or her father, mother and family of origin.

2. Nevertheless, the spouse or partner, whether registered or not, of the adopter shall retain his or her rights and obligations in respect of the adopted child if the latter is his or her child, unless the law otherwise provides.

…"

Article 14 – Revocation and annulment of an adoption

"1 An adoption may be revoked or annulled only by decision of the competent authority. The best interests of the child shall always be the paramount consideration.

2. An adoption may be revoked only on serious grounds permitted by law before the child reaches the age of majority.

…"

C. Recommendation of the Committee of Ministers of the Council of Europe No. Rec(2003)13 on the provision of information through the media in relation to criminal proceedings

113. On 10 July 2003 the Committee of Ministers of the Council of Europe adopted Recommendation No. Rec(2003)13 on the provision of information through the media in relation to criminal proceedings. Point 8 of the principles appended to the recommendation, reads as follows:

"Protection of privacy in the context of on-going criminal proceedings

The provision of information about suspects, accused or convicted persons or other parties to criminal proceedings should respect their right to protection of privacy in accordance with Article 8 of the Convention. Particular protection should be given to parties who are minors or other vulnerable persons, as well as to victims, to witnesses and to the families of suspects, accused and convicted persons. In all cases, particular consideration should be given to the harmful effect which the disclosure of information enabling their identification may have on the persons referred to in this Principle."

114. The commentary to the recommendation states as follows (paragraphs 26 and 27):

"Everyone has the right to the protection of private and family life under Article 8 of the European Convention on Human Rights. Principle 8 recalls this protection for suspects, the accused, convicted persons and other parties to criminal proceedings, who must not be denied this right due to their involvement in such proceedings. The mere indication of the name of the accused or convicted may constitute a sanction which is more severe than the penal sanction delivered by the criminal court. It furthermore may prejudice the reintegration into society of the person concerned. The same applies to the image of the accused or convicted. Therefore, particular consideration should be given to the harmful effect which the disclosure of information enabling their identification may have on the persons referred to in this Principle.

An even stronger protection is recommended to parties who are minors, to victims of criminal offences, to witnesses and to the families of suspects, the accused and convicted persons. In this respect, member states may also refer to Recommendation No. R (85) 11 on the position of the victim in the framework of criminal law and procedure and Recommendation No. R (97) 13 concerning the intimidation of witnesses and the rights of the defence."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION ON ACCOUNT OF THE REMOVAL OF THE APPLICANTS' CHILDREN

115. Relying on Articles 6, 8, 13 and 14 of the Convention, the applicants complained about the removal order in respect of their children G. and P. The Court will examine this part of the application under Article 8 of the Convention, which provides as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 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

116. The Government disagreed with the applicants. They considered that the removal of the children from the applicants was lawful, pursued a legitimate interest in the protection of the children, and was necessary and proportionate to that legitimate interest.

117. The applicants considered that the removal had been just the first step in a two-step process leading to the revocation of the adoption and that both measures should be seen as one. The measures were excessively harsh, various State agencies did not have a common view on the choice of the measure to be used and they deplored the courts' failure even to consider alternative measures which could have addressed the legitimate concerns of the authorities. In their view, the reasons advanced by the authorities for removing the children, each of them taken alone and all of them taken together, were clearly insufficient to justify the removal.

B. The Court's assessment

1. Admissibility

118. The Court notes that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

(a) Whether there was an interference with the applicants' right to respect for their family life

119. The Court reiterates that the mutual enjoyment by parent and child of each other's company constitutes a fundamental element of family life and that domestic measures hindering such enjoyment amount to an interference with the right protected by Article 8 of the Convention (see, among other authorities, *K. and T. v. Finland* [GC], no. 25702/94, § 151, ECHR 2001-VII).

120. It was not in dispute between the parties that at the time when the authorities intervened there existed between the applicants and their adoptive children G. and P. (see paragraphs 8, 9 and 10) an actual family life within the meaning of Article 8 § 1 of the Convention and that the removal of G. and P. evidently amounted to an interference with the applicants' right to respect for their family life, as guaranteed by that provision. An interference with that right constitutes a violation of that provision unless it is "in accordance with the law", pursues an aim or aims that are legitimate under Article 8 § 2 and can be regarded as "necessary in a democratic society".

(b) Whether the interferences were justified

(i) "In accordance with the law"

121. The Court reiterates that according to its constant and well-established case-law a norm cannot be regarded as a "law" unless it is formulated with sufficient precision to enable the citizen – if need be, with appropriate advice – to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail; however, experience shows that absolute precision is unattainable and the need to avoid excessive rigidity and to keep pace with changing circumstances means that many laws are inevitably couched in terms which, to a greater or lesser extent, are vague (see, among other authorities, *Sunday Times v. the United Kingdom (no. 1)*, 26 April 1979, § 49, Series A no. 30, and *Kokkinakis v. Greece*, 25 May 1993, § 40, Series A no. 260-A).

122. The phrase "in accordance with the law" does not merely refer back to domestic law but also relates to the quality of the law, requiring it to be compatible with the rule of law; it thus implies that there must be a measure of protection in domestic law against arbitrary interferences by public authorities with the rights safeguarded by Article 8 § 1 of the Convention. So, a law which confers a discretion is not in itself inconsistent with the requirement of foreseeability, provided that the scope of the discretion and the manner of its exercise are indicated with sufficient clarity, having regard

to the legitimate aim of the measure in question, to give the individual adequate protection against arbitrary interference (see, for example, *Olsson v. Sweden (no. 1)*, 24 March 1988, § 61, Series A no. 130).

123. Turning to the facts of the case, the Court notes that the Russian legislation, in particular Article 77 of the Family Code, applied in the present case is admittedly couched in rather general terms and confers a certain measure of discretion as regards the grounds for decisions concerning the removal of children. At the same time, the Court is mindful of the fact that the circumstances in which it may be necessary to take a child into public care are so variable that it would scarcely be possible to formulate a law to cover every eventuality. In view of the above, and since the removal order was reviewed by the courts at two levels of jurisdiction, the Court considers the scope of the discretion conferred on the domestic authorities reasonable and acceptable for the purposes of Article 8 (see *Kuimov v. Russia* (dec.), no. 32147/04, 15 May 2007).

124. Thus, the Court concludes that the interference in question was "in accordance with the law".

(ii) Legitimate aim

125. In the present case the Court will accept that the removal as such may be considered as being aimed at protecting the "health and morals" and the "rights and freedoms" of G. and P. and that, therefore, the measure could be seen as pursuing a legitimate aim within the meaning of Article 8 § 2.

(ii). "Necessary in a democratic society"

(α) General principles

126. In determining whether the impugned measure was "necessary in a democratic society", the Court will consider whether, in the light of the case as a whole, the reasons adduced to justify them were relevant and sufficient for the purposes of Article 8 § 2 of the Convention. Undoubtedly, consideration of what lies in the best interest of the children is of crucial importance in every case of this kind. Moreover, it must be borne in mind that the national authorities have the benefit of direct contact with all the persons concerned. It follows from these considerations that the Court's task is not to substitute itself for the domestic authorities in the exercise of their responsibilities regarding adoption, custody and access issues, but rather to review, in the light of the Convention, the decisions taken by those authorities in the exercise of their power of appreciation.

127. The margin of appreciation to be accorded to the competent national authorities will vary in accordance with the nature of the issues and the importance of the interests at stake. Thus, the Court recognises that the authorities enjoy a wide margin of appreciation, in particular when

assessing the necessity of taking a child into care. However, a stricter scrutiny is called for in respect of any further limitations, such as restrictions placed by those authorities on parental rights of access, and of any legal safeguards designed to secure an effective protection of the right of parents and children to respect for their family life. Such further limitations entail the danger that the family relations between the parents and a young child would be effectively curtailed (see *T.P. and K.M. v. the United Kingdom* [GC], no. 28945/95, §§ 70-71, ECHR 2001-V (extracts)).

128. The Court further reiterates that whilst Article 8 contains no explicit procedural requirements, the decision-making process involved in measures of interference must be fair and such as to afford due respect to the interests safeguarded by Article 8:

> "[W]hat has to be determined is whether, having regard to the particular circumstances of the case and notably the serious nature of the decisions to be taken, the parents have been involved in the decision-making process, seen as a whole, to a degree sufficient to provide them with the requisite protection of their interests. If they have not, there will have been a failure to respect their family life and the interference resulting from the decision will not be capable of being regarded as 'necessary' within the meaning of Article 8." (see *W. v. the United Kingdom*, 8 July 1987, §§ 62-64, Series A no. 121)."

129. More specifically, the Court has previously found that the failure to disclose relevant documents to parents during the procedures instituted by the authorities in placing and maintaining a child in care meant that the decision-making process determining the custody and access arrangements did not afford the requisite protection of the parents' interests as safeguarded by Article 8 (see *T.P. and K.M*, cited above, § 73).

(β) Application of these principles

130. The Court notes that the officials of the Golyanovo District Agency removed the applicants' children G. and P. pursuant to Article 77 of the Family Code, which authorises the relevant bodies to take a child into public care if, among other things, there is a "direct threat" to "the child's life or health". The relevant report and the subsequent decision of 28 March 2009 mentioned the incident of 20 March 2009, the fact that criminal proceedings had been brought in this connection, and shortcomings in the applicants' supervision of their children which may have led to the incident (see paragraphs 33 and 34). Keeping in mind that the authorities' primary task was to safeguard the interests of the children, the Court can accept that the Golyanovo District Agency could reasonably have considered that placing the applicants' children G. and P. in public care for some time was in their best interests, in anticipation of the outcome of the criminal investigation into the events of 20 March 2009 and the conclusions to be drawn in the light of its findings.

131. The Court observes that the domestic courts, ruling at two levels of jurisdiction, reviewed the impugned emergency removal orders and established that they had been issued in the context of the pending criminal investigation into the incident of 20 March 2009 and a state of uncertainty as regards the causes of the injuries on G.'s body, which could have included cruel treatment of G. at the hands of the applicants, or the applicants' non-compliance with child safety requirements (see paragraphs 40 and 41). The courts gave due consideration to all the relevant circumstances of the case and carefully assessed the impugned order. Before the courts the applicants were represented by counsel and were fully able to state their case and to contest any evidence in the case file they considered false. It cannot therefore be said that the authorities failed in their positive obligation to involve the parents in the decision-making process (see, by contrast, *T.P. and K.M.*, cited above, § 73). Taking into account the foregoing, the Court sees no reason to depart from the findings of the domestic courts and reaches the conclusion that the removal orders dated 28 March 2009 regarding G. and P. as such satisfied the requirements of Article 8 of the Convention.

132. Accordingly, the Court finds that there has been no violation of Article 8 of the Convention on account of the initial removal of G. and P. into public care.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION ON ACCOUNT OF THE REVOCATION OF ADOPTION OF THE APPLICANTS' CHILDREN

133. Relying on Articles 6, 8, 13 and 14 of the Convention, the applicants further complained about the revocation of adoption of G. and P. by the domestic courts. The Court will examine this part of the application under Article 8 of the Convention, cited above.

A. The parties' submissions

134. The Government considered that the measure complained of was lawful, pursued a legitimate interest in the protection of the children, and was necessary and proportionate to that legitimate interest. They claimed that on account of its proximity to the events, a State should enjoy a wide margin of appreciation in these matters, that the Court should defer to the assessment of the case made by the domestic courts, and that on the facts any interference with the applicants' Article 8 rights had been justified. They also referred to the factual findings made by the domestic courts in the criminal proceedings against the applicants and submitted that these findings confirmed the conclusions of the courts in the revocation of adoption proceedings.

135. The applicants argued that the relevant domestic laws gave excessive discretionary powers to the authorities and that the laws were imprecise and unclear. They also thought that the authorities had erred in the application of the domestic law, in particular, part 2 of Article 141 of the Family Code. The measures were excessively harsh, and the seven-day term set out in part 2 of Article 77 was excessively short for a proper resolution of a complex question. The applicants pointed out that various State agencies did not have a common view on the choice of the measure to be used and they deplored the courts' failure even to consider alternative measures which could have addressed the legitimate concerns of the authorities. They also deplored the fact that the children had not been involved in the decision-making process, the failure to assess the consequences that a separation from the parents may have for the children, especially given their age, and also the failure to consider the case of each child separately. The applicants considered that the courts had assessed the medical evidence concerning the condition of their children superficially, as they had simply ignored the question of the parents' responsibility for the alleged lack of medical treatment of the children. Lastly, the applicants were dissatisfied with the heavy pressure exerted by the media and some politicians in their case, which, in their view, had led to the imposition of disproportionately harsh measures in their case.

B. The Court's assessment

1. Admissibility

136. The Court notes that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

137. The Court finds that the revocation of adoption of G. and P. evidently amounted to interferences with the applicants' right to respect for their family life, as guaranteed by that provision. As already set out above, such an interference with that right constitutes a violation of that provision unless it is "in accordance with the law", pursues an aim or aims that are legitimate under Article 8 § 2 and can be regarded as "necessary in a democratic society".

(a) "In accordance with the law"

138. Having examined the applicable domestic law, including part 2 of Article 141 of the Family Code, and the relevant domestic decisions, the

Court is unable to conclude that the revocation of adoption of G. and P. was contrary to Russian law.

139. Even though the Russian legislation applied in the present case is admittedly couched in rather general terms and confers a certain measure of discretion regarding the grounds for decisions concerning the revocation of adoption, the Court is of the view that the circumstances in which it may be necessary to revoke an adoption are so variable that it would scarcely be possible to formulate a law to cover every eventuality. Moreover, the relevant resolution of the Supreme Court provided some guidance as regards the interpretation and application of Article 141 of the Family Code concerning the grounds for the bringing of revocation of adoption proceedings (see paragraph 103 above). In view of the above, and since the contested measure was reviewed by the courts at two levels of jurisdiction, the Court considers the scope of the discretion conferred on the domestic authorities reasonable and acceptable for the purposes of Article 8 (see *Kuimov, cited above*).

140. As regards the applicants' criticism that the seven day time-limit set out in Article 77 of the Family Code was too short, the Court would note that the legal provision in question, as interpreted by the Plenary Supreme Court in Section 19 of its Resolution no. 8, indeed gave the relevant State authority a week after the placement of an adopted child in State care to request the court to revoke the adoption of that child. It is true that this term was applicable to all cases, irrespective of the exact reason and probable duration of the State care, and arguably it could be seen as in some sense inviting the domestic authorities to revoke the adoption. Still, the Court observes that the decision to revoke the adoption of the applicants' children was made by a court which had the power either to grant such a request or to turn it down as unfounded. Given that the judicial determination of this question by the courts at two instances provided a substantial procedural safeguard against arbitrariness, it cannot be said that the provision in question fell short of the requirement of lawfulness of Article 8 § 2.

141. Overall, the Court concludes that the interference in question was "in accordance with the law".

(b) "Legitimate aim"

142. Whereas the Court will examine the "legitimacy" of revoking the adoption under the necessity test below, it accepts that the reasons for it set out in Article 141 of the Family Code may be considered as legitimate within the requirements of Article 8 § 2 of the Convention. Seen in this light, the Court accepts that the revocation pursued legitimate aims within the meaning of Article 8 § 2.

(c) "Necessary in a democratic society"

143. As the Court has reiterated time and again, the taking of a child into care should normally be regarded as a temporary measure to be discontinued as circumstances permit, and any measures implementing such care should be consistent with the ultimate aim of reuniting the natural parent and the child. The positive duty to take measures to facilitate family reunification as soon as reasonably feasible will begin to weigh on the responsible authorities with progressively increasing force as from the commencement of the period of care (see *Kutzner v. Germany*, no. 46544/99, § 76, ECHR 2002-I), subject always to its being balanced against the duty to consider the best interests of the child. After a considerable period of time has passed since the child was originally taken into public care, the interest of a child not to have his or her *de facto* family situation changed again may override the interests of the parents to have their family reunited (see *K. and T.*, cited above, § 155).

144. In the present case the applicants' adoption of G. and P. was revoked by the domestic courts at two levels of jurisdiction on application by the Galyanovo District Agency. These measures were particularly far-reaching in that they totally deprived the applicants of their family life with the children in question, were irreversible under the domestic law (see paragraph 103), and were inconsistent with the aim of reuniting them. According to the Court's well-established case-law, such measures should only be applied in exceptional circumstances and can only be justified if they are motivated by an overriding requirement pertaining to the children's best interests (see *Johansen v. Norway*, 7 August 1996, § 78, *Reports of Judgments and Decisions* 1996-III, and *Scozzari and Giunta v. Italy* [GC], nos. 39221/98 and 41963/98, § 148, ECHR 2000-VIII). The question whether the revocation of the applicants' adoption of G. and P. was justified must be assessed in the light of the circumstances obtaining at the time the decisions were taken and not with the benefit of hindsight. That question must moreover be considered in the light of the reasons mentioned in paragraphs 33, 34 and 40 above for taking the applicants' children into care.

145. On the facts, the Court observes that the relevant court decisions referred to two main allegations in justifying the revocation of the adoption of the applicants' children (see paragraph 44). Firstly, the authorities maintained that the parents had failed to look after the children's health, and relied in this regard on a medical report confirming that both G. and P. had various untreated illnesses. Secondly, the authorities relied on the presence of the injuries on G.'s body and the pending criminal investigation into them. In the Court's opinion, the above considerations were undoubtedly relevant to the issue of necessity under of Article 8 § 2. It remains to be examined whether they were also sufficient to justify the revocation of the adoption of both G. and P. and thereby the permanently severing of all contact between the applicants and their children.

146. Turning to the allegation that the applicants had failed to look after the children's health, the Court cannot but notice that the assessment of this question by the domestic authorities was manifestly superficial. The domestic courts simply enumerated the diseases with which G. and P. had been diagnosed after their removal, without providing any explanation as to the exact origin and seriousness of each disease, or, most importantly, the degree to which the parents were responsible for each alleged health problem.

147. The Court considers that the case against the applicants in this respect was far from being straightforward because all the post-adoption reports unanimously praised the conditions of upbringing in the applicants' family and never mentioned any health or medical supervision issues (see paragraphs 13-17). In view of this, the Court entertains serious doubts that the domestic courts were equipped to carry out a proper assessment of the link between the applicants' actions or inaction and the medical condition of their children after their removal without having recourse to the assistance of experts in this field.

148. Further, the Court is not persuaded by the courts' references to the applicants' failure to apply for medical insurance certificates and to register with a local polyclinic as proof of their allegedly reckless attitude in respect of the children's health (see paragraph 44). It was not in dispute between the parties that the applicants' family was well-off financially. This would include the possibility to use the services of some private clinics and doctors in the care of their children.

149. Whereas the Court recognises that the authorities may have had legitimate concerns about the medical condition of the children, it considers the manner in which this question was presented by the Golyanovo District Agency and examined by the domestic courts unsatisfactory and the conclusions reached unconvincing and too far-reaching.

150. In so far as the authorities relied on the presence of injuries on G.'s body and the related pending criminal investigation, the Court notes that the evidence examined by the courts in this connection consisted of generalities. The court decisions merely mentioned the description of G.'s injuries and a pending criminal investigation in this connection, without examining any evidence, either emanating from G. or P. or from any other relevant source, which could have implicated or even cast doubt on either one or both applicants in relation to the injuries in question (see paragraph 44).

151. The Court can accept that in the circumstances of the case the suspicion of child abuse on the part of the parents could have justified the temporary removal of both G. and P. from them (see paragraph 130-132 above), as well as possibly certain further restrictions on contact between them pending a more detailed inquiry into the matter (see, for instance, *L. v. Finland*, no. 25651/94, § 127, 27 April 2000); however, the Court cannot find such a suspicion in itself, absent other weighty reasons, to be

sufficient justification for the revocation of the applicants' adoption. The decisions contain no assessment of already established family bonds between the applicants and their children and took no account of any damage to the emotional security and psychological condition of each child that might result from the sudden breaking of such bonds, regard being had, in particular, to the children's age at the time. What is clear is that the analysis that the domestic courts made in connection with the events of 20 March 2009 in the judgment of 17 June 2009, as upheld on appeal on 13 August 2009, was seriously deficient.

152. In this connection, the Court is not persuaded by the Government's reference to the factual findings of the domestic courts in the subsequent criminal proceedings against the applicants (see paragraphs 48-61), because the decision in question needed to be sufficiently justified in the light of the circumstances obtaining at the time it was taken and not with the benefit of hindsight. Even assuming the Court could take account of these findings, it is far from clear that they could be considered to provide an unqualified justification for the decision to revoke the adoption of G. and P. In fact, the criminal proceedings concluded with the acquittal of the first applicant, whilst the second applicant was convicted only in respect of the episode of 20 March 2009, and the rest of the charges, which included, *inter alia*, alleged ill-treatment by both parents on multiple occasions prior to 20 March 2009, were either dropped or rejected.

153. In these circumstances, it is not the Court's task to speculate on what may have been the implications of these subsequent findings for the revocation of the adoption proceedings.

154. Against this background, the Court does not consider that the above-mentioned court decisions, in so far as they revoked the applicants' adoption of their children G. and P., were sufficiently justified for the purposes of Article 8 § 2 of the Convention (see, for example, *Kurochkin v. Ukraine*, no. 42276/08, §§ 57-59, 20 May 2010), it not having been shown that the measure corresponded to any overriding requirement in the children's best interests.

155. Accordingly, the Court reaches the conclusion that in the present case the national authorities overstepped their margin of appreciation on account of the decision to revoke the adoption of G. and P, thereby violating the applicants' rights under Article 8 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION ON ACCOUNT OF THE APPLICANTS' LACK OF ACCESS TO G. AND P. FROM 31 MARCH 2009 TO 3 JUNE 2010

156. The applicants complained that the lack of access to the children between 31 March 2009 and 3 June 2010 was unlawful and

disproportionate. The Court will examine the grievance under Article 8 of the Convention, cited above.

A. The parties' submissions

157. The Government disagreed with the applicants.

158. The applicants maintained their initial submissions and argued that they had been totally prevented from maintaining any contact with the children between 30 March 2009 and 3 June 2010, after their removal, and of the lack of any reasoning behind that measure.

B. The Court's assessment

1. Admissibility

159. The Court notes that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

160. It was not in dispute between the parties that the impugned measure amounted to an interference with the applicants' right to respect for their family life, as guaranteed by that provision.

161. For the purposes of this particular complaint the Court accepts that the measure was in accordance with the law, namely Article 141 of the Family Code, which provided that a court had the power to revoke the adoption of a child in a limited number of situations. The Court is satisfied that the continuous lack of access to the children was "in accordance with the law", as required by Article 8 § 2 of the Convention.

162. Examining the necessity of this measure, it also accepts that it could be considered as aimed at protecting the "health and morals" and the "rights and freedoms" of G. and P. within the meaning of that Convention provision.

163. As to whether it was also "necessary in a democratic society", the Court would note that it was not in dispute between the parties that the applicants' access to G. and P. was withdrawn on 31 March 2009 and that the applicants were allowed to re-establish their direct contact with the children only on 3 June 2010, that is, one year, two months and seven days later (see paragraphs 35, 36 and 91). It is also accepted by the parties that the decision to revoke the adoption stripped the applicants of their legal right to see the children and that their later contact while the children were in the children's home after the period in question, depended on the

discretionary permission of that establishment, which could be suspended or withdrawn at any time.

164. The Court would reiterate its earlier findings that the measures adopted by the authorities, which severed all links between the applicants and their adoptive children, were of a drastic character, and that the authorities have failed to advance relevant and sufficient reasons to justify these measures (see paragraphs 143-155). It would also note that the withdrawal of access to G. and P. and the fact the applicants were subsequently unable to have any contact with the children during the period in question were an automatic consequence of the decisions to revoke the adoption. These measures were irreversible and under the domestic law the applicants were precluded from having the position as regards contact between them and the children reviewed (see paragraph 103).

165. In such circumstances, the Court cannot but conclude there has also been a violation of Article 8 of the Convention on account of the applicants' lack of access to G. and P. during the period in question, this being unnecessary within the meaning of Article 8 § 2 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION ON ACCOUNT OF THE CONDUCT OF HOSPITAL OFFICIALS DURING G.'S STAY IN THE BURN CARE HOSPITAL

166. Under Articles 8 and 13 of the Convention, the applicants complained that their right to respect for their family and private life had been breached in that the officials of the Burn Care Hospital had provided journalists and an assistant to a member of the Russian State Duma with access to G., his name and medical data, and either allowed them to take photographs and video footage or made such material available to them, in both cases without seeking parental consent. The Court will examine this grievance under Article 8, cited above.

A. The parties' submissions

167. The Government disagreed with the applicants. They conceded that the officials of the Burn Care Hospital had indeed authorised access of the journalists of four national channels to the area of the burn care department, had given them permission to conduct interviews with G. and to film him, and had provided them with information regarding his name and condition, all without seeking the consent of the applicants or G. himself. Moreover, they did not dispute that Ger. had received photographs of G. from one of these officials. The Government argued that the taking of G.'s photograph by the doctors had been justified in view of the medical needs of the doctors who were treating him. They also considered that the handing over of photographs to Ger. had been justified under Articles 17, 37 and 39 of the

Law of 8 May 1994, whilst the actions of the officials and the journalists had been lawful under part 5 of Article 61 of the Health Care Act. In their later submissions, the Government referred to information submitted by the Burn Care Hospital in which it was denied that the crews had been authorised directly to access G. or to interview him.

168. The applicants disagreed with the respondent Government and maintained that the actions of the Burn Care Hospital had both been domestically unlawful and failed to respect their right to private and family life. They also contested the Government's version of events (see paragraphs 70-74), referring to the oral evidence given by the officials of the Burn Care Hospital in the criminal proceedings against the applicants. These doctors and officials had submitted that Ger.'s request for photographs manifestly fell short of the requirements of the Law of 8 May 1994 because Ger. had showed his ID but failed to produce a request from the member of the State Duma; the taking of photographs of G. by the doctors had in reality had no medical purpose; and the alleged reprimand of doctor Pen. had not concerned the breach of the applicants' or G.'s privacy rights but rather the mere presence of the media crews in the restricted area, and in any event that reprimand had eventually been withdrawn.

B. The Court's assessment

1. Admissibility

169. The Court notes that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

(a) Whether there was an interference with the applicants' right to respect for their private and family life

(i) Establishment of the facts

170. It was not in dispute between the parties that during G.'s stay in the Burn Care Hospital its doctors and officials:

(a) had taken and stored photographs of G. and his injuries and had later passed them onto Ger., the then assistant to a member of the Russian State Duma (see paragraphs 62 and 73);

(b) had authorised the crews of four national TV channels to access the restricted area of the relevant hospital department and had provided the

journalists with information concerning G.'s name and his medical condition (see paragraphs 62, 68, 69 and 70).

The parties also accepted that the authorities had never asked for the applicants' permission in respect of these actions.

171. As regards the parties' disagreement as to whether the photographs of G. had been taken by doctors of the hospital for medical reasons, the Court would refer to the oral evidence given by doctors Dav., Gor. and Pen., who disagreed with the Government's account of the events in this respect. All of them unequivocally submitted that there had been no medical reasons to take photographs of G. (see paragraphs 53, 55 and 56), and the Court sees no reason to find otherwise.

172. Likewise, the Court cannot accept the Government's factual position that the media crews were not given access to G. but rather made their footage in the lobby (see paragraph 72). It is clear from the case-file documents and, more specifically, the recordings of the programmes *Pust' Govoryat* of 16 April 2009 and *Maksimum* of 17 October 2009 (see paragraphs 67-69) that the media crews were given direct access to G. and were able freely to interview the boy about the circumstances of the incident of 20 March 2009.

173. Overall, the Court concludes that the doctors and officials of the Burn Care Hospital took photographs of G. for non-medical purposes and later passed them onto Ger., and that they also informed four media crews about G.'s identity, and gave them direct access to the boy and to medical information concerning his condition. All these actions were taken without seeking the authorisation of, or even informing, the applicants.

(ii) Applicability of Article 8 of the Convention

174. The Court notes that the relevant authorisations in respect the actions complained of by the applicants were made by the head of the Burn Care Hospital, who acted in his administrative capacity of an official under the authority of the Department of Healthcare of the City of Moscow. Moreover, the Government admitted that on the latter occasion the Department of Healthcare had not only been aware of the requests of the TV crews but had directly allowed their presence in the hospital in connection with G.'s case (see paragraph 72). In view of the above circumstances, the Court finds that these actions of the hospital officials engage the responsibility of the respondent State within the meaning of Article 34 of the Convention.

175. The Court observes that the hospital and health authorities not only disclosed or made available to third parties data concerning G. that was medical, personal and sensitive, including his name (see *Burghartz v. Switzerland*, 22 February 1994, § 24, Series A no. 280-B), photographs containing, among other things, information of a medical character, (see *Reklos and Davourlis v. Greece*, no. 1234/05, § 40, 15 January 2009), and

his detailed medical diagnosis (see *Schüssel v. Austria* (dec.), no. 42409/98, 21 February 2002, *M.S. v. Sweden*, 27 August 1997, §§ 31-35, *Reports* 1997-IV and *P. and S. v. Poland*, no. 57375/08, § 128, 30 October 2012), but also authorised direct access of TV crews to a boy who was only three years old at the time and was not accompanied by his parents. It is clear from the circumstances of the case and the applicable domestic law (see paragraph 1 of Article 61 of the Health Care Act in the Relevant Domestic Law section above) that while the child was in the hospital the applicants had a right to protection and respect for their private and family life, and that they were neither aware of nor gave their consent for the above-mentioned actions.

176. Given that the authorities did not seek from the media involved any guarantees concerning the non-disclosure of G.'s identity, and in view of the subsequent coverage of the events, which included the widespread dissemination of all of the mentioned data, the relevant information was in fact released to the public at large. Having regard to these considerations, the Court finds that the disclosure of the data in question by the Burn Care Hospital, and its decision to give the media access to G. entailed an interference with the applicants' right to respect for their private and family life guaranteed by Article 8 § 1. It remains to be determined whether the interference was justified under Article 8 § 2.

(b) Whether the interference was in accordance with the law

177. Under the Court's case-law, the expression "in accordance with the law" in Article 8 § 2 requires, among other things, that the measure or measures in question should have some basis in domestic law (see, for example, *Aleksandra Dmitriyeva v. Russia*, no. 9390/05, §§ 104-07, 3 November 2011).

178. The Government referred to part 5 of Article 61 of the Health Care Act (see the Relevant Domestic Law section above) to justify the decision to give the journalists access to G. and his medical data, as well permission to take photographs and make video footage. They also argued that the passing of the photographs of G. onto Ger. by doctor Pen. had been lawful under Articles 17, 37 and 39 of the Law of 8 May 1994.

179. The Court notes at the outset that the domestic authorities themselves questioned the actions of the officials of the Burn Care Hospital in relation to the access of the press to G. This apparently resulted in a decision to dismiss the head of department, Pen., and to reprimand a deputy principal doctor of that institution (see paragraphs 56 and 74). The Court notes, however, that the case file is missing detailed information in respect of these proceedings, and it will therefore proceed on the basis of the legal provisions referred to by the Government.

180. As regards the Government's first argument, the Court has doubts that this legal provision, namely part 5 of Article 61 of the Health Care Act,

was applicable to the access arrangement and the making of footage by the journalists and the TV crews, as it only mentions medical data, and not information of a private character. However, the Court sees no need to resolve these doubts, because the provision in question does not in any event give permission to release such data to the public at large. Paragraph 5 of Article 61 sets out specifically that even in the case of a necessary disclosure, the persons in receipt of such sensitive information are also bound by medical confidentiality and are liable for any resulting damage. Furthermore, both Article 13.14 of the Code of Administrative offences of Russia and Article 137 of the Criminal Code expressly penalise the disclosure of such sensitive information and provide for no exception within which the actions of the Burn Care Hospital officials could fall.

181. As regards the Government's reliance on Articles 17, 37 and 39 of the Law of 8 May 1994 in connection with the handing over of photographs of G. to Ger., the Court would note that these provisions clearly did not cover the taking of photographs of G. by the staff of the Burn Care Hospital and that they could be relied on only as potentially justifying the handing over of the photographs to Ger. In this latter regard, the Court observes that the collection of documents by an assistant to a member of the State Duma was possible only within the context of official exchanges between the relevant body or authority and the member of the State Duma in question. The requirements of both an official request for the documents in question and an assignment to collect them emanating from the member of the State Duma are set out in paragraph 2 of Article 17 and subpart (c) of paragraph 1 of Article 39 of that Law.

182. As is clear from the oral evidence given by Doctor Pen. in the trial proceedings against the applicants on 29 March 2010 (see paragraph 56), and the lack of any such document in the case file or among the evidence produced by the Government, Ger. was not acting upon a written request from a member of the State Duma and it is quite clear that the actions of Ger. were not conducted within the framework of a clear mandate from his superior, but were rather made on his own initiative. Against this background, the Court cannot but conclude that the decision to hand over the photographs of G. to Ger. was not domestically lawful because the relevant requirements were not complied with.

183. To sum up, the Court notes that the Government have failed to demonstrate that the following actions of the officials of the Burn Care Hospital had any basis in domestic law:

(a) the taking and storage of photographs of G. and his injuries;

(b) their subsequent transfer to Ger.;

(c) giving the journalists and media crews of four national TV channels permission to access G. and to make video footage and photographs of him;

(d) providing the journalists with information concerning G.'s name and his medical condition.

In view of the above, the Court concludes that the resulting interference with the applicants' rights under Article 8 was not "in accordance with the law".

184. It follows that there has been a violation of Article 8 in this case.

V. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION ON ACCOUNT OF THE BREACH OF THE SECRECY OF G.'S ADOPTION

185. With reference to Article 8 of the Convention, the applicants further complained that the State, acting through unidentified officials, were responsible for the unauthorised disclosure of confidential information concerning G.'s adopted status in the media. They also contended that the investigative authorities had failed to identify and prosecute those who had participated in this disclosure.

A. The parties' submissions

186. The Government contested that argument, but agreed with the applicants that the disclosure of the sensitive information had taken place shortly after the events of 20 March 2009, as alleged by the applicants. Initially, they argued that under Article 155 of the Criminal Code the disclosure of the secrecy of adoption was a crime and that the applicants should have initiated criminal proceedings in this connection before the competent authority. The Government later acknowledged that the applicants had instituted the proceedings in question but claimed that the complaint had been premature because the investigation had still been pending. The Government denied that State officials were responsible for the unauthorised disclosure of the adopted status of G.

187. The applicants disagreed with the Government. They were unable to identify those responsible for the leaks, but argued that the State should be held responsible either for the disclosure itself or for the lack of a proper investigation into the events.

B. The Court's assessment

1. Admissibility

188. The Court notes that the applicants' allegations accusing the State of disclosing the information in question to the media have not been substantiated, as they remain unsupported by any evidence. The Court, accordingly, rejects them. It follows that this part of the application must be

rejected as being manifestly ill-founded pursuant to Article 35 §§ 3 and 4 of the Convention.

189. Turning to the applicants' complaints about the lack of a proper investigation into the unauthorised disclosure of confidential information about G.'s adopted status, the Court takes note of the Government's submission that the complaint is premature.

190. In this connection, the Court observes that the respondent Government did not argue that the domestic avenues chosen and employed by the applicants to bring their grievances to the attention of the domestic authorities were ineffective or otherwise inappropriate. It further notes that the applicants initially complained about the unauthorised disclosure of the G.'s adoption on 5 November 2009 (see paragraph 75). The investigation authority expressly mentioned the issue in its decision of 23 November 2009, but apparently the applicants never received a copy of that decision (see paragraph 76), and it was only more than one year later, on 12 December 2010, that the investigation authority responded to the initial complaint by instituting proceedings (see paragraph 78) and by recognising the applicants as victims (see paragraph 79). Around one month later, the investigation was suspended in the absence of any suspects (see paragraph 80), and a few days later was reopened, with reference to the investigator's failure to carry out "all possible investigatory measures" (see paragraph 81).

191. The Court notes that on 25 May 2011, the date on which the respondent Government filed their second set of observations and over eighteen months after the applicants' initial complaint, the proceedings were still pending at the investigation stage. The Court finds that the authorities were aware of the unauthorised disclosure of the sensitive information at least as early as 23 November 2009 (see paragraph 76) and hence they had sufficient time to commence the domestic investigation into the applicants' grievances. In view of the above, the Court considers that in so far as the applicants complained about the inadequacy of the investigation conducted up to that point, they had complied with the requirement to exhaust domestic remedies, and thus the Court rejects the Government's argument.

192. The Court considers that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

193. The Court reiterates that under its Article 8 case-law the concept of "private life" is a broad term not susceptible to exhaustive definition, which covers, among other things, information relating to one's personal identity, such as a person's name, photo, or physical and moral integrity (see, for example, *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08

and 60641/08, § 95, 7 February 2012) and generally extends to the personal information which individuals can legitimately expect should not be published without their consent (see *Flinkkilä and Others v. Finland*, no. 25576/04, § 75, 6 April 2010; and *Saaristo and Others v. Finland*, no. 184/06, § 61, 12 October 2010). In the Court's eyes, there is no doubt that the confidential information concerning the adopted status of G. was covered by the notion of "private life" in respect of the applicants. The Court would add that it was not in dispute between the parties that very shortly after the incident of 20 March 2009 the confidential information concerning G.'s adopted status became available to journalists and was widely disseminated and reproduced by various media sources (see paragraphs 77 and 78).

194. The Court further reiterates that, although the object of Article 8 is essentially to protect the individual against arbitrary interference by the public authorities, it does not merely compel the State to abstain from such interference: in addition to this primarily negative undertaking, there may be positive obligations inherent in an effective respect for private or family life (see *K.U. v. Finland*, no. 2872/02, §§ 42-51, ECHR 2008).

195. These obligations may involve the adoption of measures designed to secure respect for private life even in the sphere of the relations of individuals between themselves. There are different ways of ensuring respect for private life and the nature of the State's obligation will depend on the particular aspect of private life that is at issue. While the choice of the means to secure compliance with Article 8 in the sphere of protection against acts of individuals is, in principle, within the State's margin of appreciation, effective deterrence against grave acts, where fundamental values and essential aspects of private life are at stake, requires efficient criminal-law provisions (see *X and Y v. the Netherlands*, 26 March 1985, §§ 23-24 and 27, Series A no. 91; *August v. the United Kingdo*m (dec.), no. 36505/02, 21 January 2003; and *M.C. v. Bulgaria*, no. 39272/98, § 150, ECHR 2003-XII).

196. The Court notes that the applicants' allegations concerned the unauthorised communication of confidential information about a minor's adoption status and were supported by *prima facie* evidence (see paragraph 75 above). Moreover, in practical terms, the applicants acting on their own, without the benefit of the State's assistance in the form of an official inquiry, had no effective means of establishing the perpetrators of these acts, proving their involvement and successfully bringing proceedings against them in the domestic courts. In the eyes of the Court, this is a case where fundamental values and essential aspects of private life are at stake and where effective deterrence is indispensable and can be achieved primarily by criminal-law provisions and their application through effective investigation and prosecution.

197. The Court observes that the actions complained of were criminal under the domestic law (see Article 155 of the Criminal Code above) and, furthermore, it cannot be said that the investigation was blocked or otherwise impeded by any deficiency either in the legislative framework or in domestic practice (see, by contrast, *X and Y v. the Netherlands Y*, cited above, §§ 28-30, and *M.C. v. Bulgaria*, cited above, §§ 169-187), or that there were any other circumstances objectively precluding the investigation authority from swiftly launching an investigation and proceeding to the collection of evidence and the identification of those responsible.

198. Having observed the course of the proceedings, the Court notes that it took the relevant investigation authority more than a year to react to the applicants' initial complaint. Even after the decision to institute proceedings, the obvious candidates for an interview, the journalists and staff of the media sources, and the relevant officials of the Leninskiy and Golyanovo District Agencies and the Burn Care Hospital, remained undisturbed. Without questioning these persons, the investigator suspended the investigation because of a failure to identify the perpetrators. That decision was later quashed, but it does not appear that the investigation has advanced any further since then (see paragraphs 80-82 and 191).

199. In such circumstances, and even leaving aside the question of the exact scope and promptness of the investigation required in such cases within the context of the positive obligation of the State under Article 8 of the Convention, the Court cannot but conclude that the investigation conducted by the domestic authorities so far has failed to comply with the requirements of that Convention provision.

200. Overall, the Court finds that there has been a violation of Article 8 on account of the respondent State's failure to investigate the unauthorised disclosure of confidential information regarding G.'s adopted status.

VI. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION ON ACCOUNT OF THE STATE'S FAILURE TO PROTECT THE APPLICANTS' REPUTATION AND PRIVATE AND FAMILY LIFE

201. Lastly, the applicants complained under Articles 6, 8, 13 and 14 of the Convention that the domestic courts had failed to protect them against the "attacks" by the media on their reputation and private life. the media had widely disseminated information about the events of the case, various details of the applicants' private life, photographs, and medical data, and had given premature, factually incorrect and defamatory assessments of what had happened; they also complained that the domestic courts had failed to protect them against these "attacks" on their reputation and private life.

The Court will examine this part of the case under Article 8 of the Convention, cited above.

A. The parties' submissions

202. The Government generally disagreed with the applicants. They maintained that the public at large had a legitimate interest in knowing what had happened to the applicants' former adoptive son and that the press and media had only been fulfilling their role of bringing to light events of general interest. According to them, when taking their decision on the second applicant's claim against OOO News Media-Rus, the courts correctly drew the distinction between the factual statements and the value judgments, requiring the defendant to prove the truthfulness of the former. The Government also argued that the rest of the applicants' claims, about other media sources and other publications, more specifically the claims against Ger. and the *Pervyy* channel, should be rejected for the applicants' failure to bring proper proceedings in the domestic courts and to avail themselves of their statutory right of reply in connection with the material already published.

203. The applicants disagreed with the Government. They maintained that the limits of acceptable criticism by the media in respect of private individuals are narrower than in respect of public figures, that in view of the pending criminal proceedings they should have been protected by the presumption of innocence; that there was no defendable public interest in having access to purely private information about their family, and that the remedies available under the domestic law in their case had proved to be ineffective. They complained generally of what they called a "media campaign" against them by various media sources, and the domestic courts' inability to protect them in this connection. Lastly, they were dissatisfied with their inability to locate and sue Ger. before the civil courts.

B. The Court's assessment

1. Admissibility

204. The Court will first address the Government's argument that the applicants have failed to exhaust the available domestic remedies. In their complaints, the applicants referred to the courts' alleged failure to protect them in respect of (i) the material published by the media sources controlled and owned by OOO News Media-Rus in March and April 2009 (see paragraphs 64, 65 and 86), (ii) the programme broadcast by the *Pervyy* channel on 16 April 2009 (see paragraphs 67 and 68), and (iii) the programme broadcast by the NTV channel on 17 October 2009 (see paragraph 69).

205. Having examined the applicable domestic law and practice (see sub-section G., "Legal provisions concerning the protection of private information, private life and reputation", in the Relevant Domestic Law and

Practice section above), the Court takes the view that the applicable domestic law, as it stood at the time, was, at least on arguable grounds, capable of providing the applicants with the possibility of obtaining redress in respect of the alleged violations of their rights by bringing civil actions against these media sources and seeking damages and/or an order for the retraction of the information published.

206. This possibility was open to them in respect of both the dissemination of the photographs and video footage of G. and themselves, and the various pieces of confidential medical information about members of the family (Articles 150, 151 and 152.1 of the Civil Code, Article 61 of the Health Care Act and Resolution no. 3 of the Plenary Supreme Court of Russia of 24 February 2005), and also in respect of the dissemination of the allegedly defamatory information concerning the events of 20 March 2009 and, more generally, the applicants' attitude and conduct (Article 152 of the Civil Code).

207. It is clear that the applicants have never brought any proceedings in connection with point (iii) above. As regards point (ii), the applicants decided to withdraw their claims and discontinue the proceedings against Ger. and the *Pervyy* channel because of their alleged inability to locate Ger. (see paragraphs 83-85). The Court notes that the applicants did not allege that their inability to continue the proceedings against Ger. resulted from the domestic courts' failure to provide them with the necessary assistance. Quite the contrary, the courts requested information about the whereabouts of Ger. from various authorities (see paragraph 84), and nothing suggests that the applicants were deprived of access to court in this respect through the courts' inaction or failure to respond.

208. The Court would also note that under part 6 of Article 152 of the Civil Code the applicants could have challenged the truthfulness of the allegedly injurious statements made by Ger. during the television programme of 16 April 2009 even in his absence, and could also have pressed their defamation claims against the *Pervyy* channel, which broadcast the programme in question, separately from any claims that they may have had against Ger. (see part 5 of the Resolution of 24 February 2005 of the Plenary Supreme Court).

209. Moreover, the applicants could also have brought a separate set of proceedings against the *Pervyy* channel for the alleged breach of their right to private and family life under Article 152.1 of the Civil Code in connection with the transmission of the photographs and video footage of G,. or sued that defendant for damages under Articles 150 and 151 of the Civil Code for the dissemination of medical and other confidential information about their family.

210. The Court therefore concludes that the Russian legal system afforded the applicants remedies, which they have failed to use. Accordingly, the complaints under points (ii) and (iii) should be rejected for

the applicants' failure to exhaust domestic remedies in accordance with Article 35 §§ 1 and 4 of the Convention.

211. As regards point (i), before the Court the applicants expressed their dissatisfaction with the unauthorised dissemination of photographs of G. and themselves, and of information of a private and medical character about the second applicant and G.; they also complained of the allegedly injurious and defamatory character of the coverage and comments by the media sources controlled by the defendant company. The Court notes, however, that the proceedings that the applicants brought against OOO News Media-Rus did not match the scope of the above complaints.

212. The court action was maintained only by the second applicant, and only in defence of her right to "honour, dignity and business reputation", without mentioning the other breaches of her rights now alleged before the Court (see paragraphs 86-89). The court proceedings were therefore limited to a discussion of the accuracy of the factual statements and descriptive comments which accompanied the photographs of the second applicant and G. They did not address the issue whether the media in question had the right to publish the photographs of G. and the second applicant and whether the publication of the information concerning the second applicant's treatment and her state of health had been in breach of her private life (see paragraph 87).

213. Regard being had to its earlier conclusions concerning the availability of a remedy in the domestic legal system in respect of the latter set of issues (see paragraph 206), the Court takes the view that this part of the case complies with the requirements of Article 35 § 1 of the Convention only regarding the second applicant's complaint about the contested parts of the published material. The Court is therefore precluded from examining the applicants' remaining grievances about the same material in so far as they concern the photographs of G. and information on his state of health, and the photographs of the second applicant and confidential information from her medical file. The Court will have regard to the said events only in so far as they constituted the factual context of the case. The remaining complaints should be rejected accordance with Article 35 §§ 1 and 4 of the Convention.

214. The Court finds that the complaint of the second applicant about the domestic courts' alleged failure to protect her Article 8 rights in respect of the contested parts of the published material under point (i) is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

(a) Whether Article 8 of the Convention was applicable

215. The Court observes that the second applicant unsuccessfully contested the information published in the *Tvoy Den'* newspapers (see paragraph 86) in respect of the following allegations:

(a) that G. was ill-treated by the second applicant;

(b) that during the alleged ill-treatment episode of 20 March 2009 the second applicant was drunk;

(c) that ill-treatment of G. by the second applicant took place repeatedly over the course of a few months;

(d) that points (a) and (b) were confirmed by the first applicant;

(e) that points (a) and (b) were official conclusions reached by the doctors;

(f) that the second applicant spent some time in psychiatric clinic no. 24, was diagnosed there as mentally sane and was awaiting some further medical tests;

(g) that according to the doctors, the second applicant had been in receipt of psychotropic substances

(h) that the second applicant was a cruel and sick person on account of points (a), (b), (c), (e), (f) and (g).

216. The second applicant could be identified because the articles were accompanied by photographs of her and G., cited, among other things, G.'s first name and the first letter of G.'s last name, and mentioned that the family resided in an "elite village in the Moscow Region". In this regard the Court takes particular note of the fact that the family lived not in the city but in a village, which increased the impact of the publication of the information because of the possibility that the second applicant's case would become known to her neighbours, thereby causing public humiliation and exclusion from local society (see *Armonienė v. Lithuania*, no. 36919/02, § 42, 25 November 2008).

217. These articles and, more specifically, points (a) to (e), (g) and (h), essentially accused the second applicant of having engaged in reproachable or even unlawful behaviour and thus questioned her reputation. In the eyes of the Court, there can be no doubt that these allegations, brought against an individual who was not a public figure or a politician, fell within the scope of the second applicant's "private life" within the meaning of Article 8 of the Convention (see *Pfeifer v. Austria*, no. 12556/03, §§ 33-35, 15 November 2007).

218. The Court notes that the second applicant did not complain of any action by the State but rather of the State's failure to protect her reputation against interference by third persons.

219. The Court reiterates that, although the object of Article 8 is essentially that of protecting the individual against arbitrary interference by the public authorities, it does not merely compel the State to abstain from such interference: in addition to this primarily negative undertaking, there may be positive obligations inherent in an effective respect for private and family life. These obligations may involve the adoption of measures designed to secure respect for private and family life even in the sphere of the relations of individuals between themselves. The boundary between the State's positive and negative obligations under this provision does not lend itself to precise definition. The applicable principles are, nonetheless, similar. In both contexts regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole; and in both contexts the State enjoys a certain margin of appreciation (see *Von Hannover v. Germany*, no. 59320/00, § 57, ECHR 2004-VI, with further references).

220. Regard being had to the context of the ongoing criminal investigation (see paragraphs 26, 48-61) in respect of the events which were covered by the published material in question, the main issue in the present case is whether the State, in the context of its positive obligations under Article 8, achieved a fair balance between the second applicant's right to the protection of her reputation, which is an element of her "private life" and, on the other hand, the other party's right to freedom of expression guaranteed by Article 10 of the Convention (see *Chauvy and Others v. France*, no. 64915/01, § 70, ECHR 2004-VI).

(b) Whether the State complied with their positive obligation to protect the second applicant's Article 8 rights in the present case

221. The Court notes, firstly, that the second applicant was not a public figure or a politician, but an ordinary person who had been the subject of criminal proceedings (see *Flinkkilä and Others*, cited above, § 82). Her status as an ordinary person enlarges the zone of interaction which may fall within the scope of private life, and the fact that she had been the subject of criminal proceedings cannot deprive her of the protection of Article 8 (see *Sciacca v. Italy*, no. 50774/99, §§ 28-29, ECHR 2005-I and *Eerikäinen and Others v. Finland*, no. 3514/02, § 66, 10 February 2009).

222. The criminal acts which she allegedly committed and which were described in the impugned material concerned her private behaviour in the context of her family life. This information was already known to the authorities, which started to investigate the incident on 23 March 2009 (see paragraph 26), a few days prior to the date the first information was published (see paragraph 64). This is acknowledged in one of the articles, which mentioned that the second applicant was "facing jail for cruel treatment of a child" (see paragraph 65).

223. Even though the publications did not include any allegations of misbehaviour by the police or a competent state body in the field of adoption, the Court is prepared to accept that – if seen in a broader domestic context – the matter, which involved a suspicion of domestic violence in respect of an adopted child in a family chosen and approved by State officials, could arguably be seen as important to the public at large.

224. The Court would reiterate that the press has an essential function in a democratic society. Although the press must not overstep certain bounds, in particular in respect of the reputation and rights of others or of the proper administration of justice, its duty is nevertheless to impart – in a manner consistent with its obligations and responsibilities – information and ideas on all matters of public interest (see *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, § 59, ECHR 1999-III). Not only do the media have the task of imparting such information and ideas: the public has a right to receive them (see *News Verlags GmbH & Co. KG v. Austria*, no. 31457/96, §§ 55-56, ECHR 2000-I; *Worm v. Austria*, § 50, 29 August 1997, *Reports* 1997-V).

225. Moreover, the Court has previously stated that it would be inconceivable to consider that there can be no prior or contemporaneous discussion of the subject matter of court proceedings, be it in specialised journals, in the general press or amongst the public at large (*Dupuis and Others v. France*, no. 1914/02, § 35, ECHR 2007-VII). At the same time, it has also stated that in this context the guarantees of a fair trial must be respected (see *Tourancheau and July v. France*, no. 53886/00, § 66, 24 November 2005), and that the limits of permissible comment may not extend to statements which are likely to prejudice, whether intentionally or not, the chances of a person receiving a fair trial or to undermine the confidence of the public in the role of the courts in the administration of criminal justice (see *Tourancheau and July*, cited above, § 66, and *Worm*, cited above, § 50).

226. Journalists are therefore under an obligation to respect certain duties and responsibilities (*Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, § 97, ECHR 2004-XI). In particular, the right of journalists to divulge information on issues of general interest is subject to their acting in good faith and providing "reliable and precise" information in accordance with the ethics of journalism (see, for example, *Godlevskiy v. Russia*, no. 14888/03, § 42, 23 October 2008, and Council of Europe Recommendation No. Rec(2003)13 on the provision of information through the media in relation to criminal proceedings (paragraphs 113 and 114 above). Thus, in view of the pending criminal proceedings against the second applicant, any reporting in connection with the incident of 20 March 2009 should have taken into account her right to the presumption of innocence and the fact that the incident concerned a private person in a purely private context.

227. Turning to the contents of the articles (see paragraph 86), the Court notes that the material was presented in a sensational and gossip-like manner, with flashy headlines such as "Mummy with a devil's heart", "I was beaten by my mother", "Monster mummy is facing jail for cruel treatment of child", "Payback for torments of an angel", placed on the front pages along with photographs of the second applicant and G. The Court finds that the allegations made by the tabloid press in respect of the second applicant were of a very serious nature and were presented as statements of fact as to the guilt of the individual concerned, rather than value judgments.

228. Allegations (a) and (b) had a factual character and were presented in a way which made them appear to be verified or confirmed by a credible source of information (see points (d) and (e) in paragraph 215). In particular, it was stated that "a boy was beaten and burned by his adoptive mother[, who was] in a state of alcoholic intoxication (according to his father)", and: "doctors came to an official conclusion that the child ... was beaten by his adoptive mother". In the former case the first applicant was presented to the public as a reliable source of information because of his proximity to the events, whilst in the latter there was allegedly an "official conclusion" by "the doctors".

229. Allegations (c), (f) and (g) had a factual character and generally supported the story, but the first did not refer to any source, whilst the latter two relied on the contents of the second applicant's medical file and the opinion of "the doctors". Allegation (h) was the only one which could be described as a value judgment.

230. The Court notes that in the defamation proceedings the second applicant contested the truthfulness of the allegations against her, referring, among other things, to her right to the presumption of innocence and the pending criminal case against her (see paragraph 88). Having identified the statements of a factual character in the publications, the domestic courts invited the defendant to substantiate them. The courts then accepted the statements given by doctor Kor., nurse Sib., an entry in the medical card made by doctor Leb., and the second applicant's medical file from psychiatric clinic no. 24, as sufficient evidence to resolve the case and came to a general conclusion that the allegations made in respect of the second applicant were truthful (see paragraphs 87 and 88).

231. The Court observes that it is not evident that the domestic courts in their analysis on the merits of the second applicant's defamation claims attached any importance to her right to the presumption of innocence or the fact that the criminal proceedings had been pending at the time of the publication of the material. Nor is it apparent that in examining the impugned information the courts scrutinised whether the journalists had complied with their duty to act in good faith and provide "reliable and precise" information in accordance with the ethics of journalism.

232. The Court finds it regrettable that the courts failed to apply a more exacting standard of proof which would have taken into account the above considerations, and that they also failed to analyse in detail all the relevant content of the articles, instead of concentrating on the rather narrow question of whether the doctors or staff of the Burn Care Hospital had heard anything compromising from G. in respect of the second applicant that could confirm points (a) and (b).

233. The scope of the case, however, was much wider, since allegations (a) and (b), as they were made by the newspaper, were not presented as recollections by individual doctors or staff of the hospital of what they had heard from a four-year old boy, but rather drew much of their credibility from points (d) and (e) and were further reinforced by points (c), (f) and (g). Hence, in order to examine the second applicant's complaint properly, the domestic courts should have verified points (a) and (b) in the context of the entirety of the factual allegations made in respect of the second applicant.

234. In this connection, the Court finds that there was an obvious error in the reporting of point (d) by the newspaper. This allegation could be seen as valid only if it clearly referred to the entry in the medical card, rather than the first applicant, as a source of information, and it was obvious that it had been made by doctor Leb., citing what he had allegedly heard from the first applicant. As later confirmed in the criminal proceedings against the applicants, the first applicant had never mentioned points (a) and (b), and his alleged confirmation in this regard was a falsehood later acknowledged as such by doctor Leb. (see paragraph 57). It appears that this information was taken by journalists from G.'s medical card and then edited and partly reproduced in issue no. 62 of 25 March 2009 of the newspaper. With some diligence, the domestic courts could easily have verified and spotted this mistake by summoning and hearing either the first applicant or doctor Leb., or both.

235. There was also a gross inaccuracy in point (e), because the "official conclusion" of "the doctors" announced in the published material was in reality nothing more than scattered hearsay recollections by individual doctors of what G. had said after the incident of 20 March 2009. The doctors and staff of the Burn Care Hospital may have had their individual opinions on the circumstances of the incident of 20 March 2009, but they never investigated this issue officially or reached any "official conclusion" in this regard. It cannot therefore be said that point (e) was factually accurate.

236. Finally, the domestic courts apparently simply forgot to address the truthfulness of points (c) and (g), which remained unexamined and unconfirmed by any of the witnesses in the defamation proceedings, and which appear to have been decided by the courts' sweeping overall conclusion that the published material was truthful. The Court would underline that point (c) was a separate and very serious assertion of a factual

nature. It was also one of the charges against the second applicant in respect of which she was fully acquitted in the criminal proceedings (see paragraph 58), and which therefore turned out to be false.

237. In view of the above-mentioned circumstances, the Court is not persuaded that when reporting on the second applicant's case in the impugned instances the media source provided "reliable and precise" information in accordance with the ethics of journalism (see *Godlevskiy*, cited above, § 42). Even though nothing in the case-file suggests that the journalists responsible for the material were not acting in "good faith", they obviously failed to take the necessary steps to report the incident in an objective and rigorous manner, trying instead either to exaggerate or oversimplify the underlying reality.

238. The Court considers that the contested articles, taken together, interfered with the second applicant's right to private and family life, and defamed her by presenting something as an established fact which had not been properly investigated or established. In these circumstances, and regard being had to the domestic courts' reaction to the second applicant's complaint, the Court is not convinced that the reasons advanced by the domestic courts regarding the protection of the freedom of expression of the defendant company outweighed the right of the second applicant to have her reputation and right to the presumption of innocence safeguarded. The Court therefore considers that the domestic courts failed to strike a fair balance between the competing interests involved.

239. Accordingly, the Court finds that there has been a violation of Article 8 of the Convention on account of the domestic courts' failure to protect the second applicant's right to reputation.

VII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

240. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

241. The applicants claimed compensation in the amount of 140,940 euros (EUR) in respect of their alleged pecuniary losses on account of the loss of the first applicant's job in a bank, which allegedly resulted from the publication in the media of the events in the present case. They also claimed that they had sustained very serious non-pecuniary damage, leaving the Court to determine the amount at its discretion. They also requested that the Court order the respondent the Government to arrange a reunion of the applicants with G. and P. at their family home and to reopen the revocation of adoption proceedings at the domestic level.

242. The Government submitted that these claims were unfounded and generally excessive.

243. The Court does not find any causal link between the alleged pecuniary losses and the violations found. It therefore dismisses the applicants' pecuniary claim. As regards their claim in respect of non-pecuniary damage, the Court considers that the applicants must have sustained stress and frustration as a result of the violations found. Making its assessment on an equitable basis, the Court awards the first applicant EUR 25,000 and the second applicant EUR 30,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

244. Lastly, in connection with its earlier conclusions regarding the defects in the revocation of adoption proceedings in respect of G. and P. which ended with the judgment of 17 June 2009, as upheld on appeal on 13 August 2009 (see paragraphs 143-155), the Court refers to its settled case-law to the effect that when an applicant has suffered an infringement of his rights guaranteed by the Convention he should, as far as possible, be put in the position in which he would have been had the requirements of that provision not been disregarded, and that the most appropriate form of redress is, in principle, the reopening of the proceedings, if requested (see, *mutatis mutandis*, *Öcalan v. Turkey* [GC], no. 46221/99, § 210 in fine, ECHR 2005-IV, and *Popov v. Russia*, no. 26853/04, § 264, 13 July 2006). The Court notes that Article 392 of the Russian Code of Civil Procedure provides a basis for the reopening of proceedings if the Court finds a violation of the Convention (see paragraph 109 above).

B. Costs and expenses

245. The applicants also claimed EUR 25,832 for the legal and other costs incurred in the domestic proceedings, and 10,715.85 pounds sterling (GBP, approximately EUR 12,100) for the legal and other costs incurred in the Strasbourg proceedings.

246. The Government submitted that the number of lawyers and their fees were excessive and that in any event it had not been demonstrated that the applicants had any prior agreements with the counsel in question, or that all of the fees had actually been paid.

247. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. Having regard to the material in its possession, the Court considers it reasonable to award the applicants the sum of EUR 12,100 for the legal and other expenses incurred in relation to the proceedings before the Court, plus any tax that may be chargeable to the applicants on that amount.

C. Default interest

248. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints about the removal of G. and P. into public care, the decision to revoke the adoption of the children, the applicants' inability to review the authorities' position concerning access to the children between 31 March 2009 and 3 June 2010, some of the actions by the officials of the Burn Care Hospital during G.'s stay there, the State's failure to investigate the unauthorised disclosure of confidential information on G.'s adopted status, and the domestic courts' alleged failure to protect the second applicant's right to reputation in respect of the publication of material by OOO News Media-Rus admissible and the remainder of the application inadmissible;

2. *Holds* that there has been no violation of Article 8 of the Convention on account of the removal of G. and P. into public care;

3. *Holds* that there has been a violation of Article 8 of the Convention in respect of both applicants on account of the decision to revoke the adoption of the applicants' children;

4. *Holds* that there has been a violation of Article 8 of the Convention in respect of both applicants on account of their inability to review the authorities' position concerning access to the children between 31 March 2009 and 3 June 2010;

5. *Holds* that there has been a violation of Article 8 of the Convention in respect of both applicants on account of the actions of the officials of the Burn Care Hospital during G.'s stay in that hospital;

6. *Holds* that there has been a violation of Article 8 of the Convention in respect of both applicants on account of the respondent State's failure to investigate the unauthorised disclosure of confidential information on G.'s adopted status;

7. *Holds* that there has been a violation of Article 8 of the Convention in respect of the second applicant on account of the respondent State's failure to protect her right to reputation in the defamation proceedings against OOO News Media-Rus;

8. *Holds*

(a) that the respondent State is to pay the applicants, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 25,000 (twenty five thousand euros) to the first applicant and EUR 30,000 (thirty thousand euros) to the second applicant, plus any tax that may be chargeable on both sums, in respect of non-pecuniary damage;

(ii) EUR 12,100 (twelve thousand one hundred euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

9. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 18 April 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen Registrar	Isabelle Berro-Lefèvre President