

Press release issued by the Registrar

CHAMBER JUDGMENT
WALLOVÁ AND WALLA v. THE CZECH REPUBLIC

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Wallová and Walla v. the Czech Republic* (application no. 23848/04). The Court held unanimously that there had been a **violation** of Article 8 of the European Convention on Human Rights (right to respect for private and family life) on account of the fact that the applicants' five children had been taken into care.

Under Article 41 of the Convention (just satisfaction), the Court awarded the applicants 10,000 euros (EUR) for non-pecuniary damage.

(The judgment is available only in French.)

1. Principal facts

The applicants, Emílie Wallová and her husband Jaroslav Walla, are Czech nationals who were born in 1963 and 1949 respectively and live in Vesce (Czech Republic). They have five children, who were born in 1985, 1988, 1995, 1997 and 2000.

In September 2000, on an application by the social protection department of the Tábor District Office, the Tábor District Court made an order for the supervision of the applicants' children to ensure that they would quickly be found suitable housing. In November 2000 the social protection department applied for a temporary care order for the children on the grounds that the family had not had a suitable and stable home since 1997 and that the applicants had been trying to evade the supervision the previous order entailed. On 15 November 2000, by virtue of Article 76a of the Code of Civil Procedure, the District Court ordered the temporary placement of the three oldest children in one children's home and the two youngest in another.

On 18 April 2002 the District Court gave custody of the applicants' five children to a children's home. It noted in particular that Mr Walla did not have stable employment and that his wife, who was unemployed, had not yet complied with the formalities which would have enabled her to obtain social benefits. Finding that the applicants had therefore not made sufficient effort to overcome their material difficulties and find a home for their family, the

¹ Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

District Court ruled that they were not in a position to bring the children up properly. It further noted that they had not shown any interest in the children, with whom they had not been in contact since April and December 2001. That decision was upheld on 22 August 2002.

On 28 January 2004 the Constitutional Court dismissed an appeal by the applicants as regards the fact that the children had been taken into care on the ground that this had been the only possible solution and that it had been in accordance with the law and in the children's interest.

The oldest child ceased to be affected by the care order when he reached the age of majority in 2003; custody of the two youngest children was given to a Mr and Mrs M. in January 2005; the care orders concerning the second and third children were annulled in February 2006 and they were able to return to living with their parents, under educational supervision. As grounds for lifting the care orders, the Czech courts noted that the applicants had recently started renting a flat, that Mr Walla had been working for some months and that his wife was receiving an invalidity allowance.

The two youngest children are apparently still living with the foster family.

2. Procedure and composition of the Court

The application was lodged on 22 June 2004.

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

Peer **Lorenzen** (Danish), *President*,
Karel **Jungwiert** (Czech),
Volodymyr **Butkevych** (Ukrainian),
Margarita **Tsatsa-Nikolovska** (citizen of "the former Yugoslav Republic of Macedonia"),
Javier **Borrego Borrego** (Spanish),
Renate **Jaeger** (German),
Mark **Villiger** (Swiss)¹, *judges*,

and also Claudia **Westerdiek**, *Section Registrar*.

3. Summary of the judgment²

Complaints

The applicants complained about being separated from their children and of the Czech authorities' failure to assist them. They relied, among other provisions, on Article 8 (right to respect for private and family life) and Article 14 (prohibition of discrimination).

¹ Judge elected in respect of Liechtenstein.

² This summary by the Registry does not bind the Court.

Decision of the Court

Article 8

The Court noted that the Czech courts had admitted that the fundamental problem for the applicants was how to find housing suitable for such a large family. Neither the applicants' capacity to bring up their children or the affection they bore them had ever been called into question, and the courts had acknowledged the efforts they had made to overcome their difficulties.

In the Court's view, therefore, the underlying problem was a lack of resources, which the Czech authorities could have made up for by means other than the total separation of the family, which seemed to be the most drastic measure and could be applied only in the most serious cases. The Czech authorities should have had recourse to less drastic measures. One possibility would have been to monitor the applicants' living conditions and hygiene arrangements and they could, for example, have advised them what steps they could take to improve the situation and find a solution to their problems. But none of that had been done.

Consequently, the Court considered that although the reasons given by the Czech administrative and judicial authorities had been relevant, they had not been sufficient to justify such a serious interference in the applicants' family life as the placement of their children in public institutions. In addition, it was not evident from the facts of the case that the social protection authorities had made serious efforts to help the applicants overcome their difficulties and get their children back as soon as possible.

The Court accordingly held that there had been a violation of Article 8.

Article 14

In view of the conclusion it had reached with regard to Article 8, the Court considered that it was not necessary to examine the case under Article 14.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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