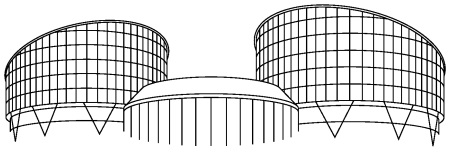

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF N.P. v. THE REPUBLIC OF MOLDOVA

(Application no. 58455/13)

JUDGMENT

STRASBOURG

6 October 2015

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of N.P. v. the Republic of Moldova,

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

Luis López Guerra, *President,*
Kristina Pardalos,
Johannes Silvis,
Valeriu Griţco,
Branko Lubarda,
Carlo Ranzoni,
Mārtiņš Mits, *judges,*
and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 8 September 2015,

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

PROCEDURE

1. The case originated in an application (no. 58455/13) against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Moldovan national, Ms N.P. ("the applicant"), on 9 September 2013.

2. The applicant, who had been granted legal aid, was represented by Mr A. Lungu, a lawyer practising in Durlești. The Moldovan Government ("the Government") were represented by their Agent, Mr L. Apostol.

3. The applicant alleged under Article 8 of the Convention that the decision to withdraw her parental authority and the restrictions on her visiting rights had been disproportionate and that the authorities had failed to make efforts to safeguard her right to live with her child.

4. On 19 May 2014 the application was communicated to the Government. Furthermore, on 8 September 2015 it was decided to grant the applicant *ex officio* anonymity under Rule 47 § 4 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. The background facts

5. The applicant was born in 1986 and lives in Chișinău.

6. The applicant lived with her four-year-old daughter, A., and with her mother, G.

7. Following a call from C.I., on 22 September 2011 the police removed A. from her home and placed her in the care of the Municipal Children's Hospital "V. Ignatenco". A medical report drawn up on the same day found that the applicant had severe alcohol intoxication.

8. C.I. later stated to the police that, as a salesman in a shop on a street near the applicant's house, he would regularly see the applicant and her mother drinking alcohol and failing to take care of A., who often had an unkempt appearance and would wander around without adult surveillance, asking for food. He called the police on the evening of 22 September 2011 after A. had asked him to call for an ambulance because her mother and grandmother had been fighting.

9. On an unspecified date the Ciocana Police Office reported to the Ciocana Child Protection Service the circumstances of their intervention on 22 September 2011:

> "On 22 September around 8.45 p.m. [a call] was registered about domestic violence occurring at [the applicant's address]. At the scene [the applicant and her mother], both visibly drunk, were found exhibiting aggressive behaviour and were unkempt in their appearance. Physical and psychological violence was exercised in the presence of the child.
>
> A child was found in the yard ... she looked unkempt and said that she had not eaten anything the whole day.
>
> From discussions with the neighbour who had called the police, it was established that the child had been without surveillance for a week, in an unkempt state and sometimes asking for food. Subsequently the child was identified as A.
>
> At the scene it was also established that the child lives in unsanitary conditions, without electricity. The child does not have the basic requirements for her physical and intellectual development, and is not enrolled in any pre-school institution. ... [S]he does not have a healthy diet [because she] begs food from neighbours.
>
> ...[The applicant] was directed to undergo an examination in order to assess the level and the nature of her intoxication.
>
> ...On 22 September 2011 the child inspector who was present at the scene called for an ambulance which took the child to [hospital] for medical investigation and appropriate medical assistance ....
>
> The Ciocana Police Office is currently investigating whether [the applicant] had committed an offence under Article 63 (2) of the Code of Administrative Offences. ...
>
> [We request] ... adoption of a decision on the placement of the child in a special institution and the lodging of an action in court seeking withdrawal of [the applicant's] parental authority".

10. On 23 September 2011 a social worker and a psychologist from a non-governmental organisation visited the applicant's home and found that the house was in disorder and lacked running water, electricity and gas.

11. On 27 September 2011 the applicant was interviewed by a Ciocana police officer. On the same day a police report concluded that the applicant was failing to duly fulfil her parental duties of educating and caring for her child because her abuse of alcohol, quarrelling or fighting with her mother in the child's presence, and at times using physical violence towards her mother. The report concluded that the applicant had committed an offence under Article 63 (1) of the Code of Administrative Offences and took into account the applicant's personal and family circumstances as a mitigating factor. On 19 October 2011 the Ciocana prosecutor confirmed the police's finding that the applicant had committed an offence under Article 63 (1) of the Code of Administrative Offences and sentenced her to an administrative fine in the amount of 200 Moldovan lei (MDL) (equivalent to 12.5 euros (EUR)).

12. Also on 27 September 2011, the Ciocana Child Protection Committee examined A.'s situation. When the applicant appeared before the committee she was allegedly intoxicated. The applicant disputed that allegation. Based on the findings of this meeting, on 28 September 2011 the Ciocana Child Protection Committee concluded that A.'s return to her biological family would put her life and health in danger. The Committee decided to place her in the Municipal Children's Centre and to initiate proceedings to withdraw the applicant's parental authority.

B. Child's condition

13. A. stayed in hospital from 22 to 30 September 2011. She was diagnosed with "residual encephalopathy with delayed motor skills, mild leg movement disorder, thyroid gland disease, decreased need for sleep (*"hyposomnia"*), urinary insufficiency and disorder of the function of the pancreas." She was prescribed treatment.

14. On 30 September 2011 A. was transferred to the Municipal Children's Centre. A psychological evaluation dated 14 February 2012 described A. as displaying "well-developed gross motor skills, corresponding to her age, at a slow tempo. Free, balanced and directional walking. Weak fine motor skills. ... Balanced and quiet behaviour, delayed development of cognitive processes and of communication abilities, with chances of recovery. Psycho-social deprivation."

15. On 20 December 2012 the Municipal Child Protection Service approved A.'s placement with the family of C., a professional parental social worker. On 22 January 2013 C. took A. from the Municipal Children's Centre and noted that A. was physically healthy, clean and without any skin eruptions.

C. Proceedings for the withdrawal of parental authority

16. On 29 September 2011 the Ciocana Child Protection Service instituted proceedings seeking the withdrawal of the applicant's parental authority. They relied on four grounds for the withdrawal of authority under Article 67 of the Family Code: neglect of a child, a parent's immoral conduct, a parent's chronic alcoholism, and other reasons taking into account the interests of the child. They relied on the information provided by the police (see paragraphs 8-11 above) and the conclusions of the committee meeting of 27 September 2011 (see paragraph 12 above).

17. In a note dated 7 November 2011 the Municipal Children's Centre informed the Ciocana District Court that on 30 September 2011 A. had been transferred to the centre and that on 7 October 2011 she had been registered as a child in difficult circumstances. The note also stated that the applicant had neither visited nor inquired about A. since her placement in the centre.

18. In the course of the proceedings, the Ciocana Child Protection Service submitted the applicant's character assessment drawn up by the Ciocana Police Office on an unspecified date, which read:

> "...[The applicant's] family has been classified as a family unfit to educate (*"needucogenă"*) since 26 September 2011. It was found that [the applicant] drank alcohol at home with her mother, followed by violent behaviour in the child's presence. Before the child's placement in the centre, she was often seen without any parental surveillance and looked unkempt. The child did not attend any pre-school institution. [The applicant's] family does not have electricity, water or gas in their house."

19. It also submitted a letter dated 2 November 2011 in which the Ciocana polyclinic stated that A. was registered with that medical institution and that "P.E. (the applicant's first name is N.), the child's mother, abused alcohol, and did not look after the child's health; a neighbour accompanied the child on medical visits."

20. At the hearing on 24 January 2012 the representative of the Ciocana Child Protection Service submitted that during the visit to the applicant's home on 23 September 2011 the applicant and G. had been intoxicated and displayed signs of physical violence. The applicant had been behaving inappropriately and had an unkempt appearance. The neighbours reported that A. was not attending any pre-school institution, was generally neglected by her family, was usually dirty, and often asked for food. She also alleged that the applicant had been intoxicated when she appeared before the Child Protection Committee at the meeting on 27 September 2011.

21. In court the applicant argued that she was a single parent and was receiving no support from anyone, including social services. She had financial difficulties, which prevented her from improving her living conditions, which were very basic. She explained that they used wood for heating and that the electricity had been cut off six months previously after

an electrical accident. She contended that she cared for her child, supplying her with toys, clothes and shoes, and that A. had been provided with medical assistance by a medical institution other than the local polyclinic, submitting a copy of A.'s immunisation record. She stated her wish to be with A. and her commitment to discharge her parental responsibilities. She referred to the letter of 27 October 2011 (see paragraph 31 below) as evidence that she had requested access to her child, but to no avail. She argued that the incident of 22 September 2011 had not been typical and could not constitute grounds for the removal of her parental authority. She submitted that she had left in order to work in Turkey for a period of only two weeks, after which she had returned to unofficial employment in different jobs, and supplied confirmation that after the incident she had found official employment in Moldova. She also supplied confirmation that she had obtained the documents necessary to enrol A. in a pre-school institution. She denied having been intoxicated at the Committee meeting on 27 September 2011 and stated that she consumed alcohol only occasionally.

22. The court file also contained a statement signed by fifteen persons living in the applicant's neighbourhood, according to which A. had never been seen wandering around dirty and hungry, or begging.

23. The applicant attended the first three hearings. She did not appear in court at the fourth and last hearing.

24. On 14 February 2012 the Ciocana District Court decided to withdraw the applicant's parental authority, relying essentially on the arguments of the Child Protection Service. The court found, *inter alia*, the following:

> "The representative of the [Municipal Children's Centre] submitted that A. had been transferred from the [hospital] and was undergoing treatment for residual encephalopathy with delayed motor skills, mild leg movement disorder, thyroid gland disease, decreased need for sleep (*"hyposomnia"*), and urinary insufficiency.
>
> ...[the applicant] lives together with her daughter A. ... in unsanitary conditions. She is unemployed and claims to leave periodically in order to work in Turkey. ... On 22 September 2011... the police found [the applicant] drunk and... quarrelling violently in the presence of A., who was dirty, crying, hungry and scared.
>
> According to the representative of the [Ciocana Child Protection Service], during her visit [on 23 September 2011] she had found [the applicant] and her mother drunk, aggressive and with an unkempt appearance, the house and the yard disorderly and in a completely unsanitary condition. Citing neighbours, [the representative of the Child Protection service submitted that] A. was neglected by her mother and grandmother, was not enrolled in a pre-school institution, was often seen wandering around dirty and asking for food. ...[The applicant] was drunk at the meeting on 27 September 2011 of the Child Protection Committee. The Committee concluded that the child's return to the family would put her life and health in danger.
>
> ... [The applicant] had neither visited nor asked about [A.] since her removal from home, which was evidence of [the applicant's] indifference towards [A.], and her immoral life style and inappropriate behaviour prove that she is unfit to raise a child.

> On 22 September 2011 a medical examination confirmed [the applicant's] severe alcohol intoxication. ... On 19 October 2011 the Ciocana prosecutor's office found [the applicant] guilty, under Article 63 (1) of the Code of Administrative Offences, of failing to discharge her parental duties and fined her 200 Moldovan lei (12.5 euros).
>
> ... [A.'s] psychological assessment reported balanced and quiet behaviour, delayed development of cognitive processes and of communication abilities, introversion, and a positive emotional state.
>
> ... [The applicant] neglected her parental duties, did not appear in court to object, did not take care of the child, did not provide material or emotional support, and had a negative influence on the child through her immoral conduct."

25. The applicant appealed, arguing, *inter alia*, that she had been in legitimate employment since 4 October 2011, was making significant efforts to improve her life and wished to be with A. She referred to the evidence in the file that she had repeatedly attempted to visit her daughter but had been allowed to do so on only two occasions. She referred to the statements of a social worker before the court, according to which there had not previously been any reason to remove the child from the family or to withdraw the applicant's parental authority and no family support measures had been undertaken. The applicant submitted that she had not attended the last hearing due to health problems.

26. In the appellate proceedings, the representative of the Ciocana Child Protection Service stated that the applicant had been warned on several occasions that she needed to bring order to her house. She also submitted that A. had described to social services "horrifying" ("*de groază"*) moments experienced with her mother, entire days spent without eating anything and that she had expressed her wish not to be returned to her mother.

27. On 24 October 2012 the Chișinău Court of Appeal dismissed the applicant's appeal as ill-founded, reiterating the reasons relied upon by the district court.

28. The applicant appealed again, arguing, *inter alia*, that her rights under Article 8 of the Convention had been violated. She submitted that in 2012, while the proceedings were ongoing, she had cleaned up her house and improved the living conditions. She submitted that she had regularly visited A. at the Municipal Children's Centre and had brought parcels for her. She denied having been intoxicated at the meeting on 27 September 2011 of the Child Protection Committee and noted that no evidence to support this allegation had been presented. She agreed that, in the light of her difficult material situation, A.'s placement was an appropriate solution if applied in conjunction with measures to provide her with the necessary support, with a view to reuniting the family as soon as possible. She did not agree that the withdrawal of her parental authority was a proportionate measure under Article 8 of the Convention.

29. On 8 May 2013 the Supreme Court of Justice upheld the previous judgments for identical reasons. That judgment was final.

D. Restrictions on the applicant's visiting rights and subsequent developments

30. The applicant complained to the Ciocana prosecutor's office about A.'s removal from her home on 22 September 2011. On 7 October 2011 the Ciocana prosecutor's office informed her that A. had been lawfully removed from home and sent to the hospital for medical examination, given that on 22 September 2011 the Ciocana police officers had found the applicant and her mother intoxicated and aggressive, their house in an unsanitary condition and the child A. hungry and looking unkempt. The applicant was informed that A. had been placed in the Municipal Children's Centre under the care of the Ciocana Child Protection Service and that proceedings had been instituted on 29 September 2011 to withdraw her parental authority.

31. On 27 October 2011 the applicant submitted a request to visit A., stating that she had not been kept informed about A.'s fate and that all her previous verbal enquiries had been refused. On 23 November 2011 the Ciocana Child Protection Service refused the request and informed her that visits were prohibited while court proceedings concerning the withdrawal of her parental authority were pending.

32. In a letter dated 17 January 2013 the head of the Municipal Children's Centre stated that the Ciocana Child Protection Service had placed A. in the care of the centre on 30 September 2011 and had prohibited any visits by the applicant until the end of the court proceedings. The letter confirmed that the applicant had requested visits. Even though her requests had been refused, the applicant had managed to see her child on 1 and 12 August 2012. During the winter holidays, she had brought several parcels with sweets and toys and had asked for further meetings. The applicant had been redirected to the Ciocana Child Protection Service to obtain an authorisation to visit A. before the end of the court proceedings.

33. In a letter addressed to the Municipal Child Protection Service dated 22 August 2013, the Ciocana Child Protection Service submitted that it was inappropriate to examine the applicant's request of 1 August 2013 to visit A. because the applicant's parental authority had been withdrawn, the child was to be placed under a relative's guardianship and it was for that guardian to decide on the frequency of contact between A. and her biological mother.

34. On 31 October 2013 H., an aunt, was appointed as A.'s guardian and the beneficiary of her child-care allowance. The applicant's requests to visit A. were refused by H. on the grounds that she no longer had any parental rights.

35. Following the applicant's repeated requests to visit A., on 26 December 2013 the Municipal Child Protection Service allowed visits on Saturdays in the presence of A.'s guardian.

36. On 20 February 2014 the applicant gave birth to her second child. Four days later, citing the lack of a home or resources to take care of the child, she declared her consent to the child's adoption.

II. RELEVANT DOMESTIC LAW AND PRACTICE

37. The Family Code in force at the time, enacted under Law no. 1316 of 26 October 2000, read:

"**Article 67**. Withdrawal of parental authority

Parents may have their parental authority withdrawn if:

a) they neglect their parental duties, including payment of maintenance;

b) they refuse to collect the child from a maternity ward or other medical, educational, social welfare or other institution;

c) they abuse their parental rights;

d) they act with cruelty in respect of the child, use physical or psychological violence, or interfere with the child's sexual inviolability;

e) their immoral conduct has a negative influence on the child;

f) they suffer from chronic alcoholism or drug addiction;

g) they have committed intentional crimes endangering the life and health of their children or of their spouse; and

h) in other cases where it is required in the interests of the child.

Article 69. Effects of parental authority withdrawal

(3) Parents whose parental rights were withdrawn may see their child only with the permission of the guardianship authority. Visits shall not be granted if contact with the parents might damage the child's physical or intellectual development, if it is obvious that the parents are incapable of such contact, or if the child expressed serious objections in respect of such contact in the course of court proceedings.

Article 70. Reinstatement of parental authority

(1) Parents may obtain the reinstatement of their parental rights if the circumstances which determined their withdrawal have ceased and if such reinstatement is in the child's interests.

(2) The reinstatement of parental authority shall be decided by a court, based on the request of the person whose parental authority was withdrawn, with the mandatory participation of the guardianship authority.

Article 71. Removing the child from his or her home without withdrawing parental authority

(1) At the request of the guardianship authority, the court may decide to remove a child from the care of his parents without withdrawing parental authority and put him in the care of the guardianship authority, if leaving the child with his parents poses a threat to his life and health.

(2) In exceptional cases, if there is an imminent risk to the child's life and health, the guardianship authority alone may decide to remove the child from the care of his parents, informing the prosecutor about this decision within 24 hours.

Article 72. Effects of removing a child from his or her home without withdrawing parental authority

(2) The parents from whom the child has been taken may see their child in certain cases only with the permission of the guardianship authority.

Article 112/1. Preventing the separation of children from their parents

(1) The guardianship authority shall take all measures necessary for the early identification of risk situations which may lead to the separation of children from their parents.

(2) The authority shall organise services for the preservation, rebuilding and development of children's and parents' capacity to overcome situations which may lead to their separation."

38. The Code of Administrative Offences, enacted by Law no. 218 of 24 October 2008, reads:

"Article 63. Failure to support, bring up and educate one's child

(1) The failure of the parents or of the persons replacing them to duly discharge the duties of supporting, bringing up and educating their child shall be punishable by a fine of from 5 to 20 conventional units.

(2) The actions described under paragraph (1), if they resulted in the child's neglect, vagrancy, begging or in the child committing a socially dangerous deed, shall be punishable by a fine of from 15 to 25 conventional units imposed on the parents or the persons replacing them or by community service of up to 40 hours."

39. The Code of Civil Procedure in force at the time read:

"Article 174. Grounds for measures to secure the claim (*"asigurarea acțiunii"*)

At the request of participants to proceedings, the judge or the court may order measures to secure the claim. Such measures may be ordered at any stage of proceedings if failure to impose them could create judicial difficulties or make impossible the enforcement of the judgment.

Article 175. Forms of measures to secure the claim

... (2) The judge or the court may order, if applicable, other measures which correspond to the aims listed under Article 174. ..."

40. The Explanatory Decision no. 3 of 23 May 1974 of the Plenary of the Supreme Court of Justice read:

"7. ...Finding that the information provided by social services is insufficient, the court shall be entitled to request ... additional inquiries.

8. The persons who fail fulfilling their parental duties due to...serious circumstances or to other reasons which do not depend on them shall not be deprived of parental authority, except for chronic alcohol or drug addicts."

The Explanatory Decision no. 6 of 17 November 2014 of the Plenary of the Supreme Court of Justice replaced Decision no. 3 of 23 May 1974 and reads:

> "14. Chronic alcoholism and drug addiction shall be confirmed by relevant medical conclusions. ...
>
> 15. Since the withdrawal of parental authority is a very drastic sanction, it needs to be applied in respect of parents only once it is found that other measures in respect of those parents were inefficient (for instance, warning parents, holding them liable under Article 63 of the Code of Administrative Offences). ..."

41. The Law no. 338 of 2 March 1995 on the Rights of the Child reads:

> "**Article 17.** The rights of the child living separately from his parents
>
> The child separated from his parent(s), residing in the Republic of Moldova or in any other country, shall be entitled to maintain personal relationships and direct regular contacts with his parents, if this is not contrary to his interests.
>
> **Article 21.** State protection of the family
>
> (1) The family and the children shall enjoy special protection and support for the fulfilment of their rights.
>
> (2) The state shall support the family to raise and educate children, shall guarantee the payment of birth allocations and of other aids and benefits provided under the law."

III. RELEVANT INTERNATIONAL INSTRUMENTS

A. The United Nations Convention on the Rights of the Child

42. In the Preamble to the Convention it is mentioned that a child, for the full and harmonious development of his or her personality, should grow up in a family environment. According to Article 9 of the Convention, 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 a separation is necessary in 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. In such a case all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

B. UN Committee on the Rights of the Child

43. In its Concluding Observations, adopted on 30 January 2009 upon consideration of the second and third periodic report of the Republic of Moldova, the Committee noted:

"41. The Committee recommends that the State party extend its support to families by fully implementing existing laws providing for financial support to vulnerable families, conducting a comprehensive evaluation of the areas in which families are particularly vulnerable, implementing appropriate remedial strategies, allocating the necessary resources and extending social services at the local level through the introduction of parent-training.

... 44. ... the Committee expresses serious concern at the large number of children placed in institutions, many of whom are not orphans. ...

45. The Committee recommends that the State party:

... (b) Develop programmes and policies to prevent the placement of children in institutions, inter alia by providing support and guidance to the most vulnerable families; developing, funding and providing parent-training programmes for parents from vulnerable families; and conducting awareness-raising campaigns."

C. Council of Europe

44. The basic principles, listed in the annex to Recommendation Rec (2005)5 of the Committee of Ministers on the rights of children living in residential institutions, adopted on 16 March 2005, include, among others:

"... The family is the natural environment for the growth and well-being of the child and the parents have the primary responsibility for the upbringing and development of the child;

– preventive measures of support for children and families in accordance with their special needs should be provided as far as possible;

– the placement of a child should remain the exception and have as the primary objective the best interests of the child ... ;

– the placement should not be longer than necessary and should be subject to periodic review with regard to the child's best interests...; the parents should be supported as much as possible with a view to harmoniously reintegrating the child in the family and society....

To ensure the respect for these basic principles and fundamental rights of the child, the following specific rights of children living in residential institutions should be recognized:

– the right to maintain regular contact with the child's family and other significant people; such contact may be restricted or excluded only where necessary in the best interests of the child...."

45. According to the Recommendation Rec(2006)19 on policy to support positive parenting, adopted on 13 December 2006, policies and measures in the field of support for parenting should take into account the importance of a sufficient standard of living to engage in positive parenting. Governments should also ensure that children and parents have access to an appropriate level and diversity of resources (material, psychological, social and cultural). In the best interests of the child, the rights of parents, such as entitlement to appropriate support from public authorities in fulfilling their

parental functions, must also be given prominence. Particular attention should be paid to difficult social and economic circumstances, which require more specific support. It is also essential to supplement general policies with a more targeted approach.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

46. The applicant complained that the court judgment withdrawing her parental authority and the restrictions on her visiting rights had infringed her right to respect for her family life as provided in Article 8 of the Convention, which reads:

> "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. Admissibility

47. The Court notes that 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.

B. Merits

1. Parties' submissions

(a) The applicant

48. The applicant submitted that she had been going through a difficult time in her life and was facing personal and financial difficulties. She was raising her daughter alone with some financial help from her sister. She stated that she had never received any support from the State.

49. She was of the opinion that the authorities had concentrated their efforts on drafting documents concerning the inadequacy of her living conditions, instead of providing her with the necessary counselling regarding possible solutions to the situation. She accepted that it might have been beneficial for A. to have been taken temporarily into care, but

submitted that this could have been done by means other than the withdrawal of parental authority. Moreover, whilst the proceedings were ongoing, she had tried to improve her situation by obtaining employment, improving her living conditions and seeking A.'s enrolment in a pre-school institution, but these efforts on her part had not been taken into consideration by the authorities.

50. Her requests to visit A. had been refused with the initial explanation that such visits were contrary to the child's interests and later with the explanation that a guardian had been appointed. She noted that the district court had been aware of the refusal of visiting rights but had not adopted any decision of its own motion. It was not domestic practice for courts to intervene in such circumstances and the injunctions provided under the Code of Civil Procedure were aimed at securing enforcement of the eventual judgment and were not applicable to her case. The applicant was of the opinion that there was no danger in allowing her visiting rights. She contended that the decision of 26 December 2013 authorising visits had never been brought to her or the guardian's knowledge and that the guardian had continued to refuse visits even after that date. She noted that the authorities had never provided any clear reasons for refusing and subsequently allowing such visits. Moreover, the authorities relied on the absence of contact between her and A. as a basis for depriving her of parental authority but had in fact themselves caused such lack of contact by refusing her visits.

51. She contended that her situation and the incident of 22 September 2011 did not represent exceptional or systemic circumstances justifying the immediate withdrawal of her parental authority. She referred to the preliminary measures the authorities ought to have taken before considering the withdrawal of parental authority (see paragraph 40 above). She noted that up until 22 September 2011 the social services and the police had not considered her unfit to raise A. (see paragraphs 17-18 above) and yet seven days later had requested the court to withdraw her parental authority without taking any measures to keep the family together as required under Article 112/1 of the Family Code.

52. The applicant submitted that the possibility of reinstating her parental authority was illusory in the circumstances, since she would be unable to improve her material situation without the support of the authorities. It had been specifically due to the lack of such support and of suitable conditions that she had seen herself forced to abandon her second child, S.

53. In sum, the applicant argued that the national authorities could have implemented a less severe measure than the withdrawal of her parental authority and that the State could help her raise A. herself by providing adequate support. She concluded that the interference with her right had been contrary to the law, unjustified and disproportionate.

(b) The Government

54. The Government accepted that there had been an interference with the applicant's right to respect for her family life as guaranteed by Article 8 § 1 of the Convention. Nevertheless, they maintained that it had been in accordance with the law, namely Article 67 of the Family Code, had pursued the legitimate aim of protection of the child's interests, and had not been disproportionate.

55. Relying on the evidential materials in the file before the domestic courts, the Government stated that – considering the serious illnesses diagnosed – the applicant had acted irresponsibly with regard to A.'s life and health, that she had failed to carry out her parental duties – and had not disputed this because she had chosen not to appeal against the decision of 19 October 2011 imposing an administrative fine – and that the applicant's living conditions were inadequate. In addition, the Government noted that the applicant abused alcohol, was unemployed and was not intending to find employment, and that her behaviour had been contrary to the child's interests, whose life would be at risk if returned to the family.

56. The Government argued that the purpose of the measure had not been to have A. given up for adoption and that by appointing a guardian from within the applicant's family, the authorities had taken all necessary measures to prevent the child's separation from the family.

57. The Government concluded that the applicant had not had a genuine interest in maintaining contact with A. because she had not sought permission from the courts, nor had she applied for a court injunction under Articles 174 and 175 (2) of the Code of Civil Procedure for this purpose. Moreover, the applicant had not visited A. after 26 December 2013, when her request for visits had been approved. The Government noted that the decision to withdraw parental authority was reversible and that it was open to the applicant to request reinstatement under Article 70 of the Family Code once her situation improved. However, in the three years following A.'s removal from home, the applicant had failed to make any changes, and instead had continued to act irresponsibly in respect of her parental duties. To support this allegation, they referred to the applicant's decision to abandon her second child.

58. In reply to the applicant's main allegation about the authorities' failure to support her, the Government noted that the State's positive obligations under Article 8 of the Convention did not extend to providing parents with material benefits. Social assistance was available for children and their parents only when it would not be misused. The Government expressed their doubt that the applicant would be able to rearrange her life and prove that she deserved a chance.

59. In conclusion, in the Government's opinion, the interference complained of did not constitute a violation of Article 8 of the Convention.

2. Court's assessment

(a) Preliminary remarks

60. The Court notes at the outset that the applicant did not contest the removal of her daughter from home and her temporary placement in care; neither did she appeal against those decisions before the domestic courts. The Court will therefore examine only the decision to remove the applicant's parental authority and the restrictions on her visiting rights.

61. Before examining the merits of the complaints, the Court further notes that the Government have in part sought to justify the taking into public care of the applicant's child by relying on circumstances which arose after the decision to deprive the applicant of her parental authority had been adopted, namely the fact that the applicant gave birth to and subsequently abandoned her second child.

62. The Court is in principle not prevented from taking into account additional information and fresh arguments in determining the merits of a complaint, if it considers such factors to be relevant. New information may, for example, be of value in confirming or refuting the assessment that has been made by the Contracting State. Such "new" material may take the form of further particulars as to the facts underlying the complaints declared admissible or legal arguments relating to those facts. Accordingly, the Court is not precluded from taking cognisance of such material in so far as it is judged to be pertinent (see *K. and T. v. Finland* [GC], no. 25702/94, § 147, ECHR 2001-VII).

63. At the same time, however, it cannot be part of the Court's task to examine a grievance in the light of information which did not appear in the file made available to the authorities, the courts and – in normal circumstances – the parties at the time when they reached the decisions which this Court has been called upon to scrutinise. In this case, in so far as the material which the Government have relied on to justify the withdrawal of the applicant's parental authority in respect of A. was not available to the decision-making bodies and the parties to the proceedings, it cannot be deemed pertinent for the purposes of examining whether those restrictions were in compliance with Article 8 of the Convention.

(b) General principles

64. The Court's case-law regarding care proceedings and measures taken in respect of children clearly establishes that, in assessing whether an interference was "necessary in a democratic society", two aspects of the proceedings require consideration. Firstly, the Court must examine whether, in the light of the case as a whole, the reasons adduced to justify the measures were "relevant and sufficient"; secondly it must be examined whether the decision-making process was fair and afforded due respect to the applicant's rights under Article 8 of the Convention (see *K. and T.*

v. Finland, cited above, § 154; *R.K. and A.K. v. the United Kingdom*, no. 38000/05, § 34, 30 September 2008; *Neulinger and Shuruk v. Switzerland* [GC], no. 41615/07, § 134, ECHR 2010; and *R. and H. v. the United Kingdom*, no. 35348/06, §§ 75 and 81, 31 May 2011).

65. The Court reiterates that in these types of cases, consideration of what is in the best interests of the child is of crucial importance. The deprivation of parental rights is a particularly far-reaching measure which deprives a parent of his or her family life with the child and is inconsistent with the aim of reuniting them. Such measures should be applied only in exceptional circumstances and can only be justified if they are motivated by an overriding requirement pertaining to the child's best interests (see *M.D. and Others v. Malta*, no. 64791/10, § 76, 17 July 2012; and, *mutatis mutandis*, *Johansen v. Norway*, 7 August 1996, §§ 64 and 78, *Reports of Judgments and Decisions* 1996-III).

66. In identifying the child's best interests in a particular case, two considerations must be borne in mind: firstly, it is in the child's best interests that his ties with his family be maintained except in cases where the family has proved particularly unfit; and secondly, it is in the child's best interests to ensure his development in a safe and secure environment (see *Neulinger and Shuruk*, cited above, § 136; and *R. and H. v. the United Kingdom*, cited above, §§ 73-74). It is clear from the foregoing that family ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, where appropriate, to "rebuild" the family (see *Neulinger and Shuruk*, cited above, § 136, and *R. and H. v. the United Kingdom*, cited above, § 73). It is not enough to show that a child could be placed in a more beneficial environment for his upbringing (see *K. and T. v. Finland*, cited above, § 173, and *K.A. v. Finland*, no. 27751/95, § 92, 14 January 2003). However, where the maintenance of family ties would harm the child's health and development, a parent is not entitled under Article 8 to insist that such ties be maintained (see *Neulinger and Shuruk*, cited above, § 136; *R. and H. v. the United Kingdom*, cited above, § 73; and *Y.C. v. the United Kingdom*, no. 4547/10, § 134, 13 March 2012).

67. The Court recognises that, in reaching decisions in so sensitive an area, local authorities and courts are faced with a task that is extremely difficult. Moreover, national authorities will have had the benefit of direct contact with all the persons concerned, often at the very stage when care measures are being envisaged or immediately after their implementation. There is therefore a need to allow them a certain margin of appreciation in deciding how best to deal with the cases before them and it is accordingly not the Court's task to substitute itself for the domestic authorities but to review, in the light of the Convention, the decisions taken and assessments made by those authorities in the exercise of their margin of appreciation (see *K and T. v. Finland*, cited above, § 154; *Neulinger and Shuruk*, cited above,

§ 138; and *R. and H. v. the United Kingdom*, cited above, § 81). This is accordingly a domain in which there is an even greater call than usual for protection against arbitrary interferences (see, in the context of withdrawal of parental authority leading to adoption, *B. v. the United Kingdom*, 8 July 1987, § 63, Series A no. 121; *X v. Croatia*, no. 11223/04, § 47, 17 July 2008; *R. and H. v. the United Kingdom*, cited above, § 76; and *Y.C. v. the United Kingdom*, cited above, § 136).

68. Stricter scrutiny is called for in respect of any further limitations – such as restrictions placed by the authorities on parental rights of access, as such additional limitations entail the danger that the family relations between the parents and a young child might be effectively curtailed. The minimum to be expected of the authorities is to examine the situation anew from time to time to see whether there has been any improvement in the family's situation. The possibilities of reunification will be progressively diminished and eventually destroyed if the biological parents and the child are not allowed to meet each other at all, or only so rarely that no natural bonding between them is likely to occur (see *K.A. v. Finland*, cited above, § 139).

69. As to the decision-making process, what has to be determined is whether, having regard to the particular circumstances of the case and the serious nature of the decisions to be taken, the parents have been sufficiently closely involved in the decision-making process, seen as a whole, to have been provided with the requisite protection of their interests and to be able fully to present their case (see *Neulinger and Shuruk*, cited above, § 139; *R. and H. v. the United Kingdom*, cited above, § 75; and *Y.C. v. the United Kingdom*, cited above, § 138). Moreover, in assessing the quality of the decision-making process leading to the splitting-up of a family, the Court will see, in particular, whether the conclusions of the domestic authorities were based on adequate evidence (including, as appropriate, statements by witnesses, reports by competent authorities, psychological and other expert assessments and medical notes) and whether the interested parties, in particular the parents, had sufficient opportunity to participate in the procedure in question (see, *Saviny v. Ukraine*, no. 39948/06, § 51, 18 December 2008).

70. In any event, taking a child into care should normally be regarded as a temporary measure, to be discontinued as soon as circumstances permit. It cannot, therefore, be justified without prior consideration of the possible alternatives (see *K. and T. v. Finland*, cited above, § 166; and *Kutzner v. Germany*, no. 46544/99, § 67, ECHR 2002-I) and should be viewed in the context of the State's positive obligation to make serious and sustained efforts to facilitate the reuniting of children with their natural parents and until then to enable regular contact between them (see, *mutatis mutandis*, *Kutzner*, cited above, §§ 76-77; *K. and T. v. Finland*, cited above, § 179, and *Saviny*, cited above, 52).

(c) Application of those principles in the present case

71. There is no doubt that the decision to withdraw the applicant's parental authority and to restrict her visiting rights in the present case constituted an interference with her right to respect for her family life within the meaning of Article 8 § 1 of the Convention. It must therefore be determined whether the interference was justified under Article 8 § 2, namely whether it was in accordance with the law, pursued a legitimate aim and was necessary in a democratic society.

72. As to the lawfulness of the actions of the domestic courts, the Court notes that the applicant, in her submissions, made reference to alleged failures on the part of the authorities to consider the absence of preliminary measures under section 112/1 of the Family Code when taking the decision to withdraw parental authority (see paragraph 51 above). While the Court does not rule out that such a complaint could give rise to the question of whether the measure was "in accordance with the law" within the meaning of Article 8 § 2, it is of the view that it is more appropriate to consider this issue in the context of the necessity and proportionality of the measure. As to the lawfulness of the restrictions on the applicant's visiting rights, the Court notes that such measures were provided under sections 69 and 72 of the Family Code (see paragraph 37 above) and the applicant did not argue to the contrary. The Court therefore accepts that the actions of the domestic authorities were "in accordance with the law".

73. Neither is it disputed that the measures pursued the legitimate aim of protecting the rights of others, namely those of A. The Court must therefore examine whether the domestic authorities' actions were necessary in a democratic society.

(i) The withdrawal of the applicant's parental authority

74. The Court notes that the domestic authorities based their decision to withdraw the applicant's parental authority on the finding that, as a consequence of personal character traits (neglect of her child and immoral behaviour), she was unable to provide her child with proper nutrition, clothing, a sanitary environment and health care, nor was she able to ensure her social and educational development, thereby endangering the child's life, health and moral upbringing. The Court finds that these reasons were undoubtedly relevant to the taking of the requisite decision.

75. In so far as the sufficiency of those reasons is concerned, the Court notes firstly that in order to reach a number of specific conclusions (such as the finding that the child regularly lacked proper nutrition, was not cared for and often wandered around alone), the courts relied solely on the submissions of the social services (see paragraph 20 above), the police report drawn up in relation to the incident on 22 September 2011, and a subsequent inspection of the applicant's home. No other corroborating evidence, such as reports from previous visits by the social services or the

police, or statements by neighbours had been examined, even though the file contained the affidavits of fifteen neighbours averring to the contrary (see paragraph 22 above). The domestic courts in fact chose to ignore the evidence adduced by the applicant instead of assessing it during the proceedings.

76. Referring to the applicant's failure to provide proper health care, the courts relied on the full diagnostics made in the hospital, but no assessment was made of the immunisation record submitted by the applicant as evidence to the contrary or to the fact that A. was considered physically healthy relatively quickly on 22 January 2013 (see paragraph 15 above), that is to say before the final judgment withdrawing the applicant's parental authority was delivered on 8 May 2013. Similarly, as regards the applicant's immoral conduct, the only objective evidence was the report of her alcohol intoxication on 22 September 2011. The courts also relied on the submissions by the social services that the applicant had been intoxicated on two other occasions, even though those allegations were disputed by the applicant and were not supported by any objective evidence.

77. As regards the courts' finding to the effect that the applicant did not visit A. after her removal from home, the courts relied only upon the submissions of the social services and ignored the documents in the file proving that the applicant had unsuccessfully sought such visits on numerous occasions.

78. There is no indication that the courts sought any independent evidence, such as an assessment by a psychologist, to evaluate the applicant's emotional maturity and motivation to act as a responsible parent and to resolve her household difficulties. The courts' reasoning does not include any analysis of the applicant's attempt to improve her situation after A.'s removal from home, such as obtaining a job, cleaning up her house and fulfilling the formalities necessary for enrolling A. in a pre-school institution. On the contrary, the courts appear to have trusted the submissions by the social services that the applicant failed to improve her living conditions and attitude, notwithstanding the absence in the domestic case-file of any evidence of follow-up inspections after the incident of 22 September 2011 to assess the changes allegedly made by the applicant.

79. Furthermore, there is no indication that the judicial authorities analysed in any depth the extent to which the inadequacies of the child's upbringing were attributable to the applicant's incapacity or unwillingness to provide requisite care, as opposed to her financial difficulties, to which she referred in the domestic proceedings and which could have been overcome by appropriate financial and social assistance and effective counselling. In this context it is interesting to note that both the police and the prosecutor considered the applicant's personal and family circumstances as a mitigating factor when she was fined for failure to fulfil her parental

duties (see paragraph 11 above) (see *Wallová and Walla v. the Czech Republic*, no. 23848/04, § 73, 26 October 2006).

80. It is not the Court's role to determine whether the promotion of family unity in this case entitled the applicant to an adequate standard of living at public expense. It is, however, a matter which falls to be discussed by the relevant public authorities and, subsequently, in the course of court proceedings. There is no evidence in the case-file that such matters were ever considered by the authorities or the courts.

81. Finally, the Court notes that beyond the descriptive findings of the reports, repeatedly pointing to what had been seen on 22 September 2011 – such as the unsanitary living conditions, the applicant quarrelling with her mother, and A.'s unkempt appearance – no data was sought as regards the conditions or the assistance that had been provided to the applicant prior to that date. The Court finds that obtaining information in this regard was required by domestic law (see paragraphs 37 and 40 above) and would have been pertinent in evaluating whether the authorities had discharged their Convention obligation to promote family unity and had explored sufficiently the effectiveness of less far-reaching alternatives before seeking to separate the child from the applicant by withdrawing the applicant's parental authority.

(ii) Restrictions on the applicant's visiting rights

82. The Court notes that the applicant's access to A. was interrupted abruptly on 22 September 2011 and she was not officially allowed to re-establish her contact with the child until 26 December 2013, that is to say two years, three months and four days later (see paragraphs 30 and 35 above). The applicant managed to see her daughter on two occasions (see paragraph 32 above) but that was contrary to the ban imposed by the social services. The decision to revoke or grant the applicant the right to see her child lay within the discretion of the social services (see paragraphs 31-35 above).

83. The Court notes that the interim measures suggested by the Government were aimed at securing enforcement of the judgment. Because the subject matter of the proceedings in the present case concerned the withdrawal of the applicant's parental authority and in the absence of any reference to previous practice, the Court is not convinced that the applicant could have obtained a court injunction to secure visiting rights, as suggested by the Government.

84. The Court further notes that the withdrawal of access and the applicant's subsequent inability to have contact with A., except for two unauthorised visits, were the automatic consequence of the decision to remove A. from home and to lodge an action seeking the withdrawal of the applicant's parental authority and subsequently the court's decision to revoke that authority. In their letters communicating their refusal to grant

access, the authorities referred to the risks inherent in the applicant's having contact with A. Although this reason is of relevance, it is inexplicable why – despite the existence of such a threat – the applicant was able to see her daughter and was even allowed regular access after 26 December 2013, when she had been deprived of parental authority, specifically due to the alleged threat to A.'s life and health. The Court finds that these measures were excessively harsh and that the authorities failed to advance sufficient reasons to justify them in the course of court proceedings.

(iii) Conclusion

85. Given all the foregoing considerations, the Court concludes that the reasons relied upon by the national authorities for withdrawing the applicant's parental authority were not sufficient to justify such a serious interference with the applicant's family life and there has been accordingly a violation of Article 8 of the Convention in this respect.

86. The Court also concludes that the restrictions on the applicant's visiting rights were not necessary within the meaning of Article 8 § 2 of the Convention. There has therefore also been a violation of Article 8 of the Convention in this respect.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

87. 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

88. The applicant claimed 20,000 euros (EUR) in respect of non-pecuniary damage. The applicant requested that all payments be made into her lawyer's account.

89. The Government submitted that the claims were excessive in the light of the Court's case-law in similar cases.

90. The Court considers that the applicant must have been caused a certain amount of suffering in view of the violations found above. The Court awards the applicant EUR 7,500 in respect of non-pecuniary damage, to be paid into her lawyer's bank account.

B. Costs and expenses

91. The applicant also claimed EUR 1,880 for the costs and expenses incurred before the Court. Her representative submitted an itemised list of

hours he had worked on the case, amounting to 47 hours at a rate of EUR 40 per hour.

92. The Government disputed the sum claimed.

93. 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 (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI).

94. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the applicant's claim in full, that is the sum of EUR 1,880, less EUR 850 already paid in legal aid by the Council of Europe, to be paid into a bank account indicated by the applicant's lawyer.

C. Default interest

95. 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,

1. *Declares*, unanimously, the application admissible;

2. *Holds*, by five votes to two, that there has been a violation of Article 8 of the Convention in respect of the withdrawal of parental authority;

3. *Holds*, unanimously, that there has been a violation of Article 8 of the Convention in respect of the restrictions on visiting rights;

4. *Holds*, by six votes to one,
   (a) that the respondent State is to pay the applicant, into a bank account indicated by her representative, within three months from 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 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,030 (one thousand and thirty euros), plus any tax that may be chargeable to the applicant, 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;

5. *Dismisses*, unanimously, the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 6 October 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips Registrar	Luis López Guerra President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judges Silvis and López Guerra is annexed to this judgment.

L.L.G.
J.S.P.

PARTLY DISSENTING OPINION OF JUDGE SILVIS, JOINED, AS TO ARTICLE 8, BY JUDGE LÓPEZ GUERRA

1. Poverty is no reason to withdraw parental authority. However, the lack of care, with immediate and very serious consequences for the health and development of the child, may trigger a positive obligation on the part of the State to intervene. In the present case the child was removed from her mother, who had exercised physical and psychological violence in the presence of the child. It was objectively established that the mother, the applicant in this case, was intoxicated by alcohol on the occasion in question. It was established further that the child had been without surveillance for a long time, in an unkempt state and sometimes asking for food. At the scene it was observed that the child lived in unsanitary conditions. The Child Protection Service reported later that the applicant had been warned several times in vain to bring order to her house. It appeared that the child was not enrolled in any pre-school institution. The child was hospitalised immediately after the event, from 22 to 30 September 2011. She was diagnosed with "residual encephalopathy with delayed motor skills, mild leg movement disorder, thyroid gland disease, decreased need for sleep ("hyposomnia"), urinary insufficiency and disorder of the function of the pancreas." She was prescribed treatment. As to the situation in the home of the applicant, a social worker and another employee from a non-governmental organisation found one day after the incident of 21 September 2011 that the house was in disorder and lacked running water, electricity and gas.

2. On 27 September 2011 the Ciocana Child Protection Committee examined the child's situation. When the applicant appeared before the Committee she was allegedly intoxicated. Based on the findings of this meeting, on 28 September 2011 the Ciocana Child Protection Committee concluded that the child's return to her biological family would put her life and health in danger. The Committee decided to place her in the Municipal Children's Centre and to initiate proceedings to withdraw the applicant's parental authority. The district court decided to withdraw the applicant's parental authority and the appellate court confirmed that judgment. Both judgments were upheld by the Supreme Court. Meanwhile, the situation of the child had improved considerably, as established in a psychological report (see paragraph 14 of the judgment). She was placed in the family of a professional social worker at the beginning of 2013 and afterwards with her aunt. Afterwards, from 26 December 2013 onwards, the mother was allowed to visit the child in the presence of the child's guardian.

3. The majority considers that the domestic authorities did not give sufficient consideration to the best interests of the child (see paragraph 65 of the judgment), and did not focus sufficiently on reuniting mother and child. In my view the domestic authorities gave priority to the child's physical and

psychological well-being when there was ample reason to believe that the child was endangered. I think the domestic authorities were in a position to make the right decision as to where the priority should lie. That is what prompts me to dissent from the majority, although I do acknowledge respectfully that there are strong procedural arguments in favour of the majority's position as well. I prefer, however, to lay the emphasis somewhat differently. It may be wise for our Court to display modesty in performing its role when it comes to establishing the facts. The Court rightly recognises that, in making decisions in so sensitive an area, local authorities and courts are faced with a task that is extremely difficult. Moreover, national authorities will have had the benefit of direct contact with all the persons concerned, often at the very stage when care measures are being envisaged or immediately after their implementation. There is therefore a need to allow them a certain margin of appreciation in deciding how best to deal with the cases before them, and it is accordingly not the Court's task to substitute itself for the domestic authorities but to review, in the light of the Convention, the decisions taken and assessments made by those authorities. I observe that there is no indication that the possibilities of reunification have been progressively diminished or destroyed, as the majority feared would be the foreseeable consequence of the domestic approach. On the contrary, the reality shows a different course of events: visiting rights were established after December 2013 and there is a possibility of a reunification in some form in the future. The child is being cared for by an aunt and thus within the wider family. The withdrawal of parental rights is not irreversible either, because reinstatement can be applied for on the ground of an improved situation (Article 70 Family Code of Moldova). Unfortunately, it may be indicative of the applicant's continuing problems regarding the exercise of parental responsibility that shortly after having given birth to a second child she consented to the child's adoption.

4. I think the domestic authorities' decision to give priority to the immediate physical and psychological well-being of the child falls within their margin of appreciation. In the circumstances of the case the domestic authorities had convincing reasons for giving secondary importance to the unification of the mother and child. A longer period of recovery for the child could be considered justified. On an overall assessment I cannot share the view that, as regards the withdrawal of parental authority, the applicant's rights under Article 8 of the Convention were violated. On the issue of the restriction of visiting rights, I agree that the decision not to allow any visits for the duration of the court proceedings was disproportionate, dismissing in advance any interim assessment of the possibility of responsible visits.

5. [Judge Silvis only:] I do not think the amount awarded for compensation is justified for the violation of Article 8 when based solely on the visiting restrictions.