



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

THIRD SECTION

CASE OF ZAVRIDOU v. CYPRUS

(Application no. 14680/22)

JUDGMENT

Art 8 • Positive obligations • Family life • Domestic authorities' failure to secure a mother's custodial rights and to enforce the relevant domestic court orders resulting in the alienation of her children from her • Authorities' reactions either not timely or entirely dependent on the father's willingness to cooperate despite his systematic obstruction of their efforts to reunite the children with their mother

Prepared by the Registry. Does not bind the Court.

STRASBOURG

8 October 2024

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 *Zavridou v. Cyprus*,

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

Pere Pastor Vilanova, *President*,

Jolien Schukking,

Darian Pavli,

Peeter Roosma,

Ioannis Ktistakis,

Andreas Zünd,

Oddný Mjöll Arnardóttir, *judges*,

and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 14680/22) against the Republic of Cyprus lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Cypriot national, Ms Evangelia Zavridou (“the applicant”), on 14 March 2022;

the decision to give notice to the Cypriot Government (“the Government”) of the complaints concerning Article 8 of the Convention;

the decision to give priority to the application (Rule 41 of the Rules of Court);

the withdrawal of Judge Georgios A. Serghides, the judge elected in respect of Cyprus, from sitting in the case (Rule 28 § 3 of the Rules of Court) and the decision of the President of the Chamber to appoint Ms Oddný Mjöll Arnardóttir to sit as an *ad hoc* judge (Article 26 § 4 of the Convention and Rule 29 § 2 (b) of the Rules of Court);

the parties’ observations;

Having deliberated in private on 3 September 2024,

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

INTRODUCTION

1. The case concerns an alleged failure by the domestic authorities to secure the applicant’s custodial rights and to enforce domestic decisions in that respect.

THE FACTS

2. The applicant was born in 1970 and lives in Nicosia. She was represented by Mr A. Clerides, a lawyer practising in Nicosia.

3. The Government were represented by their Agent, Mr G.L. Savvides, Attorney General of the Republic of Cyprus.

4. The facts of the case may be summarised as follows.

I. EVENTS LEADING TO THE APPLICATION TO THE COURT

5. The applicant has two children, C.K., born in 2010, and A.K., born in 2012, from her marriage to Mr G.K. (“the father”).

6. In 2018 the couple separated. At some point in July 2018 the applicant moved into a flat of her own with the children.

7. On 6 July 2018 the Nicosia Family Court issued a temporary order in the context of custody proceedings (no. 342/2018 – “the first custody application”), whereby both parents had contact rights with the children (“the temporary order”).

8. On 31 October 2018 the Nicosia Family Court asked the Social Welfare Services (“the SWS”) to prepare a report on the family’s situation.

9. On 20 November 2018 the temporary order was amended, obliging the father to return the children to the applicant following the exercise of his contact rights and establishing the children’s place of residence as being with their mother. The father did not comply with the order. The children stayed overnight with him on a regular basis and had infrequent contact with the applicant.

10. In March 2019 the applicant’s contact with the children stopped. She met with them on rare occasions and always in the father’s presence.

11. Between 12 April 2019 and 23 May 2019, the Mental Health Services (“the MHS”) met with the parents and assessed the children.

12. On 14 June 2019, following that assessment, the MHS issued two reports. According to those reports, the father had alienated the children from their mother. It was recommended that the applicant’s contact with the children be immediately re-established in order to avoid the development of further psychological difficulties for the children, and that the father should not be present during the applicant’s contact with them.

13. On 25 September 2019 the SWS submitted a parental custody report to the Family Court, recommending that custody and care of the children be granted to the mother. The report further recommended that the father’s contact with the children be gradually decreased, allowing the applicant time to bridge the gap in her relationship with the children, with the assistance of experts. Psychological support was recommended for the family as a whole and for each member individually.

14. On 25 October 2019 the Family Court granted the applicant custody and care of the children and made a residence order in her favour (“the custody order”).

15. Between 31 October 2019 and 12 March 2020, representatives of the SWS met with the applicant and the father on various occasions, conducted multidisciplinary meetings, to which both parents were invited, and cooperated with the police, with the aim of identifying ways to enforce the judgment, but to no avail. The children were hostile towards the applicant and

the father was obstructive and not genuinely willing to comply with the custody order.

16. In the meantime, on 17 December 2019 the applicant lodged an application with the Family Court seeking the enforcement of the father's compliance with the custody order (*αίτηση παρακοής*).

17. In January 2020 the applicant complained to the police that the father was psychologically abusing the children. Her complaint was investigated but the steps recommended by the police and the SWS remained unimplemented given the father's disagreement.

18. On 13 March 2020 the applicant was able to have a short meeting with the children for the first time in almost a year, at the father's place of residence, and in his presence and that of an officer from the SWS. At the end of the meeting the parents agreed to continue such visits, but the agreed schedule was not implemented on account of government measures taken to combat the COVID-19 pandemic.

19. In the meantime, on 11 February 2020 the Supreme Court refused a petition for a writ of habeas corpus (no. 2/2020) lodged by the applicant, finding that she had failed to prove that the father had unlawfully detained the children. Following an appeal by the applicant (no. 49/2020), the father stated on 7 April 2020 that he would allow the applicant, accompanied by an SWS officer, to pick the children up from his home on 8 April 2020. The applicant withdrew her appeal.

20. On 8 and 9 April 2020 the applicant, accompanied by officers of the SWS, visited the father's residence to try to persuade the children to spend some time with her. Her attempts were unsuccessful on account of the children's opposition.

21. In May 2020 the applicant lodged a new application for custody with the Nicosia Family Court (no. 65/2020) ("the second custody application").

22. On 5 June 2020 the Family Court ordered the father to surrender the children to the applicant within four days ("the surrender order"). The father was warned that a failure to abide by that order could lead to his imprisonment. At the same time, the court dismissed the application of 17 December 2019, considering it withdrawn.

23. On 12 June 2020 an attempt to enforce the surrender order failed, owing to the children's opposition to living with their mother.

24. On 15 June 2020 the police drew up a report outlining the steps taken on 12 June 2020. According to the report, while the father had seemingly abided by the court's order by leaving the premises, in practice he had failed to prepare the children either psychologically or practically as he had, *inter alia*, not packed their bags and had left them barefoot and in their pyjamas. The report suggested that the police should investigate the potential offences of contempt of a court order and of exercising psychological violence against the children and the applicant. The report further suggested that the SWS investigate the possibility of taking more drastic measures, such as

temporarily assuming custody of the children so that a structured effort could be made to restore the children's relationship with the applicant.

25. On 10 July 2020 the applicant lodged a new application with the Family Court in the context of the custody proceedings (no. 342/18), seeking to enforce the father's compliance with the custody order.

26. The applicant subsequently met the children on various occasions (15 and 22 July, 5 and 28 August and 4 September 2020), at the father's place of residence and in his presence and that of an SWS officer.

27. In the meantime, on 5 August 2020, following a complaint lodged by the applicant, the Commissioner for Administration and the Protection of Human Rights ("the Ombudsman") issued a report (see paragraphs 64-67 below).

28. Following a petition by the applicant, on 26 February 2021 the Family Court, in the context of the custody proceedings (no. 342/18), found the father guilty of failure to comply with a court order. The court noted that the surrender order had not been implemented on account of the children's opposition. Nonetheless, according to the court, the reason the children were opposed to living with the applicant was the "methodical, systematic, deliberate and intentional guiding of [the father]", who had "achieve[d] his purpose, namely the alienation of the applicant from her children", and had shifted the entire responsibility for the failure to comply with the order onto the children, who did not wish to see the applicant.

29. On 11 March 2021 the father was sentenced to forty-five days' imprisonment. The court instructed the Director of the SWS to assist the applicant in every possible way so that the children might be returned to her care.

30. Immediately following the father's imprisonment, the SWS arranged for the children to start seeing a psychologist of the parents' choosing.

31. During the father's imprisonment, the applicant was accompanied by an SWS officer to the father's place of residence on various occasions to meet the children and to attempt to enforce the custody order, again without success (18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, and 31 March 2021, 2, 5, 8 and 11 April 2021). The father's relatives were present at all those meetings and the father continued to exercise a negative influence over the children from prison. During his imprisonment the children stopped attending school, allegedly for fear that their mother might visit them. They only returned to school following the father's release.

32. During that period, four multidisciplinary meetings were convened at the central offices of the SWS with the police, representatives of the Attorney General's office, and a private psychologist. The father attended the last of those meetings and the parents agreed on a recommended schedule of steps to be taken with the aim of enforcing the court's orders.

33. In the meantime, in March 2021, the applicant complained to the police that the children had been abducted by their grandparents during the

father's imprisonment, and that the grandparents would not take the children to school, or drop them off at her home as per the relevant court order.

34. On 14 April 2021 the applicant petitioned the Supreme Court for a prerogative writ of mandamus (no. 60/2021), asking for an order compelling the police to forcefully remove the children from the father's place of residence.

35. Eventually, on 21 April 2021 and 25 April 2021, two meetings took place at the father's place of residence. The subsequent meetings scheduled between 26 April 2021 and 2 May 2021 were cancelled on account of the applicant's health. The father cancelled the remaining scheduled visits.

36. On 27 April 2021 the Supreme Court dismissed the petition for mandamus (see paragraph 34 above), finding, *inter alia*, that the police were not obliged, nor did they have a duty, under the Police Law of 2004 (L. 73(I)/2004), to act in the way requested by the applicant. The father's non-compliance could be dealt with by other legal remedies. An appeal (no. 129/2021) was upheld for the same reasons.

37. Between June and December 2021, the applicant visited the children approximately once a week at the father's place of residence, in his presence at his insistence, despite the SWS's indications that the meetings should take place at a neutral venue.

38. In December 2021 the Family Court asked the SWS to prepare a parental care report, in the context of the second custody application (see paragraph 21 above).

39. On 14 March 2022 the applicant lodged her application with the Court.

II. EVENTS FOLLOWING THE LODGING OF THE APPLICATION WITH THE COURT

40. On 17 March 2022, following a request of 11 January 2022 by the Commissioner for Children's Rights, the Nicosia Family Court appointed her as the children's representative in the proceedings concerning the second custody application.

41. In March 2022 the Family Court ordered that the applicant's contact with the children be increased to three times per week for a longer duration and that the family be assisted by a specialist psychologist. In practice, contact lasted less time than had been specified, and the family began being monitored by specialist psychologists from the organisation "Hope for Children" in May 2022. C.K. stopped consulting the said psychologists in January 2023, and A.K. stopped in September 2023.

42. On 30 June 2022 a multidisciplinary meeting was held under the auspices of the Commissioner for Children's Rights. Among other things, it was reported that the meetings between the children and the applicant, which lasted between five to ten minutes, continued to take place at the father's

residence, at his insistence, and that he had installed cameras in the living room to monitor the meetings.

It was further reported that the Law Office of the Republic of Cyprus refused the SWS's request to petition the court to have the father's parental rights removed.

A private psychologist who had previously seen the children considered that any coercive action taken in respect of them would cause them psychological harm. The MHS psychologist who had also previously assessed the children considered that their alienation from the applicant was more harmful to them than coercive action.

It was additionally reported that the parents' joint meetings with psychologists took place on four occasions but were terminated as the father was borderline abusive towards the applicant. Both children were being monitored by psychologists.

Finally, it was agreed between the parties in the same meeting that the Family Court should be asked to order contact or meetings between the applicant and the children to take place under the SWS's supervision at a neutral venue and in the father's absence. It would be explained to the children that neither of their parents was acting in their best interests at that stage. It was further agreed that the children would be temporarily placed in foster care if and when an appropriate family was found, with the aim of restoring the relationship between the applicant and the children at a neutral venue.

43. On 7 July 2022, in the context of the second custody application, the Family Court made an order whereby the applicant was to have contact with the children at a neutral venue in the absence of the father. The order was not complied with on account of the children's resistance and the father's lack of cooperation. Similarly, the father did not comply with an order made by the Family Court in November 2022 whereby the applicant was to pick A.K. up from school.

44. On 23 December 2022 and 3 January 2023, supervised meetings took place between the applicant and the children at a public place in the presence of the father and an SWS officer. The children were initially negative towards the applicant but gradually became more accepting.

45. On 9 January 2023 the Nicosia District Court, exercising criminal jurisdiction (no. 600/2020), convicted the father of disobedience of lawful court orders. The court examined over sixty charges against the father concerning complaints lodged by the applicant to the police as early as July 2018 and until the end of 2019. In reaching its decision, the court noted that since March 2019, at which time the children were six (A.K.) and eight (C.K.) years old, they had been under the father's total control. The court accepted that the father had taken steps to cut the applicant off from the children, such as picking them up from school before the applicant was able to do so, arguing with the applicant in front of the children, being present

during contact between the applicant and the children and acting with hostility towards her in a way that discouraged the children from meeting her. The father had also involved the police to create the impression to the children that the applicant did not like him and wanted him to go to prison. On certain occasions he had pretended that the children were ill or in a poor psychological state allegedly caused by the applicant, in order not to take them to school, thus preventing the applicant from picking them up. The court further noted that the father had, on occasion, recorded the children crying and refusing to see the applicant. In addition, he had failed to comply with the proposed meeting schedules. The court found that those actions were indicative of the father's failure to abide by the relevant court orders and his attempt to discourage the children from developing a positive relationship with their mother. He cultivated and applauded the children's negative attitude towards her. His negative stance towards the applicant had extended to, and had significantly affected, the children's stance.

46. On 11 January 2023 the Commissioner for Children's Rights lodged an interim application in the context of the second custody application, requesting that the children's custody be transferred to the Director of the SWS.

47. On 13 January 2023 the Nicosia District Court sentenced the father to one year's imprisonment. The sentence was enforced that same day. On that day, members of the SWS tried to remove the children from the father's place of residence in the presence of the father's relatives. Their attempts both on that day and later, on 16 and 17 January 2023, were unsuccessful on account of the children's refusal to cooperate.

48. On 18 January 2023 the Nicosia Family Court instructed, on its own motion, the immediate assignment of the children's custody to the Director of the SWS. It further instructed the removal of the children to a suitable place of residence, with further arrangements made for treatment, support, and assistance to them in terms of their psychological and emotional state and their health. The court further instructed the SWS to ensure the exercise of contact rights between the parents and the children, following consultation with the Commissioner for Children's Rights and the competent MHS. The court also instructed the Director of the SWS and the Commissioner to keep it informed of the implementation of the above-mentioned steps.

49. On 19 January 2023 the SWS transported the children to the State Institution for Children. Although the children were reluctant, they nonetheless followed the relevant officer, having previously been assisted by their paternal aunt and the SWS.

50. During the father's imprisonment, the children were assessed by the MHS on 20 January 2023; meetings were held between the various authorities on 3, 7 and 22 February and on 1 and 10 March 2023. An intervention plan was drawn up and the parents agreed on 7 March 2023 that a psychologist could be engaged with the aim of working with the family and restoring the

applicant's relationship with the children; the father later withdrew his consent. The applicant met with both children on 10 and 11 February 2023. On 13 February 2023 and 14 March 2023 she met with A.K. only, as C.K. refused to see her.

51. On 27 March 2023 the Family Court gave its decision on the Commissioner's interim application (see paragraph 46 above), essentially affirming and upholding the instructions issued on 18 January 2023 (see paragraph 48 above). The custody of the children was, as a result, temporarily assigned to the Director of the SWS. The court justified its decision, which was aimed solely at ensuring the protection of the children's best interests, by noting the parents' *de facto* inability, each for different reasons, to exercise parental custody.

52. On 7 April 2023 A.K. moved in with the applicant with the assistance of the SWS. C.K. refused to do the same.

53. From 23 May 2023 until the end of June 2023 the applicant had systematic meetings of a short duration with C.K. at the State Institution for Children, where he was residing, in the presence of a counselling psychologist.

54. In the meantime, on 30 May 2023 the father was released from prison.

55. On 12 July 2023 the parties agreed before the Family Court to implement a schedule allowing the children to stay overnight at each parent's residence on an alternate basis.

56. According to the latest information of 30 July 2024, for some time after the father's release, the children stayed overnight with each parent on an alternate basis. This did not last long as the children resumed being hostile towards the applicant to the extent of exercising physical violence against her. As a result, the children stopped residing with the applicant whose contact with the children was limited to a few hours or minutes per day. The children currently reside with their father. As of May 2024, the applicant had some joint outings and activities with her daughter but not with her son. According to the latest information provided by the Government, the children officially stopped visiting a psychologist as of February 2024 because of their refusal to participate in meetings.

The order of 27 March 2023 assigning the children's custody temporarily to the Director of SWS (see paragraph 51 above) became absolute on 25 April 2024 with the parents' mutual agreement. As a result, the Director of SWS continues to have custody of the children. The second custody application (see paragraph 21 above) is still pending.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. RELEVANT DOMESTIC LAW

A. Removal of parental responsibility

57. Section 18 of the Parents and Children Relations Law of 1990 (216/1990) provides for the full or partial removal of parental responsibility from either parent and the assignment of that responsibility to the other parent, or to a guardian under certain conditions.

B. Enforcement of court orders

1. *The Courts of Justice Law of 1960 (14/1960)*

58. Under section 42 of the Courts of Justice Law of 1960, all first-instance domestic courts, irrespective of their jurisdiction, have the power to enforce obedience to any order issued by them. The court may order that an act be done, or prohibit an act, by imposing a fine, imprisonment or an order for the sequestration of goods. The court also has the power to award compensation to a person in whose interests the order was made. In accordance with the procedure under section 42, the court must establish that the person who has failed to comply with an order was aware of that order and knowingly and deliberately abetted or participated in the disobedience thereto.

2. *Criminal Code (Cap. 154)*

59. With regard to the enforcement of court orders by first-instance district courts exercising criminal jurisdiction, section 137 of the Criminal Code provides that anyone who disobeys an order, warrant, or command given by a court, an officer or a person acting in a public capacity and duly authorised in that respect is guilty of a misdemeanour and is liable to two years' imprisonment, unless any other penalty or mode of proceedings is expressly prescribed in respect of such disobedience.

3. *Internal police guidelines*

60. From time to time, the police have issued internal guidelines concerning police action in the event of non-compliance with a family court order.

61. The guidelines of 29 January 2008 entitled "Disobedience of Family Court orders" advised that in the event the police received a complaint concerning a person's failure to comply with a court order, they should carry out a speedy criminal investigation and/or effect the arrest of the suspect in order to restore legal order and to support the person in whose favour the

order had been issued. According to the same guidelines, if a complaint concerned a regulatory order, an interested person should be advised to lodge a complaint with the court that made that order. Whether an order was mandatory/prohibitory or merely regulatory would be determined by the content of the order and specifically whether it mandated or ordered a specific action.

62. The guidelines of 18 March 2015 entitled “Enforcement of Family Court orders by the Police” clarified that mandatory or prohibitory orders could be recognised from their content and the use of words such as “ordered”, “obliged”, and “should”. According to the same guidelines, a failure to abide by such an order constituted a criminal offence in breach of section 137 of the Criminal Code. According to the guidelines, the family courts at that time tended to issue mandatory or prohibitory orders as opposed to regulatory ones. As such, the guidelines advised that following a complaint of disobedience of such an order, the police should, having assessed the circumstances of the case, issue an arrest warrant against the person who had failed to comply with that order.

63. The guidelines of 26 August 2019 entitled “Disobedience of Family Court orders concerning parent-child contact” emphasised that in the event of failure to comply with a mandatory contact order, the police were under a duty to open a criminal investigation in respect of the person who had failed to comply with the order and to arrest the suspect where necessary. The guidelines emphasised that, when dealing with such complaints, the police should not remain passive, especially when a repeated and deliberate failure to comply with the provisions of an order had been established.

II. OMBUDSMAN’S REPORT

64. On 5 August 2020 the Ombudsman released a report concerning the role of and the actions taken by the SWS and the police in the applicant’s case.

65. The Ombudsman observed that the police had indeed taken some action. However, although the initial temporary court order of 20 November 2018 had ordered the father to return the children to the applicant’s house following his contact with them, and he had failed to do so, the police had failed to immediately investigate whether an offence had been committed under section 137 of the Criminal Code (see paragraph 59 above) following the applicant’s complaints, as the initial order was considered to have been regulatory rather than mandatory. The Ombudsman further observed that the supplementary order of June 2020 was clear that the father ought to have returned the children to the applicant. According to the report, the failure of the police to immediately and decisively intervene following the applicant’s first complaint of 29 July 2018 had led to the loss of valuable time and the growing alienation of her children from her. The report further established

that there had been a constant breach of the applicant's parental rights, despite the police guidelines of 26 August 2019 to the effect that the police should not remain passive in the face of such complaints (see paragraph 63 above).

66. The Ombudsman further noted that the SWS should have taken action, beyond the preparation of reports in association with the MHS, to restore the relationship between the applicant and her children. The report noted that the Family Court's order – granting the applicant custody and the father contact rights – was being distorted, with the children residing with the father, while the applicant struggled to maintain basic contact with the children, on account of the father's refusal to comply with the order. The Ombudsman stressed that the fact that the applicant met with the children on rare occasions under various conditions, without a guarantee that such contact would continue, could not be viewed, on its own, as a positive step towards restoring her relationship with the children.

67. The Ombudsman made the following recommendations:

“For all the above reasons, the services involved – the police, [the SWS] and [the MHS] – should immediately cooperate and work in partnership [in the following endeavours]:

- The children should be reassessed by the [MHS], given that they have had no contact with their mother for over a year since their last [psychological] evaluation.

- Given that the father does not consent to the assessment of the children by the [MHS], even though that this was deemed necessary by it, and the [SWS] agrees with that suggestion, steps need to be taken immediately before the situation leads to a dead end and to irreversible results.

- Specifically, the [SWS] has an obligation under such circumstances to secure an order for the partial removal of parental responsibility as regards the health sector to ensure the children's evaluation by the [MHS].

...

- In addition, individualised measures should be adopted and applied with the aim of ensuring the children's emotional health, bridging the gap that has occurred in their relationship with their mother and the restoration of their emotional connection with her without any interruption which may lead to backsliding.

- The police must assess and take appropriate measures to investigate criminal offences relating to disobedience of court orders following the supplementary order of the Family Court which dispersed any doubts as to whether the orders relating to custody and the residence of the children with their mother were regulatory rather than mandatory.

- In addition, the investigation of offences relating to child abduction in breach of section 185 of the Criminal Code and the offence of kidnapping from lawful guardianship in breach of sections 246 and 248 of the Criminal Code, against the [applicant's] former husband, as ordered by the Attorney General, [should take place] without any further delay to the children's detriment.

...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

68. The applicant complained, under Articles 6 and 8 of the Convention, of an alleged failure by the Cypriot authorities to swiftly and diligently enforce the Family Court's orders awarding her custody and care of her children, or to make all necessary efforts to reunite her with her children. The Court, which is the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), will examine the complaint from the standpoint of Article 8 alone (see, for example, *Eberhard and M. v. Slovenia*, nos. 8673/05 and 9733/05, § 111, 1 December 2009, and *Milovanović v. Serbia*, no. 56065/10, §§ 91-92, 8 October 2019).

This provision reads 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. Admissibility

69. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other ground listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

(a) **The applicant**

70. The applicant argued that the respondent State had failed to take immediate and effective measures to enforce the custody and surrender orders. As a result, she had been denied contact with her children and had been prevented from exercising her parental rights. According to the applicant, following the father's second release from prison, the arrangement whereby the children would stay overnight with each parent alternately had lasted only a very limited time (see paragraph 56 above). At the time of the submission of her observations, the children lived with their father and she had only limited contact with them.

71. The applicant submitted that she had asked various services to assist her in taking custody of her children as per the court's orders, but those

services had failed to take immediate action. From 2018 she had made repeated complaints to the police about the father's failure to return the children to her. In that connection the applicant provided the Court with a letter from the police dated 30 April 2020 certifying that between 28 June 2018 and 3 March 2020 she had made sixty-six complaints to the police about the father's failure to comply with court orders, his psychological pressure on the children, public insult, and assault. She submitted that her complaints had only been heard by the criminal court five years later. In addition, the applicant emphasised that while a parental custody report had been ordered on 31 October 2018, the authorities had only submitted that report eleven months later, on 25 September 2019. The domestic authorities had been aware that the children were alienated from her since their first psychological assessment on 14 June 2019 and that immediate contact with her had been necessary. Nonetheless, she had only seen her children for the first time for twenty minutes on 13 March 2020 in the father's presence and that of officers from the SWS. The father had been imprisoned by the family courts for forty-five days, only after sustained effort on the applicant's part, and even then, the children had remained with their grandparents at the father's place of residence. The applicant added that the proceedings concerning the father's failure to abide by court orders had taken almost a year to complete. The applicant further maintained that the interpretation of the police guidelines (see paragraphs 60-63 above) had been left to the police and other State officers, leading to the authorities' delay in intervening.

72. The applicant argued that the steps taken by the State on 18 January 2023 proved that even though the State had effective mechanisms by which it could have assisted the applicant earlier, such steps had been taken very late, by which time the children's alienation had already been solidified. The previous steps taken by the State, such as multidisciplinary meetings or contact schedules, had had no concrete results, on account of the father's interference. Almost all the meetings had taken place at the father's place of residence either in his or his relatives' presence, with no consideration given to the psychologists' reports and court instructions, and in an environment which had not been conducive to the development of the applicant's relationship with her children.

(b) The Government

73. The Government argued that the domestic authorities had taken all the necessary steps and all the measures available under domestic law to facilitate the execution of the court orders. According to the Government, throughout the material period (from 2020 to date) the authorities had dealt with the matter diligently and had made great efforts to reunite the applicant with her children, considering the exceptional circumstances of the case. The Government submitted that the children's opinions had been rightly taken

into account, bearing in mind that in 2020 they had been eight and ten years old.

74. The Government further maintained that the police could not have been expected to forcefully remove the children from the father's place of residence as that could have further damaged their psychological state and emotional health, thus aggravating the situation. The role of the police had been limited to discreetly overseeing the meetings at the father's place of residence and offering their assistance where required and to the greatest extent practically possible. The Government added that the police had treated the content of the supplementary order as coercive or mandatory following the dissemination of the Ombudsman's report to their office and had immediately proceeded to arrest the father for a misdemeanour.

75. As regards the SWS, the Government argued that it had assumed responsibility for the case as early as 31 October 2018 and that it had fully complied with the courts' instructions, arranged a number of multidisciplinary meetings in collaboration with relevant services, held meetings at the father's place of residence, worked with the parents on an individual basis, visited the father in prison, visited the children's school to provide them with counselling, arranged for them to be assessed by clinical psychologists and other specialists, and come up with detailed action plans in an attempt to reunite the applicant with the children. At the point when the family situation had deteriorated on account of the parents' hostility towards one another, the Commissioner for Children's Rights had taken the initiative in intervening in the second main application proceedings to represent the children's best interests. Crucially, custody of the children had been assigned to the Director of the SWS.

76. Finally, in the Government's submission, results had clearly been achieved and, since 2019, an improvement had been noted given that the children had changed their behaviour towards the applicant to a certain extent and had begun demonstrating some sort of acceptance compared with their original hostility and aggressiveness. The Government noted that efforts were still being made by the SWS to fully resolve the conflict between the parents and to reunite the applicant with the children in accordance with the court orders.

2. The Court's assessment

(a) General principles

77. The Court refers to the general principles pertaining to the enforcement of decisions in the sphere of family law and to the State's role in protecting the relationship between parents and their children, as recently outlined in *Milovanović v. Serbia* (no. 56065/10, §§ 115-20, 8 October 2019, with further references).

78. The Court reiterates, in particular, that in relation to the State's obligation to implement positive measures, Article 8 includes, for parents, a right that steps be taken to reunite them with their children and an obligation for the national authorities to facilitate such reunions (*ibid.*, § 118). However, such an obligation is not absolute, since the reunion of a parent and a child who has lived with someone else for some time may not be able to take place immediately and may require preparatory measures. Any obligation to apply coercion in this area must be limited, since the interests, as well as the rights and freedoms, of all concerned must be taken into account, and more importantly, the best interests of the child (*ibid.*). Although coercive measures against children are not desirable in this sensitive area, the use of sanctions must not be ruled out in the event of unlawful behaviour by the parent with whom the children live (*ibid.*). What is decisive is whether the domestic authorities have taken all the necessary steps to facilitate the execution of such reunions, in so far as can reasonably be demanded in the special circumstances of each case (*ibid.*).

79. There is currently a broad consensus in support of the idea that in all decisions concerning children, their best interests must be paramount (see *Neulinger and Shuruk v. Switzerland* [GC], no. 41615/07, § 135, 6 July 2010, and *Strand Lobben and Others v. Norway* [GC], no. 37283/13, § 204 10 September 2019). The child's best interests may, depending on their nature and seriousness, override those of the parents. However, while the Court's case-law requires children's views to be taken into account, those views are not necessarily immutable, and children's objections, which must be given due weight, are not necessarily sufficient to override the parents' interests, especially their interest in having regular contact with their child (see *Pisică v. the Republic of Moldova*, no. 23641/17, § 65, 29 October 2019). In particular, children having the right to express their own views should not be interpreted as effectively giving them an unconditional veto power without any other factors being considered and an examination being carried out to determine their best interests (*ibid.*).

80. In cases concerning a person's relationship with his or her child, there is a duty to exercise exceptional diligence, in view of the risk that the passage of time may result in a *de facto* determination of the matter (see *Ignaccolo-Zenide v. Romania*, no. 31679/96, § 102, ECHR 2000-I).

(b) Application to the present case

81. The Court notes that there is no dispute between the parties that the ties between the applicant and her children constituted "family life" within the meaning of Article 8 of the Convention. The Court notes next that the Family Court's order of 25 October 2019 whereby C.K., then aged eight, and A.K., then aged seven, were to live with the applicant, and the order of 5 June 2020 whereby the children were to be surrendered to the applicant, remain unenforced. Accordingly, the Court must determine whether the national

authorities have taken all the necessary steps to facilitate the enforcement of those orders which they can reasonably have been expected to take in the circumstances of the case.

82. While the applicant's complaints concern the State's failure to secure her custody of the children as awarded by the Family Court in 2019, the Court cannot disregard, in the circumstances of the present case, the conduct of the competent national authorities and the various steps taken prior to that date as they had the same objective, namely, reuniting the applicant with her children. The Court will therefore take into consideration all relevant elements, such as the manner in which the court's orders of 2019 and 2020 were enforced and the authorities' actions throughout the custody proceedings, not only during the enforcement phase (see, for example, *Pisicã*, cited above, §§ 68-69, and *Milovanović*, cited above, § 122). For the same reasons, the Court will take into consideration the actions taken by the authorities following the lodging of the applicant's application with it.

83. The applicant first complained to the police about the father's attempts to alienate the children as early as July 2018 (see paragraphs 45, 67 and 71 above). On 30 October 2018 the Family Court requested that the SWS prepare a report on the family situation and, pending its preparation, it amended the order of 6 July 2018 to require the father to return the children to the applicant after exercising his contact rights, but to no avail. The applicant gradually lost all contact with her children. Even though reports by a clinical psychologist who met with the children and the parents were issued on 14 June 2019, it took the SWS another three months, until 25 September 2019, to prepare the relevant parental custody report. A month later, the Family Court awarded the applicant custody and care of her children. It then took the authorities almost five months to arrange the applicant's first meeting with her children on 13 March 2020. It is true that the authorities did not remain idle during that five-month period and took various preparatory steps to assist in the enforcement of the court orders (see paragraph 15 above). However, by that time the applicant had not seen her children for almost a year, during which period they were at the father's complete mercy, without psychological support.

84. Against this background, the Court notes that after the children's first evaluation of 14 June 2019, when it was confirmed that the father had alienated the children from their mother (see paragraph 12 above), it appears that there was no psychological follow-up for almost two years (see paragraph 30 above). That was despite the applicant complaining to the police that the father had been psychologically abusing the children (see paragraph 17 above); the police report of 15 June 2020 recommending an investigation into the offence of psychological violence by the father against the children (see paragraph 24 above); and the Ombudsman's recommendations in August 2020 that the children be reassessed by the MHS (see paragraph 67 above). It should also be noted that it was only after the

father had been imprisoned that the children resumed receiving psychological support (see paragraph 30 above). It is unknown for how long such support continued after the father's release. The Family Court gave instructions for the monitoring of the family by a special psychologist from the organisation "Hope for Children" in March 2022. The children subsequently resumed consultations with a psychologist, which were again terminated in January 2023 by C.K. and in September 2023 by A.K (see paragraph 41 above). It appears that the authorities did try to resume psychological counselling with the family (see paragraph 50 above) but according to the latest information provided to the Court all meetings with the psychologist were permanently discontinued in February 2024 due to the children's refusal to participate (see paragraph 56 above).

85. In addition, the MHS and SWS agreed, as early as June and September 2019 that it was in the children's best interests to immediately resume contact with the applicant in the father's absence, while the father's contact with the children should decrease (see paragraphs 12 and 13 above). Nonetheless, the Court notes that the majority of the applicant's meetings with her children took place at the father's place of residence, in his presence. Even after his imprisonment, the applicant continued to meet the children at the father's place of residence in his relatives' presence, in an environment that was not necessarily conducive for the restoration of her relationship with them. At some point in 2022 the father installed a camera in the living room to monitor the applicant's discussions with the children (see paragraph 42 above). Finally, on 7 July 2022, at the authorities' suggestion, the Family Court ordered that the applicant's contact with the children should take place at a neutral venue, in the father's absence. Once again, the father failed to comply (see paragraph 43 above). The Court finds it problematic that the suggestion that contact take place in such a manner was only made by the authorities, and ordered by the Family Court, at such a late stage, especially considering that the father had failed to abide by numerous previous recommendations (see, for example, paragraph 37 above). It should have been evident to the authorities by then that the father was not willing to comply with such instructions, nor did those instructions provide any incentive for him to alter his conduct.

86. In that connection, the Court notes that the applicant used every means at her disposal, such as complaints to the authorities, various applications to the domestic courts and proceedings for contempt of court to be reunited with her children. It appears that the burden was in large part placed on the applicant to constantly resort to time-consuming legal remedies to protect her rights even though the authorities had at their disposal a legal framework which allowed them to take more concrete action themselves. For example, the father was first imprisoned following the applicant's application to the Family Court. The police, who were also authorised by the law to institute criminal proceedings against the father, delayed in doing so, despite the

applicant's complaints to them starting as early as July 2018 because, according to the Ombudsman, they were unsure of the interpretation of the court's orders (see paragraph 65 above). This was despite the fact that, as early as 2015, guidelines had been issued confirming the tendency of the family courts to issue mandatory or prohibitory orders rather than regulatory ones (see paragraph 62 above). This is further evidenced by the Government's observations explaining that the police had treated the content of the supplementary order as coercive or mandatory following the dissemination of the Ombudsman's report to their office (see paragraph 74 above).

87. Moreover, even when the authorities eventually did bring a criminal case in the Nicosia District Court in 2020 (no. 600/2020), concerning the applicant's complaints for the period between 2018 and 2019, the court only issued its decision in 2023. The Government have not provided any explanation for that delay.

88. The Court further observes that even though the authorities first contemplated the possibility of assuming custody of the children on 15 June 2020 (see paragraph 24 above), as a means of reuniting the applicant with her children, and discussed that possibility again on 30 June 2022 (see paragraph 42 above), such action was only taken on 11 January 2023 (see paragraph 46 above). It appears that shortly after the transfer of custody to the Director of the SWS and the children's placement in a neutral environment, with the guidance of psychologists, A.K. moved in with the applicant (see paragraph 52 above). It is therefore likely that an earlier intervention might have been capable of creating the necessary conditions for executing the court orders in question.

89. The foregoing considerations are sufficient to enable the Court to conclude that the authorities did not act in a timely manner. The Court should clarify that this is not a case where the authorities failed to take any steps to assist the applicant in regaining custody of her children. The Court acknowledges that the authorities met with the parents and children on several occasions, accompanied the applicant to her meetings with the children, held multidisciplinary meetings in an attempt to coordinate their efforts, came up with contact schedules and plans, and kept the parents informed of their actions. Regrettably, however, as illustrated above, the authorities' reactions were either not timely, or they were entirely dependent on the father's willingness to co-operate despite his having repeatedly demonstrated that he had no such intention. While the Court is mindful of the fact that the authorities were met with strong opposition from the children, the Court cannot ignore the Nicosia District Court's findings that that opposition was largely due to the father's negative influence and interference (see paragraph 45 above).

90. The Court reiterates that the father's systematic obstruction of the authorities' efforts to reunite the children with the applicant did not absolve the authorities of their responsibility to do everything in their power to

facilitate such a reunion (see *Aneva and Others v. Bulgaria*, nos. 66997/13 and 2 others, § 114, 6 April 2017). Although the use of coercive measures should be limited, the use of sanctions must not be ruled out in the event of unlawful behaviour by the parent with whom the children live (see *Ignaccolo-Zenide*, cited above, § 106). The authorities ought therefore to have taken concrete and decisive measures, such as the ones taken in 2020, on 17 March 2022 and on 18 January 2023 (see paragraphs 40, 45, 46 and 48 above) limiting the father’s interference over the authorities’ actions and his influence over the children, at an earlier stage, when the enforcement of the domestic court orders would still have been possible (see for example, *Zoltán Németh v. Hungary*, no. 29436/05, § 50, 14 June 2011; *Prizzia v. Hungary*, no. 20255/12, § 46, 11 June 2013; and *Vyshnyakov v. Ukraine*, no. 25612/12, § 44, 24 July 2018).

91. In sum, the applicant did not receive effective protection of her right to respect for her family life.

92. There has accordingly been a violation of Article 8 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

93. 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

94. The applicant asked to be awarded compensation in respect of pecuniary and non-pecuniary damage but left it to the Court to determine the amount.

95. The Government argued that the Court should reject the applicant’s claims as she had not actually shown a causal link between the damages sought and the alleged violation, had failed to specify a sum, and had not submitted any evidence to prove that she had suffered pecuniary or non-pecuniary damage.

96. The Court notes that the applicant has not substantiated her claim in respect of pecuniary damage. The claim under this head must therefore be rejected.

97. The Court considers that the applicant has suffered non-pecuniary damage as a result of being without quality contact with her children, despite domestic decisions awarding her custody of them, to the extent that her custody rights have been *de facto* altered. This must have caused the applicant considerable distress. Accordingly, ruling on an equitable basis, the Court

awards the applicant 12,000 euros (EUR) in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

98. The applicant also claimed EUR 30,000 for the costs and expenses incurred before the domestic courts and for those incurred before the Court.

99. The Government contested the applicant's claims as unsubstantiated.

100. 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 were actually and necessarily incurred and are reasonable as to quantum. Rule 60 of the Rules of Court further requires that an applicant submit itemised particulars of all claims, together with any relevant supporting documents. The Court notes that the applicant has failed to provide itemised bills or invoices substantiating her claim (Rule 60 §§ 1 and 2). Regard being had to the documents in its possession and the above-mentioned criteria, the Court rejects the applicant's claim for costs and expenses.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 8 admissible;
2. *Holds* that there has been a violation of Article 8 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 12,000 (twelve thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

ZAVRIDOU v. CYPRUS JUDGMENT

Done in English, and notified in writing on 8 October 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Pere Pastor Vilanova
President