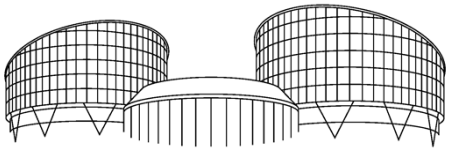

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF I.V. v. ESTONIA

(Application no. 37031/21)

Art 8 • Private life • Unsuccessful attempt by a Latvian national to obtain the annulment of an Estonian court decision by which his biological son was adopted by the husband of the mother • Domestic courts' failure to act with sufficient diligence in adoption proceedings • Applicant's pending paternity proceedings in Latvia, which Estonian courts were or ought to have been aware of, not taken into account • Rejection of applicant's annulment request solely on formal grounds • Principles deriving from Court's case-law on putative fathers challenging legal paternity of someone who recognised a child as their own also applicable to the question of whether an alleged biological father should be allowed to challenge the adoption of his alleged child by another person • Failure to identify and examine the particular case circumstances or assess rights and interests of individuals involved in either the adoption or annulment proceedings • Fair balance not struck

JUDGMENT

STRASBOURG

10 October 2023

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 I.V. v. Estonia,

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

Pere Pastor Vilanova*, President*,
Yonko Grozev,
Georgios A. Serghides,
Darian Pavli,
Peeter Roosma,
Ioannis Ktistakis,
Oddný Mjöll Arnardóttir*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 37031/21) against the Republic of Estonia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Latvian national, Mr I.V. ("the applicant"), on 19 July 2021;

the decision to give notice to the Estonian Government ("the Government") of the complaints under Articles 6 and 8 of the Convention concerning the conduct and outcome of adoption proceedings and subsequent proceedings for annulment of the adoption decision;

the indication by the Latvian Government that they did not wish to exercise their right to intervene in the proceedings in accordance with Article 36 § 1 of the Convention and Rule 44 § 1 of the Rules of Court;

the decision not to have the applicant's name disclosed;

the parties' observations;

Having deliberated in private on 19 September 2023,

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

INTRODUCTION

1. The applicant's son was born in 2006, but the applicant was never entered in the register of births as the boy's father. The case concerns the applicant's unsuccessful attempt to obtain the annulment of a court decision by which his biological son was adopted by another man.

THE FACTS

2. The applicant was born in 1965 and lives in Riga. He was represented by Mr K. Oļehnovičs, a lawyer practising in Riga.

3. The Government were initially represented by their Agent, Ms M. Kuurberg, Representative of Estonia to the European Court of Human Rights, and subsequently by Mr T. Kolk, her successor in that office.

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

I. GENERAL BACKGROUND OF THE CASE

5. The applicant had a relationship with A.Z. In spring 2006 A.Z. gave birth to a son, A.E.Z. On an unspecified date the applicant suggested to A.Z. that they officially register the birth and record his paternity in the register of births, but she refused.

6. From 13 January 2007 onwards A.Z. no longer permitted the applicant to meet the child.

7. On 18 January 2007 the applicant found out that on the previous day a certain A.L. had voluntarily acknowledged paternity and had been registered as A.E.Z.'s father. According to the applicant, he did not know who A.L. was.

II. PROCEEDINGS FOR RECOGNITION AND REGISTRATION OF PATERNITY IN LATVIA

8. On 20 February 2007 the applicant lodged a claim with the Riga City Zemgale District Court (later named the Pardaugava District Court) in Latvia, challenging A.L.'s paternity. He asked the court to remove A.L.'s name from the register of births and to record him as the child's father instead (hereinafter "the paternity proceedings").

9. During the proceedings, the court ordered DNA tests. On 13 October 2010 the laboratory issued a report, finding that the probability that the applicant was A.E.Z.'s father was 99.9999141% and that it was impossible for A.L. to be the father.

10. On 25 November 2010 the court dismissed the applicant's claim. It held that, even though the applicant was the child's biological father, the Civil Law did not give him the right to contest a voluntary acknowledgement of paternity. That judgment was upheld by the Riga Regional Court on 26 May 2011. The applicant lodged an appeal on points of law.

11. On 16 May 2012 the Senate of the Supreme Court decided that the appellate court had erred in deciding that the applicant lacked standing to contest the acknowledgement of paternity. However, considering that A.E.Z. was living with his mother and A.L. as a family, and taking into account the child's best interests, it considered that the interference with the applicant's rights was proportionate and that his claim should be dismissed.

12. On 26 November 2012 the applicant requested the Supreme Court to reopen the proceedings on the grounds of newly discovered facts.

13. On 12 June 2013 the Senate of the Supreme Court examined the applicant's request on the merits and upheld it. It noted that there was no documentary evidence to substantiate the claim that A.L. had been living with A.E.Z. The case was sent to the Riga City Zemgale District Court for fresh examination.

14. In the subsequent proceedings, the applicant supplemented his initial claim with a request that the court put in place contact arrangements for him and his son and grant interim measures in that regard.

15. On 6 June 2016 the Riga City Zemgale District Court granted an interim measure, determining the applicant`s contact rights with the child. In that decision, the court noted that the DNA results were sufficient to consider him the child's biological father. On 17 January 2018 the court changed those contact rights at the applicant's request.

16. On 4 April 2017 A.Z. informed the Latvian courts that on 13 January 2017 she had married H.V. and that they and A.E.Z. were living in Estonia.

17. On 3 January 2018 the Latvian Guardianship Institution submitted a judicial cooperation request to the Harju County Court in Estonia for the collection of evidence. The applicant was referred to as A.E.Z.'s biological father in that document. It appears from the background information and the questions posed in the request that the proceedings pending in Latvia concerned both the establishment of the applicant's paternity and his contact rights with A.E.Z.

18. In accordance with the cooperation request the Harju County Court, sitting as a single judge, obtained opinions from the local guardianship authority and A.E.Z.'s guardian *ad litem* (*määratud esindaja*). Both concluded, after talking to A.E.Z., that he did not want to have any contact with the applicant and that forcing him to do so would not be in his best interests. In connection with the same judicial cooperation request, on 22 March 2018 the Harju County Court ordered A.Z., A.L. and H.V. to undergo a psychological assessment. It appears from the case file that the Harju County Court responded to the Latvian Guardianship Institution's request on 9 April 2018.

19. On 8 May 2018 A.Z. informed the Latvian courts that A.E.Z. had been adopted by H.V. (see paragraph 25 below).

20. On 5 July and 5 December 2019 respectively the Riga City Pardaugava District Court and the Riga Regional Court dismissed the applicant's claim. He appealed.

21. On 14 July 2020 the Senate of the Supreme Court allowed the applicant's appeal on points of law. It quashed the Riga Regional Court's judgment and remitted the case to the same court. The Senate noted that it could be concluded from the evidence (and that the parties did not dispute) that the applicant was A.E.Z.'s biological father and that at the time of the registration of A.E.Z.'s birth A.Z. and A.L. had been aware that the latter was not the child's biological father. The court also noted that the lower courts had not taken due account of the reasons why the applicant did not have a relationship with A.E.Z. and of the fact that that situation was not the applicant's fault. Moreover, while the lower courts had considered that allowing the applicant's claim would not be in the best interests of the child, they had failed to properly identify the child's best interests and to weigh

those interests against the interests of the other parties to the proceedings, including those of the applicant as the biological father. The Senate observed that A.E.Z. had meanwhile been adopted in Estonia and that the applicant had applied for annulment of the adoption decision. In that connection, it noted that the judgment in the Latvian proceedings concerning paternity might be decisive in determining whether the applicant had standing in the annulment proceedings in the Estonian courts.

22. It appears that the Riga Regional Court submitted a second judicial cooperation request to the Harju County Court on 6 October 2020, asking its Estonian counterpart to organise a video conference so that it could hear A.E.Z. directly. On 4 November 2020 the Harju County Court cancelled the video conference as the child had refused to participate and his parents had refused to force him.

23. On 4 February 2021 the Riga Regional Court removed A.L.'s name from the register of births and registered the applicant as A.E.Z.'s father from his birth until 25 April 2018, the date of his adoption by H.V. That judgment entered into force on 20 April 2021.

III. ADOPTION PROCEEDINGS IN ESTONIA

24. On 28 March 2018 H.V. lodged an application with the Harju County Court to adopt A.E.Z. (hereinafter "the adoption proceedings"). He attached the Riga City Zemgale District Court's decision of 6 June 2016 (see paragraph 15 above) and a report prepared by the Estonian Social Insurance Board on the family's situation. According to that report, A.L. had admitted that he was not A.E.Z.'s biological father despite being registered in the register of births. A.E.Z. knew who his biological father was, but had had no contact with him. The report also referred to the court proceedings in Latvia, noting that, according to A.Z., the applicant had been unsuccessful in his paternity claims, but that proceedings concerning contact rights were pending. The Social Insurance Board supported the adoption of A.E.Z. by H.V.

25. On 25 April 2018 the Harju County Court, sitting as a single judge (a different judge to the one involved in the judicial cooperation proceedings, see paragraph 18 above) allowed the application lodged by H.V. to adopt A.E.Z. The court noted that it had heard A.E.Z., A.Z., A.L. and H.V., who had all consented to the adoption. The court also noted that it had interviewed H.V. and collected background information on him. Lastly, the court noted that H.V. was married to A.Z., had been raising A.E.Z. for one and half years and that he and A.E.Z. had developed a parent-child relationship. That decision was not amenable to appeal.

IV. PROCEEDINGS FOR ANNULMENT OF THE ADOPTION DECISION

26. After learning of the adoption decision of 25 April 2018, on 31 July 2018 the applicant lodged an application with the Harju County Court seeking its annulment (hereinafter "the annulment proceedings"). He asserted that both parents' approval had been required for A.E.Z.'s adoption to be valid, but that he, as the biological father, had not given his consent. He also asked for the annulment proceedings to be suspended until the Latvian courts rendered their final decision in the paternity proceedings.

27. On 31 October 2019 the Harju County Court decided to stay the annulment proceedings pending the outcome of the court proceedings in Latvia. However, the Tallinn Court of Appeal subsequently quashed that decision and dismissed the applicant's request to suspend the proceedings. The court reasoned that A.L., as A.E.Z.'s legal father (that is to say the person who had been entered in the register as such) had given his consent to the adoption and that there had been no need to obtain consent from a "true father whose legal status was floating". It added that even if the Latvian courts were to recognise the applicant as the father of the child, that decision in itself would not render A.L.'s consent for the adoption – given at the time he was registered as the child's father – invalid. The court added that awaiting the outcome of the court proceedings in Latvia was not in the child's interests, given that they had already lasted for a long time. The appellate court's decision was not amenable to appeal.

28. On 28 January 2020 the Harju County Court, after hearing the opinions of A.E.Z.'s guardian *ad litem*, A.Z., H.V. and the Social Insurance Board, dismissed the applicant's application. It noted that at the time the adoption decision had been taken, A.L. had been A.E.Z.'s lawful father according to the birth certificate. As both he and A.Z. had given their consent to the adoption, the statutory requirement to have both parents' approval had been met. The applicant's claim that A.Z., A.L. and H.V. had acted in bad faith could not be proven and was not grounds for annulling the adoption decision.

29. Following an appeal by the applicant, on 1 September 2020 the Tallinn Court of Appeal upheld the first-instance court's decision and dismissed the applicant's request to suspend the proceedings. The court noted that the paternity proceedings in the Latvian courts had already lasted for years and held that the suspension of the proceedings should not lead to a situation where the application remained unexamined for an indefinite period of time. It noted that the judgment of the Senate of the Latvian Supreme Court dated 14 July 2020 (see paragraph 21 above) was not a final decision by which the applicant's paternity had been legally recognised. The applicant lodged an appeal on points of law with the Supreme Court.

30. On 10 February 2021 the Supreme Court dismissed the applicant's appeal. However, it quashed the judgments of the lower courts and decided that the applicant's application for annulment should be rejected.

31. The Supreme Court explained that, under domestic law, the applicant had not been the person (the father) entitled to challenge the adoption decision, as the Latvian courts had not yet made a final decision recognising his paternity. Therefore, the lower courts had mistakenly examined his application for annulment on the merits when it should have been rejected at the outset.

32. The Supreme Court also explained that it could not be ruled out that the applicant's paternity would be recognised as a result of the court proceedings in Latvia. However, this did not mean that his potential subsequent application for annulment of the adoption decision would automatically have to be allowed. Even if the applicant's paternity was later recognised, that would not retroactively invalidate the consent of the legal father (that is to say the person registered as the child's father at the time of the adoption) to the adoption.

33. The Supreme Court added that if a court learned during adoption proceedings that a child's paternity was already being challenged in another set of court proceedings, it would normally have to stay them, unless awaiting the outcome of the paternity dispute was not in the best interests of the child. If, however, it was only revealed after the adoption decision had been taken that the person who had been registered as the child's father and who had consented to the adoption was not actually the child's biological father, the person who had been identified as the child's biological father would not have the right to apply for annulment of the adoption decision. Accordingly, if the applicant lodged another application for annulment of the adoption decision, the courts would have to consider rejecting it in accordance with Article 371 § 2 (2) of the Code of Civil Procedure, as it would not be (legally) possible to achieve his objective in such proceedings.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. RELEVANT DOMESTIC LAW

A. The Constitution of the Republic of Estonia

34. Article 15 of the Constitution of the Republic of Estonia (*Eesti Vabariigi põhiseadus*) provides as follows:

> "Everyone whose rights and freedoms are violated has the right of recourse to the courts. Everyone has the right, while his or her case is before the court, to request that any relevant law, other legislation or procedure be declared unconstitutional.

The courts shall observe the Constitution and shall declare unconstitutional any law, other legislation or procedure which violates the rights and freedoms provided in the Constitution or which is otherwise in conflict with the Constitution."

35. Article 152 provides:

"In court proceedings, the court shall not apply any law or other legislation that is in conflict with the Constitution.

The Supreme Court shall declare invalid any law or other legislation that is in conflict with the provisions and spirit of the Constitution."

B. The Code of Civil Procedure

36. Article 356 of the Code of Civil Procedure (*tsiviilkohtumenetluse seadustik*) concerns the suspension of court proceedings due to other pending court proceedings. Article 356 § 1 provides:

"Where the judgment fully or in part depends on the existence or absence of a legal relationship which is the subject matter of other judicial proceedings or the existence of which must be established in administrative proceedings or another type of judicial proceedings, the court may suspend the proceedings until the other proceedings are concluded."

37. Article 371 § 2 (2) provides that a court can reject an application if it has not been lodged to protect a legally protected right or interest of the claimant, has not been lodged for a purpose for which the State should afford legal protection, or if the objective sought by the claimant cannot be achieved by the application.

38. Under Article 426 § 1, when a court rejects an application, it is deemed not to have been dealt with by the court and the claimant may bring proceedings against the same defendant on the same grounds in a dispute concerning the same subject matter.

39. Article 564 concerns applications for adoption. Article 564 §§ 1 and 2 read as follows:

"(1) The court shall decide on adoption on the basis of the application of a person seeking to adopt.

(2) The application shall state the name of the person to be adopted, the year, month and day of his or her birth, as well as any known details of his or her parents ..."

40. Article 568 § 2 provides that an adoption decision enters into force upon service on the adoptive parent and cannot be appealed against or amended.

41. Article 569 concerns the annulment of adoption decisions and provides as follows:

"(1) In proceedings for annulment of adoption, the court shall hear the Social Insurance Board. If possible, the adoptive parent shall also be heard.

(2) In proceedings for annulment of adoption, the court shall appoint a representative for the adopted child.

(3) A decision on annulment of adoption shall enter into force and becomes enforceable if an appeal is no longer possible."

C. The Family Law Act

42. Section 152(1) of the Family Law Act (*perekonnaseadus*) provides that a child may only be adopted with the consent of his or her parents.

43. Section 166(1) provides that a court can annul an adoption if it took place without an application by the adoptive parent or the consent of the child or one of the parents.

44. Section 167(5) provides that an adoption will not be annulled if it seriously compromises the interests of a child, unless annulment is required due to the compelling interests of an adoptive parent.

45. Section 168(1) states that an application to declare an adoption invalid can only be lodged by a person without whose application or consent the child was adopted.

II. RELEVANT DOMESTIC PRACTICE

46. The Supreme Court in its ruling of 7 December 2009 in constitutional review case no. 3-4-1-22-09 explained that according to Article 15 of the Constitution, a person had the right to request that any relevant law, other legislation or procedure be declared unconstitutional "while his or her case was before the court". Arising from that, a person could request the initiation of "specific constitutional review" (*konkreetne normikontroll*) proceedings in order for the courts to assess the constitutionality of any provision regulating court proceedings, including a limitation of the right to apply to a court. Such a request had to be made in the proceedings in which the contested provision had to be applied. Pursuant to Article 15 § 2 and Article 152 § 1 of the Constitution, the courts had to, either at the request of a person or on their own initiative, declare any procedural provision, the application of which would result in a violation of the person's fundamental rights, unconstitutional to the relevant extent. On the basis of such a decision, constitutional review proceedings in the Supreme Court were commenced. Thus, in the framework of adjudicating a specific case, including in assessing the admissibility of complaints submitted to it, courts had extensive possibilities to verify the constitutionality of the relevant procedural provisions, eliminate all unconstitutional procedural limitations and ensure effective judicial protection of an individual's rights.

47. The Supreme Court noted that its case-law included a number of cases where the domestic courts, in the process of accepting a case for examination or in the course of the proceedings, had declared unconstitutional and set aside procedural provisions restricting a person's right to effective legal protection (for example the Supreme Court Constitutional Review Chamber's judgment of 25 March 2004 in case no. 3-4-1-1-043 concerning a provision

in the Code of Misdemeanour Procedure which did not allow an appeal; a judgment of 9 April 2008 in case no. 3-4-1-20-074 concerning a provision in the Code of Civil Procedure which did not allow an appeal; and the Supreme Court's *en banc* judgment of 16 May 2008 in case no. 3-1-1-88-075 concerning a provision in the Code of Misdemeanour Procedure which did not allow an appeal). The Supreme Court stressed that the right and obligation to assess the constitutionality of provisions to be applied in a specific case extended to courts at all levels of jurisdiction, not only the Supreme Court.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 6 AND 8 OF THE CONVENTION

48. The applicant complained under Articles 6 and 8 of the Convention about the conduct and outcome of the adoption proceedings and proceedings for annulment of the adoption decision.

49. He argued that the adoption, which had taken place at the time when the paternity proceedings in Latvia had still been pending, should never have proceeded without his consent as the biological father. Furthermore, his role as the biological father should not have been ignored in the subsequent annulment proceedings. According to him, the domestic courts had not taken into account the circumstances as a whole. They had failed to balance the various interests, including his interest in maintaining contact with his biological son. The applicant submitted that despite the eventual ruling of the Latvian courts confirming his biological paternity, according to the Estonian Supreme Court's decision he still could not contest the adoption decision.

50. The Court reiterates that it is the master of the characterisation to be given in law to the facts of the case, and that it has previously held that while Article 8 of the Convention contains no explicit procedural requirements, the decision-making process leading to measures of interference must be fair and such as to afford due respect to the interests safeguarded by that provision. It considers that the complaint raised by the applicant under Article 6 of the Convention is closely linked to his complaint under Article 8 and may accordingly be examined as part of the latter complaint.

51. Article 8 of the Convention 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

1. The parties' arguments

52. The Government raised several preliminary objections as to the admissibility of the applicant's complaint.

53. Firstly, they submitted that an application for annulment of the adoption decision could not be considered an effective remedy. Since the adoption had taken place in Estonia, Estonian legislation had been applicable to the adoption proceedings and subsequent annulment proceedings. Under the relevant provision of the Family Law Act, those entitled to lodge an application for annulment were the child's parents (see paragraphs 43 and 45 above). However, at the time of lodging his application for annulment, the Latvian courts had not (yet) recognised the applicant's paternity and he had not been entered into the relevant register as A.E.Z.'s father. Instead, A.L. had been recognised as his father. The applicant had not requested the Latvian courts to apply interim measures, for example, to restrict A.L.'s custody rights to the effect that he could not consent to the child moving abroad or being adopted by someone else. In such circumstances, it should have been clear to the applicant, who had been represented by a lawyer, that the remedy he had tried to make use of had not been available for him at that time. Since the remedy had had no prospect of success for him at the time that he had tried to make use of it, it could not be considered an effective remedy.

54. However, in accordance with Article 426 § 1 of the Code of Civil Procedure (see paragraph 38 above) the rejection of his application had not precluded him from lodging a new one with the Estonian courts after the Latvian courts had recognised his paternity by the final decision which had entered into force on 20 April 2021. In this regard, the Government noted that the Supreme Court's *obiter dictum* remark in its judgment of 10 February 2021 about the domestic courts having to consider the grounds for rejecting a possible new application by the applicant for annulment of the adoption decision (see paragraph 33 above) would not have a binding effect if the applicant indeed lodged a new application.

55. Moreover, if the applicant had lodged a new application with the domestic courts, he could have requested that the legal provision restricting his access to court be declared unconstitutional (see paragraphs 34-35 and 46-47 above). In contrast, the Government asserted that the Estonian courts had not had to set aside the provisions restricting the applicant's access to court and initiate constitutional review proceedings of their own motion during the annulment proceedings that had ended on 10 February 2021. At that time, the applicant's status as a father had not yet been confirmed by the Latvian courts.

56. The Government emphasised that although the remarkably long proceedings before the Latvian courts could have indeed reduced the applicant's prospects of success had he lodged a new application for annulment of the adoption decision with the Estonian courts after the

recognition of his paternity, this could not be blamed on the Estonian legal system.

57. In the alternative, the Government submitted that should the Court reject their argument concerning the existence of an effective remedy for the applicant after his paternity had been recognised by the Latvian courts, the present application should be considered to have been lodged outside the six-month lime-limit. Given that the applicant had become aware of the adoption decision by July 2018 at the latest, and given that – at that time – no effective domestic remedies had existed for him to challenge that, his time-limit for lodging an application with the Court had started running in summer 2018. He had lodged his application with the Court some three years later. The fact that the applicant had kept pursuing a domestic remedy which had had no prospect of success in his circumstances could not alter that finding.

58. The Government also submitted that Article 8 was not applicable to the facts of the present case. The applicant's link with A.E.Z. was not sufficient to bring his situation within the scope of family or private life in the sense of that provision. He had never lived with the child and had only asked for (temporary) contact arrangements to be put in place in 2013 or 2014. In any event, the child had refused to meet with the applicant even though he had been aware that he was his biological father. The DNA test proving that the applicant was the biological father could not replace the emotional ties needed to make up a "family life" in the sense of the Convention. As to private life, the Government held that the applicant could only rely on that ground against Latvia as regards the paternity proceedings which – owing to their excessive duration – had made the relationship between him and his son non-existent. As matters stood, the applicant unfortunately had no relationship with his son that could qualify as "private life" for the purposes of the proceedings against Estonia.

59. The applicant submitted no arguments as to the admissibility of his complaints.

2. The Court's assessment

(a) Exhaustion of domestic remedies

60. Regarding the Government's argument about the non-exhaustion of domestic remedies, the Court reiterates that the obligation to exhaust domestic remedies requires an applicant to make normal use of remedies which are available and sufficient in respect of his or her Convention grievances (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 71, 25 March 2014). When making use of domestic remedies, applicants must comply with the requirements and time-limits laid down in domestic law (see *Vučković and Others*, cited above, § 72).

61. The Court has also frequently stressed the need to apply the exhaustion rule with some degree of flexibility and without excessive formalism. It has further recognised that the rule of exhaustion is neither absolute nor capable of being applied automatically; in reviewing whether it has been observed it is essential to have regard to the particular circumstances of each individual case (see *Gherghina v. Romania* (dec.) [GC], no. 42219/07, § 87, 9 July 2015).

62. The crux of the Government's non-exhaustion argument is that the remedy that the applicant made use of, namely an application for annulment of the adoption decision, could not be considered an effective remedy at the time that he had recourse to it, owing to the fact that paternity proceedings were still pending in the Latvian courts.

63. In the particular circumstances of the present case, the Court cannot agree with the Government's position. It could not have been clear to the applicant from the outset that he had no standing – at least not at that time – to challenge the adoption decision. In fact, both the first-instance court and appellate court dismissed his application for annulment on the merits rather than rejecting it at the outset for lack of standing. In that connection, it can be pointed out that the Harju County Court heard opinions from A.E.Z.'s guardian *ad litem*, A.Z., H.V. and the Social Insurance Board and considered the applicant's argument of bad faith on the part of A.Z., A.L. and H.V. It even granted an interim measure in the applicant's favour (which was, however, later quashed by the Tallinn Court of Appeal, see paragraphs 27-29 above). It was only the Supreme Court which eventually quashed the lower courts' judgments and rejected the applicant's application for lack of standing. The Court does not discern how the alleged possibility of applying for an interim measure in Latvia against A.L. (as suggested by the Government, see paragraph 53 above) would have altered the applicant's situation vis-à-vis his proceedings before the Estonian courts.

64. Furthermore, the Court cannot help but notice the rather exceptional nature of the factual background of the present case. By the time A.E.Z. was adopted in Estonia in 2018, the proceedings in Latvia concerning the applicant's paternity had already lasted for over ten years.

65. The Court finds that in this specific context, where the relentless passing of time was working against him, the applicant cannot be blamed for having attempted to make use of the only legal remedy that Estonian law seemed to offer – proceedings for annulment of the adoption decision – soon after he became aware of the decision. Since it could not be predicted at that stage how much longer the paternity proceedings would last in Latvia, the applicant could have realistically feared that awaiting their outcome would not only diminish his chances of success on the merits in the annulment proceedings, but could perhaps even render his application time-barred.

66. In the light of the above reasoning, the Court considers that from a Convention perspective the applicant can be considered to have exhausted

domestic remedies. While it does not consider it necessary to establish whether he could have lodged a new application for annulment of the adoption decision after the decision upholding his paternity claim became final in Latvia in April 2021, it may nonetheless be inferred from the *obiter dictum* explanations given by the Supreme Court that a new application would not have had much prospect of success (see paragraph 33 above).

67. The Court accordingly dismisses the Government's preliminary objections concerning the applicant's failure to exhaust domestic remedies.

(b) Compliance with the six-month time-limit

68. The Court notes that the applicant's complaint concerns both the adoption proceedings, in which the Harju County Court made a decision on 25 April 2018 (see paragraph 25 above), and the proceedings for annulment of the adoption decision, in which the Supreme Court rendered a final decision on 10 February 2021 (see paragraph 30 above). The applicant lodged his application with the Court on 19 July 2021, within six months from the end of the annulment proceedings, but more than three years after the end of the adoption proceedings.

69. As an alternative to the non-exhaustion argument, the Government submitted that the entirety of the applicant's complaint had been submitted out of time. That argument was based on the premise that there had been no effective remedies available to him (see paragraph 57 above).

70. As the Court has found above that the applicant exhausted what he could have legitimately thought to have been an effective remedy, it dismisses the Government's objection that his entire complaint was submitted out of time.

71. Additionally, having jurisdiction to apply the six-month rule of its own motion (see *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, § 85, ECHR 2014 (extracts)), the Court considers it appropriate to address the question whether the part of the applicant's complaint solely concerning the adoption proceedings was submitted within the allowed time-limit.

72. The Court shares the applicant's view that the two sets of proceedings – adoption and annulment – were the combined source of the violation of his rights. It also notes that the adoption decision was not amenable to appeal, but that the applicant commenced proceedings for its annulment as soon as he learned of it. He subsequently lodged his application with the Court within six months from 10 February 2021, when the Supreme Court dismissed his appeal in the annulment proceedings. In the circumstances, the Court considers that the complaint was submitted in time in respect of the alleged violation arising from both sets of proceedings.

(c) Applicability of Article 8 of the Convention

73. The Court reiterates that the notion of "family life" under Article 8 of the Convention is not confined to marriage-based relationships and may encompass other *de facto* "family" ties where the parties are living together out of wedlock. It has further considered that intended family life may, exceptionally, fall within the ambit of Article 8, notably in cases where the fact that family life has not yet fully been established is not attributable to the applicant. In particular, where the circumstances warrant it, "family life" must extend to the potential relationship which may develop between a child born out of wedlock and the biological father. Relevant factors which may determine the real existence in practice of close personal ties in these cases include the nature of the relationship between the natural parents and a demonstrable interest in and commitment by the father to the child both before and after the birth (see *Ahrens v. Germany*, no. 45071/09, § 58, 22 March 2012, and the cases cited therein, and *K.A.B. v. Spain*, no. 59819/08, §§ 88-89, 10 April 2012).

74. However, in a number of cases concerning the establishment or contestation of paternity, the Court – while not ruling out that there might also be a sufficient basis for the existence of "family life" – has in any event confirmed that such proceedings concern a man's private life under Article 8, which encompasses important aspects of one's personal identity (see *Koychev v. Bulgaria*, no. 32495/15, § 44, 13 October 2020; *Krisztián Barnabás Tóth v. Hungary*, no. 48494/06, § 28, 12 February 2013; *K.A.B. v. Spain*, cited above, § 94; and *Kautzor v. Germany*, no. 23338/09, § 63, 22 March 2012; see also, in the context of adoption of an adult, Advisory opinion on the procedural status and rights of a biological parent in proceedings for the adoption of an adult, request no. P16-2022-001, Supreme Court of Finland, §§ 53 and 55, 13 April 2023).

75. The Court does not discern any reason to hold differently in the present case, which concerns a biological father's attempt to contest the adoption of his son by another man. Accordingly, the decision to allow A.E.Z.'s adoption in Estonia and subsequent rejection of the applicant's claim in the annulment proceedings thus fall to be examined in the context of his right to respect for his private life.

76. It follows that Article 8 of the Convention is applicable.

(d) Conclusion as to admissibility

77. Having dismissed the Government's preliminary objections, the Court notes that the applicant's complaint 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. The parties' arguments

78. The applicant submitted that the Government had not justified why his rights as the child's biological father were less important than those of an adoptive parent. He asserted that his rights should not have been ignored in the adoption proceedings and subsequent annulment proceedings. Even though the Latvian courts had recognised his paternity, he could not exercise any rights as the child's father due to his son having meanwhile been adopted in Estonia.

79. The Government argued that even if there had been an interference with the applicant's rights under Article 8 § 1 of the Convention, those rights had not been violated.

80. They submitted that the applicant had not had the right to be involved in the adoption proceedings in Estonia as, at the time, he had not been legally recognised as A.E.Z.'s father.

81. The Government further noted that in the adoption proceedings, H.V. had submitted documents to the Estonian courts indicating that there were contact proceedings pending before the Latvian courts concerning contact arrangements between the applicant and A.E.Z. and that the applicant's paternity claim had been unsuccessful (see paragraph 24 above). On the basis of this information, the Estonian courts had had no reason to suspend the adoption proceedings and ask for further information from the Latvian courts. The outcome of the contact proceedings could not have affected the Harju County Court's adoption decision. The evidence before that court in the adoption proceedings indicated that A.L. had had the capacity to consent to the adoption and that it had been in A.E.Z.'s interests to be adopted by H.V.

82. Turning to the annulment proceedings, the Government submitted that although the applicant had not had *locus standi* to lodge the application for annulment, he had nevertheless been able to put forward his arguments and evidence to the courts and had, in that sense, been "heard". In those proceedings, the applicant had submitted information to the Estonian courts about the paternity proceedings pending in Latvia. On the basis of this information, it had been clear that at the relevant time his paternity had not been recognised by the Latvian courts. There had been no need for the Estonian courts to request further information from the Latvian courts on that matter. The applicant had used the procedural opportunity to request the suspension of the annulment proceedings. However, the Tallinn Court of Appeal had explained that the possible outcome of the proceedings in Latvia could not affect the validity of the consent that A.L. had given to the adoption and that awaiting the outcome of the proceedings in Latvia was not in A.E.Z.'s interests (see paragraph 27 above). Moreover, the Tallinn Court of Appeal had taken into consideration that the paternity proceedings in the Latvian courts had already lasted for years (see paragraph 29 above).

83. Lastly, the Government argued that even if the applicant had had standing to lodge the application for annulment of the adoption decision, there would not have been compelling reasons to justify its annulment. The best interests of A.E.Z. spoke against that. The Government noted that by the time the adoption had taken place, A.E.Z. had already been approximately 12 years old and living with his mother and H.V. for about one and a half years. A.E.Z. had supported his being adopted by H.V. and expressed an unwillingness to have contact with his biological father, the applicant. Annulment of the adoption decision would have severely undermined A.E.Z.'s feelings of security and hindered the stability of his family life.

2. The Court's assessment

(a) General principles

84. The Court reiterates that the essential object of Article 8 is to protect the individual against arbitrary action by the public authorities. There may in addition be positive obligations inherent in an effective "respect" for family or private life. However, the boundaries between the State's positive and negative obligations under this provision do not lend themselves to precise definition. The applicable principles are, nonetheless, similar. In both contexts, when deciding whether or not there has been compliance with Article 8 of the Convention, the Court must determine whether, on the facts of the case, a fair balance was struck by the State between the competing rights and interests at stake; and in both contexts the State enjoys a certain margin of appreciation (see *K.A.B. v. Spain*, cited above, § 95; *Backlund v. Finland*, no. 36498/05, §§ 46 and 49, 6 July 2010; *Różański v. Poland*, no. 55339/00, §§ 60-61, 18 May 2006; and *Keegan v. Ireland*, 26 May 1994, § 49, Series A no. 290). Apart from weighing the interests of the individual *vis-à-vis* the general interest of the community as a whole, a balancing exercise is also required with regard to competing private interests (see *Backlund*, cited above, § 46).

85. In the context of both negative and positive obligations, the Court has to consider whether, in the light of the case as a whole, the reasons given by the competent domestic authorities to justify their decisions were "relevant and sufficient" for the purposes of Article 8 § 2 of the Convention. To that end, it must ascertain whether the domestic courts conducted an in-depth examination of the entire family situation and a whole series of factors, particularly factors of a factual, emotional, psychological, material and medical nature, and made a balanced and reasonable assessment of the respective interests of each person, with a constant concern for determining what the best solution would be for the child (see *Uzbyakov v. Russia*, no. 71160/13, § 105, 5 May 2020).

86. The choice of the means employed to secure compliance with Article 8 in the sphere of the relations of individuals between themselves is in

principle a matter that falls within the Contracting States' margin of appreciation. There are different ways of ensuring "respect for private life", and the nature of the State's obligation will depend on the particular aspect of private life that is at issue. The width of the margin of appreciation will not only depend on the specific right or rights which are concerned, but also on the nature of what is at stake for the applicant (see *Kautzor*, cited above, § 65). Where a particularly important facet of an individual's existence or identity is at stake, the margin allowed to the State will normally be restricted (see *Ahrens*, cited above, § 68).

87. The Court reiterates that its task is not to substitute itself for the competent domestic authorities in regulating paternity disputes at the national level, but rather to review under the Convention the decisions that those authorities have taken in the exercise of their power of appreciation (see *Różański*, cited above, § 62).

(b) Application of these principles to the present case

88. The Court takes note of the particular procedural difficulties that the applicant had to face in seeking to establish his legal paternity. While the proceedings for recognition of his legal paternity were pending before the Latvian courts, A.E.Z. was adopted in Estonia by H.V. without the applicant's knowledge. His subsequent attempt to have the adoption decision annulled was unsuccessful. He was not found to have standing as he could not be seen as a (legally recognised) "father" under Estonian law. Subsequently, although the Latvian courts in 2021 eventually allowed his claim to be recognised as A.E.Z.'s father, the effects of that decision were limited in time, as his legal paternity was acknowledged only until the date that A.E.Z. had been adopted in Estonia.

89. The present case concerns complaints lodged against Estonia, and thus only the two sets of proceedings – adoption and annulment – that took place in Estonia. The conduct of the proceedings before the Latvian courts will be taken into account only in so far as to estimate whether and to what extent the Estonian courts were or should have been aware of them and should have taken them into account in their decision-making.

90. As noted above, the applicant viewed the adoption proceedings and subsequent annulment proceedings as the combined source of the violation of his rights. He placed emphasis on the argument that his rights had been entirely ignored in both of those sets of proceedings and that the domestic courts had failed to carry out a balancing exercise that would have taken into account the entirety of the facts of the case and involved a fair balancing of all the various interests at stake, including his as the biological father.

91. Turning to the analysis of the applicant's complaint, the Court does not find it necessary to establish definitively whether in the present case the impugned adoption and annulment proceedings and the decisions rendered therein constituted an interference with the applicant's private life or whether

it should rather be seen from the angle of the State's alleged failure to comply with its positive obligations. In any event, the Estonian authorities had to strike a fair balance between the competing interests at stake, including the interests of the applicant and those of his son.

92. The Court emphasises that in the present case it is not called upon to determine whether the approval of H.V.'s application to adopt A.E.Z. was justified as such or whether it was justified not to annul the adoption decision. Nor is it the Court's task to decide, in the abstract, about the compliance with Article 8 of the Convention of legislation which does not allow alleged biological parents, who for one reason or another are not recognised as legal parents, to participate in adoption proceedings or to bring proceedings to contest adoption decisions. Instead, the Court's role is to determine whether the procedures followed were in compliance with the requirements of Article 8 and whether the reasons provided by the domestic courts were relevant and sufficient in the context of the case before them (compare *A.K. and L. v. Croatia*, no. 37956/11, § 65 and 70, 8 January 2013).

93. In carrying out this role, the Court considers it important to analyse, firstly, whether at the time of adoption the Estonian court knew or ought to have known about the applicant's paternity proceedings pending in Latvia and whether it should have taken the subject matter of those proceedings into account when deciding on the adoption of A.E.Z. by H.V. Subsequently, the Court will assess whether the various interests involved were identified and considered in the annulment proceedings and whether the reasons provided when rejecting the applicant's application for annulment could be considered relevant and sufficient given the circumstances of the case.

(i) Considerations related to the adoption proceedings

94. The Court notes that both A.Z. and A.L., who were registered as A.E.Z.'s parents in the register of births, gave their consent to A.E.Z. being adopted by H.V.

95. In this connection, it does not appear unreasonable at the outset that the domestic court called upon to decide on a child's adoption proceeds from the presumption that the two people recorded as the child's parents in the relevant register are indeed such. It would be excessive to expect the domestic courts to assess, without there being any reason to doubt the veracity of the information provided, whether anyone else could or should be considered the child's parent for the purpose of giving their consent to the adoption.

96. Yet, in the present case it must have been clear to the Harju County Court that A.L. was not A.E.Z.'s biological father. This was indicated in the Estonian Social Insurance Board's report attached to H.V.'s adoption application (see paragraph 24 above).

97. In the Court's view, the fact that the legal father (namely the person registered as such) is not the child's biological father cannot automatically be taken to mean that the domestic court deciding on an adoption should seek to

also involve the biological father in the proceedings. There may well be valid reasons why he is not regarded as the legal father having the right to decide on matters pertaining to the child.

98. Nonetheless, what makes this case particular is that in addition to A.L. admitting not to be A.E.Z.'s biological father, there were indeed proceedings pending where the applicant had insistently fought for his (at that stage alleged) right to be recognised as A.E.Z.'s biological father.

99. The Court considers that the judge deciding on A.E.Z.'s adoption would have been aware, at least to some extent, that there were legal proceedings involving A.E.Z. ongoing in Latvia. Reference to those proceedings was made in the report by the Social Insurance Board. Admittedly, the report indicated that the proceedings pending in Latvia concerned solely the question of contact rights between the applicant and A.E.Z. and that the applicant's paternity claim had been dismissed. However, this information seems to have been solely based on the statement given by A.Z. (see paragraph 24 above). In fact, the proceedings pending in Latvia, at that stage, concerned not only contact rights but also the establishment of the applicant's paternity.

100. The Court notes that a question may at least be raised as to whether in such circumstances the Harju County Court could have been expected to verify the facts (such as the scope and status of the proceedings pending in Latvia) of their own motion, rather than merely relying on the reported statement of one of the parties.

101. Be that it as it may, the Court observes that the subject matter and scope of the proceedings in Latvia ought to have been known to the Harju County Court at the time of deciding on A.E.Z.'s adoption on 25 April 2018. Notably, it was in January 2018 that the Latvian Guardianship Institution submitted a judicial cooperation request to the Harju County Court for the collection of evidence. This request contained information that the proceedings pending in Latvia concerned both the establishment of the applicant's paternity and his contact rights with A.E.Z. (see paragraph 17 above). The Harju County Court collected evidence to meet the request and submitted its response to the Latvian Guardianship Institution on 9 April 2018, approximately two weeks before making the adoption decision.

102. The Court is aware that different judges of the Harju County Court dealt with the judicial cooperation request and the adoption question (compare paragraphs 18 and 25 above). However, what is at stake in the present case is not the individual responsibility of any specific person or domestic institution as such, but the international responsibility of the State as a whole to meet its Convention obligations (see *R.B. v. Estonia*, no. 22597/16, § 102, 22 June 2021). The Court reiterates that it is for each Contracting State to equip itself with adequate and effective means to ensure compliance with its positive obligations under Article 8 of the Convention (see, for example, *K.A.B. v. Spain*, cited above, § 115).

103. In the light of the above, the Court finds that the Harju County Court, when deciding on A.E.Z.'s adoption by H.V., was or at least ought to have been aware of the applicant's paternity proceedings pending in Latvia. However, it does not appear that the court took this into account in any manner when conducting the adoption proceedings and approving H.V.'s application to adopt A.E.Z. The court does not seem to have sought further information on the progress of the proceedings pending in Latvia or to have considered whether it was necessary – given all the various interests at stake – to suspend the adoption proceedings until the question of applicant's paternity was settled.

104. At this juncture, the Court also notes that the Supreme Court, in the annulment proceedings following A.E.Z.'s adoption, indicated that a court called upon to decide on a child's adoption normally had to stay the adoption proceedings if it learned that the child's paternity was being challenged in another set of proceedings. By way of exception, it did not need to suspend the adoption proceedings if it was convinced that awaiting the outcome of the paternity proceedings was not in the child's best interests (see paragraph 33 above).

105. The Court observes that, in the present case, consideration of the applicant's possible interests and the balancing of those interests with the child's best interests (as well as with the interests of other parties to the proceedings) do not appear to have formed any part of the Harju County Court's reasoning.

106. Against this background, the Court considers that the domestic authorities showed a serious lack of diligence in relation to the adoption proceedings.

(ii) Considerations related to the annulment proceedings

107. After learning of A.E.Z.'s adoption in Estonia, the applicant lodged an application for annulment of the adoption decision. However, that was eventually rejected by the Supreme Court, which found that he had not had standing to lodge such an application in the first place, since his paternity had not been confirmed in the eyes of the law.

108. The Court reiterates that it has previously found that a biological father must not be completely excluded from his child's life unless there are relevant reasons relating to the child's best interests to do so. However, this does not necessarily imply a duty under the Convention to allow the biological father to challenge the legal father's status, nor can such an obligation be deduced from the Court's case-law (see *Kautzor*, §§ 76-77, and *Ahrens*, § 74, both cited above). The fact that the domestic authorities, in allowing or dismissing a paternity claim enjoy discretionary powers, designed to safeguard the best interests of the child and balance the interests of both the child and the putative biological father, is not as such irreconcilable with the guarantees contained in Article 8 (see *Krisztián Barnabás Tóth*, cited

above, § 33). Nevertheless, an absolute impossibility of the presumed biological father to seek to establish his legal paternity on the sole ground that another man has already acknowledged paternity of the child in question, without looking into the particular circumstances of the case and the various interests at stake, has been found to be in violation of Article 8 of the Convention (see *Różański*, cited above, §§ 77-79).

109. The Court observes that the case-law cited above concerns putative biological fathers who tried to challenge the legal paternity of someone who had already recognised the child or children as their own, but saw their claims being declared inadmissible for lack of standing or dismissed. In those cases, the Court focused on whether the domestic courts, despite either rejecting or dismissing the alleged fathers' claims, had analysed – at least to some extent – the circumstances of the particular cases before them and weighed the competing interests (in particular the child's best interests), or whether they had merely invoked the lack of formal grounds allowing the alleged biological fathers to contest an already recognised paternity (see *Krisztián Barnabás Tóth*, cited above, §§ 33-37, and *Nylund v. Finland* (dec.), no. 27110/95, ECHR 1999-VI; compare and contrast *L.D. and P.K. v. Bulgaria*, nos. 7949/11 and 45522/13, §§ 64-65, 68 and 75, 8 December 2016, and *Różański*, cited above, §§ 77-78).

110. In the case of *Marinis*, the Court found it relevant that the legislature had weighed the interests at stake and permitted biological fathers to lodge paternity claims in certain limited circumstances (see *Marinis v. Greece*, no. 3004/10, §§ 59, 67-71, 9 October 2014). The legislature's will to give an existing family relationship between the child and her legal father – who was actually living with the child's mother and providing parental care on a daily basis – precedence over the relationship between an alleged biological father and child was also a matter taken into account in the case of *Kautzor* (cited above, §§ 69 and 74).

111. The Court notes that the present application lodged against Estonia does not concern the question of challenging the legal paternity of someone who has voluntarily recognised a child as their own, but the question of challenging an adoption decision, which in the applicant's view was made unlawfully. Nonetheless, the Court considers that the principles deriving from the case-law referred to above also apply to the question whether an alleged biological father should be allowed to challenge the adoption of his alleged child by another person (see, *mutatis mutandis*, *Uzbyakov*, cited above, §§ 122-23 and 126).

112. The Court observes that by the time the Supreme Court decided to reject the applicant's application for annulment on 10 February 2021, the Senate of the Latvian Supreme Court had on 14 July 2020 rendered a judgment essentially recognising the applicant as A.E.Z.'s biological father and criticising the lower courts for not taking due account of his interests (see paragraph 21 above). Moreover, on 4 February 2021 the Riga Regional Court

removed A.L.'s name from the register of births and registered the applicant as A.E.Z.'s father from his birth until 25 April 2018 (see paragraph 23 above; indeed this judgment only became final on 20 April 2021). The Court notes that the Estonian Supreme Court must have been aware of at least the judgment of the Senate of the Latvian Supreme Court, dated 14 July 2020, as it was referred to in the Tallinn Court of Appeal's judgment (see paragraph 29 above).

113. The Supreme Court adopted a strict interpretation of the domestic law, finding that as the applicant's legal paternity had not yet been recognised by a final court judgment, he could not be considered a "father" whose consent had to be obtained in the adoption proceedings and who could subsequently lodge an application for annulment. While the lower courts – who admittedly assessed the applicant's application for annulment on the merits – also focused to a great extent on his legal paternity not yet having been confirmed by the Latvian courts, they nonetheless looked into the particular circumstances of the case, including considering, albeit briefly, the child's interests (see paragraphs 27-29 above). However, such case-specific considerations do not seem to have formed any part of the Supreme Court's reasoning when it quashed the judgments of the lower courts.

114. Against the above background, the Court concludes that in the annulment proceedings, the applicant's claim was found to be inadmissible solely for the lack of formal grounds allowing him to contest the legal status of an adoptive father. The Government have not argued that this lack of formal grounds resulted from the deliberate and reasoned choice of the legislature, aimed at striking a fair balance between different interests at stake.

115. In the light of the above, the Court cannot accept that a mere reference to the absence, under the relevant domestic law, of formal grounds for revoking the adoption order can be regarded as a "sufficient" consideration in the quest for striking a fair balance between the competing interests in the case at hand (compare *Uzbyakov*, cited above, § 126).

116. The Court does not consider it necessary to assess whether against the background of the Supreme Court's comments (see paragraph 33 above) the applicant could have reasonably hoped to lodge an admissible application for annulment after having his legal paternity confirmed by the Latvian courts.

(iii) Conclusion

117. The Court stresses the highly specific and complex nature of the present case. The paternity proceedings in Latvia – which were still ongoing at the time the Estonian courts were called upon to decide on the adoption and its annulment – lasted for an exceptionally long time. However, what is at stake in the present case is not the responsibility of the Latvian authorities, but that of the Estonian State.

118. The case at hand relates to a continuous series of events that must be assessed as a whole. The Court found above that the Estonian courts did not act with sufficient diligence in the adoption proceedings even though they were or ought to have been aware of the paternity proceedings ongoing in Latvia. Subsequently, when faced with the applicant's application for annulment of the adoption decision, the Supreme Court rejected it solely on the formal grounds of his not having standing.

119. Although not assessing, as such, the conduct of the court proceedings in Latvia, the Court cannot but note that the outcome of the proceedings in Estonia actually led to the applicant's legal paternity only being recognised by the Latvian courts for a limited period, that is to say until the date that A.E.Z. had been adopted in Estonia by H.V.

120. In the light of the foregoing, the Court concludes that by not identifying and examining the particular circumstances of the case and by not carrying out an assessment of the various rights and interests of the individuals involved, including those of the applicant, in either the adoption proceedings or annulment proceedings, the domestic authorities failed to strike a fair balance in the context of Article 8 of the Convention.

121. There has accordingly been a violation of that provision.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

122. 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

123. The applicant claimed 1,000,000 euros (EUR) in respect of non-pecuniary damage that he considered to result from the conduct and outcome of the adoption and annulment proceedings in Estonia.

124. The Government submitted that the finding of a violation would in itself constitute sufficient just satisfaction for any non-pecuniary damage sustained by the applicant. They referred to the long duration of the paternity proceedings before the Latvian courts, with the result that the child had inevitably been estranged from the applicant, regardless of the adoption proceedings in Estonia. In any event, the Government contested that claim as excessive.

125. The Court notes that it has found a violation of the applicant's right to respect for his private life. It considers that he has suffered non-pecuniary damage in that regard which cannot be compensated for by the mere finding of a violation. Considering the manner in which the events in question

impacted the applicant's private life and what was at stake for him, the Court awards him EUR 12,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

126. The applicant also claimed EUR 7,955.06 for the costs and expenses (representation, translation and postal costs) incurred before the domestic courts. He submitted copies of bank transfers made to the law firm Lillo and Lõhmus OÜ (in the amount of EUR 3,098) and a copy of an agreement between them stating that he still owed the firm EUR 3,084, for which a payment schedule had been set up. He also submitted copies of bank transfers made to two companies in the amounts of EUR 1,008.30 and EUR 606.22. With respect to the latter sum, the documents submitted specify that the payment related to the translation of documents into Estonian. The applicant also submitted copies of two bank transfers made to the courier company DHL, one concerning documents sent to Estonia to Lillo and Lõhmus OÜ (EUR 56.34) and the other (EUR 102.20) containing no reference as to the content, purpose or addressee of the shipment.

127. The Government argued that the applicant had not proven that the costs and expenses he claimed to have incurred before the domestic courts did actually relate to the domestic proceedings in the present case. Moreover, there was no information on the exact content of the legal services provided. Therefore, it was impossible to verify whether the alleged costs and expenses had been necessary and reasonable. The Government thus considered that the claim should be dismissed. In any event it considered the amount excessive.

128. 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. The Court considers it proven that in the proceedings before the Estonian courts, at all three levels of jurisdiction, the applicant was represented by a lawyer from Lillo and Lõhmus OÜ. The Court considers it sufficiently proven that his legal representation costs were related to the proceedings in question in the present case. However, it is unable to verify whether the translation and postal costs in their entirety were related to the domestic proceedings forming the subject matter of the present case.

129. Regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 6,844 for costs and expenses in the domestic proceedings, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application 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, the following amounts:

(i) EUR 12,000 (twelve thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 6,844 (six thousand eight hundred and forty-four 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;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 10 October 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Pere Pastor Vilanova President