



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

FOURTH SECTION

**CASE OF VEISS v. LATVIA**

*(Application no. 15152/12)*

JUDGMENT

STRASBOURG

28 January 2014

*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 Veiss v. Latvia,**

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

Päivi Hirvelä, *President*,

Ineta Ziemele,

George Nicolaou,

Ledi Bianku,

Zdravka Kalaydjieva,

Krzysztof Wojtyczek,

Faris Vehabović, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 7 January 2014,

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

## PROCEDURE

1. The case originated in an application (no. 15152/12) against the Republic of Latvia 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 Ints Veiss (“the applicant”), on 2 October 2012.

2. The applicant was represented by Ms S. Finka, a lawyer practising in Riga. The Latvian Government (“the Government”) were represented by their Agent, Mrs K. Līce.

3. The applicant alleged, in particular, that his right to a hearing within a reasonable time had been breached in the civil proceedings in which he had sought to be officially recorded as the father of a child, and that his right to respect for his private and family life had been infringed.

4. On 14 January 2013 the application was communicated to the Government.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1965 and lives in Riga.

6. The applicant had been living with A.Z. since the summer of 2005. They were not married. In the course of that year, A.Z. became pregnant. After the birth of A.E.Z. on 24 May 2006, the applicant continued to care

for the child and to support A.Z. and the child financially, including paying the rent and utility bills for the apartment in which they were residing.

7. On an unspecified date the applicant suggested to A.Z. that they officially register the birth of A.E.Z. and record the applicant's paternity in the register of births. A.Z. refused.

8. The applicant informed A.Z. that he would try to have his paternity established by the courts.

9. Starting from 13 January 2007 A.Z. no longer permitted the applicant to meet the child.

10. On 15 January 2007 the applicant consulted a lawyer and on the same day requested a copy of a report of the registration of the child's birth (*izziņa par bērna dzimšanas reģistrāciju*) from a civil registry office (*dzimtsarakstu nodaļa*). He received the requested report on 18 January 2007 and found out that the previous day, on 17 January 2007, a certain A.L. had voluntarily acknowledged his paternity and had been registered as the child's father. According to the applicant, he did not know who A.L. was.

11. On 8 February 2007 the applicant lodged a claim with the Riga City Zemgale District Court. He asked the court to order forensic biological testing in order to establish the child's descent, to strike the record of A.L. as the father of the child and to record himself, the applicant, as the child's father instead.

12. On 4 April 2007 A.Z. and A.L. submitted a response, arguing that the fact that civil proceedings had been instituted had infringed their rights guaranteed by, *inter alia*, Article 8 of the Convention. The respondents also argued that the applicant lacked standing to contest paternity and denied that he had ever co-habited with A.Z.

13. The Zemgale District Court held hearings on 28 June, 31 August and 12 September 2007. On 13 September 2007 it decided to discontinue the proceedings. The court agreed with the respondents that the applicant lacked standing to contest a voluntary acknowledgement of paternity. It reached that conclusion by interpreting the Civil Law in conjunction with the Convention on the Legal Status of Children Born out of Wedlock ("the Legal Status Convention") and the 11 October 2004 judgment of the Latvian Constitutional Court, and found that the restrictions in section 156 of the Civil Law (see paragraph 53 below) were not contrary to the Legal Status Convention.

14. The applicant appealed on 24 September 2007. On 27 September 2007 the case was forwarded to the Riga Regional Court, which held hearings on 17 January and 22 September 2008, and quashed the lower court's decision by a decision adopted on the latter date. It was found that the lower court had erred in not ordering forensic biological testing. The case was remitted to the Zemgale District Court.

15. The first hearing in the Zemgale District Court was held on 12 November 2008 and was attended only by the applicant's lawyer. The hearing was adjourned. The verbatim record of the hearing shows that the court decided to invite a representative of the Guardianship Tribunal (*bāriņtiesa*) to attend the following hearing.

16. According to the applicant's lawyer, the question of involving the Guardianship Tribunal had not in fact been discussed in court and therefore she requested the removal of the judge in charge of the case.

17. On 26 November 2008 the judge withdrew from the case. The proceedings were accordingly adjourned.

18. The next hearing was held on 26 January 2009 and was attended by the applicant's lawyer, the two respondents and their lawyer, as well as by a representative of the Guardianship Tribunal.

19. On 4 February 2009 the Zemgale District Court ordered forensic genetic testing and ordered the applicant, A.Z., A.L. and the child to submit the necessary samples of genetic material before 31 March 2009.

20. On 1 April 2009 the court was informed that the applicant had submitted a tissue sample on 6 February 2009, while A.Z., A.L. and the child had not appeared at the testing laboratory.

21. On 8 April 2009 the applicant asked the court to order that the respondents and the child be delivered for genetic testing under constraint. The hearing organised on 26 May 2009 to decide that question was adjourned because the respondents and their lawyer had not appeared in court.

22. In the course of the hearing of 15 June 2009 the court rejected the applicant's request on the grounds that the child was not a party to the case and therefore his delivery under constraint could not be ordered. No ordinary appeal lay against that decision. The applicant's representative requested that the proceedings be adjourned so that an extraordinary complaint could be lodged with the Prosecutor General.

23. On 26 June 2009 the applicant asked the Prosecutor General to lodge an extraordinary complaint (*protests*) about the decision of the Zemgale District Court. On 16 July 2009 the Prosecutor General granted the applicant's request and asked the Senate of the Supreme Court to quash the 15 June 2009 decision. On 28 August 2009 the Senate accepted the Prosecutor General's complaint for examination.

24. On 13 January 2010 the Senate decided to uphold the Prosecutor General's complaint, to quash the Zemgale District Court's decision and to remit the case to another judge of the same court.

25. After adjourning the hearing of 15 March 2010 owing to the respondents' failure to appear in court, on 16 March 2010 the Zemgale District Court decided to grant the applicant's request and to order the municipal police to deliver the respondents and the child for genetic testing

under constraint. The court also fined A.L. and A.Z. 50 Latvian lati (LVL) each for failing to appear at the hearing without a justified reason.

26. On 10 May 2010 the applicant informed the court that the decision of 16 March did not appear to have been sent to the municipal police.

27. That omission was admitted by the court in a decision of 14 May 2010, by which the court decided to order the State police to deliver the respondents and the child for testing under constraint.

28. On 22 June 2010 the director of the testing laboratory informed the Zemgale District Court that a tissue sample had been taken from A.L. on 18 June 2010 but that A.Z. and the child had not appeared at the laboratory for testing.

29. According to a letter sent by the police to the court on 17 June 2010, on several occasions police officers had not found A.Z. and the child at their stated address and a neighbour had informed the police that a woman with a small child was not residing there.

30. On 5 July 2010 the applicant asked the Zemgale District Court to order a search (*izsludināt meklēšanā*) for A.Z. and the child.

31. On 15 July 2010 the Zemgale District Court examined the applicant's request on the merits. The respondents were absent. The court fined A.L. and A.Z. LVL 50 each for failing to appear at the hearing without a justified reason.

32. By a decision of 20 July 2010 the court granted the applicant's request.

33. On 8 October 2010 a genetic sample was taken from the child at the testing laboratory.

34. On 13 October 2010 the testing laboratory issued a report, finding that the probability that the applicant was the father of A.E.Z. was 99.9999141 % and that it was impossible that A.L. was the father.

35. The next hearing of the Zemgale District Court was held on 11 November 2010.

36. On 25 November 2010 the Zemgale District Court adopted a judgment by which it rejected the applicant's claim. The court 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.

37. The applicant appealed on 15 December 2010. On 17 January 2011 the Riga Regional Court instituted appeal proceedings. The Regional Court held a hearing on 16 May 2011.

38. On 26 May 2011 the Regional Court decided to uphold the impugned judgment. In response to the applicant's complaint that the overall length of the proceedings was excessive within the meaning of Article 6 § 1 of the Convention, the appeal court noted that such questions were outside its competence.

39. On 11 July 2011 the applicant submitted an appeal on points of law, complaining, *inter alia*, that the time taken by the first-instance court to examine his claim had been excessive.

40. On 26 October 2011 the applicant asked the Senate of the Supreme Court to expedite the examination of the case, referring to Article 6 § 1 of the Convention and the urgent nature of cases relating to the interests of children. The Senate instituted cassation proceedings on 29 December 2011.

41. The Senate held the first hearing on 7 March 2012. On 21 March 2012 the Senate decided to examine the case in an extended composition (*paplašinātā tiesas sastāvā*) of seven judges instead of the usual three-judge composition. A final decision was adopted by the Senate on 16 May 2012.

42. The Senate disagreed with the lower-level courts' interpretation of section 156 of the Civil Law. It held that that section could not be interpreted so as to deny a biological father the right to contest a voluntary acknowledgement of paternity if the legal father had acknowledged paternity in the knowledge that he was not in fact the father of the child. On the other hand, having the standing to contest a voluntary acknowledgement of paternity did not mean that the claim should be automatically upheld, since the courts were obligated to balance the rights of the child and the rights of the biological father.

43. Turning to the facts of the specific case, the Senate noted that during the 16 May 2011 hearing of the appeal court, the representative of the Guardianship Tribunal had explained that the child was living in a "united family" (*apvienotā ģimenē*) and that upholding the applicant's claim would be contrary to the child's interests. The Senate found no reason to doubt the professional competence of the staff of the Guardianship Tribunal and agreed with its assessment of the interests of the child.

44. In conclusion, the Senate held that the appeal court had erred in deciding that the applicant lacked standing to contest the acknowledgment of paternity. However, "taking into account the unreasonable length of the proceedings", the Senate, decided not to remit the case to the appeal court. The judgment of the appeal court was thus upheld.

45. The applicant submitted that after the decision became final, he learned of certain facts previously unknown to him. In particular, he found out that when the child was born and throughout the proceedings A.L. had been married to J.Z. and had five children in that marriage. In addition, from 2003 until March of 2012 A.L. had been living with yet another woman (D.B.) and several of his children from his marriage to J.Z. The applicant submitted to the Court a written statement from D.B. to that effect.

46. On 27 June 2012 the applicant submitted a complaint about the actions of representatives of the Guardianship Tribunal to the Children's Rights Inspectorate (*Valsts bērnu tiesību aizsardzības inspekcija*). Among other things, he complained that the Guardianship Tribunal had come to the

unsubstantiated conclusion that A.L. was living with A.Z. and the child, whereas in fact he had been living with another woman in a different town.

47. On 23 July 2012 the Inspectorate replied to the applicant, informing him that the Guardianship Tribunal was responsible for omissions (*pieļāvusi trūkumus*), which could have had a negative effect on the performance of its duty to protect the rights and legal interests of children.

48. On 2 October 2012 the applicant submitted the present application to the Court.

49. On 23 November 2012 the applicant requested that the Supreme Court reopen the proceedings in the light of the newly discovered circumstances, namely, the information set out in paragraph 45 above.

50. On 14 January 2013 the present application was communicated to the respondent Government.

51. On 5 March 2013 the Supreme Court examined the applicant's request to reopen the proceedings and rejected it, finding that the circumstances invoked by the applicant could not be considered as "newly discovered" within the meaning of the Civil Procedure Law.

52. The applicant submitted an ancillary complaint and on 12 June 2013 the Senate of the Supreme Court quashed the decision of the Supreme Court, examined the applicant's request on the merits and upheld it, quashing the decision of the Riga Regional Court of 26 May 2011 (see paragraph 38 above). The case was sent for fresh examination to the Riga City Zemgale District Court, which held the first hearing on 3 October 2013. The court decided to invite the Guardianship Tribunal to submit a report concerning the family situation of the child. The proceedings have been adjourned until 13 February 2014.

## II. RELEVANT DOMESTIC LAW

53. If a child is born out of wedlock, the paternity can be established by a voluntary acknowledgment of paternity by the father or by a decision of a court (section 154 of the Civil Law). The paternity can be acknowledged before or after the birth by submitting a joint request from both parents of the child (section 155). Legal paternity established by acknowledgment may only be contested in court if the legal father could not objectively be the child's father and if the acknowledgment has been made as a result of a mistake, deception or coercion. The standing to contest paternity established by a voluntary acknowledgement is granted, with certain restrictions which are not relevant to the present case, to the child, the mother of the child and the legal father (section 156).

54. Section 162 of the Civil Procedure Law provides as follows:



“the court shall inquire whether parties to the proceedings have any requests related to the examination of the case and shall decide on such requests after hearing the opinion of the other parties”.

55. Article 92 of the Constitution of Latvia provides, *inter alia*, that “any person whose rights are violated without justification shall have a right to commensurate compensation”.

## THE LAW

### I. ABUSE OF THE RIGHT OF INDIVIDUAL APPLICATION

56. The Government submitted that the applicant had abused the right of individual application within the meaning of Article 35 § 3 (a) of the Convention. They invited the Court to reject the application in accordance with paragraph 4 of that Article. The Government pointed out that according to Rule 47 § 6 of the Rules of Court, applicants must keep the Court informed of all circumstances relevant to the application. The applicant failed to do so when he did not inform the Court that after lodging the present application, he had petitioned the Supreme Court to reopen the domestic proceedings in the light of newly discovered circumstances.

57. The applicant responded by arguing that he had sought the reopening of the domestic proceedings in order to gain legal recognition as the child’s father, which was something that a judgment in his favour by the Strasbourg Court would not bring him. In any case, according to the applicant, the domestic authorities had been violating his rights guaranteed by Articles 6 and 8 of the Convention for seven years while the domestic proceedings had been pending.

58. The Court has previously held that incomplete and therefore misleading information may amount to abuse of the right of individual application, especially if the information concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information (see, for example, *Hadrabová v. the Czech Republic* (dec.), nos. 42165/02 and 466/03, 25 September 2007). However, it also derives from the Court’s case-law that an application may only be rejected for abuse of the right of individual application if the Court has established with sufficient certainty that the applicant has intended to mislead the Court (see *Vasilevskiy v. Latvia* (dec.), no. 73485/01, 10 January 2012, with further references).

59. In the circumstances of the present case the Court is satisfied that the reasons advanced by the applicant – namely, that the purpose of his application for the reopening of the domestic proceedings and the subject-matter of his application to the Court were distinct in that the former could

eventually lead to his recognition as the child's legal father – are sufficient to cast doubt on the argument that by failing to provide information about his request to reopen the proceedings, the applicant intended to mislead the Court. Therefore, the Government's request to reject the present application for abuse is refused.

## II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

60. The applicant complained of a violation of his right to a hearing within a reasonable time, as provided for in Article 6 § 1 of the Convention, which reads as follows:

“In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ...”

### A. The applicant's victim status

61. The Government submitted that the applicant could not, or could no longer, claim to be a victim of a violation of Article 6 § 1. They emphasised that in its decision of 16 May 2012 (see paragraphs 42 to 44 above), the Senate of the Supreme Court had expressly acknowledged that the applicant's right to a hearing within a reasonable time had been breached. The Senate had furthermore redressed the breach of the Convention by immediately adopting a decision on the merits instead of quashing the appeal court's decision and remitting the case to that court. The Government argued that this expedition of the proceedings was sufficient redress. They also noted that the Convention, as interpreted by the Court, did not require that the final decisions in such cases be in the applicant's favour.

62. The applicant admitted that the Senate had acknowledged that the length of the proceedings had been excessive. The applicant did not submit any observations concerning the redress for the acknowledged breach of the Convention.

63. The Court considers the Government's objection misguided. Two possibilities exist: on 16 May 2012 the length of the proceedings either already had or had not been excessive, in the light of the criteria developed in the Court's case-law. If the proceedings, which concerned the determination of the applicant's civil rights and obligations, had already been excessively long, an expedited completion of the proceedings, in the absence of any monetary compensation, could not be considered to offer sufficient redress (see also *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 185, ECHR 2006-V). It is true that the Court has accepted that in criminal cases a reduction of the final sentence imposed on the applicant may sometimes amount to such compensation (see, for example, *Trūps v. Latvia* (dec.), no. 58497/08, 20 November 2012). However, the complaint in the present case concerns the length of civil proceedings and it has not been

shown to the Court in what manner the applicant has been compensated for the allegedly excessive length of the proceedings. On the other hand, if on the date when the Senate adopted its final decision the proceedings had not been excessively lengthy, the correct conclusion to reach would not be that the applicant could not claim to be a victim of a violation of Article 6 § 1, but instead that the proceedings in question had complied with the requirements of Article 6 § 1.

64. The Government's objection is therefore rejected.

## **B. Admissibility**

65. The Government maintained that the applicant's complaint was inadmissible because he had failed to exhaust domestic remedies. In this regard their argument was twofold. First, they argued that, should the applicant have chosen to submit a substantiated motion to expedite the proceedings to the first-instance court, there was no reason to believe that his request would not have been granted. The Government referred to the general right of parties to submit motions that is enshrined in section 74(2)(6) of the Civil Procedure Law. In the alternative, the Government submitted that section 28<sup>1</sup> of the Law on the Judiciary (*Partiesu varu*) authorised the president (*priekšsēdētājs*) of the relevant district or regional court to redistribute the case assignment within the respective court. Had the applicant submitted a corresponding petition to the president of the court where his case was pending at the time, it would have expedited the proceedings.

66. Secondly, the Government stated that the applicant could have submitted a claim to a court of general jurisdiction, requesting compensation for the alleged violation of his right to a hearing within a reasonable time on the basis of Article 92 of the Constitution (see paragraph 55 above). The Government also submitted three examples of decisions of Latvian courts, from which it appears that in certain situations (the specific cases submitted pertained to complaints about a court's alleged failure to make available a translation of its decision, about the Senate of the Supreme Court's alleged failure to correctly apply EU legislation and about damages caused by medical negligence) the civil courts are in principle prepared to examine cases brought on the basis of Article 92 of the Constitution, even in the absence of any more specific legislation.

67. The applicant did not submit any observations in this regard.

68. Turning first to the Government's argument that the applicant could have asked the respective court or its president to expedite the proceedings, the Court notes that the Civil Procedure Law does not require courts to give reasons for their decisions to decline parties' motions, including motions to accelerate the proceedings (see paragraph 54 above). Furthermore, the Civil Procedure Law (unlike the Criminal Procedure Law, see *Trūps v. Latvia*,

cited above, § 17) does not contain any criteria on which the courts could rely in order to determine whether proceedings have been excessively lengthy. Any decisions taken by courts in response to motions to accelerate proceedings are hence left entirely to the discretion of such courts. No further appeal against a refusal to accelerate is available (see, in contrast, *Gonzalez Marin v. Spain* (dec.), no. 39521/98, ECHR 1999-VII). In brief, the Court is not convinced that a motion to accelerate the proceedings could, on the basis of predetermined criteria, have brought relief to the applicant. The Government have not submitted any examples from domestic practice attesting to the contrary. The Court finds that the Riga Regional Court's reply to the applicant that questions concerning an excessive length of proceedings fell outside its competence (see paragraph 38 above) serves as a proof that a request to accelerate the proceedings was not practically accessible to him.

69. With respect to the possibility to petition the president of the respective court, the Court notes that the legal provision invoked by the Government empowers the respective president only to reassign the case to a different judge of the same court. Considering that pursuant to section 14(3) of the Civil Procedure Law, a change of judge automatically leads to the examination of the case being restarted, the Court does not see how such a reassignment could have expedited the proceedings.

70. In any case, traditionally the Court has examined the question of whether an applicant has applied for the expedition of the proceedings not in the context of the exhaustion of domestic remedies but rather as pertaining to the diligence of the applicant in conducting the proceedings, which is an issue to be examined at the merits stage (see, for example, *Moreira de Azevedo v. Portugal*, no. 11296/84, Commission decision of 14 April 1988, Decisions and Reports 56, p. 115, and, more recently, *Beggs v. the United Kingdom*, no. 25133/06, § 212, 6 November 2012).

71. As concerns the compensatory remedy proposed by the Government, the Court notes that it has previously examined a similar objection in the context of prisoners' conditions of detention (see *Bazjaks v. Latvia*, no. 71572/01, § 133, 19 October 2010). While in the present case the Government have been able to demonstrate that in certain situations a claim in courts of general jurisdiction on the basis of Article 92 of the Constitution might bring about an outcome favourable to petitioners, they did not submit any examples of cases in which the domestic courts had admitted and examined similar claims concerning length of proceedings. The Court reiterates that it is not for the Convention bodies to put right of their own motion any shortcomings or lack of precision in the respondent Government's arguments (see *Stran Greek Refineries and Stratis Andreadis v. Greece*, 9 December 1994, § 35, Series A no. 301-B). Accordingly, the Court is not satisfied that such a remedy was effective in practice for the

purposes of the present case and could have afforded compensatory redress to the applicant.

72. Accordingly, the Court dismisses the Government's objection concerning the non-exhaustion of domestic remedies. It further notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It also notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

### C. Merits

73. The applicant maintained his original complaint that his rights had been violated for the seven years that the proceedings had been pending before the domestic courts.

74. The Government stated at the outset that the period to be taken into account when assessing the overall length of the proceedings was five years, three months and eight days, from 8 February 2007 when the applicant brought his claim to the Riga City Zemgale District Court (see paragraph 11 above) to 16 May 2012 when the Senate of the Supreme Court dismissed the applicant's appeal on points of law (see paragraph 41 above). The Government, referring to *Mikulić v. Croatia* (no. 53176/99, § 44, ECHR 2002-I), also noted that cases concerning civil status required the national authorities to act with particular diligence in ensuring that proceedings made progress. Nevertheless, the Government argued that such particular diligence was on display in the present case. Save for several occasions when, for good reason, no hearings had been scheduled for periods exceeding six months, this legally complex case had been examined as rapidly as possible.

75. The Court will first examine the question of the period to be taken into account. It notes that the proceedings commenced on 8 February 2007 when the applicant brought his claim to the first-instance court. The proceedings are still pending. However, according to the Court's consistent case-law, only the periods when the case was actually pending before the courts are to be taken into account. That means the periods when there was no effective judgment in the determination of the merits of the applicant's dispute and when the authorities were under an obligation to pass such a judgment. The periods during which the domestic courts were deciding whether or not to reopen the case should be excluded (see, for example, *Irina Fedotova v. Russia*, no. 1752/02, § 30, 19 October 2006).

76. Hence the period to be taken into account consists of the five years, three months and eight days that elapsed until the Senate of the Supreme Court adopted its final decision and the time after the Senate decided to reopen the proceedings on 12 June 2013, the total length being almost six years at the date on which the Court adopted the present judgment.

77. The Court reiterates that the reasonableness of the length of the proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities, and what was at stake for the applicant in the dispute (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II). In addition, only delays attributable to the State may justify a finding of a failure to comply with the “reasonable time” requirement (see *Pedersen and Baadsgaard v. Denmark* [GC], no. 49017/99, § 49, ECHR 2004-XI).

78. The Court considers that there is merit to the Government’s argument that the case was legally complex. On the other hand, the Court is not persuaded by the Government’s arguments concerning the applicant’s role in prolonging the proceedings. According to the Government, the applicant was responsible for the adjournment of the proceedings on 15 June 2009 (see paragraph 22 above). The Court is unable to agree that the applicant can be held responsible for a delay caused by his wish to rectify an erroneous court decision by way of a complaint to the Prosecutor General (which furthermore was eventually upheld – see paragraphs 23 and 24 above). In this regard, the Government’s reliance on the case of *Ligeres v. Latvia* (no. 17/02, § 70, 28 June 2011) is entirely misguided.

79. The Government did not submit any other arguments that could serve to persuade the Court that any delays in the examination of the case by the domestic courts were attributable to the applicant. The Court also notes that the applicant has brought the attention of the appeal court and the Senate of the Supreme Court to the excessive length of the proceedings (see paragraphs 38 and 39 above).

80. The Court agrees with the Government that what was (and continues to be) at stake for the applicant, namely, his official recognition as the child’s father, required particular diligence and urgency in organising the proceedings in such a manner as to minimise the time the applicant’s family situation remained in limbo (among many other examples, see *Mikulić v. Croatia*, cited above, § 44). Taking into account the overall length of the proceedings and the fact that no delays in the examination of the case are attributable to the applicant’s conduct, the Court is of the opinion that the applicant’s right to a hearing within a reasonable time has been violated.

81. Accordingly, there has been a violation of Article 6 § 1 of the Convention.

### III. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

82. The applicant further complained that as a result of defects in the court procedure and because of the outcome of the court proceedings, his right to respect for his private and family life had been breached. He relied on Articles 6 § 1 and 8 of the Convention. These complaints were

communicated to the respondent Government only under Article 8 of the Convention.

83. The Court notes that domestic proceedings with a potentially decisive meaning for the applicant's complaints are currently pending before the Riga City Zemgale District Court (see paragraph 52 above).

84. The Court reiterates that the purpose of Article 35 § 1 of the Convention is to afford Contracting States the opportunity to prevent or put right the violations alleged against them before those allegations are submitted to the Court. Consequently, States are dispensed from answering for their acts before an international body before they have had the opportunity to put matters right through their own legal systems (see, for example, *Remli v. France*, 23 April 1996, § 33, *Reports of Judgments and Decisions* 1996-II, *Selmouni v. France* [GC], no. 25803/94, § 74, ECHR 1999-V).

85. Given that the reopened domestic proceedings concern the complaints that were communicated to the respondent Government under Article 8 of the Convention and taking into account the principle of subsidiarity enshrined in the Convention (see *Nadolska and Lopez Nadolska v. Poland* (dec.), no. 78296/11, §§ 108-110, 15 October 2013), this part of the application is premature and must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

#### IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

86. 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**

87. The applicant claimed compensation in respect of non-pecuniary damage, arguing that the protracted court proceedings had caused him constant stress and anxiety.

88. The Government considered that the finding of a violation ought to be considered as adequate compensation for any non-pecuniary damage sustained by the applicant.

89. The Court, ruling on an equitable basis, awards the applicant 1,000 euros (EUR) in respect of non-pecuniary damage.

## **B. Costs and expenses**

90. The applicant also claimed LVL 55,259.82 (approximately EUR 78,627) for the costs and expenses incurred before the domestic courts and the Court.

91. The Government considered the amount claimed by the applicant unfounded and exorbitant. They also noted that the claimed costs, in so far as they relate to the domestic proceedings, must be related to the prevention or redress of the violation alleged before the Strasbourg Court (*A, B and C v. Ireland* [GC], no. 25579/05, § 281, ECHR 2010)

92. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 2,000, covering costs and expenses under all heads.

## **C. Default interest**

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

## **FOR THESE REASONS, THE COURT, UNANIMOUSLY,**

1. *Declares* the complaint concerning the length of proceedings admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 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 1,000 (one thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
    - (ii) EUR 2,000 (two thousand 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 28 January 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı  
Deputy Registrar

Päivi Hirvelä  
President