

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

FIRST SECTION

CASE OF DRAGONI AND OTHERS v. ITALY

(Application no. 12654/22)

JUDGMENT

Art 8 • Family life • Domestic courts' decision declaring the applicant parents' daughter available for adoption and discontinuing contact with her family of origin not proportionate to the legitimate aim pursued and not accompanied by proportionate safeguards • Parents provided with limited support in the development of their bond with the child and the improvement of their parenting skills • Inadequate consideration given to the parents' vulnerable condition • Decision to break the family bond definitively and without delay, taken without considering less radical solutions • Immediate interruption of contact ordered while the proceedings were still ongoing • Refusal to order a fresh expert report despite claims of positive developments in the parents' personal and material situation • Insufficient grounds
Art 8 • Family life • Domestic authorities' failure to make the necessary efforts to safeguard the family relationship between the applicant grandparents and their granddaughter• Meetings throughout first-instance proceedings, initially twice and then reduced to once a month, of limited relevance for the development of a meaningful relationship with the child • Lack of counselling and support for the applicant grandparents particularly relevant considering the parents' vulnerable condition
Art 46 • Individual measures • New review mechanism under the Code of Civil Procedure would allow the domestic authorities, if requested by the applicants, to re-examine without delay the current situation of the applicants and the child and to consider the possibility of establishing contact between them

Prepared by the Registry. Does not bind the Court.

STRASBOURG

2 July 2026

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Dragoni and Others v. Italy,

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

Ivana Jelić*, President*,
Erik Wennerström,
Raffaele Sabato,
Frédéric Krenc,
Davor Derenčinović,
Artūrs Kučs,
Anna Adamska-Gallant*, judges*,
and Ilse Freiwirth, *Section Registrar,*

Having regard to:

the application (no. 12654/22) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by three Italian nationals, Ms Dora Dragoni ("the first applicant"), Mr Italo Dragoni ("the third applicant"), Ms Lilia Ida Guerrini ("the fourth applicant"), and by one Turkish national, Mr Fatih Divrak ("the second applicant") on 1 March 2022;

the decision to give notice of the application to the Italian Government ("the Government");

the decision to invite the Turkish Government, the second applicant being of Turkish nationality, to inform the Court whether they wished to lodge written observations (Article 36 § 1 of the Convention and Rule 44 of the Rules of Court) and noting that the Turkish government did not avail themselves of their right to intervene in the case;

the parties' observations;

Having deliberated in private on 9 June 2026,

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

INTRODUCTION

1. The case concerns the declaration of availability for adoption and the interruption of contact with the family of origin by order of the public authorities of H., daughter and granddaughter of the applicants. The applicants raise complaints under Article 8 of the Convention.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

2. The first applicant and the second applicant are respectively the mother and the father of H. The third and fourth applicants are the maternal grandparents of H. Further details are set out in the appendix. They were

represented by Mr G. Thuan Dit Dieudonné, a lawyer practising in Strasbourg.

3. The Government were represented by their Agent, Mr L. D'Ascia.

A. Background of the case

4. The first applicant holds a degree in medicine and practices as an acupuncturist. She has a history of psychiatric disorders. In 2010 she was diagnosed with paranoid schizophrenia and was hospitalised by way of a compulsory treatment order (*trattamento sanitario obbligatorio*). After her discharge from hospital, she received pharmacological treatment and support from a local mental-health centre (*Centro di Salute Mentale*, hereinafter "CMH") until 2016, when she moved to another city.

5. The first and the second applicants met in 2014 via an online language learning site. At the end of August 2016, after having been in contact for more than two years, the first applicant went to Türkiye to meet the second applicant and his family.

6. On 11 October 2016 they got married in Türkiye, and in November 2016 they moved to Italy. In the meantime, the first applicant became pregnant.

7. On 3 July 2017 the first applicant, who was then 39 weeks pregnant, threatened to kill herself and was taken to an emergency department. While she was there it was discovered that the baby was in the breech position and that a caesarean section was necessary, of which she was informed. She refused to undergo the surgical procedure. On 4 July 2017 she underwent a psychiatric examination. The psychiatric specialist reported that she appeared lucid and well oriented with no thoughts of self-harm. She had understood the information provided by the specialists with respect to the situation of her baby, but had stated her desire to have a natural birth. She had agreed to the caesarean section only if the baby was still in breech position at the start of labour. The specialist concluded that she was of sound mind and that her decision was thus to be respected.

8. On the same day the hospital social services sent an urgent notification to the local child protection social services (*Servizio Sociale Area Tutela Minori*), reporting the first applicant's psychiatric history, the circumstances of her hospitalisation, the impossibility of communication with the second applicant owing to the unavailability of a Turkish interpreter, and the first applicant's refusal to undergo a caesarean section. In the notification the hospital social services concluded that the child should be transferred to the neonatal ward after birth in order to give medical staff time to assess the first and second applicants' parenting skills.

9. The first applicant discharged herself from the hospital. A caesarean section was scheduled for 15 July 2017, but she did not attend the appointment.

B. Birth of the child and proceedings before the Youth Court

10. On 25 July 2017 the first applicant gave birth to a baby girl, H., by way of an urgent caesarean section. The child was transferred to the neonatal intensive care unit. A report by the hospital social services dated 29 July 2017 stated that the first applicant had shown signs of psychological distress after the delivery. In particular, she had had to be asked several times before agreeing to meet a hospital social worker. She had expressed the belief that the child was a boy and the idea that she had been pregnant with twins. She had not shown any wish to visit her daughter and had not provided coherent answers to questions concerning the pregnancy and on how she intended to organise her life with the baby. The report further stated that, during her first visit to the child with the second applicant, she had seemed unable to understand the needs of the child. She had not taken H. in her arms and had only touched her as though she were performing a neonatal medical examination.

11. The third and fourth applicants, the maternal grandparents of the newborn, were present during the first visit. However, the first and second applicants did not authorise medical staff to provide them with any information on the child.

12. The Government submitted, relying on the domestic courts' account of the facts, that on 27 July 2017 the first applicant had refused to attend a scheduled visit to the child with the hospital social worker. On the same day she had discharged herself from the hospital. According to a report by the hospital social services dated 4 August 2017, the first and second applicants had visited the child daily at the hospital in the days after the first applicant had discharged herself. On those occasions the mother had appeared detached from the child. She had refused to provide her with basic care or to breastfeed her. The father had shown some abilities and confidence in taking care of the child and in understanding her needs.

13. The first and second applicants contested that version of the facts, submitting that they had never refused to be interviewed by social workers and that, on the contrary, they had attended all of the scheduled interviews before and after the birth of the child.

14. On 1 August 2017, during one of those visits at the hospital, the first applicant showed signs of psychological disturbance. She was diagnosed with a psychotic disorder and hospitalised for 15 days. During that period the second applicant visited the child regularly.

15. On 2 August 2017 the public prosecutor lodged an application with the Youth Court seeking that the first and second applicants be deprived of parental responsibility, and authorisation to put the child up for adoption.

16. On 4 August 2017 social services ordered that the child be kept in the neonatal ward pursuant to Article 403 of the Italian Civil Code with a view to subsequently placing her in a protected location.

17. On 17 August 2017 the Youth Court granted the request of the public prosecutor and initiated proceedings to declare the child available for adoption. The court also suspended the first and second applicants' parental responsibility and appointed social services as temporary legal guardian of the child. Social services were ordered to find a placement for the child, to regulate her contact with the parents and grandparents and to assess their personalities and their respective relationships with the child.

18. On 24 October 2017 the Youth Court appointed an expert to assess the personality and parenting skills of the first and second applicants, with meetings to be held every 15 days. The court decided that the assessment be extended also to the third and fourth applicants.

19. From October 2017 the first and second applicants met the child during weekly visits of one hour at the presence of an educator and a Turkish interpreter. The third and fourth applicants joined those visits twice a month.

20. According to a report dated 10 May 2018 – compiled by the CMH that had the first applicant into care until 2016 and again from August 2017 following her dismissal from the hospital – she had complied fully with the CMH's therapy recommendations. The CMH specialists reported that in the preceding months she had worked to prepare herself for reunification with her daughter. They concluded that, given her positive clinical results, she was ready to exercise her maternal role, with the support of her family and of the competent services if needed.

21. In a report dated 20 June 2018 the court-appointed expert, psychologist D.M.T., noted as follows.

a) The first applicant, notwithstanding her desire to take on her parental role, had proved able to interact with her daughter exclusively on a practical and operational level. Those interactions lacked the affective and emotional components necessary for the child's healthy psychological development.

b) The second applicant had shown a better ability to recognise and respond to the child's affective-emotional needs, despite some fragilities. During interaction with the child in the presence of the first applicant he showed a marked supportive attitude towards his wife, whose fragility seemed to induce him to take on the role of reference adult, which had also been recognised by the child. In their caregiving duties, the two parents had acted as a collaborative and complementary couple. The second applicant could therefore potentially assume the role of protective adult and mediator with the maternal figure.

c) The third and fourth applicants could be a valid resource in relation to practical and economic matters and for the education of the child. However, they had shown some relevant fragilities with respect to relational abilities.

22. The expert stated that, owing to the lack of a support programme to develop the parenting abilities of the couple and the limited impact of the parent-child visits in the development of a meaningful relationship, it was not possible to provide a final assessment of the applicants' parenting skills. The expert therefore concluded that, based on the facts as they then stood, a return of the child to the family would have been detrimental and that the activation of a parental support programme, in particular in favour of the father, was necessary in order to make a final assessment of their parenting skills.

23. On 25 June 2018 the Youth Court ordered social services to develop a parental support programme for the father that would comprise fortnightly visits between the child and the parental couple, weekly visits between the father and the daughter, weekly meetings between the father and social services and monthly visits between the grandparents and the child.

24. From July 2018 to January 2019 visits were organised in accordance with the court's instructions. The ones with the child lasted one and a half hours and included her mealtimes. Four longer visits were organised between the parental couple and the child in order to include important moments of the child's daily life, including times when she would play, fall asleep, wake up and have meals. A parental support programme was set up for the second applicant, which consisted of eight meetings with a psychologist, P.F., and five meetings with a social worker (the first applicant also attended the meetings) between September and December 2018.

25. In her report dated 22 January 2019, the psychologist P.F. noted that the first and the second applicants had shown improvements in their parenting skills over the course of the parental support programme. In particular, the father had made further progress in his ability to respond to his daughter's needs and requests, and to reflect on the significance of both his own and his daughter's behaviours. As to the mother, despite her efforts to adjust her approach in the light of the considerations that emerged during the meetings, she had continued to display significant limitations in her affective communication. Being aware of her limitations, she frequently sought the presence of the second applicant, whom she perceived as more competent in that respect. Both the first and the second applicants had shown limited ability to take responsibility for the child's removal from the family as well as a limited understanding of the grandparents' struggles in their interactions with the child. The second applicant had shown difficulties in adapting, which hindered his integration process into Italian society. As to the child, she had developed the ability to recognise her parents even when they were not present and to remember their meeting routine. The psychologist concluded that, in the light of the above-mentioned limitations and fragilities, the return of the child to her family of origin was not advisable at the material time. However, given the parents' improvements and collaborative attitude, she added that there were positive indicators for the establishment of a programme to support their relationship with the child. In any event, the

psychologist recommended the continuation of contact between the child and the parents.

26. In a report dated 23 January 2019, social services came to conclusions similar to those of the psychologist, P.F. In particular, they reported that the parental support programme, unlike the previous strictly evaluative phase, had allowed the establishment of a more relaxed relationship with the parental couple. That had fostered a climate of cooperation and opened up spaces for reflection. Social services noted that the change in the context and time of the meetings had enabled the parents and the child to bond gradually. They concluded that, although there had been some positive developments in the father's parenting ability, those were not sufficient for the reunification of the child with the family of origin. At the same time, the child had an urgent need for an environment in which she could establish stable affective bonds. With respect to the likelihood of a sufficient improvement in the first two applicants' parenting capacity, the report stated that the father had demonstrated an ability to learn about the child's needs, but had persisting limitations in taking responsibility and having an awareness of the risks to which the family's condition could expose the child. In the view of social services, those limitations were further amplified by the limited capacity of the parental couple to proceed in the process of emancipating themselves from the third and fourth applicants within a time frame compatible with the child's needs. Lastly, social services emphasised the finding of the psychologist P.F. concerning the importance for the child of the preservation of a bond with her parents.

27. By a judgment of 19 June 2019 the Youth Court declared the child to be available for adoption in accordance with Section 8 of Law no. 184/1983 (see paragraph 39 below) and ordered the interruption of the contacts with the family of origin. The relevant passages of the judgment read as follows:

> "The father [of the child has been] in Italy since 2016, following his marriage with the mother, is unemployed [and has been] registered with [an] employment centre since 2018 ... he has refused an [offer of] employment in a Turkish company located in Italy as he would have needed to spend an initial period in Istanbul ... which, in his opinion, would have interfered with the judicial proceedings. [He and the mother,] therefore, remain totally dependent financially, including for housing, on [the wife's] parents, with whom they have been living in a small house since the birth of their child. [The first applicant] is also unemployed, the couple has no social network and lives in isolation, likely owing to her condition.
>
> ... there is no doubt that [the child] is in a state of abandonment with respect to the maternal grandparents and the mother. That is because of the mother's absolute inability to take care of [the child], even with support, and the inability of the grandparents to support [the first applicant], so that they could together provide an adequate level of parental ability, or to substitute for her. In the light of the assessments made, those issues appear to be long term and rooted in the personalities of these adults and in their relationship ...
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> ...

After two years of investigations, including a [parental] support programme, we are faced with an unchanged situation, in which the father has not distanced himself from his wife in the interest of his child, and continues to desire [their daughter's] return to a clearly inadequate environment; ... after so much time that inadequacy should have been clear to him ...

It is therefore evident that the father's 'improvable parental ability', identified by the expert, is confined to limited acts strictly related to basic care and the detection – slightly improved in what is, nonetheless, a supervised context ... – of the child's needs, without understanding that the only thing that needed to happen and that has not happened was him showing the will to grow with his child outside the family context ... instead he still wants to maintain a link [with that family context], prioritising in that regard his own needs over the more profound needs of his daughter, as they are now and into the future.

...

His intention is to continue ... cohabitation [with his wife], which appears to be profoundly incompatible with the needs of [the child]. It seems that he wants to preserve his masculine self-image, perhaps in accordance with internalised cultural models, whereby he should be alongside a wife [. That causes him to] reject the idea of being a father and at the same time a mother to the child in a healthy environment. During this period the father ought to have chosen unconditionally his child, which would have been the only [necessary] element of 'improvable parental ability', but he failed to do so.

In the court's view, both parents lack all ... indicators that they could sufficiently improve their parenting abilities.

The court considers that the psychologist's conclusions lack a consistent view capable of truly protecting the minor ...

[The court considers that the] situation is clearly immutable[.] ... [N]one of the specialists of the public institutions referred to a possible future return of the minor, to any possible areas of work with the couple (apart from improvements in the dynamics of the meetings) or to possible unmonitored visits in the future; on the contrary, [they reaffirmed] the necessity of maintaining the child's out-of-home placement[. In that context] there appears to be no psychological or legal basis for preserving the relationship between the minor and the parents.

A two-year-old girl, who is particularly adaptable, cannot have formed an attachment to parents with whom she has spent limited time – and [even that time] in meetings, the modalities of which have been substantially inadequate. It can only be said that she has merely tolerated them – as [meetings with them were] imposed on her by the institutional path – thanks to her great ability to adapt.

Furthermore, from a legal perspective, the maintenance of the meetings and, consequently, a decision to place her in foster care (necessarily *sine die*) rather than to declare her available for adoption, would be necessarily aimed at the return [of the child] to the family of origin and, at the same time, at the establishment of a relationship that could go beyond the supervised meetings[. However, a]s of today, the preconditions for either of those options are lacking, and neither course appears likely to be[come] compatible with the development path of the child in the near future.

The decision that best protects the child's interests thus cannot be to continue the meetings without the possibility of any evolution and in the absence of any perspectives: in fact, with the exception of an improvement – solely by the father – in the

understanding of basic elements of care, there have been no indications of any development.

In reality, none of the experts found a likelihood that the applicants' parenting skills will sufficiently improve: the [child's] return to the family of origin is not [currently] foreseeable, even in the long term; there still are significant limitations in both parents that prevent them from assuming their [parental] responsibility, as well as a sense of denial as to the risks for the development of the child that could arise should she be exposed to the structure of the family of origin, which clearly lacks an upward trajectory. Those limitations influence and ... compromise the path towards a potential recovery [of parental responsibility] in an adequate length of time.

It follows that maintaining the relationship with the parents and exposing the child to the disfunctional scenarios outlined above would pose a serious risk [to her]. That risk could not be outweighed by ... protective measures and would force the child to put in place a significant adaptative effort which would entail a very high price in the subsequent phases of her psychological ... development and her development of a sense of self."

28. On 4 September 2019 the four applicants appealed against that judgment before the Court of Appeal. As an urgent preliminary measure, they requested a stay of execution on the first instance judgment and the immediate resumption of their meetings with the child. On the merits, they sought that a new expert report be carried out in respect of their parenting skills. They argued, relying on medical reports from the CMH, that the first applicant's psychological condition had improved and that she was now stable. In particular, they emphasised that in a report dated 13 July 2020 a specialist from the CMH had stated that "close collaboration and compliance with the therapeutic prescriptions had led to a permanent clinical stability with no symptoms". In the relevant period, the first applicant had always been "lucid and well-oriented" and had "proved able to deal with the suffering and stress with which she has lived in these years of forced separation from her child with great equilibrium. In the course of the psychiatric meetings she has always shown great affection and attachment to her child, an ability to understand her needs, understandable preoccupation for her wellbeing and her development outside the family of origin, a desire to take care of her personally and sadness at the separation. She invested a lot of time in preparing for the meetings with her child, adjusting to her different needs by buying objects aimed at the development of the child and of their relationship, and working with her husband and her parents to build the domestic environment most appropriate for her return, taking inspiration from the suggestions given during the different meetings with the experts. She demonstrated maternal feelings, intentions, and behaviours that were consistently appropriate. These observations support the presumption that she possesses adequate parental capacities, which can be further strengthened or supported if required."

29. They further submitted that the second applicant had found a job and had improved his knowledge of Italian, and that the couple was living

autonomously in a flat close to the home of the third and fourth applicants, with whom they had established a good relationship. The first applicant had also returned to her professional practice.

30. They thus requested the re-establishment of their parental responsibility, the placement of the child with them or, alternatively, with her grandparents, and, in any case, the implementation of measures to support their parenting skills by the social services.

31. On 20 April 2020 the Court of Appeal rejected their request for a stay of execution of the first-instance judgment, holding that there were no serious grounds of urgency given the absence of manifest errors in the contested decision and the proximity of the hearing on the merits, which was set for 28 May 2020. Furthermore, it stated that, in any event, the COVID-19 pandemic would have impeded the resumption of contact between the child and her family of origin.

32. In a report dated 15 May 2020 social services reported that, since the interruption of the contacts, the child had never mentioned or asked for the applicants, and that the applicants themselves had not sought information on the child.

33. On 1 July 2020 the Court of Appeal, having held a hearing, upheld the first-instance judgment. The court dismissed the applicants' request for an updated expert assessment of their parenting abilities, deeming the expert report submitted to the Youth Court in June 2018 sufficiently recent. It also stated that the CMH's declarations to the effect that the first applicant had reached a psychological equilibrium could not be appreciated as a "significant change in her lack of affection towards her child ... given that [those experts] had never examined the quality of the relationship between the minor and the mother, nor the ... interpersonal relations among the four relatives". The Court of Appeal considered the fact that the first applicant had resumed her professional practice to also be irrelevant. Relying on that same report and on a social services report of October 2019, in which it was stated that the child was developing adequately and had never referred to the applicants after the interruption of contact, the court found that the applicants' parenting skills could not be improved within a time frame compatible with the child's needs, who was at that time approaching her third birthday. In retracing the circumstances of the case, the court mentioned among other things that the first applicant had refused to be placed in a supervised residential unit (*comunità*) with the child. In addition, it referred to a police report, drawn up when the parental couple moved from Turkey to Italy, in which "it was not excluded that the second applicant might have taken advantage of the first applicant's state of 'mental distress' to secure his freedom of movement within Europe, as he was suspected of having links to the ... 'Grey Wolves' movement". The Court of Appeal noted that the first applicant had declared that she had never taken into consideration the possibility of an instrumental

marriage on the part of the second applicant, concluding that "such ingenuity, contributes to the view that the woman is unable to protect her own daughter".

34. The four applicants lodged an appeal on points of law against the judgment, complaining, *inter alia*, that the changes in the parents' personal conditions (namely a positive evolution in the first applicant's mental health and the fact that they had both found employment and were living together) would have warranted a new expert assessment of their parenting capacities. They further claimed that the parental support programme set up to allow the development of their parenting abilities had been inadequate.

35. On 14 June 2021 the Court of Cassation dismissed the applicants' appeal on points of law, stating that that the Court of Appeal had examined the parents' and grandparents' ability to perform their roles on the basis of a complex investigation which had included an expert report and reports by social services. In its view, the Court of Appeal's decision had provided solid and convincing arguments to the effect that both the parents and the grandparents lacked the necessary parenting abilities and that there was no possibility of the necessary improvements taking place within a time frame compatible with the child's needs.

36. On 4 September 2023 the first applicant gave birth to the couple's second child, in respect to whom no measures were taken by the public authorities. At the time of the exchange of observations the first applicant was pregnant with the couple's third child.

37. No information was provided with respect to the current placement of H. or on the procedure for her adoption.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW AND PRACTICE

A. Adoption

38. The domestic provisions and case-law relevant to the present case are partially described in *A.I. v. Italy* (no. 70896/17, §§ 43-50, 1 April 2021).

39. The provisions concerning the procedure for adoption are set out in Law no. 184/1983 ("the Adoption Act"), as amended by Law no. 149 of 2001, entitled "The Child's Right to a Family". In so far as relevant, they read as follows.

Title II – The adoption

...

Chapter I – The declaration of availability for adoption
Section 8

"The youth court of the district in which the minor is located may declare him or her available for adoption when it has been established that he or she has been abandoned because he or she does not receive moral and material assistance from his or her parents or from relatives who are legally responsible for providing it, except where the lack of assistance has been caused by a *force majeure* of a temporary nature.

..."

Section 10

"...

3. The court may, at any time until the placement with a family with a view to adoption (*affidamento preadottivo*), order any temporary measure which is in the minor's interests, including, if necessary, temporary placement with a family or family-type community, suspension of the parental responsibility of the parents over the child ..."

Section 15

"...

2. The declaration that a minor is available for adoption shall be made in a reasoned decision of the youth court, sitting in chambers, after it has heard the public prosecutor, the representative of the children's home in which the minor has been placed or [the minor's] foster parent, ... the [minor's] guardian, and the minor if he or she is over the age of twelve or, if aged under twelve, in accordance with his or her capacity for discernment.

..."

Section 21

"1. A declaration of the state of adoptability shall be revoked, in the child's best interest, if the conditions set out in Section 8 are no longer met ...

2. The declaration of the state of adoptability shall be revoked by the youth court of its own motion or at the request of the public prosecutor, the parents, [or] the legal guardian ...

...

4. If the minor has been placed with a family with a view to adoption (*affidamento preadottivo*), the declaration that he or she is available for adoption cannot be revoked."

Chapter IV – The declaration of adoption
Section 27

"...

3. With the adoption, the relationship of the adopted child with his or her family of origin ceases, except in so far matrimonial prohibitions are concerned."

Title IV – Adoption in special cases
Chapter I – Adoption in special cases and its effects
Section 44

"1. Minors may also be adopted where the conditions referred to in section 7(1) are not met [that is to say, when they have not yet been declared adoptable], when:

...

d) ... it has been proven that it is not possible to place the child with a family with a view to adoption (*affidamento preadottivo*).

..."

40. In judgment no. 183 of 2023, the Italian Constitutional Court declared a challenge of the constitutionality of section 27(3) of the Adoption Act unfounded; the challenge had argued that the relevant provision prevented judges, in the case of a so-called "full" adoption, from assessing *in concreto* a child's interest in maintaining relations with his or her family of origin.

41. In its reasoning, the Constitutional Court noted that alternative solutions to "full" adoption had been developed in the domestic case-law in order to ensure that there was an appropriate response to situations falling between a temporary lack of an adequate family environment and a state of abandonment. In particular, in situations involving the semi-abandonment of the child because of an addiction or mental or health problems of the parent(s), owing to which their inability to ensure moral and material assistance to the child is permanent but not absolute, the courts had developed a form of "mild" adoption through an extensive interpretation of section 44(1)(d) of the Adoption Act that allowed legal ties with the family of origin to be preserved (Court of Cassation's decisions no. 20322 of 23 June 2022; no. 40308 of 15 December 2021; no. 35840 of 22 November 2021; no. 1476 of 25 January 2021; and no. 3643 of 13 February 2020). In addition to that, the courts had developed another form of adoption – "open" adoption – whereby, in cases where the child has been found to be in a state of abandonment, the "full" adoption can include the preservation of some socio-affective ties with members of the family of origin with whom the child has positive personal relations (as recent examples, judgments of the Bologna Court of Appeal of 2 February 2023; the Milan Court of Appeal of 31 May 2022; the Rome Court of Appeal of 3 January 2022; the Milan Court of Appeal of 8 January 2021; and the Turin Court of Appeal of 25 June 2019).

42. With respect to section 27(3) of the Adoption Act, the Constitutional Court held that:

"14. ... Ultimately, [the provision] can be interpreted in conformity with the Constitution, so as to exclude the establishment of an absolute presumption and, in particular, a prohibition on judges recognising a child's pre-eminent interest in maintaining socio-affective relationships with the family of origin. The termination of relations with the biological family [referred to in the contested provision] necessarily concerns the legal-formal relationships. As regards, on the other hand, the interruption of relationships of a socio-affective nature, the provision contains a presumption only

iuris tantum that the *de facto* detachment from the family of origin is in the child's interest. Such a presumption does not, therefore, prevent ... judges from finding that the continuation of significant, positive and consolidated socio-affective relations with members of the family of origin corresponds to the child's best interests and, conversely, that the interruption thereof may cause harm. Where deeply-rooted affective ties exist with family members who are not able to overcome the state of abandonment, it is in the pre-eminent interest of the child not to suffer additional trauma as a consequence of the interruption [of such relationships] and to maintain a line of continuity with the world of those for whom the child cares, which is part of his or her memory and constitutes a relevant component of his or her identity."

B. The reopening of domestic proceedings

43. On 24 December 2021, Law no. 206 (the "Cartabia Law") came into force, delegating to the government the power to adopt measures to improve the efficiency of civil proceedings and to revise the rules governing alternative dispute resolution mechanism.

44. In implementation of Law no. 206, Legislative Decree no. 149 of 10 October 2022 was adopted, which at Article 3 provided for the addition of Article 391 *quater* to the Code of Civil Procedure entitled "Revocation for violation of the European Convention on Human Rights". The relevant parts of the latter provision read as follows:

"1. Final judgments whose content has been declared by the European Court of Human Rights to be contrary to the Convention for the Protection of Human Rights and Fundamental Freedoms or to one of its Protocols may be challenged by way of revocation if the following conditions are met:

1) the violation established by the European Court has infringed a right of the individual [concerning his or her status];

2) any just satisfaction awarded by the European Court pursuant to Article 41 of the Convention is not sufficient to compensate for the consequences of the violation.

The appeal must be lodged within sixty days of the publication of the final judgment of the European Court in accordance with the Rules of Procedure of the Court.

...

The granting of the revocation shall not prejudice the rights acquired by third parties acting in good faith who did not participate in the proceedings before the European Court".

II. RELEVANT INTERNATIONAL LAW AND INSTRUMENTS

45. The international law and instruments relevant to the present case are described in *A.I. v. Italy* (cited above, §§ 51-58).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

46. The applicants complained that the domestic courts' decision to declare that H. was in a state of abandonment and that she was available for adoption had infringed their right to respect for private and family life, as guaranteed by Article 8 of the Convention. In particular, they alleged that that decision had not been based on an updated expert assessment of the applicants' parenting abilities and that they had not been provided with adequate measures to support the development of their parenting skills, particularly in view of the mother's vulnerability. They further complained about the fact that the decision had resulted in the immediate interruption of contacts between the child and the family of origin, before the decision became final, with no adequate reasons having been given for that. Lastly, they complained about the length of the procedure to assess their request for a stay of execution of the first-instant judgment and the resumption of the contract with the child, which in their view had been incompatible with the urgency of the issue at stake.

47. The relevant parts of Article 8 of the Convention provide:

> "1. Everyone has the right to respect for his private and family life ...
>
> 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. Exhaustion of domestic remedies

48. The Government objected that the application was inadmissible for failure to exhaust domestic remedies, as the applicants had never requested the domestic courts to consider the alternative forms of adoption that had been developed in the domestic case-law and which would have allowed for the preservation of the relationships between the child and the family of origin (see paragraphs 40-42 above). The Government argued that the recent case-law of the Court of Cassation (namely, the Court of Cassation's judgment no. 26791 of 2023 and references therein) clarified that "full" adoption was to be considered the *extrema ratio,* which had to be resorted to only when the preservation of the bond with the family of origin was incompatible with the child's best interests. In accordance to the domestic case-law, judges were thus always required to verify the feasibility of a form of adoption which did not result in the irreversible break-up of the bond between the child and the family of origin, with such forms being referred to as "mild" adoption and

"open" adoption in domestic practice. With respect to the development by case-law of those forms of adoption, the Government referred respectively to the judgments of the Court of Cassation and of the civil appeals courts cited by the Constitutional Court in judgment no. 183 of 2023 (see paragraph 41 above).

49. The applicants contested the Government's position. They considered that they had correctly exhausted the available domestic remedies as, in the course of the proceedings, they had submitted that the child was not in a state of abandonment and that the conditions to declare her available for adoption were therefore lacking.

50. In addition, the applicants pointed out that the domestic case-law relied on by the Government had not been consolidated at the material time, as it was based on judgments of Court of Appeal and the Court of Cassation dating from 2021 onwards. Accordingly, they argued that the remedy had been neither available nor effective at the material time, as it had not been sufficiently certain, not only in theory but also in practice.

51. 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. The existence of these remedies must be sufficiently certain not only in theory but also in practice, failing which they will lack the requisite accessibility and effectiveness. To be effective, a remedy must be capable of directly redressing the impugned state of affairs and must offer reasonable prospects of success (see *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, § 139, 27 November 2023).

52. As regards the burden of proof, it is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy advanced by them was an effective one, available in theory and in practice at the relevant time. Once this burden of proof has been satisfied it falls to the applicant to establish that the remedy was in fact exhausted or was for some reason inadequate and ineffective in the particular circumstances of the case, or that there existed special circumstances absolving him or her from the requirement (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 77, 25 March 2014, and *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 143).

53. In that context, the Court observes that in their application the applicants complained that the decision declaring the child available for adoption had been based on an outdated assessment of their parenting abilities and that the authorities had failed to put in place a programme capable of supporting the development of their parenting abilities. As to the interruption of their contact with the child, the applicants complained that it had been ordered while the proceeding were still pending, without sufficient reasons having been given for that, and that the length of the proceedings on their request for a stay of execution of that decision had been excessive.

54. The Court further observes that the applicants raised those same complaints in the course of the domestic proceedings in the Court of Appeal and in the Court of Cassation. When the applicants requested the stay of execution of the first-instance judgment they made particular reference to the interruption of contact with the child, H.

55. The Court therefore considers that the applicants exhausted the domestic remedies as they did raise at domestic level the same complaints that they subsequently submitted to the Court in their application (see, *a contrario*, *Fu Quan, s.r.o. v. the Czech Republic* [GC], no. 24827/14, §§ 172-73, 1 June 2023).

56. As regards the remedy suggested by the Government, the Court takes note of the fact that the possibility of resorting to alternative solutions to "full" adoption emerged progressively in the domestic practice and was ultimately recognised by the Constitutional Court in judgment no. 183 of 2023 (see paragraphs 40-42 above).

57. The Court further notes that, in their arguments, the Government referred to several judgments of the Court of Cassation concerning "mild" adoption, the majority of which were handed down after the conclusion of the judicial proceedings in the applicants' case. With respect to "open" adoption, the Government confined themselves to mentioning several judgments of various civil appeals courts, most of which were given after the conclusion of the judicial proceedings in the applicants' case.

58. In the light of the foregoing, and having regard to the main focus of the applicant's complaint (see paragraphs 53-55 above) the Court is of the opinion that the applicants used the remedy available in the domestic legal system and that that remedy was, despite its outcome, effective. Accordingly, the Government's objection must be dismissed.

2. Compatibility ratione materiae

59. There can be no doubt that the relationship between the first and second applicants and their child H. constituted "family life" within the meaning of Article 8 of the Convention (*K. and T. v. Finland* [GC], no. 25702/94, § 151, ECHR 2001-VII).

60. The same is not necessarily the case in respect of the third and fourth applicants, who are the maternal grandparents of H. In this connection, the Court considers that the question whether the relationship between the maternal grandparents and the child constituted "family life" within the meaning of Article 8 is closely linked to the substance of their complaints and should therefore be examined together with the merits.

3. Conclusion on admissibility

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

B. Merits

1. The parties' submissions

(a) The applicants

62. The applicants submitted first of all that the conditions for declaring the child available for adoption had not been fulfilled in their case. They contended that the reasons that had been put forward by the domestic authorities had not corresponded to the exceptional circumstances capable of justifying such a drastic measure.

63. In their view, the domestic courts had based their decisions primarily on the applicants' behaviour in the period immediately after the birth of H. and on the court-appointed expert's report of 2018, without taking into account the changes in their personal circumstances that had occurred in the course of the proceedings.

64. Considering that those family difficulties had only been temporary, the applicants submitted that by opting to cut the bond with the family of origin rather than taking the requisite measures to support and assist the family, the domestic courts had failed in their positive obligations under the Convention.

65. The applicants submitted that no real support programme had been established to help them develop their parenting skills. The supervised meetings that had taken place from the birth of the child until the first instance judgment had been particularly limited in frequency and duration and had been aimed at assessing the applicants' parenting skills rather than assisting the development of their abilities and of a bond with the child. Furthermore, no measures had been taken to support the development of better parenting capacities in the third and fourth applicants, in spite of the fact that they had constantly expressed their availability to take care of the child.

66. The first applicant considered that her vulnerable condition arising from her psychological state had not been taken in due account as she had not been provided with an effective parental support programme.

67. The applicants further argued that the domestic proceedings had not been accompanied by appropriate guarantees as the Court of Appeal had refused to order a new expert assessment, which in their view had been necessary given that the first assessment had been drawn up two years before and the applicants' situation had changed considerably since then.

68. Furthermore, the applicants contended that the interruption of their contact with the child after the first-instance decision, while the declaration

of availability for adoption was not yet final, had not been justified and had not corresponded to a pressing social need. In particular, they submitted that the Court of Appeal's finding to the effect that the immediate resumption of their contact with the child would in any event have been prevented owing to the outbreak of the COVID-19 pandemic could not be considered a relevant and sufficient ground to justify, for the purposes of Article 8 of the Convention, such a drastic restriction of the applicants' rights.

69. Lastly, with respect to the proceedings concerning their request for a stay of execution of the first-instance judgment and the immediate resumption of contact, the applicants pointed out that the proceedings had lasted more than seven months. Considering the potentially irreversible consequences of that measure on the family bond, that delay had been incompatible with the promptness and expedition which had to accompany any family proceedings.

(b) The Government

70. The Government submitted that the competent Italian authorities had pursued the aim of protecting the best interests of the child and had taken all the necessary steps to try to preserve the family link. The declaration of availability for adoption had been issued in the framework of a fair procedure following an in-depth examination of the psychological and physical condition of the applicants and of the child.

71. The Government contended that the measures taken by the authorities at the child's birth were provided for by law and had been necessary in order to prevent prejudicial consequences for the child, in the light of the difficulties clearly encountered by the first and second applicants in carrying out their parental role.

72. The declaration of availability for adoption had been issued after two years, during which time the applicants had been involved firstly in an evaluation procedure and then in a parental support programme, and had had regular supervised meetings with the child. Those visits provided them with a chance to improve their parenting abilities by receiving instructions from social services workers. That process had revealed the persistence of deficiencies in the applicants' parenting skills which had been deemed to be not capable of sufficient improvement within a time frame compatible with the child's needs. The absence of improvement had been such as to constitute an exceptional circumstance that could not allow the preservation of the relationship with the child, even to the extent allowed under forms of adoption other than "full" adoption.

73. The Government referred in that connection to the domestic courts' judgments in so far as they dealt with the limits of the applicants' capacity for shouldering the role of parents.

74. Referring to the Court of Appeal's reasoning on that point, the Government submitted that the assessment carried out at first instance on the applicants' parenting abilities had been sufficiently thorough and had still

been current at the moment of the appeal proceedings. The additional medical reports on the first applicants' psychological state had not been relevant to the evaluation of her parenting abilities.

75. The Government contended that all the measures ordered and applied in the present case had been proportionate and necessary with respect to the aim of protecting the best interests of the child, given the persistent inadequacy of the applicants' caring abilities.

76. Lastly, the Government emphasised that, in the light of the Constitutional Court's judgment no. 183 of 2023 (see paragraphs 40-42 above), even after the declaration of availability for adoption the courts may, during the subsequent proceedings for the adoption of the child, order the maintenance of some form of socio-affective relations with the family of origin when that is in the child's best interest.

2. The Court's assessment

(a) Position of the first and second applicants

(i) Interference, lawfulness, and legitimate aim

77. The Court reiterates that, for a parent and his or her child, being together is a fundamental element of family life and that domestic measures that keep them apart constitute an interference with the right protected by Article 8 of the Convention (see *A.I. v. Italy,* no. 70896/17, § 83, 1 April 2021, and the references therein). Such interference infringes that Article unless it is "prescribed by law", pursues one or more legitimate aims under paragraph 2 of Article 8 and can be regarded as a measure "necessary in a democratic society".

78. The Court considers it unequivocally established, and the parties do not dispute, that the contested decisions given in the course of the proceedings before the domestic courts amounted to an interference with the first and second applicants' exercise of their right to respect for family life as guaranteed by Article 8 § 1 of the Convention.

79. Nor is it disputed that those decisions were provided for by law, namely Section 8 of the Adoption Act, as amended by Law no. 149 of 2001 (see paragraph 39 above), and that they pursued legitimate aims, such as the "protection of the health or morals" and "rights and freedoms" of a child. The Court sees no reason to hold otherwise. The interference, therefore, fulfilled two of the three conditions for it to be regarded as justified under the second paragraph of Article 8. In the present case, the dispute concerns the third condition, namely whether the interference was "necessary in a democratic society".

(ii) Proportionality

(α) General principles

80. The general principles relevant to the present case are well established in the Court's case-law, and were set out in detail in *Strand Lobben and Others v. Norway* ([GC], no. 37283/13, §§ 202-13, 10 September 2019), to which reference is made here. In assessing the necessity of an interference, the Court will consider whether, in the light of the case as a whole, the domestic authorities have provided relevant and sufficient reasons for the purposes of paragraph 2 of Article 8, and whether the interference corresponds to a pressing social need and, in particular, it is proportionate to the legitimate aim pursued, regard being had to the fair balance which has to be struck between the relevant competing interests (ibid., § 203).

81. For the purposes of the present analysis, the Court reiterates that regard for family unity and for family reunification in the event of separation are inherent considerations in the right to respect for family life under Article 8. Accordingly, in cases involving the imposition of public care restricting family life, a positive duty lies on the authorities to take measures to facilitate family reunification as soon as reasonably feasible (see *K. and T. v. Finland* [GC], no. 25702/94, § 178, ECHR 2001-VII). Moreover, any measures implementing temporary care should be consistent with the ultimate aim of reuniting the natural parents and the child. The above-mentioned positive duty to take measures to facilitate family reunification as soon as reasonably feasible will begin to weigh on the competent authorities with progressively increasing force as from the commencement of the period of care, subject always to its being balanced against the duty to consider the best interests of the child. Furthermore, the ties between members of a family and the prospects of their successful reunification will perforce be weakened if impediments are placed in the way of their having easy and regular access to each other (*Strand Lobben and Others,* cited above, §§ 205 and 208).

82. In instances where the respective interests of a child and those of the parents come into conflict, Article 8 requires that the domestic authorities should strike a fair balance between those interests and that, in the balancing process, particular importance should be attached to the best interests of the child which, depending on their nature and seriousness, may override those of the parents. In addition, the best interests of the child dictate, on the one hand, that the child's ties with its family must be maintained, except in cases where the family has proved particularly unfit, since severing those ties means cutting a child off from its roots. It follows that family ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, if and when appropriate, to "rebuild" the family (ibid., §§ 206-07).

83. The Court further reiterates that the margin of appreciation to be accorded to the competent national authorities will vary in the light of the

nature of the issues and the seriousness of the interests at stake, such as, on the one hand, the importance of protecting a child in a situation which is assessed as seriously threatening his or her health or development and, on the other hand, the aim to reunite the family as soon as circumstances permit. The Court thus recognises that the authorities enjoy a wide margin of appreciation in assessing the necessity of taking a child into care (ibid., § 211).

84. The Court considers that a stricter scrutiny is called for in respect of any further limitations, such as restrictions placed by the authorities on parental rights of access, and of any legal safeguards designed to secure an effective protection of the right of parents and children to respect for their family life. Such further limitations entail the danger that the family relations between the parents and a young child are effectively curtailed (ibid., § 211).

(β) Application of those principles

85. The Court notes that the Italian authorities first interacted with the applicants and the child in July 2017, right before the birth of H., when the first applicant showed signs of psychological distress. The child was taken into public care immediately after birth, and kept at the hospital. When the worsening of the first applicant's psychological health led to her hospitalisation for two weeks, a procedure to declare the child available for adoption was initiated.

86. The Court notes that the first and second applicants did not complain about the initial taking into care of H., but claimed that the authorities had failed to take the requisite measures to support and assist the family and complained about the decision to declare the child available for adoption.

87. The Court observes that, in the first year of life of the child, the first and second applicants spent time with her only in the context of weekly observation meetings that were aimed at assessing their parenting abilities. After that first observation period, the expert appointed by the Youth Court stated that it was not possible at that time to draw conclusions on the potential for the applicants to sufficiently develop their parenting abilities, given the limited significance of those visits for the development of a meaningful family bond and the absence of a specific support programme for the applicants (see paragraph 22 above).

88. The Court notes that it was only after the expert conclusions mentioned in the previous paragraph that a support programme was established, and even then it was intended specifically for the second applicant (see paragraph 24 above). The first applicant was involved only incidentally, in so far as she was allowed to take part in meetings alongside her husband. When the programme started the child was almost one year old, and it lasted six months, from July 2018 to January 2019. At its conclusion, the psychologist P.F. reported that the applicants' parenting skills had improved and that they had shown a collaborative attitude. Even if those developments were not sufficient for an immediate reunification of the

family, they were "positive indicators for the establishment of a programme to support their relationship with the child", and in any case the parent-child contact had to be preserved. Social services reached similar conclusions in their report (see paragraphs 25-26 above).

89. The Court notes that it was not until five months later, in June 2019, that the Youth Court declared the child available for adoption and ordered the discontinuation of contact with the family of origin. The domestic court relied in particular on the precarious situation of the first and second applicants, their financial dependence on the first applicant's parents and their lack of parenting capacities. With regard to the latter point, the domestic court contradicted the experts' conclusions and deemed that maintaining the relationship with the parents would have exposed the child to dysfunctional scenarios which would pose a serious risk to her. In relation to the second applicant, the domestic court expressed criticism regarding his intention to continue cohabitating with his wife which they considered incompatible with the needs of the child, making assumptions about his "internalised cultural models" (see paragraph 27 above). The Court further observes that the Court of Appeal emphasised in its reasoning the fact that the first applicant had never questioned the genuineness of the second applicant's intentions regarding the marriage, interpreting this as a further confirmation of her parental incapacity, referring to "ingenuity which contributes to the view that the woman is unable to protect her own daughter" (see paragraph 33 above). Both the Court of Appeal and the Court of Cassation considered that the Youth Court had conducted a full and thorough investigation.

90. The Court has doubts whether the reasons advanced by the domestic courts, though some of them were relevant, were sufficient to justify the decision to declare H. available for adoption. It reiterates that the fact that a child could be placed in a more beneficial environment for his or her upbringing will not on its own justify a compulsory measure of removal from the care of the biological parents; there must exist other circumstances pointing to the "necessity" for such an interference with the parents' right under Article 8 of the Convention to enjoy a family life with their child (see *S.H. v. Italy*, no. 52557/14, § 56, 13 October 2015 and references therein).

91. In the present case, unlike in other cases assessed by the Court, the first and second applicants' child was not exposed to a situation of violence or physical or mental ill-treatment (see, conversely, *Y.C. v. the United Kingdom*, no. 4547/10, §§ 146-50, 13 March 2012; *Dewinne v. Belgium* (dec.), no. 56024/00, 10 March 2005; and *Zakharova v. France* (dec.), no. 57306/00, 13 December 2005), or sexual abuse (see, conversely, *Covezzi and Morselli v. Italy*, no. 52763/99, § 104, 9 May 2003). For a similar conclusion, see *D.M. and N. v. Italy* (no. 60083/19, § 81, 20 January 2022).

92. The Court reiterates that it has previously found a violation of Article 8 of the Convention in cases in which domestic authorities had adopted measures interfering with applicants' continued relationships with

their children on the grounds of the parents' intellectual deficiencies (*Kutzner v. Germany*, no. 46544/99, §§ 68-82, ECHR 2002-I), their inability to provide the children with appropriate living conditions (*Saviny v. Ukraine*, no. 39948/06, §§ 55-61, 18 December 2008), and the existence of family difficulties and physiological imbalances that could have been overcome by means of targeted social assistance (*Zhou v. Italy*, no. 33773/11, §§ 59-61, 21 January 2014, and *S.H. v. Italy*, cited above, § 57).

93. On the other hand, the Court found no violation of Article 8 in cases in which parents were affected by psychological fragilities on account of the fact that the relationship with the children had not been definitively cut off (see *Aune v. Norway*, no. 52502/07, §§ 78-80, 28 October 2010, and *Couillard Maugery v. France*, no. 64796/01, §§ 307-08, 1 July 2004).

94. Regarding the measures taken by the authorities to facilitate family reunification, the Court observes, as indicated above (see paragraphs §§ 85-89 above), that the decision declaring the child available for adoption was issued by domestic courts two years after the child's birth, during which time the first and second applicants had been provided with limited support in the development of their bond with the child and the improvement of their parenting skills.

95. The Court acknowledges the Government's arguments to the effect that the visits that took place in the course of the proceedings, although aimed at evaluating the first and second applicants also provided them with a chance to improve their parenting abilities by receiving instructions from social services workers.

96. However, the Court notes that the court-appointed expert, after having observed that the parental couple showed a capacity to improve their parenting skills and their collaboration, considered that those visits, because of their setting and frequency, provided only limited possibilities for the development of a meaningful family bond and for the improvement of the first and second applicants' parenting skills. In this regard, it is important to note that the parental support programme lasted only six months and was directed mainly at the second applicant, while the first applicant was involved only alongside her husband (see paragraph 24 above).

97. The Court further observes that the domestic courts considered the applicants' progress insufficient to justify the preservation of the relationship of the child with the family of origin, a finding which the Court notes was based on an assessment that the parental couple's fragilities were not recoverable in a time frame compatible with the child's needs.

98. The Court considers that, while the first and second applicants were both provided with some form of assistance through the parental support programme, the judicial authorities did not pay specific attention to their vulnerable condition, namely the first applicant's state of mental health and the second applicant's difficulties in integrating, in their assessment of the applicants' parenting abilities and of the need to preserve the family bond. In

fact, as mentioned above (see paragraph 89 above), in their decisions the domestic courts attached weight to those same elements as negative indicators with respect to the first and second applicants' ability to shoulder their parental role and to the possibility of their improving their parenting skills. In contrast, they took no account of the parents' improvements and collaborative attitude noted by the expert (see paragraph 25 above).

99. The Court reaffirms that the authorities' role in the social welfare field is to help persons in difficulty, to provide them with guidance in their contact with the welfare authorities and to advise them, *inter alia*, on how to overcome their difficulties. In the case of vulnerable persons, the authorities must show particular vigilance and afford increased protection (see *S.H. v. Italy*, cited above, § 54, and *A.I. v. Italy*, cited above, § 102, and references therein).

100. The Court considers that the decision to break the family bond definitively and without delay was therefore taken without considering less radical solutions which could have been implemented instead, such as the continuation of the family support programme proposed by the experts. In so doing, the domestic courts definitively ruled out any possibility that the programme might succeed and that the first and second applicants might restore their relationship with the child (compare *D.M. and N. v. Italy*, cited above, § 89).

101. Turning to the first and second applicants' complaint about procedural shortcomings, the Court observes that no updated expert reports were ordered after the ones that were submitted during the first-instance proceedings (see paragraphs 21-25 above) despite the fact that in the appeal proceedings they claimed that there had been positive developments in their personal and material situation (see paragraphs 28-29 above) and, on that basis, expressly requested that a new expert assessment be made.

102. In this connection, the Court notes that in the assessment of the first and second applicants' parenting abilities carried out by the first-instance court, particular weight was attached to the personal and financial condition of the couple and of the family unit as a whole. In some passages of the judgment the domestic court underlined the lack of financial and housing autonomy of the parental couple and their dependence on the third and fourth applicants (see paragraph 27 above). Secondly, the Court notes that the first applicant submitted to the Court of Appeal medical certificates from a CMH specialist attesting to her continued work on her fragilities with respect to her maternal role and parenting abilities, notwithstanding the interruption of contact with the child after the first-instance judgment. Thirdly, the Court notes that the Court of Appeal relied mainly on the expert report of 2018, which was not conclusive with respect to the first and second applicants' parenting abilities and which, when the judgment was delivered, was two years old.

103. While it would generally be for the domestic authorities to decide whether expert reports are needed (see, for example, *Sommerfeld v. Germany* [GC], no. 31871/96, § 71, ECHR 2003-VIII (extracts), *Strand Lobben and Others v. Norway*, cited above, § 213) the Court considers that, in the present case, given the interruption of contact with the child immediately after the first-instance judgment, the applicants had no means to prove a development in their parenting abilities other than indirectly through the CMH's specialist reports and the submission of documents attesting to improvements in their financial and personal autonomy. In the light of the foregoing, the Court considers that the lack of a fresh expert examination substantially limited the factual assessment of the applicants' new situation at the material time (*ibidem*, § 223, see also, *mutatis mutandis*, *Miklić v. Croatia*, no. 41023/19, § 74, 7 April 2022).

104. The Court further regards it as significant that the Youth Court ordered the immediate interruption of the child's contact with the family of origin, while the decision on the declaration of availability for adoption was not yet final. The Court notes that the measure rested on the same reasons which led the domestic court to consider that the preservation of the relationship with the family of origin was not in the child's best interest (see paragraph 27 above). The Court of Appeal dismissed the request for a stay of execution of the first-instance judgment based on the facts that there were no manifest errors in the contested decision and that, in any event, the COVID-19 pandemic would have impeded the resumption of contact. The Court observes that, notwithstanding the urgency of the request, that decision was issued seven months after the request had been lodged.

105. The Court reiterates that in this type of case the passage of time can have irremediable consequences for the relationship between a child and the family members with whom he or she does not live as it can lead to a *de facto* situation arising which can weaken the possibility of the reunification of the family (see, *inter alia*, *S.H. v. Italy*, cited above, § 42). In the present case, the Court is not persuaded that the elements relied on by the domestic courts were sufficient to justify the immediate severing of contacts between the first and second applicants and their child while the proceedings were still ongoing. The Court refers in that connection to its considerations in paragraphs 89-93 above.

106. The Court further observes that the obstacles posed by the COVID-19 pandemic could not exempt the judicial authorities from assessing the applicants' right to maintain contact with the child. It would have then been for the public authorities to identify solutions to the practical obstacles posed by the COVID-19 pandemic for in-person visits.

107. Having regard to the above considerations, the Court concludes that the grounds adduced by the domestic courts were insufficient to justify the definitive and irreversible break-up of the family bond.

108. In particular, the domestic authorities did not convincingly demonstrate that, despite the existence of less radical solutions that would have both protected the child's interests and preserved the family relationship, the impugned measure constituted the most appropriate option. Notwithstanding the domestic authorities' margin of appreciation, the interference with the first two applicants' family life was therefore not proportionate to the legitimate aim pursued. The Court also considers that the procedure at issue was not accompanied by safeguards proportionate to the seriousness of the interference and the interests at stake. It therefore concludes that there was a violation of Article 8 of the Convention.

(b) Position of the third and fourth applicants

109. As regards the third and fourth applicants, who are the child's maternal grandparents, the Court points out that "family life", within the meaning of Article 8, includes at least the ties between near relatives, for instance those between grandparents and grandchildren, since such relatives may play a considerable part in family life. "Respect" for a family life so understood implies an obligation for the State to act in a manner calculated to allow these ties to develop normally (see *Scozzari and Giunta v. Italy* [GC], nos. 39221/98 and 41963/98, § 221, ECHR 2000-VIII). Within the meaning of Article 8, "family life" between grandparents and grandchildren may, accordingly, exist "where there are sufficiently close family ties between them. While cohabitation is not a prerequisite, as close relationships created by frequent contact also suffice, relations between a child and its grandparents with whom it had lived for a time will normally be considered to fall within that category" (see *T.S. and J.J. v. Norway* (dec.), no. 15633/15, 11 October 2016, and references therein). The Court further reiterates that it previously found that the grandparents' entitlement to contact rights with their grandchild, recognised by domestic courts, fell under the scope of "family life" within the meaning of Article 8 of the Convention (see *Mitovi v. the former Yugoslav Republic of Macedonia*, no. 53565/13, § 59, 16 April 2015).

110. The Court notes that the Government did not contest that the relationship between the third and fourth applicants and their grandchild came within the scope of the right to respect for family life guaranteed by Article 8. It further observes that the Youth Court initially ordered that the third and fourth applicants have contact rights in respect of their grandchild in order to assess their caring skills and their relationship. They enjoyed those contacts for two years, throughout the first-instance proceedings. Accordingly, these applicants were given, under the domestic law, the right to establish, through periodic contact, a close relationship with their grandchild. The Court is therefore satisfied that this entitlement, the aim of which was to create a tie between the third and fourth applicants and the child, falls under the scope of "family life" within the meaning of Article 8 of the Convention.

111. Accordingly, the Court must determine whether there has been a failure to respect the third and fourth applicants' family life.

112. The Court further reiterates that in normal circumstances the relationship between grandparents and grandchildren is different in nature and degree from the relationship between parent and child and thus by its very nature generally calls for a lesser degree of protection. As regards the question of "interference", as already stated in paragraphs 77-79 above, when a parent is denied access to a child taken into public care, this would constitute in most cases an interference with the parent's right to respect for family life as protected by Article 8 of the Convention. However, this would not necessarily be the case where grandparents are concerned. In the latter situation, there may be an interference with the grandparents' right to respect for their family life only if the public authority reduces access below what is normal, that is, diminishes contacts by refusing to grandparents the reasonable access necessary to preserve a normal grandparent-grandchild relationship (see, *Kruškić v. Croatia* (dec.), no. 10140/13, § 110, 25 November 2014 and references therein). Thus, the right to respect for the family life of grandparents in relation to their grandchildren primarily entails the right to maintain a normal grandparent-grandchild relationship through contact between them (ibid., § 111).

113. The Court further reiterates its case-law to the effect that the positive obligations deriving from Article 8 of the Convention are not limited to ensuring that the child can be reunited with his or her parent or have contact with him or her, but also include all the preparatory measures needed to achieve this result, a principle which has been taken into consideration also with respect to contact between grandparents and their grandchildren (see *Manuello and Nevi v. Italy*, no. 107/10, §§ 47 and 55, 20 January 2015 and references therein).

114. In addition, from the case-law of the Court it appears that in situations where their grandchildren are left without parental care, grandparents could under Article 8 of the Convention also be entitled to have their wish to have their grandchildren formally entrusted into their care taken into account when decisions on those children's placement are made (see *Scozzari and Giunta*, cited above, § 222, and *Kruškić,* cited above, § 114).

115. Turning to the circumstances of the present case, the Court notes that the third and fourth applicants were provided throughout the first-instance proceedings with regular meetings with their grandchild, twice per month together with the parental couple between October 2017 and June 2018 (see paragraph 19 above), and once per month from July 2018 to January 2019 (see paragraphs 23-24 above). The Court, while noting that those visits allowed the third and fourth applicants to establish and preserve contact with the child, refers to its considerations with respect to their limited relevance for the development of a meaningful relationship with the child and of the caring abilities of the first two applicants (see paragraph 96 above). It

also notes that, even though the court-appointed expert psychologist reported limitations in the abilities of the grandparents to care for and interact with the child, they were not provided with support or counselling to help them in their relationship with their grandchild. On the contrary, the frequency of the meetings between grandparents and grandchild was reduced to once per month.

116. The Court observes that the grandparents' lack of adequate parenting abilities and the relationship between the parental couple and the third and fourth applicants were elements taken into consideration by the national courts in their decision on the child's state of abandonment and on the adequacy of the family dynamics. That then led to the declaration that the child was available for adoption and the interruption of contact between grandparents and grandchild. The Court is of the view that the lack of counselling and support for the third and fourth applicants in the present case is of particular relevance, considering the vulnerable condition of the parental couple owing to the first applicant's state of mental health and the second applicant's difficulties in integrating (see paragraphs 25-26 above) and the above findings regarding the violation of Article 8 in respect of the first and second applicants.

117. In the light of the foregoing and in the specific circumstances of the present case, the Court considers that the competent authorities did not make the necessary efforts to safeguard the family relationship between the third and the fourth applicants and their grandchild. Consequently, there has been a violation of their right to respect for their family life as guaranteed by Article 8 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

118. 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."

119. Article 46 of the Convention provides, in so far as relevant:

> "1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.
>
> 2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution."

A. Damage and individual measures

120. The applicants requested that the Court instruct the Government to adopt an individual measure to remove the consequences of the violation of

Article 8 of the Convention and preserve the family bond between them and the child.

121. In that regard, the applicants referred to cases in which the Court had instructed the Government to adopt specific and individual measures (namely *Omorefe v. Spain*, no. 69339/16, 23 June 2020, and *D.M. and N. v. Italy*, cited above). They also noted that the Constitutional Court, in judgment no. 183/2023, had allowed that in circumstances similar to those of the present case the family bond with the child may be preserved.

122. The applicants further asked the Court to award them just satisfaction in accordance with the principles set out in Article 41 of the Convention on the grounds that they had suffered substantial non-pecuniary damage which could not be made good merely by a finding of a violation of the Convention.

123. The applicants pointed out that the forced separation from H. had caused them immense pain. The first and second applicants claimed 50,000 euros (EUR) each in respect of non-pecuniary damage, plus any amount that might be due by way of tax on those sums. The third and fourth applicants claimed EUR 35,000 each in respect of non-pecuniary damage, plus any amount that might be due by way of tax on those sums.

124. In so far as the claims under Article 41 are concerned, the Government considered the applicants' claims to be ill-founded in that they were not adequately supported by documents. In any event, the claims were excessive. The Government further argued that the mere finding of a violation of the Convention would constitute sufficient redress for the applicants given that, since the application had been lodged, developments in the domestic case-law (they referred in particular to the Constitutional Court's judgment no. 183/2023) had augmented the guarantees afforded to them in the domestic legal system.

125. As regards the applicants' request for an individual measure, the Court reiterates that the respondent State remains free in principle, under the supervision of the Committee of Ministers, to choose the means of discharging its obligations under Article 46 § 1 of the Convention, provided that they are compatible with the conclusions of the Court's judgment (see *Scozzari and Giunta*, cited above, § 249; *Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland* (no. 2) [GC], no. 32772/02, § 88, ECHR 2009; *Ferré Gisbert v. Spain*, no. 39590/05, § 46, 13 October 2009; and *Bondavalli v. Italy*, no. 35532/12, § 91, 17 November 2015). However, the Court notes that the newly introduced Article 391 *quater* of the Italian Code of Civil Procedure provides the applicants with a possibility of requesting, under certain conditions, the revocation of the domestic judgement on the basis of a finding by the Court that there has been a violation of the Convention (see paragraph 44 above). This review mechanism would allow the domestic authorities to re-examine without delay the situation of the applicants and the child in the light of the present judgment, and to consider the possibility of establishing some form of contact between them, taking into account's the

child's current situation and her best interests and to take any other measures that may be appropriate in the child's best interests.

126. As regards non-pecuniary damage, in the light of the circumstances of the present case, the Court takes the view that the applicants suffered non-pecuniary damage which cannot be adequately compensated by the finding of a violation of the Convention alone. It considers, however, that the amounts claimed are excessive. Having regard to all the facts before it and making its assessment on an equitable basis pursuant to Article 41 of the Convention, the Court considers it reasonable to award the first and second applicants, jointly, the sum of EUR 35,000 and the third and fourth applicants, jointly, the sum of EUR 27,000 in respect of non-pecuniary damage. These sums are awarded without prejudice to the possibility which is open to the applicants to lodge a request for revocation of the domestic decisions, as mentioned in the previous paragraph.

B. Costs and expenses

127. The applicants also claimed EUR 81,558.52 for the costs and expenses incurred before the domestic courts and EUR 15,000 for those incurred before the Court.

128. The Government contested those amounts as excessive and not sufficiently justified.

129. 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. That is to say, the applicant must have paid them, or be bound to pay them, pursuant to a legal or contractual obligation, and they must have been unavoidable in order to prevent the breaches found or to obtain redress. The Court requires itemised bills and invoices that are sufficiently detailed to enable it to determine to what extent the above requirements have been met (see *Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia* [GC], no. 60642/08, § 158, ECHR 2014). 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 20,000 jointly to the first and second applicants and EUR 20,000 jointly to the third and fourth applicants for costs and expenses incurred in the domestic proceedings and EUR 9,000 jointly to all applicants for the proceedings before the Court, plus any tax that may be chargeable to the applicants.

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 applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts at the rate applicable at the date of settlement:
      (i) EUR 35,000 (thirty-five thousand euros) to the first and second applicants jointly and EUR 27,000 (twenty-seven thousand euros) to the third and fourth applicants jointly, plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 20,000 (twenty thousand euros) to the first and second applicants jointly, EUR 20,000 (twenty thousand euros) to the third and fourth applicants jointly and 9,000 (nine thousand euros to all applicants jointly, plus any tax that may be chargeable to the applicants, 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 applicants' claim for just satisfaction.

Done in English, and notified in writing on 2 July 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth Registrar	Ivana Jelić President

APPENDIX

List of applicants:

No.	Applicant's Name	Year of birth	Nationality	Place of residence
1.	Dora DRAGONI	1985	Italian	Bagnacavallo
2.	Fatih DIVRAK	1994	Turkish	Bagnacavallo
3.	Italo DRAGONI	1948	Italian	Bagnacavallo
4.	Lilia Ida GUERRINI	1949	Italian	Bagnacavallo