

**SECRETARIAT / SECRÉTARIAT**

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SECRÉTARIAT DU COMITÉ DES MINISTRES

COMMITTEE  
OF MINISTERS  
COMITÉ  
DES MINISTRES



Contact: Zoe Bryanston-Cross  
Tel: 03.90.21.59.62

Date: 15/02/2024

**DH-DD(2024)182**

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1492<sup>nd</sup> meeting (March 2024) (DH)

Item reference: Action Report (13/02/2024)

Communication from Latvia concerning the case of E.K. v. Latvia (Application No. 25942/20)

\* \* \* \* \*

Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1492<sup>e</sup> réunion (mars 2024) (DH)

Référence du point : Bilan d'action (13/02/2024)

Communication de la Lettonie concernant l'affaire E.K. c. Lettonie (requête n° 25942/20) (**anglais uniquement**)

---

## **ACTION REPORT**

DGI

13 FEV. 2024

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

**of the Government of the Republic of Latvia  
on the execution  
of the judgment of the European Court of Human Rights  
in the case of**

**E.K.**

**v.**

**LATVIA**

**Application no.25942/20**

**Judgment of 13 April 2023  
Final on 13 July 2023**

## I. INTRODUCTION

1. On 25 June 2020, E.K. ('the applicant') lodged an application with the European Court of Human Rights ('the Court') under Article 34 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ('the Convention'). On 13 April 2023, the Court found a violation of Article 8 of the Convention and awarded the applicant compensation for non-pecuniary damage and costs and expenses in the total amount of 11,060 EUR.
2. In the light of the working methods for the supervision of the execution of the Court's judgments and decisions adopted by the Committee of Ministers, the Government of the Republic of Latvia ('the Government') presents this Action Report outlining the individual and general measures that have been taken by the authorities to execute the Court's judgment in the case of *E.K. v. Latvia*.

## II. CASE DESCRIPTION

3. The applicant was married to I.B. On 6 August 2013, their child D.K. ('the child') was born. In 2016, the applicant and I.B. separated, and, on 5 March 2018, the Vidzeme District Court dissolved their marriage. By a judgment of 5 June 2018, the Vidzeme Regional Court granted the applicant contact rights with the child ('the judgment'). In this judgment, the Vidzeme Regional Court determined the contact schedule and specified that the contact rights had to be exercised in line with the child's opinion and best interests, and that the parties, if they agreed, could make other arrangements for the exercise of the applicant's contact rights. On 15 November 2018, the judgment entered into force.
4. Following the entry in force of the judgment, I.B. brought the child to the meeting place for the scheduled contact sessions, but as soon as the child said that she did not want to go to the applicant I.B. took her away. Occasionally, I.B. did not bring the child to the agreed meeting place claiming that the child was ill. In the following years, the applicant was able to meet the child on some occasions, but their contact was limited. The applicant tried to improve his contact with the child by resorting to several domestic mechanisms, *inter alia*, enforcement attempts by a bailiff, involvement of the competent guardianship and curatorship institution ('the Guardianship Institution'), and lodging applications before with the domestic courts.
5. In particular, on 16 January 2019, the applicant applied to a bailiff for the enforcement of the judgement. The bailiff took a number of steps to facilitate contact between the applicant and the child and drew up several reports concerning I.B.'s failure to comply with the judgment, indicating that I.B. had failed to ensure that the child would be handed over to the applicant. However, by the decisions of 20 December 2019 and 10 January 2020, the Vidzeme Regional Court recognised these bailiff's reports null and void. The court concluded that the *Civil Procedure Law* clearly stated that a bailiff could only draw up a report on failure to comply with a judgment if a child would not have been present at the time and place specified, whereas I.B. had taken the child to the place specified at the relevant time but contact rights had not been exercised because the child herself had refused to go with the applicant. Further, the Vidzeme Regional Court concluded that in such circumstances a bailiff was not competent to assess whether the mother was responsible for influencing the child's opinion and that failure to comply with the

judgment had to be distinguished from circumstances hindering enforcement, in which case recourse had to be had to the mechanism for reviewing contact arrangements under the *Civil Procedure Law*.

6. On 4 April 2019, the applicant requested the Vidzeme Regional Court to review the contact arrangements set out in the judgment. On 16 May 2019, the Vidzeme Regional Court acknowledged that the judgment was not being enforced as I.B. was not doing everything in her power to facilitate the child's contact with the applicant, and made some practical changes to the contact arrangements, *e.g.*, amended the wording in the judgment requiring the child to be "handed over" by I.B. rather than her being "picked up" by the applicant, imposed a requirement for I.B. to take the child to the contact place without third parties being present, and specified that I.B. had to ensure that the applicant could make weekly video calls *via WhatsApp* to contact the child. On 8 June 2020, the Vidzeme Regional Court partly granted a new request by the applicant to review contact arrangements, and ruled that the contact sessions had to commence at the premises of the Guardianship Institution in the presence of a contact person designated by the Guardianship Institution, and that one hour after the moment of meeting the applicant and the child should continue in the manner set out in the judgment. The court emphasised that the child's views were important, but noted that the need to consider her best interests could not be reduced to following her wishes.
7. On 15 January 2020, the applicant requested the Guardianship Institution to suspend I.B.'s parental authority on account of her failure to comply with the judgment. On 11 June 2020, the Guardianship Institution dismissed his request. The applicant appealed, and, on 30 December 2020, the Administrative District Court ordered the Guardianship Institution to suspend I.B.'s parental authority. While I.B.'s appeal against this judgment was pending, the parents, by mutual agreement, started attending family therapy. They also started seeing a mediator and a psychologist, both separately and together with the child. Between 9 January and 3 April 2021 six consultation sessions took place. After two of those sessions, the applicant, I.B. and the child spent some time together outside the therapy setting. On 6 April 2021, the psychologist reported that the parents had agreed on contact at the psychologist's office every other Saturday. On 13 July 2021, the Administrative Regional Court overturned the judgment of the Administrative District Court and dismissed the applicant's request seeking suspension of I.B.'s parental authority. The Administrative Regional Court agreed that the applicant could not exercise his contact rights and that I.B. was not facilitating contact. However, in the opinion of the court, transferring the child to the care of the parent whom the child did not want to meet would cause greater harm than I.B.'s refusal to ensure the applicant's contact rights. On 29 December 2021, the Senate of the Supreme Court upheld this judgment.
8. On 13 April 2023, the Court, unanimously, found a violation of Article 8 of the Convention. The Court concluded that the domestic authorities had failed to take all necessary steps with a view to facilitate the applicant's contact with his child and reconcile the conflicting interests of the parties, in view of I.B.'s obstructive behaviour. The Court found that there were no structural or systemic problems with the domestic legal framework, but instead considered that the approach of the domestic courts had been overly formalistic. In particular, in the opinion of the Court, the Vidzeme Regional Court could have assessed whether I.B. had failed to comply with the judgment already in its decisions of 20 December 2019 and

10 January 2020, but the Vidzeme Regional suggested the applicant to request a review of contact arrangements, even though the applicant had already used that mechanism twice. As to the Guardianship Institution, the Court noted that it could not ensure that its decisions and recommendations were followed, whereas the domestic courts should have taken on a more active role. Likewise, the Court held that there were delays in the decision-making process and the handling of the situation during the proceedings before the Guardianship Institution. In particular, in the opinion of the Court, the Guardianship Institution had not shown special diligence upon receiving the applicant's repeated complaints despite being aware of the problem for several years.

### **III. INDIVIDUAL MEASURES**

#### ***III.1. Payment of just satisfaction***

9. The Court awarded the applicant just satisfaction in respect of non-pecuniary damage in the amount of 10,000 EUR and in respect of costs and expenses – in the amount of 1,060 EUR. The Court rejected the rest of the applicant's claim for just satisfaction.
10. The just satisfaction awarded by the Court was paid to the applicant on 4 August 2023. The Government notified the Department of Execution of Judgments of the Court and submitted evidence concerning the payment of just satisfaction *via* e-mail on 22 August 2023.

#### ***III.2. Other individual measures***

11. As noted by the Court, in the instant case, the violation of the State's positive obligation under Article 8 of the Convention resulted from the failure of the domestic authorities to take all necessary and timely steps to enforce the applicant's contact rights with his child in view of the obstructive attitude of the child's mother. Following the adoption of the Court's judgment in the case of *E.K. v. Latvia*, the domestic authorities took further measures with a view to facilitate the applicant's contact with his child and to reconcile the conflicting interests of the parties, as a result of which the applicant's relationship with the child has been improved, and the applicant has been able to exercise his contact rights. In this regard, the Government provides the following information:
  - (1) information about contact arrangements currently in force;
  - (2) information regarding the applicant's relationship and contact with the child following the adoption of the Court's judgment in the present case;
  - (3) information about the involvement of psychologists and psychiatrists to ensure that the relationship between the applicant and the child is renewed, and I.B.'s obstruction could be overcome;
  - (4) information regarding the cooperation between institutions concerning the present family's situation.

##### ***III.2.1. Contact arrangements currently in force***

12. The contact arrangements set out in the judgement and amended by the decisions of 16 May 2019 and 8 June 2020 that have been described in the Court's

judgement<sup>1</sup> have been further amended by the decision of the Vidzeme Regional Court of 17 March 2023. With the decision of 17 March 2023, the Vidzeme Regional Court decided to discontinue the condition for the exercise of the applicant's contact rights as laid down in its decision of 8 June 2020, according to which the contact sessions had to be commenced at the premises of the Guardianship Institution and in the presence of a contact person designated by it for the duration of one hour, after which the contact session was to continue without the participation of the contact person.<sup>2</sup> In this decision, the Vidzeme Regional Court established that, by that time, already for a long time the applicant had been meeting the child without the presence of a contact person. Namely, in the interests of the child, the parents had agreed on contact arrangements without the presence of a representative of the Guardianship Institution. For this reason, the Vidzeme Regional Court concluded that it was no longer necessary to commence the contact sessions in the presence of a representative of the Guardianship Institution. Other than this, the contact arrangements described in the Court's judgment remain in force.

### *III.2.2. The applicant's relationship and contact with the child*

13. The child lives with her mother and her maternal grandparents. Since the adoption of the Court's judgment in the present case, the child has had regular contact with the applicant. The applicant meets the child approximately twice a month and communicates with the child by phone every week. In particular, the applicant has contact with the child almost every other week on Saturdays, but the duration of these meetings varies from time to time. The applicant, in principle, agrees with such contact arrangements, but, at the same time, expresses his wish to spend this time with his child alone, *i.e.*, without the presence of I.B., and also notes that he hopes that the child would agree to stay overnight at his home in the near future. At the same time, the applicant positively evaluates the fact that he can contact the child by telephone and that their communication is not being obstructed in any way.
14. In view of the parents' conflicting interests and in order to evaluate whether the child's mother physically prepared and sufficiently motivated the child for contact sessions with the applicant to improve their relationship, on 22 August 2023, the Guardianship Institution obtained the child's opinion on her relationship and contact with the applicant. When asked about her father, the child responded in general terms, stating that she did not trust her father and paternal grandmother, but was unable to explain why. The Guardianship Institution concluded that the child had not provided any information that would indicate that I.B. was obstructing the child's contact with the applicant at that time. In particular, the child talked about the meetings with the applicant, also at his home, and about the possibility of calling him, which the child used. On 11 December 2023, the Guardianship Institution repeatedly obtained the child's opinion on her relationship and contact with the applicant, the reason for her distrust towards the applicant and her paternal grandmother that she had mentioned before, and her fear to stay with the applicant. During the conversation, the child said that she did not really want to be alone with the applicant and did not want to stay at his home overnight. At

---

<sup>1</sup> Paras.9-10 and 25-26 of the Court's judgment in the case of *E.K. v. Latvia*.

<sup>2</sup> See, para.6 of the present Action Report.

the same time, she confirmed that she was not afraid of the applicant, but felt safe when her mother was by her side.

### III.2.3. *The involvement of psychologists and psychiatrists*

15. As confirmed both by the applicant and the child's mother, to improve the relationship and remedy the alienation between the applicant and the child, the applicant, the child, and the child's mother regularly (once a month) attended family psychotherapy. According to the information provided by the family psychotherapy specialist, between 29 June 2022 and 10 August 2023, 11 joint consultations for the applicant, the child, and the child's mother had taken place. Another consultation took place on 16 September 2023. The purpose of counselling was to enable a safe and agreeable relationship between the child and the applicant. According to the family psychotherapy specialist, during these consultations both, the applicant and the child's mother, were cooperative and motivated, actively participated in mutual conversations, joint games and played with the child. Although during the consultations the child initially often expressed a negative attitude towards the applicant and tried to demonstrate that she was on her mother's side, during each meeting, the child was able to overcome her resistance and participated in joint activities. The family psychotherapy specialist also noted that the reduction of the parents' tension helped in improving the child's emotional state as demonstrated during the moments when the mother looked at or addressed the father in a friendly way, and the father showed his positive and favourable attitude towards both, the mother and the child. Further, the family psychotherapy specialist noted that it seemed that every time when the applicant, despite his daughter's disapproving attitude, offered her a friendly smile, complimented her, or showed joy she visibly brightened up, and unconsciously mirrored her father's positive behaviour, thus her gloom gradually decreased.
16. On 27 November 2023, with the aim of discussing both, the questions related to the execution of the Court's judgment in the present case and the current family situation a meeting between the representatives of the Child Protection Centre<sup>3</sup> ('the CPC), the Guardianship Institution, and family psychotherapy specialists was organised. During the meeting, the family psychotherapy specialist, who had provided counselling for the applicant, the child, and the child's mother, informed that she could not provide further consultations to this family on ethical grounds, *i.e.*, because she was involved in the criminal proceedings concerning the alleged failure of the child's mother to comply with the judgement in bad faith, as provided in Article 168 of the *Criminal Law*.<sup>4</sup> The family psychotherapy specialist also informed that the last consultation had been held in September 2023. Further, at this meeting, the authorities agreed that the child should receive counselling as a child who has suffered from violence on account of the litigation between the parents.
17. Immediately after this meeting, on 27 November 2023, the Guardianship Institution repeatedly informed the parents that the Municipal Social Services Agency could provide regular psychological counselling for the child. The Guardianship Institution reminded that the choice of the type of therapy (or combination of different therapies) and their frequency had to be determined by

<sup>3</sup> As of 1 January 2024, the name of the State Inspectorate for the Protection of Children's Rights has been changed to the Child Protection Centre.

<sup>4</sup> See, para.24 of the present Action Report.

the relevant specialist based on the needs of the child. The Guardianship Institution requested both parents to provide their opinion concerning this matter until 1 December 2023.

18. Likewise, in view of the information obtained at the meeting of 27 November 2023 and taking into account the conflicting interests of the applicant and I.B., on 29 November 2023, the Guardianship Institution invited them both for a joint conversation at the Guardianship Institution to discuss the situation and to arrive at a common understanding as to which specialist should provide counselling for the child and the parents to improve the relationship between the applicant and the child. In the same letters, the Guardianship Institution invited both parents to assess the possibility of attending this meeting without their legal representatives so that it would be possible to ascertain the views of the parents themselves. In particular, the Guardianship Institution underlined that the conversation would not concern legal matters, but rather the practical aspects of restoring contact, the situation of the child, and the actions to be taken in the future to ensure the best interests of the child.
19. On 11 December 2023, the Guardianship Institution held a joint conversation with the applicant and I.B. During the conversation, among other matters, the applicant and I.B. agreed that the child would regularly visit one particular psychologist. The first counselling session was scheduled for 15 December 2023. Likewise, during this conversation, the Guardianship Institution informed the applicant and I.B. about the possibility to have family psychotherapy sessions. The Guardianship Institution explained that the psychotherapist concerned had refused the offer of the Guardianship Institution to pay for those consultations stating that the service must be used by the parents themselves, if they so wished, without the involvement of any institution. I.B. agreed to attend these sessions, while the applicant stated that he needed time to think about it.
20. The Government informs that following a joint conversation held by the Guardianship Institution with I.B. and the applicant, between 15 December 2023 and 31 January 2024, three consultations at the psychologist's office have taken place – one consultation for I.B. and two joint consultations for I.B. and the child. The consultations were attended regularly and at scheduled times. Some of the consultations were cancelled due to health related reasons. Currently, the family is showing willingness to cooperate and engage with interest in the counselling process.
21. On a number of occasions, the Guardianship Institution advised the parents to undergo mediation with the help of a professional mediator, and informed them about the possibility of applying for the programme funded from the State budget “Mediation in family disputes” that is implemented by the Council of Certified Mediators in cooperation with the Ministry of Justice. In the framework of this programme, individuals are entitled to attend five sessions with a certified mediator (60 minutes each) free of charge. These sessions are intended to resolve disagreements between parents that also affect children's interests and to find ways to improve relations between family members. While I.B. agreed to undergo mediation, the applicant claimed that he and I.B. had already attempted mediation several times and that it had not worked.

#### *III.2.4. Cooperation between institutions*

22. On 27 October 2023, at the initiative of the Guardianship Institution, a meeting between representatives of different institutions was held. The aim of the meeting was to engage all relevant institutions in finding a solution to the applicant's family situation. Participants in this meeting included representatives from the Ministry of Welfare, the Ministry of Justice, the Ministry of Foreign Affairs (the Office of the Representative of Latvia before International Human Rights Institutions), the CPC, and the Guardianship Institution.

#### *III.3. Conclusion*

23. In conclusion, the Government emphasises that following the measures taken by the domestic authorities after the adoption of the Court's judgment in the case of *E.K. v. Latvia*, at present, the applicant's relationship with the child has significantly improved, and they meet regularly. In particular, the Guardianship Institution has exercised the utmost diligence with a view to facilitate the applicant's contact with his child and to reconcile the conflicting interests of the parties. The Guardianship Institution has promptly addressed the applicant's applications and taken all the necessary steps to improve contact between the applicant and the child, and to prevent further obstruction by I.B. Among the other measures taken, the Guardianship Institution obtained the child's opinion on her relationship and contact with the applicant on two occasions, held a joint conversation with the applicant and I.B., assisted them with engaging the services of a psychologist for the child and a family psychotherapy specialist for the family as a whole, and urged the applicant and I.B. to undergo mediation. Furthermore, the Guardianship Institution engaged other institutions to find the best solution to the applicant's individual situation on a number of occasions. The Government strongly submits that following all these measures, both, the applicant's relationship with the child and I.B.'s conduct, has significantly improved. The Government emphasises that the applicant himself has confirmed that the I.B. improved her attitude towards the applicant's contact with the child, and not only brought the child to the intended place, but also ensured that the child did not run away.
24. Furthermore, the Government underlines that if the applicant still considered that I.B. had not complied with the judgment, he was entitled to again apply to a bailiff for the enforcement of the judgment. In such a case, the bailiff could have assessed whether the factual circumstances at that time gave rise to a finding that I.B. had failed to comply with the judgment in accordance with Article 620<sup>24</sup>, paragraph 1, of the *Civil Procedure Law*. In turn, if a bailiff had drawn up a report regarding I.B.'s failure to comply with the judgment in case the child was not present at the time and place specified by the bailiff, a domestic court could have evaluated whether I.B. had failed to comply with the judgment and whether she was liable to pay a fine for non-compliance of up to 1,500 EUR pursuant to Article 620<sup>25</sup>, paragraph 2, of the *Civil Procedure Law*. The Government emphasises that since the adoption of the Court's judgment in the present case, the applicant has not made use of this domestic mechanism, which, in the opinion of the Government, indicates that the applicant does not consider that the current situation and the scope of his current contact with the child amounts to non-enforcement of the judgment.

25. In addition, the Government informs that there have been further developments in the criminal proceedings regarding the alleged failure to comply with the judgement on the part of I.B.<sup>5</sup> In particular, with a judgment of 1 February 2023, the Vidzeme District Court found I.B. to be guilty of a criminal offence provided under Article 168 of the *Criminal Law* – failure to comply with a judgment granting contact rights in bad faith – and imposed on I.B. a penalty in the amount of three minimum wages applicable in Latvia, *i.e.*, 1,860 EUR. I.B. has appealed against this judgment, and currently the criminal proceedings are pending before the Vidzeme Regional Court. In view of I.B.’s illness, the next hearing is scheduled for 3 June 2024.
26. For this reason, the Government believes that no further individual measures are required in the present case to conclude that Latvia has complied with its obligations under Article 46, paragraph 1, of the Convention and to close the supervision of the execution of the Court’s judgments in the case of *E.K. v. Latvia*.

#### **IV. GENERAL MEASURES**

27. Turning to the general measures, the Government recalls that pursuant to Article 89 of the Constitution of the Republic of Latvia (‘the *Constitution*’), which reads “[t]he State shall recognize and protect fundamental human rights in accordance with this Constitution, laws and international agreements binding upon Latvia”, the Convention has direct effect in the Latvian legal system.
28. The Government reiterates that in the present case, the violation of the State’s positive obligation under Article 8 of the Convention resulted from the failure of the domestic authorities and courts to take all necessary and timely steps to enforce the applicant’s contact rights with his child in view of the obstructive attitude of the child’s mother. The Court established that there were no structural shortcomings in the domestic legal framework or the general application of this framework by the domestic courts and institutions,<sup>6</sup> but concluded that the practical application of the domestic legal framework had been insufficient in the applicant’s case. As to the domestic courts, the Court considered that their approach in the present case was overly formalistic, whereas the Guardianship Institution could not ensure that its decisions or recommendations were followed through. Likewise, the Court found that there were delays in the decision-making process and the handling of the situation during the proceedings before the Guardianship Institution. Thus, the Government emphasises that the violation of Article 8 of the Convention in the present case was an isolated incident that concerned one particular family situation.
29. The Government emphasises that, as confirmed by the Court in its judgment in the present case, the domestic legal framework provides for a number of mechanisms to ensure a person’s rights in a situation where one of the parents does not comply with a ruling granting contact rights. In particular, a person may apply to a bailiff for the enforcement of the ruling granting contact rights, after which the bailiff can draw up a report on compliance or non-compliance with that ruling in accordance with Article 620<sup>24</sup>, paragraph 1, of the *Civil Procedure Law*. According to Article 620<sup>25</sup> of the *Civil Procedure Law* the bailiff’s report on failure to comply with the ruling is sent to a court, which may then impose a fine of up to 1,500 EUR.

---

<sup>5</sup> Paras.66-67 of the Court’s judgment in the case of *E.K. v. Latvia*.

<sup>6</sup> Para.84 of the Court’s judgment in the case of *E.K. v. Latvia*.

Further, Article 620<sup>26</sup> of the same *Law* provides that if the parent against whom enforcement is sought continues to fail to comply with the ruling granting contact rights, the bailiff refers the question to the prosecutor's office to decide whether criminal proceedings should be initiated.<sup>7</sup> Further, a person seeking enforcement of contact rights may complain to the Guardianship Institution about the conduct of the obstructing parent. In particular, Article 17, paragraphs 1 and 2, of the *Law on Guardianship Institutions* provides that guardianship institutions have an obligation to protect the rights and interests of children and to examine complaints about the conduct of parents. Then, upon examination of these complaints, guardianship institutions are entitled to take appropriate actions with the aim to ensure the best interests of a child. In this regard, the Government recalls that Article 22, paragraph 1(3), of the *Law on Guardianship Institutions* grants guardianship institutions the authority to suspend parental authority if a parent abuses his or her parental authority.<sup>8</sup> Having recalled these mechanisms, the Government emphasises that the Court in its judgment in the present case did not find any structural or systemic problems in respect of the domestic legal framework or the said mechanisms, but instead considered that the measures taken by the domestic authorities and courts were insufficient in view of the applicant's family situation.

30. Considering the foregoing, the Government further provides the following information concerning the relevant domestic case law and practice, and other measures adopted to implement the judgment in the case of *E.K. v. Latvia* that, in the Government's strong view, will prevent similar violations in the future. Namely, first, with regard to the Court's conclusion that the approach taken by the domestic courts in the present case was overly formalistic, the Government reiterates that this was an isolated case, and in this regard provides case law examples demonstrating that the domestic courts have addressed situations where an overly formal approach has been taken by the lower courts and institutions on a number of occasions. Second, with regard to the Court's conclusion about the shortcomings in the proceedings before the Guardianship Institution, the Government provides information regarding the procedure and timeframes for issuing an opinion of a guardianship institution at the request of a court, the measures taken by the CPC to improve the quality of work of the guardianship institutions, and training provided to the members of the guardianship institutions. Third, the Government provides information concerning the series of discussions that have been initiated by the Ministry of Justice following the adoption of the Court's judgment in the case of *E.K. v. Latvia* to address issues identified by the Court regarding the enforcement of judgments and decisions granting contact rights to find the most effective solutions. Fourth, the Government provides information regarding the measures taken to raise awareness about the impact of parental disagreements on the emotional well-being of children and to disseminate the findings of the Court in the case of *E.K. v. Latvia*.

#### ***IV.1. Case law examples addressing excessive formalism by the courts and institutions***

31. At the outset, the Government reiterates that, while in the case of *E.K. v. Latvia* the Court has concluded that the approach taken by the domestic courts was overly formalistic, this conclusion related to an isolated incident with regard to a particular

---

<sup>7</sup> Paras.52-53. of the Court's judgment in the case of *E.K. v. Latvia*.

<sup>8</sup> *Ibidem*, paras.54-55.

family situation. The Court has not found any systemic shortcomings in this regard. The Government submits that excessive formalism is an issue that is being addressed at the domestic level and, in this regard, provides case law examples demonstrating that the domestic courts have addressed overly formalistic approaches taken by lower courts and institutions on a number of occasions.

32. First, in the decision of the Supreme Court of 30 March 2021 in the case no.A420200720 (SKA-709/2021), when explaining the principle of the protection of the rights and legal interests of private persons as enshrined in Article 5 of the *Administrative Procedure Law*, the Supreme Court stated that this principle required the courts to ensure that proceedings were conducted in a way that guarantees the rights of individuals in the most effective way. The Supreme Court also explained that this principle implied that, if necessary, the courts had to analyse the substance of the matter, the course of events or the wider context of the case to help a person to overcome formal obstacles in submitting an application.<sup>9</sup>
33. Further, the Government recalls the civil case no.C69407922 concerning the determination of a child's place of residence and contact rights. In that case, on 17 November 2022, pursuant to Article 232, paragraph 1, of the *Civil Procedure Law*, according to which, if during the examination of a case the circumstances indicating a possible violation of a law were established, a court was entitled to adopt an ancillary decision and send it to the relevant institution, the Kurzeme District Court adopted an ancillary decision concerning the refusal of a guardianship institution to issue an opinion in the case. In that case, the relevant guardianship institution refused to issue an opinion in the case at the request of the court because the guardianship institution considered that the case fell outside of its jurisdiction as that child's declared place of residence was in another municipality. The court, in turn, considered that, when refusing to issue an opinion, the guardianship institution had taken into account only the formal situation (*ņēmusi vērā formālo situāciju*) of the child, as from the data entered in the Population Register it was clear that both parents had exploited the situation to their advantage and had alternately declared that child in different places of residence. For that reason, the Kurzeme District Court adopted an ancillary decision concerning the refusal of this guardianship institution to issue an opinion in the case, sent it for information and for taking appropriate actions to the council of the relevant municipality, and informed the chairperson of the respective guardianship institution that for refusing to issue an opinion in the case the court could impose a fine of up to 150 EUR.<sup>10</sup>
34. Next, the Government recalls the civil case no.C29408318 concerning the determination of contact rights. In that case, on 5 July 2023, the Riga Regional Court adopted an ancillary decision on insufficient provision of services for the protection of children's rights by a guardianship institution when providing the services of a contact person (*blakus lēmums par bērnu tiesību aizsardzības pakalpojumu nepietiekamu nodrošināšanu bāriņtiesā, īstenojot saskarsmes personas pakalpojumu*), and sent it to the chairperson of the council of the relevant municipality, the CPC, and the Ministry of Welfare to perform an inspection. In that case, in response to a claimant's request to appoint a guardianship institution

<sup>9</sup> The decision of the Supreme Court of 30 March 2021 in the case no.A420200720 (SKA-709/2021), para.9., available at: <https://manas.tiesas.lv/eTiesasMvc/nolemumi/pdf/444281.pdf>.

<sup>10</sup> The ancillary decision of the Kurzeme District Court of 17 November 2022 in the civil case no.C69407922.

as a contact person in the presence of which contact sessions would take place, the respective guardianship institution stated that it did not have the necessary resources to perform the responsibilities of a contact person, that is, it could not provide a separate room where a meeting could take place without the presence of other persons. That guardianship institution also claimed that it would not be able to provide psychological counselling that was necessary in that situation. Having heard the opinion of this guardianship institution, the Riga Regional Court stated that it understood the position of the respective guardianship institution as to the lack of resources, but, at the same time, the Riga Regional Court emphasised that those circumstances did not justify a derogation from Article 182 of the *Civil Procedure Law*, according to which a guardianship institution could be appointed as a contact person in disputes regarding contact rights. Further, the Riga Regional Court stated that if the information provided by this guardianship institution as to the lack of rooms was true, then such a situation did not comply with the obligation to protect the rights of children and to ensure their interests. Whereas lack of a specialist who could provide psychological counselling had to be solved with the help of the municipality. Otherwise, in the opinion of the court, it meant that the municipality did not comply with its obligation to protect the rights of children in accordance with the domestic legal framework and the *Convention on the Rights of the Child*. When adopting this decision, the Riga Regional Court referred to the conclusions of the Court in the judgment in the case of *E.K. v. Latvia* as to the role and responsibilities of guardianship institutions.<sup>11</sup>

35. Finally, in its decision of 16 September 2014 the case no.C17144411 the Riga Regional Court upheld the decision of the Jurmala District Court of 30 July 2014 rejecting a claimant's application for provisional protection against violence. However, at the same time, the Riga Regional Court agreed with the claimant that the Jurmala District Court has demonstrated excessive formalism in its decision. In particular, the Riga Regional Court noted that one of the grounds on which the Jurmala District Court had rejected the claimant's application was that the claimant had not indicated in her application that she was submitting it not only on her own behalf, but also on behalf of her children as their legal representative, even though this fact was clear from the content of her application. The Riga Regional Court considered that by including this argument in its reasoning the Jurmala District Court had demonstrated excessive formalism in the interpretation and application of domestic legal provisions.<sup>12</sup>
36. The Government submits that the aforementioned case law examples demonstrate that instances of formalistic approach on the part of the domestic courts and institutions are being appropriately addressed at the domestic level. While due to the limited amount of case law the Government cannot provide a case law example where a domestic court would have addressed overly formalistic approach taken by lower courts and institutions in a situation comparable to the applicant's situation, the Government has provided a number of examples concerning family disputes that, in the opinion of the Government, are relevant for the purposes of the present case. Furthermore, the Government underlines that, as will be described in Section IV.3.2. below, the judgment of the Court in the present case has been disseminated among the media and the relevant authorities, and the Court's conclusions were discussed by the representatives of legal professions, including

---

<sup>11</sup> The ancillary decision of the Riga Regional Court of 5 July 2023 in the civil case no.C29408318.

<sup>12</sup> The decision of the Riga Regional Court of 16 September 2014 in the case no.C17144411.

judges, on a number of occasions. In view of this, the Government strongly considers that the measures taken to raise awareness about the Court's conclusions in the present case together with the existing practice of the domestic courts, as described above, prevent the domestic authorities and courts from being overly formalistic in the future. For this reason and considering that the Court's conclusion in the case of *E.K. v. Latvia* as to the excessive formalism on the part of the domestic courts related to an isolated incident and the Court has not found any systemic shortcomings in this regard, the Government strongly believes that no further general measures are necessary or required in the present case with regard to this aspect of the violation of Article 8 of the Convention.

#### ***IV.2. The proceedings before the Guardianship Institution***

37. As to the Court's conclusion about the shortcomings in the proceedings before the Guardianship Institution, the Government provides information regarding the procedure and timeframes for issuing an opinion of a guardianship institution at the request of a court, the measures taken by the CPC to improve the quality of work of guardianship institutions, and training provided to the members of guardianship institutions.

##### *IV.2.1. Procedure and timeframes for issuing an opinion of a guardianship institution*

38. At the outset, the Government outlines the domestic legal framework, according to which guardianship institutions issue opinions in cases concerning contact rights, and provides information about the average timeframes within which guardianship institutions prepare opinions in such cases.

39. According to Article 182 of the *Civil Law*, in case of a dispute, contact arrangements are determined by a court after it has requested an opinion from a guardianship institution. Article 50, paragraph 1, of the *Law on Guardianship Institutions* provides that, upon the request of a court, guardianship institutions provide opinions that are necessary for the determination of contact arrangements. Whereas Article 98<sup>1</sup> of the *Cabinet of Ministers' Regulations no.1037 Regulations on the Operation of the Guardianship Institutions* stipulates that the said opinion has to be prepared as a decision of a guardianship institution and taken at a hearing of the guardianship institution, in compliance with Articles 68 and 68<sup>2</sup> of these *Regulations*. Pursuant to Article 98<sup>2</sup> of the same *Regulations*, after receipt of a court's request, a guardianship institution has to inform the court about the time period within which an opinion would be prepared and send this information to the parties of the particular case, asking them to express an opinion regarding the examination of the case at the hearing of the guardianship institution and to provide additional information and evidence.

40. In cases concerning contact rights, the average time period required for a guardianship institution to provide an opinion is three months. However, in cases where it is decided that psychological examination of the particular family is necessary, the required time period may be longer.

41. In addition, the Government informs that in 2020-2021, an administrative-territorial reform has been carried out that provided for merging of 119 municipalities and as a result creating 43 municipalities.<sup>13</sup> In the framework of this

---

<sup>13</sup> See *Law on Administrative Territories and Populated Areas*.

reform, on 1 January 2022, the existing guardianship institutions have been merged, and 43 new guardianship institutions have been created. As to the Guardianship Institution that was examined by the Court in the present case, the Government informs that on 1 January 2022, when in the framework of the administrative-territorial reform it was reorganised, the Guardianship Institution had 11 members, who were specialists and worked with cases. In turn, as from 1 January 2023, the number of members of the Guardianship Institution, who work with cases, has been increased to 12, which helped in balancing the workload and ensured that the opinions of Guardianship Institution were prepared within a reasonable time. The Government submits that the administrative-territorial reform helped to optimise the capacity of municipalities and institutions established by municipalities, such as guardianship institutions, and to improve quality of public services provided by them throughout Latvia.

#### *IV.2.2. Measures taken to improve the quality of work of the guardianship institutions*

42. The Government explains that the operation of the guardianship institutions is supervised by the CPC that regularly takes measures to improve the quality of work of guardianship institutions. In particular, Article 5, paragraph 1, of the *Law on Guardianship Institutions* provides that the CPC supervises the operation of guardianship institutions in the protection of the rights and interests of a child and provides them with methodological assistance.
43. In the first three quarters of 2023, with the aim of improving the quality of work of guardianship institutions, the CPC carried out supervisory inspections in eight guardianship institutions, in the framework of which the CPC inspectors have examined 343 different category cases. After each inspection, the CPC provided recommendations to the relevant guardianship institutions and, if necessary, imposed a duty to rectify deficiencies and to take measures to avoid similar shortcomings in the future. The CPC prepared an evaluation regarding each inspected guardianship institution and the observance of the rights and interests of children in the relevant municipality as a whole. Those evaluations were submitted to the relevant municipalities that could take appropriate actions, if necessary.
44. During that time period, the CPC provided 1370 individual consultations to natural and legal persons (including employees of guardianship institutions) concerning operation thereof. 14 of these consultations were provided to the Guardianship Institution (8 – on finding a solution in a particular case, including solving organisational matters, 3 – regarding procedures for requesting a certificate to provide social guarantees, 2 – regarding official statistics of guardianship institutions, and 1 – on questions concerning a foster family). Further, in the first three quarters of 2023, the CPC participated in 39 inter-institutional meetings with guardianship institutions and other institutions, actively engaging in solving complex cases to ensure the protection of children's rights. In this regard, the CPC provided methodological support to seven guardianship institutions in solving particularly complex cases. Further, the Government informs that the possibility of remote meetings allows guardianship institutions to request the involvement of the CPC more frequently, and the CPC often uses this channel to organise inter-institutional meetings to better understand an individual case and to provide prompt methodological support to the guardianship institution that has sought assistance.

45. Further, in 2023, the CPC organised an annual discussion for the chairpersons and members of guardianship institutions on current issues in the field of operation thereof. During this discussion, the CPC informed chairpersons about the planned amendments to the laws and regulations concerning the work of guardianship institutions and impact of those amendments on their operation. Likewise, the CPC organised two training cycles for the employees of guardianship institutions. These training cycles consisted of nine seminars that focused on strengthening cooperation between guardianship institutions and social service providers. They also addressed issues related to violations of the rights of the child and recalled the general principles of conversation with a child in the assessment of neglect and violence by parents or legal representatives.
46. In addition, the CPC regularly and systematically supplements the *Handbook for Guardianship Institutions* that is published on its website.<sup>14</sup> Several significant additions have been made in 2023 and 2024. In this regard, the Government wishes to particularly highlight the “Methodical recommendations to guardianship institutions on drafting of decisions and minutes of meetings”, which has been available on the CPC website since 30 October 2023 and which includes a section on enforcement of decisions of guardianship institutions.<sup>15</sup> Likewise, the Government wishes to highlight additions to the methodological recommendations “*On improvement of the quality of work of the guardianship institutions and performance of self-assessment in the guardianship institutions*” which outline the methods and guidelines for how the CPC ensures supervision over the work of guardianship institutions, as well as includes a self-assessment tests for guardianship institutions.<sup>16</sup>

#### IV.2.3. Training of the members of guardianship institutions

47. As to the awareness-raising and training of members of guardianship institutions, the Government submits the following information. All members of guardianship institutions are required to undergo special training.<sup>17</sup> In compliance with Article 10, paragraph 4, of the *Law on Guardianship Institutions* the Cabinet of Ministers has issued the *Regulations no.984 regarding the content of the study programme and the training procedures of a chairperson, a deputy chairperson, and members of a guardianship institution*. According to these *Regulations*, the mandatory study programme includes topics on personal relationships between parents and children, the rights and obligations of parents and children, the general principles of building contact based on the child’s age and other subject-matters. Pursuant to Article 9 of these *Regulations*, an employee of a guardianship institution is required to complete the study programme within a year after being employed. Whereas Article 13 of the same *Regulations* provides that employees of a guardianship institution have to improve their knowledge and qualifications by studying individual topics of the curriculum (24 academic hours) every five years. According to Article 14 of the *Regulations*, the sample curriculum referred to in Article 13 of these *Regulations* is developed by the CPC in coordination with the Ministry of Welfare and the Ministry of Justice.

---

<sup>14</sup> *Handbook for Guardianship Institutions*, available at: <https://www.bac.gov.lv/lv/rokasgramata-barintiesam>.

<sup>15</sup> *Ibidem*, Volume 6, Section 1.7.

<sup>16</sup> *Ibidem*, Volume 5, Section 1.

<sup>17</sup> See, Article 10, paragraphs 3 and 3<sup>1</sup>, of the *Law on Guardianship Institutions*.

48. In addition, the Government informs that, over the past year, employees of the Guardianship Institution have further improved their knowledge in several subjects that focused both on aspects of conversation with children and exercise of contacts rights. In particular, they have studied the following topics: 1) Exercise of contact rights: Determination of separate custody; 2) The general principles of conversation with a child in the assessment of neglect and violence by parents or legal representatives; 3) Children in war; 4) Schizophrenia: The nature of contact with clients with schizophrenia; 5) Evaluation and reconciliation of families.
49. In the light of the aforementioned, the Government submits that the current procedure and timeframes for issuing an opinion of a guardianship institution, the measures taken by the CPC to improve the quality of work of guardianship institutions, and training provided to members of guardianship institutions ensure that the proceedings before guardianship institutions are being conducted efficiently without undue delays and with the best interests of the child being the main consideration.

#### *IV.2.4. Series of discussions on the enforcement of rulings granting contact rights*

50. Following the adoption of the Court's judgment in the case of *E.K. v. Latvia*, the Ministry of Justice started a series of discussions to evaluate the effectiveness of the enforcement of judgments and decisions granting contact rights, and, if necessary, to propose further measures – either legislative or practical. In order to effectively identify the problematic aspects and to find the best solutions, the representatives of various institutions have been delegated to participate in these discussions. In particular, the representatives of the following institutions have been delegated: representatives of courts (judges), guardianship institutions, the Council of Sworn Bailiffs, the CPC, the Council of Certified Mediators, the State Police, the Ombudsman's Office, the Council of Certification of Psychologists, the Ministry of Welfare, the Ministry of the Foreign Affairs, and the Ministry of Justice. The institutions were asked to provide information on the necessary improvements in enforcement proceedings in cases concerning contact rights to identify the problems that exist in practice and to ensure a common understanding of the desired practices. By December 2023, four discussions had taken place. During these discussions, among other questions, the participants discussed the importance of a child's opinion in the enforcement proceedings, the quality of legal aid, the time-limit within which enforcement documents must be submitted for enforcement to ensure that contact rights are ensured in an effective manner, and other matters. In future discussions, it is planned to discuss in more detail the importance of a child's opinion and the responsibility of a parent for preparing a child for contact in the enforcement process, as well as the exercise of contact rights when contact is to be exercised remotely.
51. During these discussions, the participants concluded that neither the Court in the judgment in the case of *E.K. v. Latvia*, nor they themselves have identified systemic shortcomings in the domestic legal framework. Although during the discussions the participants expressed some proposals to make certain clarifications in the domestic legal framework, the main purpose of the discussions is to improve cooperation among the institutions that are usually involved in the enforcement process and to discuss the examples of good practices. During the discussions, it was concluded that the effective and coordinated conduct of the institutions is often crucial in ensuring effective enforcement process in line with the best interests of

a child. Accordingly, the participants identified issues that could be solved by improving the cooperation between the institutions involved in the enforcement process, for example, by issuing a compilation of good practices in the enforcement proceedings concerning contact rights. These discussions shall continue in 2024.

### ***IV.3. Awareness-raising and dissemination of the judgment***

#### *IV.3.1. Development of informative and educational video materials*

52. The Government informs that within the framework of the *State Program for the Improvement of Child and Family Status for 2023*, funds were allocated for the development of educational and informative video materials concerning the impact of parental disagreements on the emotional well-being of children. The purpose of these video materials is to explain to society and parents the long-term impact of mutual disagreements between parents on a child's development and emotional well-being. These materials are intended to draw the parents' attention to the fact that a child, being at the centre of parental disagreements, needs to receive support, and to encourage parents to listen to the specialists to resolve mutual disagreements in the most appropriate way by taking into account the needs of a child. It is planned to distribute the video materials on social networks, so that they reach the broadest segment of society possible. Video materials are scheduled to be published in 2024.

#### *IV.3.2. Dissemination of the judgment*

53. On the day of the delivery of the judgment in the case of *E.K. v. Latvia*, a press release on the Court's judgment was issued summarising the facts of the case, the Court's conclusions and reasoning. The press release included a reference to the judgment and a web link to the website of the Court's case law. This release was published on the official website of the Ministry of Foreign Affairs and disseminated among the media and the relevant authorities.<sup>18</sup> The summary of the case was also added to the collection of the case law on Article 8 of the Convention on the official website of the Supreme Court of the Republic of Latvia.<sup>19</sup> Furthermore, during the first meeting in the discussion cycle on how to improve the enforcement of rulings concerning contact rights,<sup>20</sup> a representative of the Ministry of Foreign Affairs informed the participants of the conclusions reached by the Court in the case of *E.K. v. Latvia*.

54. In addition, on 2 November 2023, the Riga Graduate School of Law hosted the annual conference devoted to the topical issues in human rights.<sup>21</sup> During the conference, participants were informed about the recent developments in the case law of the Court and its latest rulings in Latvian cases. This included discussions about the Court's judgment in the case of *E.K. v. Latvia*. The conference is held annually, and is attended by representatives of various legal professions – judges and their assistants, prosecutors, lawyers, government officials, members of the

---

<sup>18</sup> The press release on the case of *E.K. v. Latvia* is available at: <https://www.mfa.gov.lv/lv/jaunums/eiropas-cilvektiesibu-tiesa-pasludina-spridumu-lieta-ek-pret-latviju>.

<sup>19</sup> The summary of the Court's judgment in the case of *E.K. v. Latvia* in Latvian is available at: <https://www.at.gov.lv/downloadetclawfile/1022>.

<sup>20</sup> See, Section IV.2.4. above.

<sup>21</sup> Information regarding the conference of 2 November 2023 is available at the official website of the Riga Graduate School of Law: <https://www.rgsl.edu.lv/news-and-events/events/annual-conference-on-current-human-rights-issues-in-latvia-on-2-november-2023>.

Parliament and representatives of its Legal bureau, representatives of the Ombudsperson's Office and non-governmental organisations, as well as students.

## V. CONCLUSIONS OF THE GOVERNMENT

55. In conclusion, the Government emphasises that following the adoption of the Court's judgment in the case of *E.K. v. Latvia*, the Guardianship Institution has exercised the utmost diligence with a view to facilitate the applicant's contact with his child and to reconcile the conflicting interests of the parties, and has promptly taken a number of appropriate measures. As a result of the steps taken by the Guardianship Institution, both, the applicant's relationship with the child and I.B.'s conduct, has significantly improved and, at present, the applicant has regular contact with his child. For this reason and in view of the findings of the Court in the present case, the Government believes that no further individual measures, in addition to those which have already been taken, are required in the framework of the execution of the Court's judgments in the case of *E.K. v. Latvia*.
56. Likewise, in the strong opinion of the Government, the general measures undertaken, including but not limited to the measures taken to improve the quality of work of the guardianship institutions, the training provided to the members of the guardianship institutions, the initiation of discussions on the problematic aspects of the enforcement of contact rights, as well as the measures taken to raise awareness about the impact of parental disagreements on the emotional well-being of children and to disseminate the findings of the Court in the case of *E.K. v. Latvia*, are in line with the Court's judgment in the case of *E.K. v. Latvia* and will prevent similar violations in the future.
57. Accordingly, the Government submits that the measures taken are sufficient to conclude that Latvia has complied with its obligations under Article 46, paragraph 1, of the Convention concerning the violation of Article 8 of the Convention found by the Court in the case of *E.K. v. Latvia*. Therefore, the Government submits that the examination of the present case should be closed.

**Elīna Luīze Vītola**

Deputy Agent of the Government of the Republic of Latvia  
Rīga, 13 February 2024