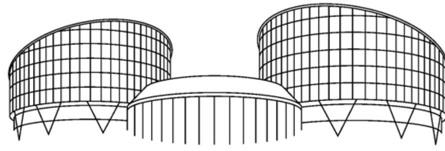

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF CÎNȚA v. ROMANIA

(Application no. 3891/19)

JUDGMENT

Article 8 • Respect for family life • Restriction on applicant's contact rights based on his mental disorder, without assessing the latter's impact on his caring skills or child's safety • Lack of assessment of child's best interests or applicant's current state of health
Article 14 • Discrimination • No convincing reasons from the respondent State to rebut the presumption of discrimination

STRASBOURG

18 February 2020

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 Cînța v. Romania,

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

Jon Fridrik Kjølbro, *President,*
Faris Vehabović,
Iulia Antoanella Motoc,
Carlo Ranzoni,
Stéphanie Mourou-Vikström,
Georges Ravarani,
Péter Paczolay, *judges,*
and Marialena Tsirli, *Section Registrar,*

Having regard to:

the application against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Romanian national, Mr Marcel Dan Cînța ("the applicant"), on 9 January 2019;

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

the parties' observations,

Having deliberated in private on 17 December 2019 and 28 January 2020,

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

INTRODUCTION

The application concerns restrictions placed by the courts on the applicant's contact rights in respect of his four-year-old daughter during divorce and custody proceedings. The applicant alleged that his mental illness had played a significant role in that restriction, even though there had been no evidence before the courts that he would pose a threat to his daughter's well-being.

THE FACTS

1. The applicant was born in 1965 and lives in Baia Mare. He was represented before the Court by Ms I.-R. Muscan, a lawyer practising in Baia Mare.

2. The Government were represented by their Agent, most recently Ms S.-M. Teodoroiu, of the Ministry of Foreign Affairs.

3. The facts of the case, as submitted by the parties, may be summarised as follows.

4. In 2007 the applicant married Ms X. They had met earlier that year when they were both patients in the Cavnic psychiatric hospital. In 2014 the

couple had a daughter, Y. They lived together until 14 June 2018 when X moved out of the family home and took Y with her. On 26 June 2018 X filed for divorce.

5. At the time of the couple's separation, the applicant was not working and was receiving a disability pension. X was working as a school teacher and deputy-headmistress. At that time, she was no longer registered as suffering from mental illness.

6. Since the couple's separation, X has opposed any contacts, be they direct or *via* telephone, between the applicant and the child. He was able to see his daughter on only one occasion, on 5 July 2018, for half an hour.

7. On 30 July 2018 the applicant lodged an action for an interim injunction (*ordonanţă preşedenţială*) with the Baia Mare District Court. He requested that, during the divorce proceedings, the child be returned to the family home to live with him, as she had done since her birth. Alternatively, he requested that the court establish a contact schedule so that he could spend time with the child in his home, every Tuesday and Thursday from 6 p.m. to 8 p.m. and every other week from 6 p.m. on Fridays to 6 p.m. on Sundays.

8. On 8 August 2018 X acquiesced to allow the applicant contact with their daughter but only on Tuesdays and Thursdays, in public places and in her presence. She further requested that the court set the child's residence with her during the divorce proceedings and order the applicant to contribute to the child's financial needs. X explained that she had left the family home with the child because the applicant, who suffered from paranoid schizophrenia, had been physically and psychologically aggressive towards her, sometimes even in their child's presence. X claimed that the applicant had also been abusive towards their daughter, telling her on several occasions that he did not need her love. She also claimed that, because of the applicant's illness, he had never been left alone with the child. Either she or the child's maternal grandmother had always been present.

9. The District Court examined the parents' psychiatric records (the applicant's most recent internment, at his wife's request, having been from 6 to 25 April 2017 in the psychiatric ward of Sighetul Marmaţiei municipal hospital).

10. The court also heard evidence from the child's grandmothers and X's maternal aunt. The maternal aunt declared that, having known the applicant since he had married her niece, she had the impression that he had always tried to control his wife and to have the last word in any discussion. X's mother declared that she had been taking care of Y in the applicant's home since X had returned to work at the end of her maternity leave. When Y had reached the age of two, the applicant had forbidden her from having contact with the child, alleging that she had been "abusing" Y. She further declared that, in her opinion, the child would not be safe with her father, not

even for a few days, because of his illness. The applicant's mother declared that the applicant had been taking care of Y since her birth and the relationship between father and child had always been excellent. She had not witnessed or heard of any aggressive behaviour in the family.

11. In addition, the court received a report from the Baia Mare Directorate General for Social Welfare and Child Protection ("the child-protection authority") concerning the material conditions offered by each parent for raising the child. The child-protection authority conducted interviews with the parents and examined their domestic environments. It concluded as follows:

> "Following the assessment undertaken, it is concluded that the parents are separated and the tensions between them make any civilised communication aimed at correctly handling the child's situation impossible.
>
> The child is healthy and well taken care of by the mother and the maternal grandmother. The child is four years old and has developed an attachment with all the adults in her life (parents, grandparents).
>
> [The applicant] considers that he can offer the child better housing conditions, and a lot of love and affection, and for these reasons he requests that the child's residence be set with him.
>
> In [X]'s view, the father does not offer psycho-emotional safety for the child, because he does not admit his illness and does not take his medication.
>
> The parents have been advised to put the child's best interests above their anger and pride, and have been made aware of the importance of offering psycho-emotional comfort to the child in order to allow for a harmonious development of her personality.
>
> In the light of the above findings, the court is requested to make its decision bearing in mind the best interests of the child."

12. On 4 September 2018 the court, sitting in camera (the judge and the court clerk), interviewed Y. According to the interview report drafted by the court, Y told the judge that she and her mother had moved in with her grandmother because the applicant used to shout at her mother and sometimes at her. She liked living at her grandmother's place because nobody shouted at her and everybody behaved nicely.

13. The District Court gave judgment on 4 September 2018. It set weekly contacts between the applicant and Y from 6 p.m. to 8 p.m. on Tuesdays and Thursdays only in public places and in the mother's presence. It also set the child's residence with her mother until the end of the divorce proceedings, and ordered the applicant to pay maintenance for his daughter. The relevant parts of the judgment read as follows:

> "... the evidence in the file, that is the written evidence, the witnesses' statements, and the child-protection authority's report, does not indicate any justified reason for prohibiting contact between the applicant and the child.
>
> However, ... [in view of] the medical evidence in the file, which reveals the applicant's chronic mental illness, as well as the witness statements and the child's

> statement ... in order to protect the child's interests, contacts must be limited and must take place in public in the mother's presence."

14. The applicant lodged an appeal with the Maramureş County Court, complaining mainly that the District Court had relied exclusively on his illness, in a subjective and partial manner. He had never been violent with his daughter and nothing in the file could prove that he represented a threat to her. He also denied having ever been violent towards his wife and explained that it had been X who had threatened him repeatedly that she would use his illness in order to get him committed to the psychiatric hospital and to take Y away from him. He also reiterated his request to have the child returned to their family home with him.

15. On 18 September 2018 the Baia Mare psychiatric hospital informed the court that in the past two years the applicant had taken his medication and had not suffered any episode of psychiatric decompensation caused by his illness.

16. In a final decision of 15 November 2018 the County Court dismissed the appeal. The relevant parts of the decision read as follows:

> "In agreement with the first-instance court, the County Court notes that the medical evidence in the file, together with the remaining evidence – witness statements, correspondence and the father's attitude towards the mother – justify temporarily setting the child's residence with her mother, ordering the father to pay maintenance, and setting a limited contact schedule in the mother's presence.
>
> ...
>
> The child-protection authority's reports have revealed that the current relationship between the parents makes any civilised communication impossible (a criminal complaint lodged in 2018 by [X] for the offence of threats is currently under examination); ... the child is emotionally attached to both parents.
>
> In disagreement with [the applicant], the County Court finds that the first-instance court decision was not exclusively based on his diagnosis; it took into account all evidence in the file. It is to be noted that the father's contact with his daughter was not forbidden, it was only limited temporarily because of his current state of health and his attitude towards the child and the mother; the conflictual situation generated by the divorce caused [the applicant] to exhibit unbalanced behaviour which is not centred in the child's need to grow up in an environment free from tensions.
>
> The fact that [the applicant] has not suffered any episode of decompensation is not in itself sufficient at this time to change the outcome."

RELEVANT LEGAL FRAMEWORK

A. Civil Code

17. In accordance with Article 262 of the Civil Code ("the CC"), a child who does not live with one of the parents has the right to personal relations with the absent parent. The exercise of that right may only be limited in

accordance with the law, for strong reasons (*motive temeinice*) and with consideration given to the child's best interests.

18. Article 263 of the CC, entitled "the principle of the best interests of the child", states that in taking any measure concerning a child's rights, the authorities must be guided by the principle of the best interests of the child. Decisions adopted by the authorities in child-related matters must take into account the parents' wishes and interests, and must be rendered expeditiously.

19. Under Article 400 of the CC, the court which decides on the parents' divorce also sets the child's residence with one of the parents, in the light of the child's best interests. Article 401 of the CC provides that the parent with whom the child does not live has the right to personal relations with the child. The court deciding on the parents' divorce will decide on the manner in which that right will be exercised.

B. Code of Civil Procedure

20. Article 920 of the Code of Civil Procedure ("the CCP"), as in force at the relevant time, provided that during divorce proceedings, a court could order temporary measures by means of an interim injunction, concerning custody of children, alimony, child allowance and use of the family home. The domestic courts also award contact rights by means of an interim injunction during the divorce proceedings (see, *mutatis mutandis*, *Cristian Cătălin Ungureanu v. Romania*, no. 6221/14, §§ 18 and 25, 4 September 2018).

21. Article 226 regulates as follows the manner in which witnesses who are minors are heard by the courts:

Article 226 Hearing of minors

"If, by law, a witness who is a minor is to be heard, the interview must take place *in camera* [*în camera de consiliu*]. In the light of the circumstances of the case, the court shall decide whether the child's parents, legal guardian [*tutore*] or other persons should be present during the minor's interview."

C. Discrimination under Romanian law

22. Discrimination is prohibited by Article 16 of the Constitution. Government Ordinance no. 137/2000 on preventing and punishing all forms of discrimination ("the Anti-discrimination Ordinance") comprises comprehensive regulations on the matter of discrimination.

23. In particular, Article 1 of the Anti-discrimination Ordinance proclaims that human dignity, the rights and freedom of the nationals of the State, and the free development of personality represent fundamental values and are protected by law. It then enumerates all the areas in which the principles of equality of treatment and of non-discrimination are ensured.

24. In Article 2 § 1 of the Anti-discrimination Ordinance, discrimination is defined as any difference in treatment, exclusion, restriction or preferential treatment based on race, nationality, ethnicity, language, religion, social origin, opinions, sex, sexual orientation, age, disability, illness, HIV infection, association with a disadvantaged group, or any other criteria, aimed at restricting or denying fundamental rights and freedoms.

D. Mental Health Act

25. The Mental Health Act (Law no. 487 of 11 July 2002 on mental health and the protection of people with mental disorders) provides for the rights of persons with mental disorders. In particular, under Article 41 of that Act, persons with mental disorders have the freedom to exercise their civil, political, economic, social and cultural rights guaranteed by the Universal Declaration of Human Rights and by other international conventions and treaties ratified by Romania. Article 42 states that any person with mental disorders has the right to be recognised as an individual and has the right to private life.

E. Relevant international materials

1. Standards on child protection

26. The relevant provisions of international law concerning child protection are described, in part, in *Strand Lobben and Others v. Norway* ([GC], no. 37283/13, §§ 134-36, 10 September 2019).

2. Standards on mental illness and mental disability

(a) Council of Europe materials

27. The European Social Charter contains specific rights for persons with disabilities, in particular Article 15 (right of persons with disabilities to independence, social integration and participation in the life of the community) and Article E (providing that the rights of the Charter shall be secured without discrimination on any grounds).

28. In April 2006, the Committee of Ministers adopted Recommendation Rec(2006)5 "the Council of Europe Action Plan to promote the rights and full participation of persons with disabilities in society: improving the quality of life of persons with disabilities in Europe 2006-2015". The Recommendation included in its appendix the Council of Europe Action Plan 2006-2015. The fundamental goal of the Action Plan was to help member States reinforce anti-discriminatory and human-rights measures to enhance equal opportunities and independence of people with disabilities, to guarantee their freedom of choice, full citizenship and active participation in the life of the community, and to improve their quality of life.

29. The Action Plan was continued with the Council of Europe Disability Strategy 2017-2023 (“the Strategy”). The overall goal of the Strategy is to achieve equality, dignity and equal opportunities for persons with disabilities. The most relevant parts read as follows:

> “52. Awareness raising, including through the education system, is a specific state obligation under the UNCRPD (Article 8). Persons with disabilities are still confronted with indifference, unacceptable attitudes and stereotypes based on existing prejudices, fear and distrust in their abilities. Action should be aimed at changing these negative attitudes and stereotypes through effective awareness raising policies, strategies and actions involving all relevant stakeholders, including the media.
>
> 53. Discriminatory attitudes and behaviour, stigmatisation and their damaging or harmful consequences on persons with disabilities must be countered by accessible and objective information on ability as opposed to inability. This includes disabilities and the barriers in society in order to promote a better understanding of the needs and fulfilment of rights of persons with disabilities and their inclusion in all areas of life.”

(b) United Nation materials

30. The relevant provisions of the United Nations Convention on the Rights of Persons with Disabilities (“the CRPD”), which was ratified by Romania on 31 January 2011, provides as follows:

> **“Article 1 Purpose**
>
> The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.
>
> ...
>
> **Article 2 Definitions**
>
> For the purposes of the present Convention:
>
> ...
>
> “Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;
>
> ...
>
> **Article 3 General principles**
>
> The principles of the present Convention shall be:
>
> (*a*) Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
>
> (*b*) Non-discrimination;
>
> (*c*) Full and effective participation and inclusion in society;

...

Article 4 General obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:

...

Article 5 Equality and non-discrimination

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

...

Article 8 Awareness-raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:

(a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;

(b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;

...

Article 12 Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.

...

Article 22 Respect for privacy

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.

2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

Article 23 Respect for home and the family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage,

family, parenthood and relationships, on an equal basis with others, so as to ensure that:

(a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;

(b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;

(c) Persons with disabilities, including children, retain their fertility on an equal basis with others.

2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.

3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

...”

31. In addition, the UN Committee on the Rights of Persons with Disabilities (“the Committee”) issued several General Comments on the interpretation of the CRPD. Notably, in General Comment No. 1 (2014) on equal recognition before the law (issued on 11 April 2014), the Committee interpreted the normative content of Article 12 as follows:

“11. Article 12, paragraph 1, reaffirms the right of persons with disabilities to be recognized as persons before the law. This guarantees that every human being is respected as a person possessing legal personality, which is a prerequisite for the recognition of a person’s legal capacity.”

32. On 26 April 2018 the Committee issued General Comment No. 6 (2018) on equality and non-discrimination. It reiterated, among other things, that persons with disabilities should be acknowledged as full subjects of rights and as rights holders. The relevant provisions read as follows:

“II. Equality for and non-discrimination against persons with disabilities in international law

...

7. Equality and non-discrimination are at the heart of the Convention and evoked consistently throughout its substantive articles with the repeated use of the wording "on an equal basis with others", which links all substantive rights of the Convention to the non-discrimination principle. Dignity, integrity and equality of the person have been denied to those with actual or perceived impairments. Discrimination has occurred and continues to occur, including in brutal forms such as non-consensual and/or forced systematic sterilizations and medical or hormone-based interventions (e.g. lobotomy or the Ashley treatment), forced drugging and forced electroshocks, confinement, systematic murder labelled "euthanasia", forced and coerced abortion, denied access to health care, and mutilation and trafficking in body parts, particularly of persons with albinism.

...

III. The human rights model of disability and inclusive equality

...

9. The human rights model of disability recognizes that disability is a social construct and impairments must not be taken as a legitimate ground for the denial or restriction of human rights. It acknowledges that disability is one of several layers of identity. Hence, disability laws and policies must take the diversity of persons with disabilities into account. It also recognizes that human rights are interdependent, interrelated and indivisible.

...

11. Inclusive equality is a new model of equality developed throughout the Convention. It embraces a substantive model of equality and extends and elaborates on the content of equality in: (a) a fair redistributive dimension to address socioeconomic disadvantages; (b) a recognition dimension to combat stigma, stereotyping, prejudice and violence and to recognize the dignity of human beings and their intersectionality; (c) a participative dimension to reaffirm the social nature of people as members of social groups and the full recognition of humanity through inclusion in society; and (d) an accommodating dimension to make space for difference as a matter of human dignity. The Convention is based on inclusive equality.

...

VI. General obligations of States parties under the Convention relating to non-discrimination and equality

...

31. The effective enjoyment of the rights to equality and non-discrimination calls for the adoption of enforcement measures, such as: ...

(e) Specific rules relating to evidence and proof to ensure that stereotyped attitudes about the capacity of persons with disabilities do not result in victims of discrimination being inhibited in obtaining redress;

...

VII. Relationship with other specific articles of the Convention

...

C. Article 8 on awareness-raising

39. Discrimination cannot be combated without awareness-raising among all sectors of government and society. Thus, any non-discrimination and equality measure must be accompanied by adequate awareness-raising measures and measures to change or abolish compounded pejorative disability stereotypes and negative attitudes. In addition, violence, harmful practices and prejudices must be tackled by awareness-raising campaigns. States parties should undertake measures to encourage, *inter alia*, the media to portray persons with disabilities in a manner consistent with the purpose of the Convention and to modify harmful views of persons with disabilities, such as those that portray them unrealistically as being dangerous to themselves and others, or sufferers and dependent objects of care without autonomy who are unproductive economic and social burdens to society.

...

J. Article 23 on respect for home and the family

61. Persons with disabilities often face discrimination in the exercise of their right to marry or their parental and family rights owing to discriminatory laws and policies, and administrative measures. Parents with disabilities are frequently seen as inadequate or unable to take care of their children. Separation of a child from his or her parents based on the disability of the child or parents or both is discrimination and in violation of article 23.

...”

33. The Standard Rules on the Equalization of Opportunities for Persons with Disabilities were adopted by the UN General Assembly on 4 March 1994. The relevant parts read as follows:

“Equalization of opportunities

24. The term "equalization of opportunities" means the process through which the various systems of society and the environment, such as services, activities, information and documentation, are made available to all, particularly to persons with disabilities.

25. The principle of equal rights implies that the needs of each and every individual are of equal importance, that those needs must be made the basis for the planning of societies and that all resources must be employed in such a way as to ensure that every individual has equal opportunity for participation.

...

Rule 9. Family life and personal integrity

States should promote the full participation of persons with disabilities in family life. They should promote their right to personal integrity and ensure that laws do not discriminate against persons with disabilities with respect to sexual relationships, marriage and parenthood.

1. Persons with disabilities should be enabled to live with their families. States should encourage the inclusion in family counselling of appropriate modules regarding disability and its effects on family life. Respite-care and attendant-care services should be made available to families which include a person with disabilities. States should remove all unnecessary obstacles to persons who want to foster or adopt a child or adult with disabilities.

2. Persons with disabilities must not be denied the opportunity to experience their sexuality, have sexual relationships and experience parenthood. Taking into account

that persons with disabilities may experience difficulties in getting married and setting up a family, States should encourage the availability of appropriate counselling. Persons with disabilities must have the same access as others to family-planning methods, as well as to information in accessible form on the sexual functioning of their bodies.

3. States should promote measures to change negative attitudes towards marriage, sexuality and parenthood of persons with disabilities, especially of girls and women with disabilities, which still prevail in society. The media should be encouraged to play an important role in removing such negative attitudes.

...”

(c) World Health Organisation

34. In 1996, the World Health Organisation adopted Guidelines for the Promotion of Human Rights of Persons with Mental Disorders. The relevant parts read as follows:

“4. There shall be no discrimination on the grounds of mental illness. ‘Discrimination’ means any distinction, exclusion or preference that has the effect of nullifying or impairing equal enjoyment of rights. Special measures solely to protect the rights, or secure the advancement, of persons with mental illness shall not be deemed to be discriminatory. ...

5. Every person with a mental illness shall have the right to exercise all civil, political, economic, social and cultural rights as recognised in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and in other relevant instruments, such as the Declaration on the Rights of Disabled Persons and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

35. The applicant complained about the duration and conditions of the contact rights. He argued that the contact schedule did not allow him to maintain and develop a personal relationship with his daughter and to participate effectively in her education, thus breaching his right to respect for his family life, as provided for in Article 8 of the Convention, which, in so far as relevant, reads as follows:

“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 ... for the protection of the rights and freedoms of others.”

A. Admissibility

36. The Court notes that this complaint 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' observations

(a) The applicant

37. The applicant reiterated that the contact schedule limited his time with his daughter to two two-hourly meetings per week, in the mother's presence. He argued that that arrangement did not allow for any meaningful exchanges to take place between him and his child. The meetings took place in the evening, when the child was already tired. Moreover, the meetings invariably ended with him and his wife arguing about their divorce. He considered that that arrangement was harmful for the mental health of both the child and himself.

(b) The Government

38. The Government acknowledged that the relations between the applicant and his daughter constituted family life and that the contact schedule represented an interference with that right. They argued, however, that that interference was in accordance with the law, notably Articles 400 and 401 of the CC (see paragraph 19 above), as well as Article 920 of the CCP (see paragraph 20 above). It pursued a legitimate aim, notably the protection of the rights of others, which called for the protection of the child's best interests.

39. The Government also argued that the interference was proportionate to the legitimate aim pursued. The domestic courts had assessed the parties' situation, had taken into account not only the applicant's illness but also his aggressive behaviour, and had relied on the evidence in the file. Moreover, the courts had acted rapidly. Consequently, the Government contended that the restriction of the applicant's right remained within the scope of the State's margin of appreciation.

2. The Court's assessment

(a) General principles

40. The relevant principles concerning interference with the right to respect for family life are summarised in *Strand Lobben and Others v. Norway* ([GC], no. 37283/13, §§ 202-04, 10 September 2019):

> "202. The first paragraph of Article 8 of the Convention guarantees to everyone the right to respect for his or her family life. As is well established in the Court's case-law, the mutual enjoyment by parent and child of each other's company constitutes a fundamental element of family life, and domestic measures hindering such enjoyment amount to an interference with the right protected by this provision. Any such interference constitutes a violation of this Article unless it is 'in accordance with the law', pursues an aim or aims that is or are legitimate under its second paragraph and can be regarded as 'necessary in a democratic society' (see, among other authorities, *K. and T. v. Finland* [GC], no. 25702/94, § 151, ECHR 2001-VII; and *Johansen* [*v. Norway*, 7 August 1996, *Reports of Judgments and Decisions* 1996-III], § 52).
>
> 203. In determining whether the latter condition was fulfilled, the Court will consider whether, in the light of the case as a whole, the reasons adduced to justify that measure were relevant and sufficient for the purposes of paragraph 2 of Article 8 (see, among many other authorities, *Paradiso and Campanelli* [*v. Italy* [GC], no. 25358/12, 24 January 2017], § 179). The notion of necessity further implies that the interference corresponds to a pressing social need and, in particular, that 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., § 181).
>
> 204. In so far as the family life of a child is concerned, the Court reiterates that there is a broad consensus, including in international law, in support of the idea that in all decisions concerning children, their best interests are of paramount importance (see, among other authorities, *Neulinger and Shuruk v. Switzerland* [GC], no. 41615/07, § 135, ECHR 2010). Indeed, the Court has emphasised that in cases involving the care of children and contact restrictions, the child's interests must come before all other considerations (see *Jovanovic* [*v. Sweden*, no. 10592/12, 22 October 2015], § 77, and *Gnahoré v. France*, no. 40031/98, § 59, ECHR 2000-IX)."

41. In addition, the Court reiterates that if a restriction on fundamental rights applies to someone belonging to a particularly vulnerable group in society that has suffered considerable discrimination in the past, such as the mentally disabled, then the State's margin of appreciation is substantially narrower and it must have very weighty reasons for the restrictions in question. The reason for this approach, which questions certain classifications *per se*, is that such groups were historically subject to prejudice with lasting consequences, resulting in their social exclusion (see, in the context of a restriction of the electoral rights of a person diagnosed with manic depression and placed under partial guardianship, *Alajos Kiss v. Hungary*, no. 38832/06, § 42, 20 May 2010, with further references).

42. In the context of its examination of the present case, the Court does not propose to substitute its own assessment for that of the domestic courts. Nevertheless, it must satisfy itself that the decision-making process leading to the adoption of the impugned measures by the domestic courts was fair and allowed those concerned to present their case fully, and that the best interests of the child were defended (see *X v. Latvia* [GC], no. 27853/09, § 102, ECHR 2013, with further references).

(b) Application of those principles to the facts of the case

43. It is common ground between the parties, and the Court finds it unequivocally established, that the decisions taken by the domestic courts concerning the applicant's contact with his child (see paragraphs 13 and 16 above) entailed an interference with his right to respect for his family life under the first paragraph of Article 8.

44. The Court further accepts that those decisions were taken in accordance with the law (see paragraphs 19 and 20 above) and pursued a legitimate aim, namely the protection of the rights of others.

45. The interference thus fulfilled two of the three conditions for justification set out in the second paragraph of Article 8 (see, *mutatis mutandis*, *Strand Lobben*, cited above, § 214). The dispute in the present case relates to the third condition: whether the interference was "necessary in a democratic society".

46. On this point, the Court observes that the domestic courts, in particular the District Court, did not find that the evidence in the domestic file called for a prohibition on contact between the applicant and Y. The circumstances of the present case are different from those in *S.S. v. Slovenia* (no. 40938/16, § 99, 30 October 2018), where the Court found that the withdrawal of the applicant's parental rights had not been based on her psychiatric diagnosis, but on her consequent inability to take care of her child, which had been confirmed by all the expert reports produced in the domestic proceedings. In the present case, the Court finds that no evidence was produced to support the allegation that the applicant was unable to care for his daughter. It also notes that the child-protection authority, which interviewed both parents, did not make such assertions in its report, but merely recommended that the court take into consideration the child's best interests (see paragraph 11 above). The Court does not find, in the domestic courts' decisions, any reasoning that would allow it to conclude that X's allegations as to the applicant's inability to care for his child (see paragraph 8 *in fine* above) had been sufficiently explored by the domestic courts (see, *mutatis mutandis*, *X v. Latvia,* cited above, §§ 102 and 106 *in fine*).

47. Notwithstanding the lack of evidence of his inability to take care of Y, the domestic courts restricted the applicant's contact rights with his daughter. In so doing, they relied, at least partly, on the fact that he suffered from a mental illness (see paragraphs 13 and 16 above). However, they did not give any concrete indication of how that fact represented a threat for Y.

48. The Court is mindful of the fact that the domestic courts had at their disposal a letter from the psychiatric hospital indicating that the applicant had been taking his medication uninterruptedly and that he had not suffered any episode of psychiatric decompensation caused by his mental illness in the recent past (see paragraphs 15 and 16 above). It also observes that the child-protection authority found that Y had developed an attachment to all

of the adults in her life, including the applicant, and did not mention in its report any abuse that he might have committed in respect of his daughter (see paragraph 11 above). In this connection, the Court cannot find, in the domestic decisions, any objective element that would substantiate the allegations that the applicant's mental disorder represented a threat for his child.

49. More importantly, the Court cannot see what evidence the applicant could have adduced to prove to the domestic courts that his mental condition posed no danger to his daughter's safety (see, *mutatis mutandis, Kocherov and Sergeyeva v. Russia*, no. 16899/13, § 111, 29 March 2016).

50. In this regard, the Court reiterates that it does not propose to substitute its own assessment for that of the domestic courts (see the case-law cited in paragraph 42 above). The task of evaluating the concrete situation falls in the first instance to the national authorities of the respondent State, which have, *inter alia*, the benefit of direct contact with the interested parties. However, the Court cannot but note that in assessing the applicant's mental health the courts did not rely on any recent expert evaluation.

51. While it would generally be for the domestic authorities to decide whether expert reports were needed (see, *mutatis mutandis*, *Strand Lobben*, cited above, § 223), the Court considers that the lack of such reports concerning the applicant's mental condition at the time the courts examined his action substantially limited the factual assessment of his caring skills, vulnerability and mental state at the material time.

52. Moreover, the Court cannot find any elements in the domestic courts' decisions that would explain how those courts had established or assessed the child's best interests. For instance, while acknowledging that the situation between the parents was tense at that time (see paragraph 16 above), the domestic courts attached no particular importance to that element in setting the contact schedule. It is thus unclear whether the courts considered and tried to mitigate the potential distress the child might suffer if her only contact with her father took place in both parents' presence, despite their ongoing conflicts. The Court cannot find any arguments in the domestic decisions indicating the benefits for the child of such a contact arrangement. The applicant's submissions confirmed that rather than being a time of meaningful exchanges between father and child, the contact sessions ended in arguments between the adults (see paragraph 37 above).

53. Furthermore, the Court cannot find any indication that the courts sufficiently explored the allegations that the child had suffered at the hands of her father (see paragraph 12 above). It notes that Y was interviewed by the judge in camera, without an expert psychologist from the child-protection authority being present. It is not clear from the court decisions to what extent the child's allegations of negative behaviour on the

part of her father were given credit and, if credit was given, how the contact schedule would have taken that threat into account.

54. On this point, the Court observes that domestic law prohibits in absolute terms physical punishment, as well as humiliating or degrading treatment of children (see *D.M.D. v. Romania*, no. 23022/13, § 21, 3 October 2017). Consequently, the assessment – or lack thereof – of the threat to Y seems to run counter to the very prohibition of domestic abuse against children and casts doubt on the decision-making process.

55. The Court also observes that no alternative means have been explored by the domestic authorities, such as, for example, supervised contacts involving the child-protection authority. In this regard, the Court reiterates that the primary role of the child-protection authority is to facilitate contact and negotiate solutions between the parties concerned, with a view to promoting the child's best interests. Consequently, the courts could have involved the child-protection authority in the proceedings (see, in contrast, *S.S. v. Slovenia*, cited above, § 91).

56. The Court notes that the domestic courts acted with expedition as required in cases concerning rights of children (see, *mutatis mutandis*, *Eberhard and M. v. Slovenia,* no. 8673/05 and 9733/05, § 127, 1 December 2009, and *Ignaccolo-Zenide v. Romania*, no. 31679/96, § 102, ECHR 2000-I): the interim proceedings started on 30 July 2018 and ended three and a half months later, on 15 November 2018 (see paragraphs 7 and 16 above). However, the promptness of the proceedings should not come at the expense of the assessment of all relevant evidence by the courts.

57. In the light of the foregoing, the Court considers that the decision-making process leading to the impugned decision of 15 November 2018 (see paragraph 16 above) was not conducted so as to ensure that the applicant's current state of health was properly assessed and that all views and interests were duly taken into account (see paragraph 42 above, and, *mutatis mutandis*, *Strand Lobben*, § 225, and *X v. Latvia*, § 119, both cited above). The Court is thus not satisfied that the said procedure was accompanied by safeguards that were commensurate with the gravity of the interference and the seriousness of the interests at stake.

58. For these reasons, the Court concludes that there has been a violation of Article 8 of the Convention in respect of the applicant.

II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION IN CONJUNCTION WITH ARTICLE 8

59. The applicant complained that he had been discriminated against on the grounds of his health, notably his mental illness, in the setting of contact rights with his child. He relied on Article 14 of the Convention, taken together with Article 8, which the applicant also invoked in substance. Article 14 reads as follows:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

A. Admissibility

60. The Court has consistently held that Article 14 of the Convention complements the other substantive provisions of the Convention and the Protocols thereto. Article 14 has no independent existence since it has effect solely in relation to "the enjoyment of the rights and freedoms" safeguarded thereby. Although the application of Article 14 does not presuppose a breach of those provisions – and to this extent it is autonomous – there can be no room for its application unless the facts at issue fall within the ambit of one or more of them. The prohibition of discrimination enshrined in Article 14 thus extends beyond the enjoyment of the rights and freedoms which the Convention and the Protocols thereto require each State to guarantee. It applies also to those additional rights, falling within the general scope of any Convention Article, for which the State has voluntarily decided to provide (see, among many other authorities, *Molla Sali v. Greece* [GC], no. 20452/14, § 123, 19 December 2018, with further references).

61. The Court has found that the domestic decisions limiting the applicant's contact with his daughter amounted to an interference with his right to respect for his family life under the first paragraph of Article 8 (see paragraph 43 above). It follows that Article 14 of the Convention, taken in conjunction with Article 8, is applicable in the present case.

62. The Court further notes that this complaint 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' observations*

(a) The applicant

63. The applicant argued that he had been placed in a less favourable situation than a person without a mental illness. Because of his condition he was considered to represent an inherent danger to his child, without any assessment of the concrete situation, the evolution of his illness or its symptoms.

(b) The Government

64. The Government mainly argued that the domestic courts had not treated the applicant differently from any other person, including his wife. They had assessed both parents' mental capacities to raise the child. The

main reasons why the courts had limited the applicant's contacts with the child had been the child's best interests, having taken into account the applicant's emotional state, his physical and psychological aggressiveness towards his wife, his unbalanced behaviour and the conflictual environment generated by the divorce proceedings.

2. *The Court's assessment*

(a) General principles

65. The relevant principles established under Article 14 of the Convention have been recently reiterated in *Molla Sali* (cited above, §§ 133-37):

"133. In order for an issue to arise under Article 14 there must be a difference in the treatment of persons in analogous or relevantly similar situations (see, among many other authorities, *Konstantin Markin v. Russia* [GC], no. 30078/06, § 125, ECHR 2012; *X and Others v. Austria* [GC], no. 19010/07, § 98, ECHR 2013; *Khamtokhu and Aksenchik v. Russia* [GC], nos. 60367/08 and 961/11, § 64, 24 January 2017, and *Fábián* [*v. Hungary* [GC], no. 78117/13, 5 September 2017], § 113). In other words, the requirement to demonstrate an analogous position does not require that the comparator groups be identical.

134. However, not every difference in treatment will amount to a violation of Article 14. Only differences in treatment based on an identifiable characteristic, or "status", are capable of amounting to discrimination within the meaning of Article 14 (see *Fábián*, cited above, § 113 and the references therein). In this context, the Court reiterates that the words "other status" have generally been given a wide meaning in its case-law (see *Carson and Others* [*v. the United Kingdom* [GC], no. 42184/05, ECHR 2010], § 70) and their interpretation has not been limited to characteristics which are personal in the sense that they are innate or inherent (see *Clift v. the United Kingdom*, no. 7205/07, §§ 56-59, 13 July 2010). For example, a discrimination issue arose in cases where the applicants' status, which served as the alleged basis for discriminatory treatment, was determined in relation to their family situation, such as their children's place of residence (see *Efe v. Austria*, no. 9134/06, § 48, 8 January 2013). It thus follows, in the light of its objective and nature of the rights which it seeks to safeguard, that Article 14 of the Convention also covers instances in which an individual is treated less favourably on the basis of another person's status or protected characteristics (see *Guberina v. Croatia*, no. 23682/13, § 78, ECHR 2016 and *Škorjanec v. Croatia*, no. 25536/14, § 55, 28 March 2017 and also *Weller v. Hungary*, no. 44399/05, § 37, 31 March 2009).

135. The Court also reiterates that in the enjoyment of the rights and freedoms guaranteed by the Convention, Article 14 affords protection against different treatment, without an objective and reasonable justification, of persons in similar situations. For the purposes of Article 14, a difference of treatment is discriminatory if it 'has no objective and reasonable justification', that is, if it does not pursue a "legitimate aim" or if there is not a 'reasonable relationship of proportionality' between the means employed and the aim sought to be realised (see *Fabris* [*v. France* [GC], no. 16574/08, ECHR 2013 (extracts)], § 56).

136. The Contracting States enjoy a certain margin of appreciation in assessing whether and to what extent differences in otherwise similar situations justify a different treatment. The scope of this margin will vary according to the circumstances,

> the subject matter and its background (see *Stummer v. Austria* [GC], no. 37452/02, § 88, ECHR 2011).
>
> 137. As to the burden of proof in relation to Article 14 of the Convention, the Court has held that once the applicant has demonstrated a difference in treatment, it is for the Government to show that the latter was justified (see *Khamtokhu and Aksenchik*, cited above, § 65; *Vallianatos and Others v. Greece* [GC], nos. 29381/09 and 32684/09, § 85, ECHR 2013 (extracts); and *D.H. and Others v. the Czech Republic* [GC], no. 57325/00, § 177, [ECHR 2007-IV]).”

66. Furthermore, the Court has found that a distinction made on account of an individual’s health status should be covered – either as a disability or a form thereof – by the term “other status” in the text of Article 14 of the Convention (see, *mutatis mutandis*, *Kiyutin v. Russia*, no. 2700/10, § 57, ECHR 2011, as well as *Guberina*, cited above, § 76, with further references, and *Çam v. Turkey*, no. 51500/08, § 69, 23 February 2016).

(b) Application of those principles to the present case

67. Turning to the facts of the present case, the Court notes that the applicant’s mental illness featured in the reasoning of both domestic decisions concerning the contact arrangements with his daughter (see paragraphs 13 and 16 above).

68. At the outset, the Court accepts that mental illness may be a relevant factor to be taken into account when assessing parents’ capability of caring for their child (see, *mutatis mutandis*, *S.S. v. Slovenia*, cited above, § 95, and *K. and T. v. Finland* [GC], no. 25702/94, § 167, ECHR 2001-VII). Therefore the fact that the applicant’s mental health featured in the courts’ assessment is to be expected and does not, as such, raise an issue under Article 14 of the Convention. However, relying on mental illness as the decisive element or even as one element among others may amount to discrimination when, in the specific circumstances of the case, the mental illness does not have a bearing on the parents’ ability to take care of the child. In the present case, although the applicant’s mental illness was not the only element taken into account by the courts, it was present at all stages of the decision-making process (see paragraphs 13 and 16 above).

69. The Court concludes that the influence of the applicant’s mental illness on the assessment of his application has been established and, having regard to the foregoing, was a decisive factor leading to the decision to limit his contact with Y (see, *mutatis mutandis*, and in the ambit of alleged discrimination on the basis of sexual orientation, *E.B. v. France* [GC], no. 43546/02, §§ 88-89, 22 January 2008).

70. The applicant therefore suffered a difference in treatment from other parents seeking contact with their estranged children. This difference was based on his mental health, a ground which is covered by “other status” (see paragraph 66 above).

71. Furthermore, the Court reiterates that it has found, in assessing the applicant's complaint under Article 8 of the Convention, that the domestic decisions limiting his contact with his child had pursued a legitimate aim, namely the protection of the rights of others (see paragraph 44 above). It sees no reason to find otherwise in the context of Article 14.

72. Consequently, it remains to be established whether the difference in treatment was justified (see the case-law quoted in paragraph 65 above).

73. In accordance with the principle of subsidiarity, it is not for the Court to substitute itself for the domestic authorities and to decide whether the applicant's mental illness had impaired his ability to take care of Y. The Court must review under the Convention the decisions taken by those authorities in the exercise of their power of appreciation (see*, mutatis mutandis*, *K. and T. v. Finland*, cited above, § 154). In other words, it must examine whether the domestic authorities provided sufficient reasons for taking the applicant's mental illness into account in their assessment.

74. In its examination of the complaint raised under Article 8 of the Convention, the Court has concluded that the reliance on the applicant's mental illness was not accompanied by a genuine domestic assessment of his current situation (see paragraph 57 above). In fact, there is nothing in the domestic courts' decisions that indicates to the Court the risk the applicant supposedly posed for his child. Nor was there a genuine assessment of the allegations that he had exhibited negative behaviour towards Y (see paragraphs 53-54 above). The Court cannot but conclude that the applicant was perceived as a threat because of his mental illness without further consideration to the concrete circumstances of the case and the family situation. In this respect, the case differs from the situation examined by the Court in *S.S. v. Slovenia*, where the applicant was divested of her parental rights not based on her psychiatric diagnosis, but on her consequent inability to take care of the child, which had been confirmed by all the expert reports produced in the proceedings (see *S.S. v. Slovenia*, cited above, §§ 99 and 108, as well as paragraph 46 above).

75. On this point, the Court also notes that the domestic legislation recognises the right to private life and the free exercise of all civil rights to persons with mental disorders (see paragraph 25 above). Moreover, the CRPD, to which the respondent State is party, recognises persons with disabilities as full subjects of rights and as rights holders (see paragraphs 30 and 32 above). This is also the case for any person suffering from mental illness.

76. The Court notes that the international community has consistently strived for better and more coherent protection for the rights of persons with mental illness and mental disabilities. The international standards and recommendations (see paragraphs 27 to 34 above) encourage respect for equality, dignity and equal opportunities for persons with mental disabilities. Of particular relevance for the facts of the present case,

mentally-ill persons must receive appropriate assistance from the State in the performance of their child-rearing responsibilities, and children must not be separated from their parents without a proper judicial review of the matter by the competent authorities (see paragraph 30 above).

77. In its own case-law, the Court has also recognised that mentally-ill persons represented a vulnerable group whose rights required special consideration from the State authorities (see paragraph 41 above, as well as *B. v. Romania (no. 2)*, no. 1285/03, §§ 86 and 114, 19 February 2013, and *S.S. v. Slovenia*, cited above, § 84).

78. The Court reiterates having found that the domestic courts had not properly assessed the applicant's mental health (see paragraph 57 above). Moreover, the Court does not find, in the domestic decisions, any element allowing it to determine whether the applicant's mental health was a relevant issue to be considered (see paragraph 47 above). In this vein, and notwithstanding the principle of subsidiarity (see paragraph 73 above), the Court considers that the fact that the applicant suffered from a mental illness cannot in itself justify treating him differently from other parents seeking contact with their children. In particular, the Court notes that at the time the domestic decisions were taken, the applicant had been taking his medication regularly and for the previous two years, there had been no episodes of psychiatric decompensation caused by his illness (see paragraph 15 above). Consequently, the Court concludes that in restricting the applicant's contact with his child, the domestic courts made a distinction based on his mental health for which they did not provide relevant and sufficient reasons.

79. In these circumstances, the Court can accept that a *prima facie* case of discrimination has been established. The burden then shifts to the respondent State to reject the basis of the *prima facie* case, or to provide a justification for it. The respondent State must also convincingly show that the difference in treatment was not discriminatory, that is to say that the applicant's contact with his child was not restricted on discriminatory grounds, but rather that his mental illness had indeed impaired his ability to take care of his child or that there were other reasonable grounds for such a restriction. Regard being had in particular to the specificity of the facts and the nature of the allegations made in this type of case, it would be extremely difficult in practice for the applicant to prove discrimination without such a shift in the burden of proof (see, *mutatis mutandis*, *D.H. and Others v. the Czech Republic*, cited above, § 189).

80. However, in view of the above considerations, the Court concludes that the respondent State did not bring forward convincing reasons such as to rebut the presumption of discrimination against the applicant on the grounds of his mental health (see paragraph 64 above).

81. There has accordingly been a breach of Article 14 of the Convention taken in conjunction with Article 8.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

82. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

83. The applicant claimed 25,000 euros (EUR) in respect of non-pecuniary damage.

84. The Government considered the claim to be excessive and argued that the finding of a violation should constitute sufficient just satisfaction.

85. The Court considers that the applicant must have sustained non-pecuniary damage which cannot be compensated for solely by the finding of a violation. Having regard to the nature of the violation found and making its assessment on an equitable basis, the Court awards the applicant EUR 10,000 in respect of non-pecuniary damage.

B. Costs and expenses

86. The applicant did not make any claim for costs and expenses.

87. Consequently, the Court is not called upon to make an award under this head.

C. Default interest

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

FOR THESE REASONS, THE COURT,

1. *Declares*, unanimously, the application admissible;

2. *Holds*, unanimously, that there has been a violation of Article 8 of the Convention;

3. *Holds*, by five votes to two, that there has been a violation of Article 14 of the Convention in conjunction with Article 8;

4. *Holds*, unanimously,
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 10,000 (ten thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement, simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points;

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

Done in English, and notified in writing on 18 February 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Marialena Tsirli Registrar	Jon Fridrik Kjølbro President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the statement of dissent by Judges Mourou-Vikström and Ravarani is annexed to this judgment.

J.F.K.
M.T.

STATEMENT OF DISSENT BY JUDGES MOUROU-VIKSTRÖM AND RAVARANI

As on the basis of the available factual information provided in the judgment we could not discern sufficient elements to conclude that there had been discrimination, we felt obliged to vote against the finding of a violation of Article 14 in conjunction with Article 8.