



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

Legal summary

October 2026

L.Z. and D.Z. v. Italy - 27379/24

Judgment 8.10.2026 [Section I]

Article 8

Positive obligations

Article 8-1

Respect for family life

Severance of contact between mother and child as from child's placement in foster care 16 days after birth, and non-enforcement for over five years of Minors Court's decision ordering child's return to mother: *violation*

Article 46

Article 46-2

Execution of judgment

Individual measures

General measures

Respondent State required promptly to re-examine situation of mother and child and to take appropriate measures in best interests of child, and also to address systemic problem hindering timely enforcement of Minors Court decisions

Facts – The second applicant was born in November 2020 at the home of his mother, the first applicant. He was abandoned on a pavement on the day of his birth by his mother's former partner, acting on his own initiative, before being found and taken to hospital.

The public prosecutor at the Minors Court lodged an application to initiate a so-called "expedited" adoption procedure in respect of the second applicant.

The Minors Court appointed a guardian for the newborn. It then declared the child abandoned and available for adoption. Sixteen days after his birth he was placed temporarily with a foster family with a view to adoption (placement with a view to adoption subject to "legal risks").

The first applicant disclosed her status as the child's biological mother and took various steps to officially establish parentage and have the child returned to her.

In July 2021 the Court of Appeal, ruling on an appeal by the first applicant, set aside the decision declaring the child available for adoption. The Court of Cassation upheld that decision in December 2022.

In the meantime, in July 2022, the foster family had left Sicily and had settled more than 600 kilometres away, without informing the Minors Court.

In December 2022, on the basis of an expert assessment of May 2022, the Minors Court ordered the second applicant to be returned to his mother within four months.

In January 2023, and again in April 2023, the Minors Court enjoined all the parties to cooperate.

In April 2023 the Minors Court ordered the child to be returned to his family of origin within three months, to no avail. In September 2023 the Minors Court ordered the enforcement of the April 2023 decision, with immediate effect, within three months.

The foster parents brought legal actions and challenged the Minors Court's decisions of April and September 2023.

In December 2023 the Minors Court appointed a second panel of experts to assess the development of the first applicant's parenting capacity since the report issued by the first panel in December 2022. They submitted their report in January 2024.

In July 2024 the Minors Court ordered a third assessment, covering the personality and parenting capacity of the first applicant and other members of her family, and also the second applicant's psychological and physical state and relationship with his foster family. The third panel of experts submitted their report in January 2025.

The second applicant remained with the foster family. No meetings were arranged with the first applicant, despite her requests.

Law – Article 8:

The Court examined the applicants' complaint from the standpoint of the States Parties' positive obligation to secure to everyone within their jurisdiction effective respect for their family life.

Sixteen days after the second applicant's birth, and on the erroneous assumption that his biological parents were unknown, the Minors Court had declared him abandoned and available for adoption. The first applicant's requests to officially establish parentage had gone unanswered.

The second applicant had thus been placed with a foster family with a view to adoption within 16 days of his birth.

The Court pointed out that in a similar case (*Todorova v. Italy*) it had not been persuaded that the need for an expedited procedure entailed a measure as drastic as declaring children available for adoption 27 days after their birth, without hearing the applicant in question. In the present case, although the Minors Court had sought in good faith to safeguard the second applicant's well-being, the procedure followed had prevented the first applicant from presenting her arguments adequately and effectively and from asserting her right to enjoy a family life with her son.

In July 2021 the Court of Appeal, ruling on an appeal by the first applicant, had set aside the decision declaring the child available for adoption, citing the Court's case-law. That decision, which had been upheld by the Court of Cassation in December 2022, had also

had the effect of setting aside the order for the placement with a view to adoption. However, the second applicant had remained with the foster family, without the domestic courts at any point indicating the legal basis for that situation.

In December 2022, on the basis of an expert assessment of May 2022, the Minors Court had ordered the second applicant to be returned to his mother within four months. However, despite that decision of December 2022, a meeting had still not been arranged more than five years after the judgment setting aside the July 2021 declaration of availability for adoption, even though the first applicant had made many different requests to that end. The reunification had thus failed.

The Court had to examine whether the domestic authorities had taken all the necessary measures that could have reasonably been expected of them in the particular circumstances of the case in order to maintain the relationship between the two applicants.

In this connection, from the moment the first applicant had disclosed her status as the biological mother, the Minors Court and subsequently the registry of births, marriages and deaths had failed to facilitate her endeavours to promptly re-establish contact with the child. Rather than ordering a suitable, immediate intervention by social services and providing psychological support, they had instead hindered her efforts. Even after the decision to place the child with a view to adoption had been set aside, a series of organisational and procedural obstacles had arisen. That situation could be explained, moreover, by the difficulties encountered in contacting the foster family, who had moved more than 600 kilometres away without the Minors Court having given its consent to such a move or compelling them to return. Despite decisions by the Minors Court in January and April 2023 enjoining all the parties to cooperate, delays had mounted and no contact had been established between the first and second applicants, causing the reunification to fail. In particular, the foster parents had neglected to attend the appointments made as part of the reunification plan, without being penalised.

The Court reiterated that the adequacy of a measure was to be judged by the swiftness of its implementation, and that the positive obligations in issue were not confined to ensuring that children could rejoin their parents or have contact with them, but also extended to all the preparatory steps to be taken to that end.

In the present case the Court noted a lack of cooperation on the part of the competent authorities. On several occasions, in a context of administrative oversights and poor coordination between the various competent bodies, the authorities had requested additional time instead of enforcing the Minors Court's decisions. The domestic courts had rejected the first applicant's request to have the guardian replaced – a request motivated by the uncooperative attitude of that individual, who had refused to obtain and provide essential information needed for the arrangement of the meetings and to comply with the Minors Court's orders to establish a meeting schedule. In this connection, the guardian had belatedly reported "communication difficulties", without taking any specific steps to address them.

The foster parents, in breach of their obligation to remain exclusively at the Minors Court's disposal, had brought legal actions and had challenged the enforcement of the April and September 2023 decisions. They had also, according to the Minors Court, shown "resistance to the enforcement of the measures adopted by the Minors Court", in particular by moving away and thus creating for the authorities an insurmountable physical distance.

The Court had previously criticised the authorities where they had tolerated a long-distance move – carried out without the prior approval of the Minors Court, to the detriment of the access rights of the applicants in that case – and where they had not

taken adequate measures to preserve contact between those applicants and their children.

In the present case the domestic courts had failed to take prompt, practical and appropriate measures to establish effective contact between the first applicant and the child. They had then, for some five years, “tolerated” the lack of contact between the mother and son and the non-enforcement of the December 2022 decision.

Furthermore, the Minors Court, after repeatedly ordering the second applicant to be returned to his mother, had commissioned two fresh expert assessments in December 2023 and July 2024, in view of the amount of time that had elapsed since its first – unenforced – reunification decision.

In December 2023 the experts had suggested that reunification could not be envisaged, on account of the child’s strong bond with the foster family. In their report of January 2024, they had stated that reunification could not conceivably take place before the second applicant was five or six years old, as the situation stood.

The Court observed that the lack of cooperation by the services involved, the foster family and the guardian had caused a substantial delay, which had significantly influenced the successive expert assessments. Whereas the first such assessments had recommended gradual reunification, the subsequent reports had found that reunification had become difficult, if not impossible, in the short term on account of the passage of time and of the close bond formed with the foster family. The authorities had thus, for some time, enabled the consolidation of a *de facto* situation created in defiance of judicial decisions, without taking into account the potential long-term effects of such a situation arising from the permanent separation of the first applicant and the child.

In such circumstances, the Court considered that the authorities had not acted with the requisite diligence in the present case and had fallen short of what could have reasonably been expected of them. In particular, social services, the neuropsychiatric services and the guardian had not taken appropriate measures to enable both the full exercise of the first applicant’s right of contact and the reunification of the family.

Having regard to the foregoing, and notwithstanding the respondent State’s margin of appreciation in such matters, the Court found that the national authorities had failed to fulfil their positive obligations under Article 8 to ensure that the family ties between the first applicant and her child were maintained.

The Court acknowledged that while in this type of procedure care had to be taken in order not to rush a reconciliation that might not be in the child’s best interests, in the present case the passage of time had in fact become the key factor in support of keeping the child in the foster family rather than returning him to the first applicant. That factor had thus given rise to a *fait accompli*: the severance of family ties between the first applicant and her child.

Conclusion: violation (unanimously).

Article 46:

(1) *Individual measures* – As regards the first applicant’s request to resume contact with the second applicant, the Court considered, in the particular circumstances of the case, that it was not its place to address that request as such.

However, having regard to the particular circumstances of the present case, to the fact that the adoption procedure with respect to the second applicant had been discontinued and to the urgent need to put an end to the violation of the applicants’ right to respect

for their family life, the Court invited the domestic authorities to re-examine the two applicants' situation promptly in the light of the judgment in the present case and to take appropriate measures in the best interests of the child.

(2) *General measures* – The Court had previously found in *Terna v. Italy* that there was a systemic problem in Italy concerning the lack of appropriate and sufficient efforts on the part of the national authorities to enforce domestic decisions granting access and contact rights. It also reiterated here its finding in *R.V. and Others v. Italy* concerning the foster-care system, whereby placement into public care could be protracted indefinitely, with no time-limits being set for its duration or for judicial scrutiny, with extensive delegation by the courts in favour of social services, and without parental rights being ultimately determined.

In the light of the above, the present case highlighted a systemic problem in the timely enforcement of Minors Court decisions. In particular, the violation found exposed the insufficient scrutiny exercised by the courts over the actions of social services and other competent bodies responsible for implementing such decisions. Those decisions also showed how family situations solidified with the passage of time.

The Court considered that in view of the nature of the violation found, it would be desirable, for the proper execution of the judgment in the present case, for the State to adopt a set of general measures in line with those already indicated by the Committee of Ministers, as follows.

(a) *Effective implementation of the Cartabia reform* – A first measure would be to ensure the entry into force and swift implementation, without further extensions, of both (i) the so-called "Cartabia" reform, which was intended to strengthen judicial bodies by combining the Youth and Family Courts and by ensuring that they were composed of professional judges, taking into account the relevant case-law; and (ii) Law no. 37 of 2026, which was aimed in particular at identifying situations of conflict of interest between professionals working with the court concerned and managers of residential youth-care facilities and foster families.

(b) *Regulation and supervision of social services* – From a legislative point of view, it would be appropriate to regulate the work of social services more closely, particularly with regard to the implementation of judicial decisions, and to introduce a mechanism to systematically supervise the actions of social services in enforcing such decisions. Those measures had to ensure a clear definition of the limits of their powers, obligations and responsibilities in the implementation of judicial decisions. In that regard, it was desirable to have a clear, designated public network of services and people responsible for such tasks, country-wide, to ensure immediate accessibility.

(c) *Training and harmonisation of practices* – The State was encouraged to organise and implement specific training initiatives for prosecutors, judges and social-services officials working with minors and their families, in order to ensure the full and lasting transposition of the Court's relevant case-law by minors courts and social services. Those initiatives were to include: (i) the identification and dissemination of best practices; (ii) the preparation of procedural guidelines to inform the work of social services in procedures involving minors; (iii) training (centralised and decentralised) to improve understanding of the national authorities' positive obligations in protecting family ties; and (iv) methodological tools to ensure better coordination among judges, social services and other relevant professionals.

(d) *Strengthening of safeguards and regulation of placement and adoption procedures* – The new legislation could provide for specific safeguards to ensure that foster families accepting placements subject to legal risks did not form any expectations of adoption, and could also introduce sanctions in the event of non-enforcement of decisions to return

the child to his or her biological family. It was also desirable to set time-limits for the procedures governing the adoption of minors and the suspension of parental responsibility (including measures delegated to social services and court-ordered expert assessments), and to specify the method for reviewing ongoing measures, in order to prevent their prolongation and to ensure respect for judicial powers.

Article 41: EUR 40,000 for the first applicant and EUR 20,000 for the second applicant in respect of non-pecuniary damage; claim for pecuniary damage rejected.

(See *Todorova v. Italy*, [33932/06](#), 13 January 2009; *Soares de Melo v. Portugal*, 72850/14, 16 February 2016, [Legal Summary](#); *Omofefe v. Spain*, 69339/16, 23 June 2020, [Legal Summary](#); *Terna v. Italy*, 21052/18, 14 January 2021, [Legal Summary](#); *A.I. v. Italy*, 70896/17, 1 April 2021, [Legal Summary](#))

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