

**PRESS RELEASE 29 March 2016**  
**IMMEDIATE RELEASE**

**European Court: Russia wrong to prevent parent with intellectual disabilities from raising his child**

For the first time in its history, the European Court of Human Rights has ruled that stripping parental rights on the basis of a mental disability breaches international human rights law. The landmark ruling comes after a man, Vitaliy Kocherov, was denied custody of his daughter for the first six years of her life, solely because both he and his wife have disabilities.

In 2007, Mr Kocherov had a child with his wife whilst living at a social care institution in St. Petersburg, Russia. Soon after the child was born, the authorities took their daughter away and placed her in a children's home. The Russian Government asserted that the marriage between them had been 'void' as Mr Kocherov's wife had been placed under guardianship, so the father was therefore prohibited from exercising his parental rights, which he wanted to do.

Mr Kocherov took legal action to be reunited with his family. In an attempt to secure custody of his daughter, Mr Kocherov, with help from lawyer [Dmitri Bartenev](#), secured his release from the social care institution in 2011 and moved into an apartment.

Despite this, the children's home refused to allow the father to raise his child. A local court in Russia agreed, and removed Mr Kocherov's right to parent in 2012.

The Mental Disability Advocacy Centre (an international human rights NGO) and Russian lawyer Dmitri Bartenev issued proceedings at the European Court of Human Rights in 2013 on behalf of Mr. Kocherov and his daughter.

Today the European Court held unanimously that Russia had breached the Kocherov's right to respect for family life under Article 8 of the European Convention on Human Rights. Referring to the UN Convention on the Rights of Persons with Disabilities, the Court said that the Russian Government had taken a "formalistic" approach, resulting in a child being needlessly and unlawfully separated from her parents.

On hearing the Court's judgment today, Mr Kocherov said:

"Anna is a great kid and we were so happy to be finally able to live as a family in our flat. We saw stories of other residents of the social care institution who could not save their families. Thanks for supporting us these years!"

Lawyer Dmitri Bartenev said:

“Today’s decision of the Court is yet another milestone in recognition of equality of people with mental disabilities. The Court emphasised the paramountcy of state obligation to aim at reuniting a natural parent with his or her child. I am happy that Mr Kocherov’s long battle for the reunification of his family was successful and hope it will serve as guidance for the Government in implementing the standards of the UN Convention on the Rights of Persons with Disabilities, which Russia ratified in 2012.”

Ann Campbell, MDAC Litigation Director, said:

“Russia’s draconian laws on legal capacity meant that Mr Kocherov was prevented from being a father. MDAC is delighted that the Court has recognised this as a violation of the Kocherov family’s right to family life and ordered redress. The judgment makes clear that a formalistic approach to determining parental rights is not sufficient. A full determination must be done to ensure the best interests of the child while not violating the rights of parents.”

MDAC calls on Russia to stop separating parents from their children on the basis of stereotypes and prejudice against people with mental disabilities, by amending Article 73(2) of the Family Code. It should remove references to “mental illness” and “dangerousness” which perpetuate stereotypes against parents with disabilities, in breach of the UN Convention on the Rights of Persons with Disabilities, which Russia ratified in 2012.

- ENDS -

#### **Notes for Editors:**

- Today’s judgment can be found here: <http://hudoc.echr.coe.int/eng?i=001-161760>
- MDAC and Russian lawyer Dmitri Bartenev represented Mr Kocherov and his daughter at the European Court of Human Rights.
- Photos of the client and interviews are available on request ([mdac@mdac.org](mailto:mdac@mdac.org)).
- The Mental Disability Advocacy Centre (MDAC) is an international non-governmental organisation which advances the human rights of people with mental disabilities using the law. It conducts strategic litigation and advocacy across Europe and Africa. For more information, please visit [www.mdac.org](http://www.mdac.org).